Verneal Jimerson

Testimony of

Walter Sherk, pp. 2 – 9
Michael Podlecki, pp. 10 – 31

THE COURT: Good morning, ladies and gentlemen of the jury. I made it by one minute. You remember that comment from somewhere -- I forget the author -- "Best laid plans of mice and men sometimes come to naught." And I don't know if the Court falls into the category of men or mice but my target of 10:30 I have yet to achieve. Albeit, I try hard.

You may be seated. State may call its next witness.

MR. ARTHUR: Walter Sherk.

(Witness duly sworn.)

THE COURT: All right, sir. You will pull your chair up close to the microphone, speak into the microphone, listen to the question carefully. If it can be answered yes or no, that is your answer. If there's an objection you may not answer. If I sustain the objection you may not answer. If I overrule the objection then you may answer and then we'll proceed with

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the next question and treat it in the same manner. We have to do that because of the rules of evidence. Clear?

THE WITNESS: Yes sir.

THE COURT: No narrative testimony.

WALTER SHERK

called as a witness on behalf of the People of the State of Illinois, after first being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Arthur:

Q. Sir, what is your name?

A. Walter Sherk, S-h-e-r-k.

Q. And Mr. Sherk, what is your business or occupation?

A. I'm employed with the Illinois Department of State Police as a forensic scientist.

Q. And for how long have you been employed by the Department of State Police?

A. Approximately ten years.

Q. What are the duties of someone in your position as a forensic scientist with the Department of State Police?

A. To examine firearms and tool mark evidence, submit it to the laboratory and to render a report from the results of those examinations.

Q. Mr. Sherk, what is your educational background that

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qualifies you to hold this position with the Department of State Police?

A. I received a Bachelor of Science Degree from Michigan State University in December 1974 in the field of forensic science. I then received two years on the job training at the state crime lab facility in Joliet, Illinois in the field of firearms and tool marks.

Q. Specifically with respect to firearms identification, what special training do you have in that specific area?

A. That was my training in Joliet for two years in the field of firearms and tool mark consisted of reading numerous books and articles pertaining to firearms and tool mark

examinations, become familiar with the various types of weapons, tools that would be encountered in such examinations, to complete successfully a series of sets of unknowns which consisted of matching and identifying bullets to particular guns in question, and to complete trial preparations.

Q. Mr. Sherk, with respect to, again, firearms identification, have you participated in any specialized courses or seminars with respect to that field?

A. Yes. I attended Smith and Wesson Armor School in Massachusetts, I attended Rugar Armor School (phonetic) in New Hampshire, I attended Gunshot Residue class at the FBI Academy

and I attended numerous classes pertaining to firearms tool mark examinations in Illinois.

Q. Are you a member of any profession associations within this field of your work?

A. I'm a member of the Association of Firearms and Tool Mark Examiners, I'm a member of the Midwest Association of Forensic Scientist.

Q. Have you previously, Mr. Sherk, had occasion to testify in the area of your expertise during the actual court trial?

A. Yes, I have. I have testified approximately 70 times.

THE COURT: How many?

THE WITNESS: Seventy.

THE COURT: Thank you.

Q. (Continuing by Mr. Arthur) Mr. Sherk, are you always able to determine in a particular case whether a particular bullet is fired from a particular gun?

A. No. To a large extent that depends on the condition of the firearm and the condition of the projectile. The condition can affect the reproducibility of the characteristics which are used to identify a bullet to a particular gun. If mutilation occurs to a great extent to the bullet then these striations or identifying points could be

obliterated to an extent which would not enable identification to be made. And the same pertains to the condition of the barrel of the weapon.

Q. What kind of things, Mr. Sherk, can cause what you described as mutilation to a bullet so then you won't be able to identify it as coming from a particular weapon?

A. The object that is hit -- the object that the projectile comes into contact with after being fired, a wall or body, bone, hard objects -- those things can cause mutilation.

Q. Would you explain to the ladies and gentlemen of the jury what lands and grooves are in the barrel of a firearm.

A. Lands and grooves refer to the spiral cuts that are cut into the barrel at the time of manufacture. Your typical handgun rifle and so forth have spiral lands and grooves that are cut into the surface of the barrel with a spiral direction either to the right or to the left. The reason for these being cut into the surface of the barrel are to impart a spin to the projectile when it's fired and this of course aids in the

stability of the flight and better ballistics and accuracy. The groove that is cut in the surface of the barrel is referred to as a groove. The uncut portion is referred to as land. So these are referred to as riffling characteristics. For instance, a weapon will have riffling and characteristics of six lands and grooves with a right twist. This, of course,

tells the number of lands and grooves and direction of the twist. And this is a determining factor in being able to determine if a projectile was fired from a particular gun because of course the projectile will have the same riffling characteristics as the weapon from which it was fired from.

Q. Mr. Sherk, what significance, if any, does this lands and grooves have with respect to your determining whether or not a particular evidence bullet was fired from a particular weapon?

A. I basically touched in that in my last answer but again, if the first phase of the examination in determining if a projectile is fired from a particular gun or if a projectile was fired from the same weapon as another projectile is the examination of the riffling characteristics. The riffling characteristics must be consistent between the bullet and the weapon fired from. As the bullet is fired through the barrel the riffling characteristics, the grooves and the lands will impress themselves on the projectile -- actually the projectile is a little bit larger than the diameter of the bullet, so the grooves bite into the projectile and print the riffling characteristics onto the projectile -- of the barrel onto the projectile. So you want to first determine if the projectile in question has the same riffling characteristics as the gun in question. And of course a bullet exhibiting five lands and

grooves with a left twist cannot be fired from a weapon that has six lands and grooves with a right twist. So the first phase of the examination is determining if the riffling characteristics are consistent.

Q. After you make that determination whether the riffling characteristics are the same, what else do you have to do before you can make an identification that a particular bullet was fired from a particular weapon?

A. The identification is based on the striations on the surface of the projectile.

THE COURT: The what?

THE WITNESS: The striations.

THE COURT: How do you spell that?

THE WITNESS: S-t-r-i-a-t-i-o-n-s.

THE COURT: Thank you, Witness.

THE WITNESS: A. These are basically scratches. If you were to examine the surface of a barrel under magnification -- high magnification, it would resemble the edge of a saw. It would be rough not smooth as it appears to the naked eye. As the projectile is fired through the barrel of the gun and because it's in contact with the barrel, these protrusions on the surface of the barrel -- microscopic protrusions -- they scratch the surface of the barrel. We refer to these scratches

as striations. These are identifying points which we use to
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make our -- base our comparison on.
Q. Mr. Sherk, would you tell the ladies and gentlemen of the jury what a comparison microscope is and how you use it in the course of making an examination on firearms and bullets.
A. Comparison microscope is essentially two microscopes in one with two stages that enables you to view two objects at the same time. Comparison is made in the laboratory by firing a common -- to determine if a bullet was fired from a particular gun. We'll fire test bullets from the weapon in question so that we have a test projectile. We'll compare this test projectile to the evidence bullet in question utilizing the comparison microscope. Essentially two scopes in one connected by an optical bridge that enables you to view both the test bullet that you fired and the evidence bullet at the same time in the same field of vision. And the projectiles are placed on a stage that enables you to rotate the projectile so that you can view the entire surface. And what you're looking at is the striations or scratches on the surface under magnification, and because you're looking at two bullets you can rotate the two projectiles next to each other. And what you're trying to establish or see when you're -- to make an identification is the correspondence of these scratches. If such a correspondence is obtained where the scratches will line up, then that constitutes an identification -- positive
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identification and tells me that the projectile was fired from the weapon in question.
Q. Mr. Sherk, you have indicated that in a normal course of an examination you would have test bullets that are obtained from firing a weapon, is that correct?
A. Yes.
Q. Now, in a case where you do not have a weapon but you do in fact have evidence, two separate bullets, are you able to do a comparison between those two separate bullets in much the same way as you just testified about?
A. Yes. The comparison can be made between two projectiles received to determine if they were fired from the same weapon using the same procedure that I just discussed.
Q. Mr. Sherk, directing your attention to May of 1978, were you working in your position as a forensic scientist in the Firearms Identification Section of the state lab?
A. Yes I was.
Q. Did you have occasion, sir, to receive some evidence involving the case of Larry Lionberg and Carol Schmal?
A. Yes, I did.
Q. And now I will show you, sir, what has been previously marked as People's Exhibit Number 32 for identification, 84 for identification, and 37 for identification.
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A. These are the packages that I received containing the evidence to be examined. I recognize them by the exhibit number, the laboratory case number, and my initials on the

package.
Q. When you received each of those three envelopes, Mr. Sherk, were they sealed?
A. Yes they were.
Q. And after you received those envelopes did you have cause to put certain markings on there and then open those envelopes?
A. Yes I did.
Q. Did you remove whatever was inside of those envelopes?
A. Yes.
Q. And after you did whatever you did, did you put the stuff back in the same envelopes?
A. Yes I did.
Q. And did you reseal each of those three envelopes?
A. Yes I did.
Q. Can you show the ladies and gentlemen of the jury the tape that you used to reseal those envelopes.
A. Okay. The red tape, here, is where I resealed this manilla envelope. The red tape, here, is where I sealed these blue envelopes.
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Q. Now Mr. Sherk, I would ask you to take People's Exhibit Number 32 for identification. First of all, does that have markings on it as far as where the evidence was recovered from?
A. Yes it does.
Q. And does it indicate where it was recovered from?
A. Yes. It's marked: "Place evidence found from hair above the right ear."
Q. And does it have the person from whom it was recovered?
A. Yes; victim Lionberg and Schmal.
Q. And does it have the date that this particular object was recovered?
A. Yes; May 12, 1978.
Q. Would you remove the contents of People's Exhibit 32 for identification, please. (After removing) And that's been marked People's Exhibit 33 for identification, is that correct? If you look on the bottom I think there's a red tag.
A. Yes.
Q. What is that exhibit, sir?
A. This is a plastic box inside the manilla envelope that contained the projectile just described.
Q. And as you testified, when you first got this stuff it was all sealed in that bag, is that correct?
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A. Yes.
Q. When you -- does that appear to be the same object that you found in that envelope back in May of 1978 when you received it?
A. The container -- The plastic container contains the -- my initials, lab case number and exhibit number. And the projectile, itself, is inscribed on the base with my initials, the laboratory exhibit number, and the laboratory case number.

Q. So Mr. Sherk, with the exception of the markings that you put on first the plastic case and then on the bullet, is that bullet in the same condition as when you got it from that sealed envelope in May of 1978?
A. Yes.
Q. I direct your attention now to People's Exhibit Number 48 for identification. Would you examine that exhibit, sir, and remove the contents. (Afterwards) You do recognize, of course, Mr. Sherk, that particular blue envelope do you not?
A. Yes. This contains my initials, laboratory exhibit number and the lab case number.
Q. And on the outside of that envelope there's certain markings put there apparently by Doctor Stein indicating that the contents were taken from Carol Schmal, is that correct?
A. Yes.
Q. And when you received it, again that particular

envelope -- just like the prior envelope -- was that envelope in a sealed condition, apparently sealed by Doctor Stein?
A. Yes it was.
Q. And you opened it, is that correct?
A. Yes.
Q. Would you examine the contents of that envelope now. (Afterwards) Do those contents appear to be the same things that you found in that envelope back in May of '78 when you got it from Doctor Stein?
A. This contains a spent projectile jacket and a lead fragment which were contained in the packages at the time I received it, minus the jacket fragment.
Q. During the course of your workup on that evidence, did you have occasion to mark the items that were inside of that?
A. Yes I did.
Q. And are those markings contained on those items today?
A. Yes they are.
Q. Now earlier, Mr. Sherk, you testified about a bullet being mutilated, is that correct?
A. Yes.
Q. The lead projectile that is inside of People's Exhibit 48 for identification, would that qualify as being a

mutilated bullet?
A. Yes; or part of a bullet.
Q. Would you show the ladies and gentlemen the part of that bullet that is mutilated, as you would describe it.
I ask you then to look at People's Exhibit Number 37 for identification.
A. Okay.
Q. Do you recognize -- first of all, with respect to the blue envelope, is that again one of those envelopes that comes from the Medical Examiner's Office?
A. Yes it is.
Q. And that particular envelope has markings on it by Doctor Stein, is that correct?

A. Yes.
Q. And they indicate that the evidence inside the envelope was found in [redacted], is that correct?
A. Yes.
Q. After you received that envelope from Doctor Stein sometime in May of '78, you removed the contents, is that correct?
A. Yes.
Q. And you have examined the contents of that envelope today, is that correct?
A. Yes.
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Q. Are those the same things that you found there in May of 1978, sir?
A. Yes they are.
Q. Would you tell the ladies and gentlemen of the jury what those contents are.
A. Consisted of two spent projectile jackets and two lead fragments.
Q. And are those -- after you took those things out of the envelope did you have occasion during your examination to mark those items?
A. Yes I did.
Q. Are those markings still on those items today?
A. Yes they are.
Q. So those are the same items that you found in Doctor Stein's envelope as coming from [redacted] body, is that correct?
A. Yes.
Q. Mr. Sherk, you testified that some of the things that came out of, in particular, those two blue bullet envelopes from Doctor Stein were jackets -- copper jackets. Would you explain to the jury what those are.
A. Copper bullets are manufactured with different characteristics. There are different types of bullets. There's a lead bullet and then there's a full metal jacket
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bullet that consist of a lead core with a full copper jacket around it, and there's a semi jacket bullet which consist of a lead core with a jacket over half of the lead core. So oftentimes during contact, when the projectile hits the target it breaks up and fragments and you will -- it fragments into sections of the copper jacket and sections of a lead core. This usually does happen especially in a case of semi jacket bullets. Q. Mr. Sherk, after you had occasion to open those three envelopes that are in front of you, did you do a comparison between the items contained in those three envelopes?
A. Yes I did.
Q. And in doing that comparison did you do it the way that you earlier testified, that being with a comparison microscope?
A. Yes I did.
Q. Would you tell the ladies and gentlemen of the jury what you found during the course of that comparison of the

items from those three respective envelopes.
A. The comparison -- the lead fragments were unidentifiable. They did not contain any characteristics to compare. The jacket -- spent projectile in People's Exhibit 32 and the one spent projectile jacket in People's Exhibit 48, and

the two spent projectile jackets in People's Exhibit 37 were compared to each other to determine if they were fired from the same weapon. This comparison was made taking into consideration the riffling characteristics which were present on the exhibits and then comparing the individual characteristics, the striations present on the surface of the jacket utilizing the comparison microscope. And the conclusion was reached from that examination that the spent projectile and the three spent projectile jackets were all fired from the same weapon.
Q. When you say, "the spent projectile . . . , " you're talking about the item in the plastic box and the tan envelope, is that correct, sir?
A. Yes.
Q. So this spent projectile in People's Exhibit 33 for identification was fired from one weapon, is that correct?
A. Yes.
Q. And the copper jacket that came out of the envelope marked [redacted] was fired from the same weapon as the first projectile, is that correct?
A. Yes.
Q. And according to your examination, the copper jackets that came out of the envelope marked Larry Lionberg were fired from the very same weapon, is that correct?

A. Yes.
Q. As a forensic scientist, Mr. Sherk, is there any doubt in your mind as to that conclusion that the items in those three envelopes that you just testified about were fired from only one weapon?
A. There's no doubt at all.
Q. And you can exclude every other weapon in the world, is that correct?
A. That's right.
Q. Mr. Sherk, before you conducted your comparison using this comparison microscope, could you -- or could a lay person simply looking at those physical objects reach the same conclusion that you reached?
A. No, they could not.
Q. So it took not just only your training, but also the use of the scientific equipment, the comparison microscope to reach the conclusion that you arrived at, is that correct?
A. Yes.
Q. Mr. Sherk, on what day did you make this examination, this comparison and arrive at that conclusion?
A. May 17, 1978.
MR. ARTHUR: I have no further questions.
MR. TAYLOR: I have no questions of the witness.

STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT-CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS) NO. 84-C-014214
)
-vs-) BEFORE JUDGE WILL E. GIERACH
) And a Jury
VERNEAL JIMERSON) Tuesday, November 5, 1985
1:30 p.m.

Court convened pursuant to recess.

PRESENT:

MR. J. SCOTT ARTHUR and
MR. CLIFFORD JOHNSON,
Assistant State's Attorneys
on behalf of the People;
MR. EARL J. TAYLOR, JR. and
MS. SANDI JOHNSON SPEH
on behalf of the Defendant.

(The following proceedings were had outside the presence and hearing of the jury.)

THE COURT: Let the record reflect we're back on trial and the State is represented by Counsel Johnson, the lawyers are seated, and the defendant is present.

The lawyers were talking about a stipulation they

wanted to tender before we bring out the jury.

MR. JOHNSON: Yes, Judge.

Basically the stipulation between the parties is that an investigator who works for the Cook County Sheriff's Department detailed to the State's Attorney's Office on June 7, 1978 pursuant to court order, observed and took into possession blood and saliva samples from this defendant, Willie Rainge, Dennis Williams, and Kenny Adams. That after he had observed the doctor draw these samples and take these samples he took possession of those files and turned them over to the Crime Laboratory in Maywood for which he received a receipt.

MR. TAYLOR: Read his name.

MR. JOHNSON: William Smith.

THE COURT: So stipulated?

MR. TAYLOR: So stipulated, your Honor. It had been stipulated between the parties that Mr. Smith initialed these items that were handed to him by the doctor and he, in turn, turned them over to a Mr. Podlecki -- or he initialed them which will be shown by Mr. Podlecki's testimony.

MR. JOHNSON: That's correct.

THE COURT: The record will reflect that stipulation.
They were delivered to what lab?

MR. JOHNSON: To the Illinois State Crime Lab in Maywood, and specifically, evidence locker 13 from which the

following witness will say that he retrieved that at a later time.

THE COURT: Is there any reason why we shouldn't bring in the jury?

MR. JOHNSON: No sir.

MR. TAYLOR: Not as far as the Defense is concerned.

THE COURT: Bring in the jury.

(The following proceedings were had in the presence and hearing of the jury.)

THE COURT: The State will call its next witness.

MR. JOHNSON: Prior to that, at this time, there's a stipulation between the parties. Once again, a stipulation is a point that Counsel and I do not disagree on. In fact we agree to it so it is stipulated.

So there would be a stipulation between the parties, between the People of the State of Illinois by and through their State's Attorney, Mr. Richard M. Daley, by and through his Assistant, Clifford Johnson, by the defendant through his attorney, Earl Taylor and Counsel Sandi Speh Johnson, that if one William Smith were called to testify, he would testify that he was an investigator for the Cook County Sheriff's Department and that he was detailed as an investigator to the State's Attorney's Office of Cook County.

And that on June 7, 1978, pursuant to a court order he was down at Cook County Jail and observed a doctor there take blood samples and saliva samples from Dennis Williams, Willie Rainge, Kenny Adams, and Verneal Jimerson. That upon taking those samples he initialed, he took them to the Illinois State Crime Lab in Maywood, Illinois and there he put them in evidence locker 13.

So stipulated, Counsel?

MR. TAYLOR: So stipulated.

MR. JOHNSON: Judge, with that stipulation, at this time, the People would call Mr. Michael Podlecki.

(Witness duly sworn.)

THE COURT: Have a seat. Pull your chair up close to the microphone. Talk into the microphone so everyone can hear you. If you're asked a question and it can be answered yes or no, that's your answer. If there's an objection you wait until I rule on the objection before you answer. If I sustain the objection you may not answer the question. If I overrule the objection you may answer and then wait for the next question.

Clear?

THE WITNESS: Yes.

THE COURT: Proceed.

MICHAEL PODLECKI

called as a witness on behalf of the People of the State of Illinois, after first being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Johnson:

Q. Kindly state your full name and spell your last name for the benefit of the court reporter.

A. Michael Andrew Podlecki, P-o-d-l-e-c-k-i.

Q. You're a citizen of our community, Correct?

A. Yes sir.

Q. And what is your business or occupation?

A. I'm a forensic scientist.

Q. And by whom are you employed?

A. The Illinois Department of Law Enforcement Bureau of Scientific Services in Maywood, Illinois.

Q. And how long have you been employed in --

A. Since July of 1973.

Q. Could you detail your educational background from college on.

A. I have a Bachelor of Science degree in Biology from Loras and I did graduate work in the field of microbiology at Roosevelt and also at the University of Southern Illinois in Carbondale, Illinois.

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Q. Since you have been at the Illinois State Crime Lab -- which facility is that, by the way?

A. That is in Maywood, Illinois.

Q. Have you received any specialized microanalyses training or any type of specialized training?

A. Yes sir.

Q. And what is that?

A. On the job training program at the Joliet Lab when I first was hired in July of 1973 which went on for approximately one year. I have also obtained numerous conferences and also seminars and training seminars at the Federal Bureau of Investigations Academy.

Q. Do you belong to any professional organizations?

A. Yes sir.

Q. And could you detail a few of those for the ladies and gentlemen?

A. American Academy of Forensic Scientist and also the Midwestern Association of Forensic Scientists.

Q. Have you taught any courses or conducted seminars in your area of specialty?

A. Yes sir.

Q. What might that be?

A. State police and also Cook County Sheriff's Police Academy in Maywood.

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Q. And you subscribe and read any periodicals published in the area of your specialty?

A. Yes sir.

Q. Detail that for the ladies and gentlemen of the jury.

A. American Academy and other journals.

Q. Could you please tell us about some of your duties at the Crime Lab in Maywood.

A. As a forensic Scientist I specialize in the field of forensic serology and microtomy which details examinations

of blood liquid and also dried saliva, semen. I also do hair identification, I also do, fiber identification.

Q. During your time at the lab have you performed any hair examinations?

A. Yes sir.

Q. And how many would that be?

A. Up to this time?

Q. Un-hum.

A. Over 15 thousand.

Q. Have you ever testified in court as to the results of these hair comparisons?

A. Yes sir.

Q. How many times, sir?

A. It's been well over 50 times.

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Q. While you were at the lab have you performed any examinations or tests for the presence of blood?

A. Yes sir.

Q. And how many times, roughly?

A. Over 28 thousand or more.

Q. And have you ever testified about those tests?

A. Yes sir.

Q. And how many times?

A. It's been over 50 times.

MR. JOHNSON: Judge, at this time, I would move to have Mr. Podlecki declared an expert witness in these areas and ask if Counsel has any questions of him at this time?

MR. TAYLOR: Not at this time.

THE COURT: The record may so reflect the witness is qualified as an expert.

Q. (Continuing by Mr. Johnson) Would you describe in general terms how a hair comparison is made?

A. Basic general terms what happens when a hair comparison is made is as follows: The evidence which in this case would be hairs would be brought into the laboratory. Usually in a sealed envelope marked. It would then be opened, viewed under a stereoscope or microscope and then each hair would be separated and mounted individually on a microscope slide. They would be set in a mounting medium called permount,

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dry medium like a glue, a cover slip would be placed over the glass and the hairs would be examined over a microscope.

Q. Would you describe the type of microscope that you use. Is it a comparison microscope?

A. Yes it is. It's a comparison microscope and a comparison microscope would be basically a microscope like two scopes in one. It has two stages where by we can put one slide of an unknown and another slide of a hair standard where we can view into one viewer. And by turning a dial we can change our field of view.

Q. Would that be similar to the type of comparison microscope that the ballistic expert uses?

A. Similar microscope but it has higher magnification and different objectives that we look through.

Q. Can you explain what hair is made of?

A. Hair is made of protein and it grows from inside the body and it comes out long shaft and it's divided into three different parts.
Q. And what general determination can you make relative to that hair?
A. I would be able to illustrate it better for the jurors --
Q. Please step down.
A. I have a multitude of different colors. I'm just
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going to use blue to just draw a basic -- one thing when we look at a hair it's like a pencil. In breaking the pencil the outer layer which is orange here, would be the outer edge -- outer core of the hair which would be the cuticle. The wood portion inside would be called the cortex, and the black lead portion in the center would be the medulla. Now we don't see this unless we look through a microscope. This is how we look.
You pull the hair off and you can just see a strand of hair. Now if we put it under the microscope and it's in the medium it looks like -- can everybody see that okay? The outer edge would be the cuticle like when I showed you the pencil -- the outer portion of the pencil. That lead portion that you can remember what I showed you from the pencil -- that's called the medulla. And the portion that has the color is called the cortex. These are the three major characteristics that we look for when we do examinations and hair examinations.
Q. When you examine a hair can you make a determination of whether it's human or animal?
A. Yes sir.
Q. And what other determinations can you make?
A. We can determine if it's human or animal, what animal it is, if it's a guard hair or fur hair, if it's from an animal, if it's from a human we can determine from what part of the body it came from, if it is a pubic hair from the pubic
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area, head hair from the head area, mustache hair, underarm hair or leg hair.
Q. Can you make any other determinations, perhaps race?
A. Basically in determining if it's human what I just stated before.
Q. Now, sir, is it possible to determine positively that a particular, hair came from a certain individual?
A. No.
Q. What kind of a determination can you make from the comparison examination of hair samples or standard?
A. If we were able to say that a hair came from a specific individual I could take one hair from the back of my head and it might not match the front portion of my head. Basically what we can say is we can exclude a -- we can't exclude an individual from hair examinations. It's usually exclusionary evidence. It's not as you would say, individualized as in fingerprint.
Q. Or ballistics?
A. Pardon me?

Q. Or ballistics?
A. This is correct.
Q. Now is there any particular terminology that you use to determine whether or not a hair came from a common

source?
A. Yes sir.
Q. What is that?
A. We use the terms called similar or consistent with the range of characteristics that are found in a hair.
Q. Now in comparing do you look for similarities or dissimilarities?
A. When I do a comparison I look first of all for dissimilarities, things that are obviously dissimilar whereby I can call a hair that's dissimilar.
Q. If you find a dissimilarity do you exclude that hair as being similar?
A. Yes.
Q. And how many dissimilarities would you have to find to make that exclusion?
A. In the relative range of the general characteristics it would just have to be one.
Q. So what are you telling us, that hair does have different characteristics from the cuticle, the cortex and the medulla?
A. Yes sir.
Q. How do those characteristics -- say the cuticle, how would the characteristic of a cuticle vary from one hair to another?

A. In one person or in different people?
Q. Different people.
A. It could change.
Q. But what would you look for, what?
A. It would just be the width of the cuticle.
Q. What about the cortex or medulla?
A. The cortex would retain the color whereby what color we're looking for. All the medulla -- the medulla comes in different shapes.
This picture I have drawn it was a fragmented medulla which means it's fragmented in three spots. It would also be continuous or it could be absent.
Q. Now in the course of your duties as forensic scientist employed with the State Crime Lab in Maywood, did you have occasion to examine certain evidence regarding the Clark Gas Station, East Chicago Heights homicide?
A. Yes sir.
Q. Now, specifically, I want to direct your attention to May 15, 1978. Did you have an occasion to receive anything from Evidence Technician Genty?
A. Yes.
Q. I now show you what's been previously marked as People's Exhibit 43 and 40 for identification. Could you examine those, sir.

Do you recognize that which is portrayed in People's Exhibit 40?
A. Yes sir.
Q. And what do you recognize it to be?
A. It's the envelope that I received at the Maywood Laboratory identified as containing the head hair standard of [redacted].
Q. And what about 43, do you recognize that?
A. Yes sir.
Q. And what do you recognize that to be?
A. This is the envelope which I received at the Maywood Crime Laboratory. It was identified as containing the head hair standard of [redacted].
Q. And where did you receive or get those two envelopes?
A. I received them at the crime laboratory from Evidence Technician Genty.
Q. And what did you have occasion to do with them, if anything?
A. Sign them into evidence and then bring them back into my section where I worked, open the items.
Q. And what do those items contain?
A. Hairs.
Q. And what did you have occasion to do with the items
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in 40 and 43?
A. A random of sampling of the hairs were removed and then placed on slides.
Q. I now show you what I've marked as People's Exhibit Number 66 and 67. Do you recognize that?
A. My markings and the date and the item. This slide contains a random sampling of the hairs that I took out of People's Exhibit Number 40.
Q. Which People's exhibit is that?
A. People's Exhibit Number 66.
Q. Okay.
A. People's Exhibit Number 67 -- and here are my markings -- the hairs that I received from People's Exhibit Number 43 which is the head hair standard identified as being from Carol Schmal.
Q. Once again, what did you do with that? You mounted it on a slide?
A. Yes, as I stated before. Here is a glass slide, here are the hairs, and there's a cover slip over the hairs. The white area surrounding the hair is just the glue that is dried over time. It turns that way after it's been dried for a long period of time.
Q. Now did you have an occasion to receive anything else from the evidence technician at this time?
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A. This was a multitude series of items.
Q. I now show you People Exhibit Number 64 for identification. Would you examine that please.
Do you recognize People's Exhibit --
A. Yes I do.

Q. And what do you recognize that to be?
A. It's a sealed envelope that contained trace material that is identified as being removed from a 1970 red Toyota, the rear seat area.
Q. I will now show you People's Exhibit Number 68. Do you recognize that, sir?
A. Yes. People's Exhibit Number 68 is a slide but it's broken in a multitude of places. But my markings are still here. This is the item -- the hair that was placed on the slide, was removed from People's Exhibit Number 64, identified as being trace material removed from a red Toyota, rear seat, 1970.
Q. I now show you People's Exhibit Number 65 -- 65 for identification. Could you examine that, sir. (Afterwards) Do you recognize it, sir?
A. Yes I do. My markings are right here.
This is identified as being an envelope that contained trace material removed from a 1970 red Toyota, passenger side, rear floor.
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Q. I will now show you People's Exhibit Number 69 for identification. Would you examine that, sir.
A. My markings here. People's Exhibit Number 69, the hair that was removed from People's Exhibit Number 65, identified as being the 1970 red Toyota, passenger side, rear floor, trace material removed from this item.
Q. I will now show you what's previously been marked as People's Exhibit Number 63. Would you examine that, sir. Do you recognize that?
A. People's Exhibit Number 63?
Q. Yes.
A. My markings are here. This is received by me at the Maywood Crime Laboratory. It's identified as being trace material that was removed from blue carpet trunk of a red Toyota.
Q. And what did you do with the contents of that People's Exhibit?
A. The contents were opened and hair was placed on a slide -- microscopic slide.
Q. And I will now show you People's Exhibit Number 70. Would you examine that, sir?
A. The hair that's contained on the slide is the hair that I removed from People's Exhibit Number 63. This item being People's Exhibit Number 70.
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Q. What if anything did you have occasion to do with these People's Exhibits 68, 69, 70, 66, and 67 -- in other words, those hairs that are mounted on the slide?
A. Could you repeat that, please?
Q. Could you tell the ladies and gentlemen of the jury what, if anything, you had an occasion to do with those hairs that you mounted on the slides. In other words, People's Exhibits Number 66, 67, 68, 69, 70. What did you do with them?
A. The standards were viewed microscopically under the comparison microscope. The standards, to get a picture

description of what I could see, look for what characteristics as I described before and also the color. After looking at the hairs from each of the standards I then proceeded to take each item individually. People's Exhibit Number 67 and People's Exhibit 68, 69, and 70 each individually to be compared against People's Exhibit Number 66 and Number 67.

Q. So first of all with regard to the head hair from the deceased, [redacted], did you compare that known standard taken by Doctor Stein to any of the unknowns that you had received?

A. Yes sir, the unknown -- People's Exhibit Number 68 which came from this envelope, the 1970 red Toyota, rear seat.

Q. And what kind of examination did you conduct?

A. The microscopic examination under the comparison

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microscope.

Q. And at what powers did you conduct this examination, powers of the microscope?

A. Pardon me?

Q. Powers of the microscope?

A. It was under low power and also high power.

Q. And what did you find or conclude?

A. That they were consistent. They were similar.

Q. Can you demonstrate that consistency or similarity that you found, on the blackboard?

A. Yes sir.

Q. Step down and try it.

THE WITNESS: Your Honor, can I erase this?

THE COURT: Yes you may.

A. (Continuing by the Witness) In looking at the hair standard of Mr. [redacted] I looked for Characteristics that I discussed previously. There were several characteristics which I found. One characteristic was the medulla. There was a fragmented medulla like I mentioned before. It was fragmented different spots. The medulla wasn't opaque. What I mean by "opaque" is, it wasn't black completely. You could not see through it. It was translucent. What does translucent look like? The best I could describe it copper color like a shiny painting. And this color in the medulla though the cortex

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was like a brown to a gray pigmentation throughout the cortex, and in the cortex were little tiny air pockets that are called cortil fusi, c-o-r-t-i-l f-u-s-i in the hair. Now I'm looking at this under the comparison microscope under one stage. Now on the other stage I placed the unknown hair--trying to demonstrate this as easy as I can do it -- just imagine that one hair sitting here on the stage, another hair sitting here on the stage. The standard's here, the unknown is here. I then examine the unknown hair. In examining the unknown hair I see characteristics color hair consistent similar to the standard. Now on examining that I turn the field of vision and I take two hairs off of -- they're on the scope -- on the slide stage where I can look at the viewing of each hair individually and I turn the dial to the left I see this hair. When I turn the dial to the right I see the unknown hair. When I turn the dial

in the center where I can see both hairs together what I see is a field of vision where I line up the unknown hair. The unknown hair which is here to the standard. As I change the field of vision and go to the left and go to the right, the hairs -- I could not see any differentiation in the characteristics. It was like I was looking at one hair.

Q. Now in examining these two hairs was there anything really distinctive between the hair you had and the random sample that was given to you by Evidence Technician Genty?

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A. Could you repeat that again?

Q. Was there anything really distinctive between the hair that you had and the random sample that was given to you by Evidence Technician Genty?

A. The hair was brown and it had a gray tint. It also had the cortil fusi and it also had the distinctive medulla which was translucent. It wasn't opaque, it was like copper color. And that's the characteristic I just discussed were found in the standard and also in the unknown hair.

Q. Thank you. You may be seated.

Now where was that unknown hair taken, again, from?

A. It was brought to me by Mr. Genty in the laboratory, and it was in an envelope marked 1970 red Toyota, rear seat.

Q. Now with regard to People's Exhibit Number 68, the head hair of the deceased [redacted], did you make any examinations relative to that?

A. People's Exhibit 67 -- I'm sorry?

Q. Did you perform any examinations or hair comparisons relative to that hair?

A. Yes. In the same fashion as I compared Mr. [redacted]s hair.

Q. And did you determine whether they were human or animal hairs?

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A. They were human head hairs.

Q. As was the hairs that you had examined relative to Mr. [redacted], is that correct?

A. Yes, but they had different characteristics.

Q. They were human, is that correct?

A. Yes, human head hairs.

Q. Were they caucasian?

A. Yes.

Q. Now did you have occasion to compare People's Exhibit Number 67 with other trace material, in particular people's Exhibit -- I believe 69 and 70?

A. Yes sir.

Q. And would you describe once again the process that you used?

A. The hairs were mounted -- the unknowns in this case. There were two unknowns, two separate slides. Each slide -- separate slide was individually compared with the standard. In other words, one standard, one unknown. Replace it, put another unknown on it. The standard still stays on one side of the scope just the unknowns are changed.

Q. Go ahead.
A. The same comparison procedure that I previously shown on the blackboard was also done except the color and the characteristics are different.
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Q. And did you find any hairs positive in color and characteristics with respect to any of these two unknowns that you put on there?
A. Just the color and characteristics were consistent from the standard of [redacted] to the unknown hairs.
Q. Could you also demonstrate for the ladies and gentlemen of the jury on the blackboard, please?
A. In examining the hair from -- that was given to me identified as being [redacted], it was different than Mr. Lionberg's hair. It was caucasian except there was no medulla. This section that we find here was not present. What it was -- it was brown -- light brown in color and through the cortex -- can you all see this okay? Through the cortex was a light brown in color. I did the same thing I did before. I took the unknowns which were -- I don't remember what People's Exhibit they here but --
Q. It could be 70 and 69.
A. I compared, looked at the standard to see if there was any similarities between them. I could see right off the bat there was. The medulla, the color, the cortil fusi, none of those in color or shape were found. I then looked at the hair standard of her's and I studied it to see the color. I went up and down the hair and this is what I saw. I then took the standard -- the unknowns and looked at the unknowns. First I
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took the first unknown, put it on the right side of the scope and compared it to this standard; going up and down the hair. The general characteristics were the same. I took that slide off, I put on another one. The second, People's Exhibit 70, I believe --
Q. Yes sir.
A. -- compared that in the same fashion. I also found the same characteristics. I made a determination my comparison determination from looking at those two unknowns that the standard found -- that they here similar in color and characteristics.
Q. And the head hair of [redacted] provided to you by the Doctor Stein was similar in color and characteristics to one of the hairs recovered from the passenger side, rear floor of the red Toyota and from the trunk of that same red Toyota, is that correct, sir?
A. Yes sir.
Q. And when you described your function as a forensic scientist I believe you indicated that you here a chemist and serologist, is that correct?
A. Yes sir. Right now I specialize in serology. When I first started out more generalized.
Q. Can you explain serology?
A. Comes from Latin word "Sera" which means basically
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deals with the study of blood which is one thing that we do in the laboratory.

Q. Would you explain some of your duties acting in your capacity as a serologist.

A. As a serologist we're asked to examine blood in both the liquid and dried forms. In other words, to tell what type it is. There are several types; A, B, O is common system. There are several other types that we use now. We also have to identify certain biological fluids such as semen, saliva.

Q. What if any test or procedure exist to determine the presence of seminal fluid?

A. There are several tests that we employ.

Q. Would you explain to the ladies and gentlemen of the jury.

A. The first test that we determine if semen is present or seminal fluid is called an acid phosphatase test for the presence of certain items which is called phosphatase is found in large quantity in semen.

Q. What if any tests or examinations exist to determine the presence of spermatozoa?

A. The test we employ are as follows:

In several cases smears will be brought to us. What is basically a smear? It could be a variety of different -- vaginal, oral or rectal smear. How is this made? It is

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usually made down at the morgue where a corpse is swabbed and put on a slide and then it's fixed to put in a slide mailer and sent to us. What we do then is we through multi series of stains we then stain the slide. And after it's dipped in certain solutions it picks up a certain color. As we stain the smear we can then visualize certain microscopic factions or components found in the smear where we can thereby identify certain cellular material. And what we're looking for in this case could be spermatozoa with heads and tails which could be then called, intact.

Q. Now, sir, directing your attention once again to May 15, 1978, here you at work at the Illinois State Crime Laboratory located in Maywood?

A. Yes.

Q. And among the items that you had an occasion to receive from E.T. Genty, let me show you People's Exhibit 44 for identification. Would you examine that please, sir.

Do you recognize it, sir?

A. This is a plastic container containing what is identified as being vaginal swab of Carol Schmal.

Q. What if anything did you do with that vaginal swab relative to the presence of seminal fluid?

A. It was tested for the presence of seminal fluid.

Q. Would you describe that testing procedure, please.

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A. There were two test that were done in this case.

The first test was the acid phosphatase test to check for the
presence of acid phosphatase color test. If it's positive it

will come up blue. In this case it was positive. Acid phosphatase was present. The next test is called Ouchterlony. Ouchterlony was named of Orland Ouchterlony. Basically a simple serological test where we test for certain proteins found in seminal fluid. I did the test, that also came up positive.

Q. I will now show you People's Exhibit Number 71 for identification, sir. Do you recognize that, sir?

A. Yes sir.

Q. What do you recognize it to be?

A. This is what we previously stated would be a smear. This is marked as a vaginal smear.

Q. And did you have occasion to examine that in any way?

A. Yes sir.

Q. And how do you do that?

A. It was viewed microscopically.

Q. And what if anything did you observe?

A. I'm looking at the color portion which would be the smear that is affixed to the slide. I then examined it microscopically under a microscope and found intact spermatozoa which is sperm cells that have heads and tails intact.

Q. I will now show you People's Exhibit 72 and 73. Would you examine those People's exhibits, please.

A. People's Exhibit Number 72 is the oral -- identified as an oral smear.

Q. Did you have an occasion to inspect or make certain tests upon that, People's Exhibit 72?

A. Yes sir. The item was stained and was examined microscopically for sperm cells.

Q. And what, if anything, did you find?

A. It was a negative. There were none found on the slide.

Q. That was from where, again?

A. People's Exhibit Number 72, the oral smear.

Q. Now looking at People's Exhibit Number 73 do you recognize that, sir?

A. This is the oral -- this is the rectal smear.

Q. And did you have occasion to perform certain tests or examinations relative to People's Exhibit 73?

A. The slide was also stained and it was examined for the presence of sperm cells and it was also found to be negative.

Q. And what other tests or examinations did you have an occasion to perform on the vaginal swab?

A. I also performed test called absorption inhibition

test.

Q. Would you explain how this test -- how you perform this test and what the purpose of this test is.

A. Basically the absorption inhibition test is a test to determine the presence of certain antigens. Antigens are substances that are found in your blood and also in the body secretions that determine your blood type. Eighty percent of the population secretes their blood type in their body fluids.

MR. TAYLOR: Objection, your Honor, as to the characterization of 80 percent; no basis.
MR. JOHNSON: I think that would be a matter of cross examination, Judge.
THE COURT: Objection is overruled.
Q. (Continuing by Mr. Johnson) Proceed.
A. Eighty percent of the population secretes their blood type at their body fluids, 20% do not, roughly.
Q. Now in this process you can identify the blood grouping of the secretor, is that correct?
A. Yes. We're looking for the term which is called, secretors. Do they or don't they secrete blood group substances found in body fluids.
Q. And assuming that you do have a secretor, from that you can determine a blood group, is that correct?
A. If they are secretor, yes.
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Q. And what are the basic rough blood group systems that you use?
A. At this time what we used was the ABO System which was the basic system which would indicate type A, B, AB or O.
Q. Now would you explain to these ladies and gentlemen exactly what you did with that vaginal swab relative to this test?
A. A portion of the vaginal swab as you can see here it's like a white area. The outer area was cut, that would have any cellular material or any secretions. It was then extracted in distilled water and then subjected to absorbtion inhibition test using antisera to find out results.
Q. What results did you find, if any?
A. I found group A and also Group O blood group substances.
Q. I want to direct your attention to some time after June 7, 1978. Did you have an occasion to go to evidence locker 13 at the Maywood facility of the Illinois State Crime Lab?
A. Yes sir.
Q. And did you have occasion, sir, to recover certain test tubes containing saliva standards of Dennis Williams, Willie Rainge, Kenny Adams, and Verneal Jimerson?
A. Yes sir.
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Q. And did you have occasion to perform any test relative to those saliva standards?
A. Yes sir.
Q. And for what purpose?
A. To do the absorbtion inhibition test to determine if they secrete blood group substances in their saliva.
Q. And did you in fact have occasion to perform those tests?
A. Yes sir.
Q. And relative to Mr. Williams -- Dennis Williams, what was the results of that test?
A. He was found to contain Type A blood group substance.

Q. Relative to the defendant, Adams -- Kenny Adams, what were the results of your tests?
A. He was also found to -- determined to secrete A and a small amount of Type H which is indicative in O.
Q. And did you -- what were your results relative to Willie Rainge?
A. Type O.
Q. And to the defendant on trial in this case, Verneal Jimerson?
A. Type O.
Q. Assuming you have a sample of cold blood, can you

use a test in order to determine what human blood grouping this blood might fall into?
A. Yes sir.
Q. What does that test consist of?
A. Basically simple test whereby we determine what blood type it is by using antisera, commercial produced antisera.
Q. And using that you can determine a blood group type, is that correct?
A. Yes sir.
Q. I show you People's Exhibit Number 39 for identification. Would you examine that, sir. And do you recognize that, sir?
A. It's a liquid blood sample.
Q. And do you recognize that liquid blood sample to be from any particular source?
A. No, the markings are worn off.
Q. Exactly what did you do relative to the blood groups that you had occasion to mention relative to People's Exhibit Number 39?
MR. TAYLOR: Objection, your Honor. He hasn't established that he knows what it is. He said the markings were worn off.
THE COURT: Sustained.

MR. JOHNSON: Judge, he can say what he did to People's Exhibit Number 39, I believe. All of our records will indicate where People's Exhibit Number 39 came from.
THE COURT: I will reserve my ruling. Answer it.
THE WITNESS: A. People's Exhibit Number 39 was then examined in the laboratory on blood type.
Q. (Continuing by Mr. Johnson) And what determination were you able to make relative to the testing of this blood?
A. It was type O.
Q. Would you examine People's Exhibit Number 42.
A. It looks like it's 41 -- It's just my printing.
Q. Do you recognize that, sir?
A. My markings are also worn off on the item, sir.
Q. Did you have an occasion to perform an examination of that?
MR. TAYLOR: Objection, your Honor, again.
THE COURT: Objection noted for the record. The Court will reserve ruling.

THE WITNESS: A. Yes.
Q. (Continuing by Mr. Johnson) And what is that?
A. It was also found to be Type O.
Q. Did you have an occasion to examine Dennis Williams' blood and perform this same identification procedure?
A. Yes sir.
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Q. And what were the results of that?
A. It was type A.
Q. Did you have an occasion to perform this examination on Kenneth Adams' blood?
A. Pardon me?
Q. Did you have an occasion to perform this same testing procedure on Kenny Adams' blood?
A. Yes sir.
Q. What was the results of that?
A. He was Type A.
Q. Did you have an occasion to perform this test on Willie Rainge's blood?
A. Yes.
Q. And what were the results of that?
A. He was also -- was Type O.
Q. And did you perform this same test on Verneal Jimerson's blood, the defendant on trial?
A. Yes.
Q. And what were the results of that test?
A. He was also Type O.
Q. Now in making your examinations of Kenny Adams' blood, what if anything in particular did you notice in common with your examination of the vaginal swab from --
MR. TAYLOR: Objection, your Honor. There's no
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foundation for that.
MR. JOHNSON: I think there is, Judge. People's Exhibit Number 44 is that vaginal swab.
THE COURT: Read the question back, please.
(The question was read back.)
THE COURT: Overruled.
Q. (Continuing by Mr. Johnson) -- from Carol Schmal, People's Exhibit Number 44 --
A. Can you repeat the question?
(The question was read back.)
THE WITNESS: I found blood group substances A and blood group substances O found on the vaginal swab.
Q. And relative to Kenny Adams' saliva was there any correlation that existed?
A. The activity that I found in the A and O was similar.
Q. And that was that AH factor, is that correct?
A. Yes.
Q. Now what, if anything, does this coloration that exists between Kenny Adams' blood, Kenny Adams' saliva and [redacted] vaginal swab mean to you?
A. The factors that were found in the blood group substances that were on the vaginal swab were A and O. One

thing that I have to bring clear is in our tests the absorbtion

inhibition test, we look for a substance called H agent. This indicates type O as I have been referring to blood group substance or H activity. In the case of Kenny Adams' blood I found A and H activity. There was also A and H activity found on the swab which would also be meant as A and O blood group substance.

Q. Now in making your examination of Dennis Williams' blood did you notice anything in common with his saliva test that you performed on that?

A. He secreted blood group substance A in his saliva and he was also found to be type A in his blood.

Q. What correlation, if any, exists between this blood of Dennis Williams, the saliva of Dennis Williams, and the vaginal swab, People's Exhibit Number 44?

A. It was Type A; the victim, [redacted], was type O blood.

Q. And what, if anything, does that correlation mean to you?

A. That the secretions from the A did not come from the victim. It came from another source.

Q. One point, when you examined the saliva samples of Kenneth Adams you made a determination that it was AO blood type, is that correct?

A. Kenny Adams was an A.

Q. I'm sorry. Excuse me. I mean Willie Rainge.

A. He was an O.

Q. But in order to do this you presuppose that they were secretors, is that correct?

A. The only way we can determine if they were secretors is by taking their saliva standards and running absorbtion inhibition test on that. If we did see A type or reaction it was positive that would indicate that they are secretors. The bottom line of the absorbtion inhibition test, if you do get a result of secretor what type it would be if you don't get any reaction or no result it would be inconclusive result or they would be non-secretors.

Q. So in each one of these individual's saliva, Dennis Williams, Willie Rainge, Kenny Adams, the defendant on trial, your testing showed that they were secretors, is that correct?

A. The absorbtion inhibition test on all four defendants showed they were secretors. Two were A secretors and two were O secretors.

Q. And the two O secretors were the defendant on trial and Willie Rainge, is that correct?

A. Yes.

Q. Kenny Adams and Dennis Williams were A secretors, is that correct?

A. Yes sir.

Q. Is there any way to determine whether or not the deceased, [redacted], was a secretor or not?

A. No. There is no way you can get a saliva standard

from somebody that is deceased.

Q. You drew a conclusion in your opinion that in finding from the vaginal swab an A reaction when the victim herself was O -- you made that finding, is that correct?

A. Yes sir.

Q. What if an individual was of an O blood type and an O secretor? What results would you expect if that individual had intercourse?

MR. TAYLOR: Your Honor, objection. I beg your pardon. He's asking a question beyond the scope of the basis of his direct examination. It has no correlation or relation to what the defendant -- or witness has elicited to the Court.

MR. JOHNSON: I beg to differ.

THE COURT: That is a rather substantial and lengthy objection. Maybe we should hear that outside the presence of the jury. Madam court reporter.

(A sidebar was had outside the presence and hearing of the jury.)

MR. JOHNSON: The reason I asked the question, Judge, of course it's pertinent to this defendant on trial, Verneal

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Jimerson, who is an O blood type and an O blood secretor; both secretor and his blood type. So the question would be -- is that if an individual of his blood type and being the secretor, that is, what results would the forensic scientist expect to see if that individual had intercourse within an O type person. Because I have established that you can't -- we can't tell whether she was a secretor or not because you cannot perform a secretion test on the dead. It's a simple thing. And then having answered that question then he will follow up that question that obviously would be -- well can you say whether or not that individual making the findings you have had the vaginal swab 44 -- can say that his client was with the blood type he has, O, had intercourse. He says, no you can't say he had intercourse. But what he will say is you cannot exclude him from having had intercourse.

MR. TAYLOR: Now you're presupposing his answer.

MR. JOHNSON: I talk to my witnesses before I put them on, Judge.

MR. TAYLOR: You're asking a hypothetical with the hope that he remembers your prepping relative to giving a response in that manner which would be highly prejudicial to the defendant.

THE COURT: I think we're in an area where the Court has to exercise its discretion between the probative value versus

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inflammatory potential of the question. and --

MR. JOHNSON: Before you rule let me just go a little --

MR. TAYLOR: Let the Judge finish. He's not going to rule. He's just making a statement.

MR. JOHNSON: But the point of it is --

THE COURT: I know that in paternity proceedings there is even statutory basis for dismissing a defendant if on blood test ground he is excluded from the possible line of parentage.

So this has been a common technique in blood comparisons that is not only recognized by courts but by statutory law. Now in light of that fact my inclinations are to overrule your objection because not only do we have case law on this subject of blood type exclusion, but in terms of the proceedings we even have expressed statutory authority. The procedure is recognized by the legislature.

MR. TAYLOR: Your Honor, here relative to paternity cases when we're talking about exclusion that is based not only just on the blood grouping of the perspective or the possible father and the bearer of the child, but also of the child's type also and then they go further and break it down into possibly 11, 12 categories.

THE COURT: Right -- right. I'm aware of that.

MR. TAYLOR: Here we're not talking about that; where we have an all out and out examination. What we're talking

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about right here is he's going to place the witness in a position of saying that Verneal could have had intercourse.

MR. JOHNSON: That's not correct. That is not my question. My question -- his answer --

MR. TAYLOR: Basically, Counsel, this is going to be the gist of your question.

MR. JOHNSON: But it can't be phrased like he said it. I mean, there's no way the expert can phrase it like Counsel said. As far as the expert can go is saying that he cannot be excluded having intercourse and you're I'm sure going to say that's 49 percent of the population.

MR. TAYLOR: Forty-five.

MR. JOHNSON: Or 45 percent of the population.

THE COURT: We'll reach all of that on cross examination.

MR. JOHNSON: Like I said, this is going to cut both ways, believe me.

THE COURT: The Court will overrule the objection.

(End of sidebar.)

THE COURT: The record should reflect that the objection has been overruled and the witness may answer the question.

THE WITNESS: Could you repeat the question?

Q. (Continuing by Mr. Johnson) The question is, assuming that the person with an O blood type and being an O

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secretor has intercourse with a person of an O blood type. What kind of a result from the testing that you have discussed here today would you, as a forensic scientist, expect to see?

A. If the activity that we found in an instant like this would indicate that O blood group substance was present, the defendant could not be eliminated.

Q. Could not be eliminated from what?

A. I could not exclude him.

Q. From having intercourse, is that correct?

A. From finding that blood type on that swab.

MR. JOHNSON: Judge, I have no further questions of this witness at this time.

THE COURT: You may cross examine.

CROSS EXAMINATION
By Mr. Taylor:

Q. Mr. Podlecki, how many hair samples were submitted to you for purposes of making a comparison to the standards that you had been given by Mr. Genty?

A. How many hair standards, sir?

Q. No. You were given two known hair standards, is that not correct; one from Miss Schmal and one from Mr. [redacted]?

A. Yes.

Q. For purpose of comparison, right?

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A. Yes.

Q. How many unknown samples of hair were you given to make comparisons on?

A. Just two.

Q. Just the two?

A. Pardon me? There was a hair on each slide which we had a total of three.

Q. Only three unknowns were given to you?

A. This trace material that was given to me were substances that were removed from the car. I removed the hair.

Q. Well did this possibly represent all of the hairs that were found in the car?

A. I don't know that. I didn't process the car.

Q. But in total you were only given three items of hair, is that not correct?

A. They gave me three envelopes which contained the debris removed from the car which I removed. I only found one hair from each separate item.

Q. Now Mr. Podlecki, if you removed one particle of hair from your left side of your head and another particle of hair from your right side and placed it under your comparison standards -- in other words, using your microscope high powered, low powered and all, would there be a possibility of your finding the two hairs dissimilar?

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A. That possibly could exist.

Q. From the same head?

A. Different parts -- if one hair was removed from one side to one hair was removed from the other side?

Q. That's correct.

A. That possibility would exist, yes.

Q. There could always possibly be a dissimilarity?

A. It possibly could exist if one hair was taken as a standard and one hair was removed as an unknown, yes.

Q. So we haven't reached that stage in your scientific discovery as to actually stating that this hair came from this person?

A. No, we can't do that in hair examinations.

Q. Now let's go to your real specialty, serology.

Under the general population relative to the four blood groups that are known, what percentage are O group blood types -- of our population?

A. In which race?

Q. Of the human race.
A. Basically approximately 47 percent.
Q. What percentage of the population is A?
A. I could look that up for you in a second.
Q. Approximately. I don't want you to give me exact percent.

A. Around 40 percent.
Q. So the majority of our population is either A or B, is that not correct -- I beg your pardon -- A or O blood group?
A. This is correct.
Q. So therefore, if the defendant -- and from your testing of his saliva you found that he was an O secretor and from your blood test you found that he belonged to the O group, he belonged to 47 percent of the population, is that not correct?
A. This would be correct, yes.
Q. Now relative to the deceased, Miss [redacted], she also was of O grouping, is that not correct?
A. Her blood type was also group O.
Q. And of course you could not determine whether or not she was a secretor?
A. This is correct.
Q. So therefore we don't know whether or not she secreted O when she was of blood grouping O. Would there have been a possibility of her secreting any other blood grouping or connected with any other blood grouping other than O?
A. No.
Q. There would be no possibility, right?
A. Right, that's correct.

Q. And you made also a blood grouping test on the deceased, Mr. [redacted], is that not correct?
A. Yes.
Q. And what blood grouping was he?
A. He was also found to be group O.
Q. So when we say that the defendant could not be excluded, that is based simply on the proposition that he has O, and O grouping blood was found on the smear?
A. O blood group substance was found, yes, on the swab.
Q. And that would represent possibly 47 percent of the population, is that not correct?
A. Approximately, yes.
Q. Actually, Mr. Podlecki, you cannot point to the defendant and say that this was his blood, is that correct?
A. No.
Q. Or anything that you found in the seminal fluid, the swab, the smear or anything else of that nature that you gained from your investigator, the slides that you received from Doctor Stein?
A. Based on the examination of the swab and also the blood standards that were taken and the saliva standards, all I can say is he could not be excluded.

MR. TAYLOR: Okay. Thank you very much.

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REDIRECT EXAMINATION

By Mr. Johnson:

Q. Sir, you said that possibility exists that if I took hair from one side of my head and hair from the other side that dissimilarities may occur, is that correct?

A. Yes sir.

Q. However, in this case three hairs -- two from one of the victims and one from another one of the victims were found by you to be positive in color and characteristics to the hair standards from the victim's head themselves, is that correct?

A. It was consistent when compared to the standards and the standards were not made up of one hair. They were made up of more than 25 hairs which would be a random sampling of each victim's head.

Q. And you found that these three hairs in this red Toyota were positive in color and characteristics to the standard?

MR. TAYLOR: Objection, your Honor. That was not the witness' response.

THE COURT: Read it back.

(The answer was read back.)

THE COURT: The objection is overruled.

THE WITNESS: A. The characteristics and the color that

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I found on the unknown hairs were found to be consistent with the color and characteristics that were found to the unknown -- to the standards of the victims.

MR. JOHNSON: Nothing further, Judge.

MR. TAYLOR: I have no further questions, your Honor.

THE COURT: Any reason why this witness shouldn't be excused?

MR. JOHNSON: No sir.

THE COURT: All right, sir. You may step down. You're directed not to discuss your testimony with anyone. Thank you.