

McCray, Antron

Mary Veit, serologist with the Police Lab (pp. 2-59) (cross only)

Nicholas Petraco, criminalist with the NYC Police Department Laboratory (pp. 60-198)

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(Jury present.)

(Mary Veit resumed the witness stand, and testified further under oath, as follows:)

THE COURT CLERK: The defendants, their attorneys, the Assistant District Attorneys and all sworn jurors are present.

Miss Veit, may I remind you, you're still under oath.

THE COURT: Good morning, ladies and gentlemen.

THE JURY: Good morning.

THE COURT: Mr. Burns.

CROSS EXAMINATION

BY MR. BURNS:

Q Good morning, Miss Veit.

A Good morning.

Q Miss Veit, are you the -- I'm sorry.

How many serologists are there in the Police Lab?

A Approximately eight.

Q Are you a Senior Serologist there?

A No, I'm not.

Q In making a conclusive determination to a reasonable degree of serological certainty, as to a

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blood type classification, did I understand you to say that you have to find both antibodies and antigens?

A Yes, that's correct.

Q They're -- in other words, there has to be both, antibodies and antigens, for you to make that kind of a conclusion is that correct?

A Yes.

Q Now, isn't it true that with respect to many of the tests that you ran, you were unable to make a conclusive determination, to a reasonable degree of serological certainty, serological certainty, as to the blood type classification.

A There was some evidence, yes.

Q I take it that with respect to ABO blood type A classification, there had to be -- you had to find both B antibodies and H antigens.

A You don't have to necessarily find H antigens, but you do have to detect A antigen and B antibodies.

Q A, that's capital A.

A Yes.

Q And B for -- it's a capital B, that's the classification.

A Yes.

Q Now, with respect to the examination of the

1 female jogger's shirt, when you first saw it, you say
2 that it was still damp or wet with blood?
3

4 A Yes, it was saturated.

5 Q Saturated.

6 A Yes.

7 Q And yet, when you ran the tests, you were
8 unable to find antibodies.

9 A Yes, that's correct.

10 Q So that you were, you were unable to make
11 a conclusive determination, to a reasonable degree of
12 serological certainty, as to the blood type classification
13 of the blood that was in that shirt, is that correct?

14 A That's correct.

15 Q And would the same be true with respect to
16 your examination of the swab or the cutting from the
17 jogging pants.

18 A Yes.

19 I was only able to determine antigens on
20 the jogging pants.

21 Q So that your findings, relative to the blood
22 type classification, was, similarly, not conclusive,
23 is that correct?

24 A Yes, that's correct.

25 Q We have been told by a Detective Honeyman,

1
2 of the Crime Scene Unit, that he visited the crime scene
3 on April 20, 1989, and he gathered certain materials.

4 Were you aware of that, not that he told
5 us but that he, in fact, had been there on that date.

6 A His name is all over the evidence.

7 I knew that he went to the crime scene, yes.

8 Q On the 20th?

9 A Yes.

10 Q And was it also on the 20th when, was the
11 date that you received the jogger's clothing?

12 A I'm going to have to refresh with my notes.

13 Q I take it that you would have to refer to
14 your notes in order to answer that question, right?

15 A Yes, that's correct.

16 Yes, I received the jogging pants, April
17 20, 1989.

18 Q And, as well as the jogger's cloths, all
19 of the jogger's clothing, did you receive that on April
20 the 20th?

21 A Yes, I did.

22 Q And, incidentally, with respect to the bra,
23 you got that on the 20th, that was all --

24 Is it also true that you were not able to
25 make a conclusive determination, to a reasonable degree

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of serological certainty, of the blood type?

A I only -- I only went to determine human blood on the bra.

I did not even attempt a blood type because it was filthy.

Q There came a time when certain fingernail clippings were delivered to the lab for testing?

A Could you be more specific?

Q Were fingernail clippings, in relation to the female jogger, was that delivered to the lab?

A Yes, it was, inside the Vitulo Kit.

Q And what would be the purpose of fingernail clippings being sent to the Police Lab?

A To see if there are any serological stains, or any other criminalistic stains, dirt, blood, semen, anything of value to me.

Q And did you conduct the examination to determine whether any of those, any of the things that you have just mentioned were present?

A Yes, I did.

Q And was anything present?

A Not of -- no, I didn't see anything that was anything of importance to me, anything of serological value.

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Q No skin or skin fragments?

A No.

Q Were fingernail clippings of one Kevin Richardson, were they sent to you for your examination?

A It was scrapings, not clippings.

Q Scrapings.

A Yes.

Q And what was -- what were those clippings sent to you for.

A For the same reason as the jogger's fingernail scrapings, to determine whether or not there were any stains of serological value.

Q And when you say "stains of serological value," you're talking about what?

A Semen or blood.

Q Now, there came a time when you examined clothing of Kevin Richardson.

A Yes.

Q And did the clothing, did it consist of a leather jacket and sneakers, and underwear, a hat, jeans, a blue sweatshirt and a T-shirt?

A Yes.

Q Did you find any blood on any of those items?

A No, I did not.

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Q No blood on the leather jacket?

A No.

Q And none on his jeans?

A No.

Q Now, let me ask this question:

When you do your, if I say your blood thing,
is that --

A Or my analysis.

Q Okay.

When you do it, when you do it, I take it
that it's really, and you're on your way to making the
conclusive determination as to a blood type.

First you check, there's something that you
do to check whether it's human blood, is that correct?

A Yes.

Q And then, you check to see whether -- which
one do you do first, you check for antibodies first
or antigens first.

A Antibodies.

Q You check for antibodies first.

A Yes.

Q And then, you check for the antigens?

A Yes.

Q Now, in the course of running these tests,

1 is any of the material that you are testing consumed?

2 A Yes.

3 Q Would it be fair to say then that if you
4 only have a small amount to be sampled to make a determina-
5 tion, the first, the first test --

6 MR. BURNS: Withdrawn.

7 Q If you're unable to --

8 MR. BURNS: Withdrawn.

9 Q Would it be fair -- would it be fair
10 also to say that the reason why you couldn't run the
11 third test, so to speak, for the antigen, was because
12 there's nothing left.

13 A I'm --

14 Q Am I making sense?

15 A No.

16 Q Let me say it this way then:

17 First, you test for human blood.

18 A Yes.

19 Q Is anything used up in the course of testing
20 for human blood?

21 A A very small amount, yes.

22 Q Now, you have that much left.

23 A Yes.

24 Q Or that much less, less the amount that was
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used up?

A Yes.

Q So then, you run the test for the antibodies?

A Yes.

Q Now, more is used up?

A Yes.

Q In the course of -- I note, for example,
-- let me ask this question:

I note that with respect to Steven Lopez,
you said that you found blood.

A Yes.

Q On his underwear?

A Yes.

Q And you said that it was human blood?

A Yes.

SC:2 Q And you said an A antigen?

A Yes.

Q But no antibodies?

A With Steven Lopez' underwear, I did not test
for antibodies because it was a faint stain and in my
opinion I wouldn't have gotten antibodies. I wanted
to conserve as much stain as possible, so, therefore,
I directed my attention to determining an A antigen.

Q ~~S~~, there wasn't enough left to run both tests?

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2 A No. There was sample left, counselor, it
3 just was not strong enough to detect antibodies. It
4 wasn't a strong enough stain. You need a pretty strong
5 stain or a fixed stain to determine antibodies.

6 Antigens you can pick up better, you can
7 pick up antigens on a strong stain and on a weak
8 stain.

9 Q It was a single stain we're talking about?

10 A I believe so, yes.

11 Q Please look.

12 A No, counselor, there were two stains.

13 Q But they were both faint?

14 A Yes.

15 Q And it was too faint to pick up?

16 A It was too faint to try to get antibodies
17 from the stain.

18 Q So, that you have been unable then to --
19 you were unable to make a conclusive determination as
20 to the blood type to a reasonable degree of serological
21 certainty relative to those two stains?

22 A Yes.

23 Q Now, there came a time when you did have
24 a blood sample?

25 A known blood sample of Steven Lopez, is

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that true?

A Yes.

MR. JOSEPH: Objection.

THE COURT: I'll let her answer.

Q If you can just bear with me.

(Short pause.)

Q And what was his blood type?

MR. JOSEPH: Objection.

THE COURT: I'll let her answer.

A Type A.

Q Now, there was no blood, would it be fair to say there was no blood on his sneakers, is that true?

A Of Steven Lopez?

Q Yes, Steven Lopez.

A That's true.

Q Or on his blue tanktop?

MR. JOSEPH: Objection, Judge.

THE COURT: I'll allow it.

A That's correct.

Q Or on his three pairs of socks?

MR. JOSEPH: I'll continue with this objection.

THE COURT: Three pairs of socks?

Q You tested three pairs of socks?

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A There were no stains of serological value.

Q No blood stains.

A No.

Q No stains on his long-sleeve T-shirt?

MR. JOSEPH: Objection.

THE COURT: I'll allow it.

A No.

Q And there were no blood stains on his pants?

MR. JOSEPH: Objection.

THE COURT: Overruled.

A No.

Q Now, on May 16 of 1989, you examined a red top vacutainer and a blue top vacutainer for blood samples belonging to a Kevin O'Reilly.

A (No response.)

Q I'm sorry, would it be helpful if I gave you lab number 892766?

A Yes, it would.

May 16, 1989.

Q May 16, 1989?

A Yes.

Q And we have been informed that Kevin O'Reilly is the boyfriend of the jogger.

Were hair samples, I'm talking about head

1 hairs and pubic hairs, were they submitted?

2 A Not to me, no.

3 Q What was brought to you was brought to you
4 by Detective Nugent of the Central Park Squad?

5 A Yes.

6 Q Incidentally, after you had conducted each
7 one of these tests, did I understand or am I correct
8 in saying you freeze it and preserve it for the FBI?

9 A I make a blood swatch and then freeze it,
10 preserve it for the FBI, yes.

11 Q So, after completing the tests, all the tests,
12 and that includes the tests relative to the blood samples
13 of Kevin O'Reilly, you froze it and that went to the
14 FBI as well, is that correct?

15 A Yes.

16 Q Have you ever seen or met Kevin O'Reilly?

17 MS. LEDERER: Objection.

18 THE COURT: Objection sustained.

19 Q Have you ever seen or met any of the subjects
20 -- the subjects who are the owners of the samples that
21 you have tested?

22 MS. LEDERER: Objection.

23 THE COURT: Objection sustained.

24 Q Now, there came a time when you examined
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1
2 a jacket, which has been marked as People's Exhibit
3 145, and known to you under your lab number as 89-2252.

4 A That's correct.

5 Q And that would be the jacket of Yusef Salaam?

6 A Yes.

7 MR. BURNS: Can I see the jacket, Miss
8 Lederer?

9 MS. LEDERER: Your Honor, the record
10 should reflect it's 142.

11 THE COURT: It's 142.

12 MR. BURNS: Beg your pardon?

13 THE COURT: I believe it's 142.

14 (Handing.)

15 MR. BURNS: Could you hand that to
16 Miss Veit?

17 (Handing.)

18 Q Miss Veit, as you are holding it now -- I'm
19 sorry.

20 The section that is facing us with the blue
21 and white, that's the interior of the jacket?

22 A Yes.

23 Q Now, could you hold up the outside of the
24 jacket?

25 MR. BURNS: May I help, your Honor?

(Handing.)

Q Now, 142, People's 142 in evidence, I note there seems to be a number of spots on the outside of the rear of the jacket.

A That's correct.

Q Did you test the spots?

A Yes, I did.

Q And these spots, you found them not to be human blood?

A That's correct.

Q All these spots?

A I took a representative sample. They appear to be coming from the same source. I took a representative sample on the back where my initials are.

Q And none of these spots is human blood?

A In my opinion, no.

Q Now, as we look on the inside, reverse it, the sleeves, you found human blood, is that correct?

A Yes, that's correct.

Q And that's where it's marked MV3?

A Yes.

Q You ran the test that we were talking about before, you ran the first test to determine that it was human blood.

1 VEIT - PEOPLE - CROSS - BURNS 2737

2 A The first test that I do is a color test.

3 Q Color test?

4 A Yes.

5 Q Does that determine it's human blood?

6 A No. That just gives me an indication that

7 blood is present.

8 Then I want to determine what the species

9 of the blood is, whether or not it's human.

10 Q And you did that?

11 A Yes, I did.

12 Q And were you able to perform any other

13 tests?

14 A No, I was not.

15 Q And would that be because there was an insuf-

16 ficient amount to test for those purposes?

17 A Yes.

18 Q How far up the sleeve on that interior of

19 the jacket is the spot that you found to be human

20 blood?

21 A I would say right before the elbow area.

22 Q Above the elbow?

23 A Probably. I can't say for sure.

24 Q And you're unable to make a determination

25 to a reasonable degree of medical certainty as to the

1
2 blood type classification of that spot that you found,
3 is that correct?

4 MS. LEDERER: Objection.

5 THE COURT: Yes. Scientific.

6 MR. BURNS: I'm sorry.

7 Q You are unable to make a determination as
8 to a reasonable degree or serological certainty as to
9 the blood classification grouping of that spot, is that
10 correct?

11 A Yes, that's correct.

12 Q Now, in relation to the number of items that
13 were submitted to you, can you tell us how
14 many items were submitted to you for serological testing?

15 A Including the blood control, approximately
16 70.

17 Q And with respect to -- did I understand you
18 to say that with respect to the defendants on trial,
19 you never found any blood on Salaam's pants?

20 A That's correct.

21 Q Or Santana's pants?

22 MR. RIVERA: Objection.

23 THE COURT: Objection sustained.

24 MS. LEDERER: Your Honor, I'd ask the
25 answer and the question be stricken.

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2 THE COURT: Yes, strike it out.

3 Q Did you find any blood in relation -- withdrawn.
4 Did you receive -- did you receive clothing
5 that belonged to one Clarence Thomas?

6 A Yes.

7 Q And that consisted of underwear and sneakers
8 and sweatshirts?

9 MS. LEDERER: Objection.

10 THE COURT: You want to come up here
11 or a minute, please?

12 (Sidebar conference, out of the hearing
13 of the jury.)

14 MS. LEDERER: My objection is, I understand
15 the clothing of Clarence Thomas was something
16 we did not object to when Mr. Joseph inquired
17 about it. My objection is when Mr. Burns
18 states what the evidence is. For instance,
19 asked if she examined and found blood on
20 Mr. Salaam's pants.

21 MR. BURNS: I'll restate it.

22 THE COURT: There are certain items
23 that have been marked in evidence. And they
24 have already been testified to. It seems
25 to me the simplest thing is to ask about

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2 et cetera, et cetera. And I think I should
3 be able to go not only into Lamont McCall,
4 but everybody whose clothing they did examine
5 because the testimony, at least relating
6 to the statements, you have the Santana state-
7 ment, since they're talking about 30 or 40
8 people. The jury can be left with the conclusion,
9 even though these three fellows here, Lopez
10 and Richardson's pants may not have blood
11 on it, maybe some of the others. So, I want
12 to go into all of that.

13 THE COURT: We already brought out on
14 direct that Lamont McCall, Clarence Thomas'
15 blood was tested, typed.

16 MS. LEDERER: All right.

17 THE COURT: I'll allow it.

18 (After the sidebar conference, in open
19 court, on the record, the following took
20 place.)

21 CROSS EXAMINATION CONTINUED

22 BY MR. BURNS:

23 Q Did not --

24 A Counselor, could you just give me the lab
25 number.

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2 Q Let me give it to you, to the extent I have
3 it. Okay?

4 Would you look at Lab Number 89-2293, please.

5 A Okay, Lamont McCall.

6 Q Right.

7 Didn't his clothing consist of a red jacket
8 and a pair of sneakers?

9 A Yes.

10 Q And a pair of jeans?

11 A Yes.

12 Q And a hooded sweatshirt?

13 A Yes.

14 Q Did you find any blood on any of those items?

15 A No, I did not.

16 Q Your Lab Number 89-2292.

17 Did you have occasion to examine the clothing
18 of a Michael Briscoe?

19 A Yes.

20 Q Did that clothing consist of a jacket, sneakers,
21 sweatshirt, and pants?

22 A Yes.

23 Q Did you find any human blood on any of those
24 items?

25 A No, I did not.

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2 Q Did you have occasion to examine any other,
3 any clothing, or any other clothing, of that, that belonged
4 to any of the individuals who have been charged with
5 the crimes which these defendants are standing here
6 charged?

7 MS. LEDERER: Objection.

8 THE COURT: Objection sustained.

9 Q Did you examine any other clothing of anybody
10 else?

11 MS. LEDERER: Objection.

12 THE COURT: Wait. Let him finish his
13 question.

14 MR. BURNS: Okay. Withdrawn.

15 Q Did you examine the clothing of one Jomo
16 Smith?

17 A Yes.

18 Q Lab Number 89-2294.

19 A Yes.

20 Q And did that clothing consist of a pair of
21 shorts, jeans with belt, sweatshirt and a T-shirt?

22 A Yes.

23 Q Did you find any human blood on any of those
24 items?

25 A No, I did not.

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2 Q Were any other samplings of clothing sent
3 to you for testing?

4 MS. LEDERER: Objection.

5 THE COURT: Objection sustained.

6 Q Directing your attention to 89-5412.
7 did you have occasion to examine the clothing
8 of one Jermans Robinson?

9 A 5412 was not clothing.

10 Q Excuse me.

11 Did you have occasion to examine the clothing
12 of a Jermans Robinson?

13 And I don't have the lab number?

14 A No, counselor, I did not. To my recollection,
15 I didn't.

16 Q Now, did you conduct any tests relative to
17 items that were collected by Detective Honeyman on the
18 20th, did you collect, did you run any tests on the
19 20th itself?

20 A Yes, I did.

21 Q And Detective Honeyman returned to the crime
22 scene on the 21st and collected still more samples,
23 isn't that true?

24 A Yes.

25 Q And did he bring them to you as well?

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A Yes.

Q Did he go back on the 21st at your request?

A No.

Q Do you know how it came to pass that he went back?

MS. LEDERER: Objection.

Q On the 21st?

MS. LEDERER: Objection.

THE COURT: Objection sustained.

Q As of the 20th, had any blood samples been supplied to you which you tested, from which you could make a determination to a reasonable degree of serological certainty, relative to the classification of any blood?

MS. LEDERER: Objection.

Q (Continuing) type?

THE COURT: Are you asking her on April 20th?

MR. BURNS: April 20, 1989.

She said she ran some tests.

THE COURT: I'll allow it.

The tests she may have run in relation to what?

Q Samples that were supplied to you on the 20th?

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2 A Yes, I did determine a blood type on some
3 of the evidence.

4 Q How many pieces of evidence were you able
5 to make a determination, to a reasonable degree of serologi-
6 cal certainty?

7 A According to my notes, it was one sampling.

8 Q And how many samples were brought to you
9 on the 20th for testing as to blood?

10 A Counselor, are you asking me how many were
11 positive for blood or how many were positive for a blood
12 type?

13 Q No, ma'am, positive for blood type.

14 A Blood type?

15 Q Yes.

16 A One.

17 Q And how many samples were brought to you
18 on the 20th for blood, you know, for blood classification,
19 blood type classification.

20 A Fourteen.

21 Q So, out of the 14 that were submitted to
22 you on the 20th, you could make a conclusive determination
23 to a reasonable degree of serological certainty as to
24 one, is that right?

25 A As far as the blood type is concerned.

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Q As far as the blood type is concerned.

A Yes.

Q Only as to one, is that correct?

A Yes.

Q And then, Honeyman goes out on the 21st and brings you more.

How many did he bring you on the 21st?

A There were four additional samples brought to me on the 21st.

Q And, with respect to those four, were you -- how many of the additional four, were you able to make a determination as to blood types, to a reasonable degree of serological certainty?

A Two.

Q I would like to just now talk about the sock, the sock which has been referred to as the H-12 sock.

MS. LEDERER: It's not H-12, it's H-11.

MR. BURNS: Excuse me.

MS. LEDERER: Received as People's 117 in evidence.

Q Now, he H-11 sock.

A Yes.

Q That's People's --

MR. BURNS: What is that, Miss Lederer?

MS. LEDERER: 117.

Q That's People's 117 in evidence.

What was the date that you first examined that sock?

A April 20, 1989.

Q And would it be fair to say that on April 20th of 1989, your conclusion at that time was that your examination of the sock did not show any stains of serological value?

A No, counselor.

I did get the presence of human blood on the sock.

Q There was human blood on that sock?

A Yes.

Q And after you had -- is that one of the items where you were not able to make a determination as to blood type, to a reasonable degree of serological certainty?

A The quantity was insufficient for me to go any further.

Q So, you were unable to make a determination, to a reasonable degree of serological certainty, as to that particular sock?

A Yes.

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2 Q And, after you had completed your examination,
3 did you then preserve the sock for the FBI?

4 A No, I did not.

5 Q You kept that sock?

6 A I put it back in the bag that it originally
7 came in, and sealed it, and initialled the sock.

8 Q Did you take any cutting from that sock?

9 A No, I did not.

10 Q And then, the second time you looked at the
11 sock, what date was that, Miss Veit?

12 A Actually, counselor, when the sock came in,
13 it was wet, that was the first time I looked at the
14 sock.

15 he second time I looked at the sock was a
16 couple of hours later, when it was dry.

17 And the third time I looked at the sock was
18 March 28, 1990.

19 Q The first two times you looked at the sock,
20 that occurred on April 20th of 1989?

21 A Yes, it did.

22 Q And then, th second time you looked at the
23 sock was this year, what date was that?

24 A March 28th, 1990.

25 Q Now, how is it that you looked at the sock

1
2 on the 28th of March, how did it come about that you
3 looked at the sock on that date?

4 A I was going over the evidence before trial.

5 Q Were you informed that trial was, the trial
6 was coming up?

7 A Yes.

8 Q Would that be Miss Lederer or one of her
9 representatives from the District Attorney's Office?

10 A Yes.

11 Q And when you looked at the sock in march
12 of this year, the sock, it looked different to you at
13 that time than it did when you had put it away on the
14 20th of April, 1969?

15 A Yes, it did.

16 Q And did you then subject it to -- did you
17 subject it to some kind of a test?

18 A Yes, I did.

19 Q Let me ask this question, Miss Veit:

20 Is it only the samples, when you cut a swatch,
21 or make a cutting, it's only the cuttings are preserved
22 in the state that they were at the time the test was
23 taken?

24 A When I take a cutting to perform an analysis,
25 I consume that portion of the sample.

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2 The remainder of the sample is cut out of
3 the item and it is put - it's frozen.

4 Q So, it's only the cuttings, the unused part
5 of the cuttings, which are preserved.

6 A Yes, the unused portion of the stain is what
7 is being preserved.

8 Q And all other items would just remain intact,
9 is that right?

10 A That's correct.

11 Q Subject to age, wear and tear, is that cor-
12 rect?

13 A That's correct.

14 Q here's no lab or anything, or there's no
15 atmospheric condition that is done to maintain it at
16 the same temperature, the same, nothing like that?

17 MS. LEDERER: Objection as to form.

18 THE COURT: Do you understand the question?

19 Q Do you understand the question?

20 A Not really. If you could be more specific.

21 Q Well, it's not put in a -- it's not put in
22 an area where it is -- where the atmospheric conditions
23 are not -- are controlled, it's not put in a controlled
24 setting, that's what I mean.

25 It's not maintained in a controlled setting.

Do you understand that question?

A Yes. It remained at room temperature.

Q Room temperature.

did you have any occasion to examine any outer clothing, in connection with the work that you've done in this case, any outer clothing, where you found blood on the clothing?

MS. LEDERER: Objection.

THE COURT: Objection sustained.

Q Thank you very much, Miss Veit.

CROSS EXAMINATION

BY MR. RIVERA:

Q Good morning.

A Good morning.

Q Miss Veit, you indicated yesterday that you're -- you've been with the Police Department five years, is that correct?

A Yes.

Q And you're a serologist?

A Yes.

Q And do you hold a title with the Police Department of the City?

A Yes.

Q What's that title?

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A Chemist.

Q You're a chemist.

And is there an adjective that's added, are you a senior chemist, or is there something added to the title of chemist that you have?

A I'm just a chemist.

Q And you don't have a title of Senior Chemist, is that correct?

A That's correct.

Q There is no title of Senior Chemist?

A That's correct.

Q Are you a supervisor with the Police Department?

A I do have some supervisory duties now, yes, I do.

Q And you received the evidence that you testified, part of the evidence that you testified here today, on April the 20th, is that correct?

A Yes, that's correct.

Q And what time did you get the evidence?

A I don't remember the exact time.

It was in the evening.

Q It was in the evening of April the 20th?

A Yes.

Q What -- what hours were you working on that

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day?

A Eight to four.

Q And would this be after four o'clock?

A Yes.

Q And you were asked to stay around, to assist the Police Department after four o'clock?

A Yes.

Q Do you remember who called and asked you -- do you remember who told you to stay around?

A My lieutenant, my supervisor of the serology section.

Q And he indicated that there was a case that was under investigation, and he wanted you to stay there to assist the police officer, is that correct?

A To do the case -- it was my case, it was assigned to me.

I had already analyzed a part, a portion of it.

(Continued on next page)

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Q You had analyzed a portion of the case before 4:00 on April 20th?

A Yes.

Q What part did you analyze before 4:00?

A The Vitulo Kit.

Q What time was it you analyzed the Vitulo Kit?

A It was early in the morning, approximately 10:30 in the morning.

Q And did you get that case in the ordinary course of police business or were you asked specifically to handle this particular Vitulo Kit?

A It was in the ordinary course of business.

Q In other words, this Vitulo Kit was not taken out of order of other work you had to do in your normal course of business?

A I was told when I received the Vitulo Kit there had been a few phone calls.

Q So, this case, the Vitulo Kit was given priority, is that correct?

A Yes, to a certain extent.

Q Normally you wouldn't get a Vitulo Kit and analyze it right then and there, is that correct?

A No, that's correct.

Q Then there came a point in time later on in the

1
2 day when you were asked to wait around because there was
3 going to be more items they wanted you to analyze, is that
4 correct?

5 A That's correct.

6 Q Do you remember what time you got out of work
7 on that day?

8 MS. LEDERER: Objection.

9 THE COURT: I'll let her answer.

10 A I would say between 10:30, 11:00 p.m.

11 Q And would you say also you spent that portion
12 of the evening analyzing the evidence on this case?

13 A Yes.

14 Q And then the next day you received other items
15 to analyze, is that correct?

16 A Yes.

17 Q That would be the 21st?

18 A Yes.

19 Q Do you recall what time you got those items to
20 analyze?

21 A I believe some of them were in the morning, Coun-
22 sellor, but I'm not absolutely sure.

23 Q By the way, when you finished your investiga-
24 tion on the 20th or analysis on the 20th did you call any-
25 body from the police department?

Veit - People - Cross/Rivera

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2 A I believe I called someone at the Central Park
3 Precinct. I don't remember the individual who I spoke
4 to, but I did talk to someone from the precinct.

5 Q And you told them the results of your analysis?

6 A Yes, I did.

7 Q You told them where you found blood and how you
8 found the blood, is that correct?

9 A Yes.

10 Q Then let's go to the 21st.

11 You received other items, is that correct?

12 A Yes.

13 Q And had you received them throughout the day
14 or a specific point in time?

15 A It was throughout the day.

16 Q And as the items came in you would analyze them,
17 is that correct?

18 A Yes.

19 Q Did you work -- what time did you start working
20 on the 21st?

21 A Eight o'clock.

22 Q Did you work overtime on the 21st?

23 A Yes, I did.

24 Q Till what time did you work on the 21st?

25 A Approximately 10:30.

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Q In the evening?

A Yes.

Q And did you work exclusively on this case?

A Yes.

Q On the 21st?

A Yes.

Q And, again, did you call the police at the Central Park Precinct and give them the results of your analysis?

A Not on the 21st. On the 21st I told a supervisor up on the eighth floor of my building what the results were and he relayed the message.

Q Do you recall who that supervisor was?

A It was Lieutenant Moran.

Q And it's your information he relayed the information to whomever?

MS. LEDERER: Objection.

THE COURT: That's what she already testified to.

Q Is that correct?

MS. LEDERER: Objection.

THE COURT: I'll allow it. She already answered that question.

Q Is that correct?

Veit - People - Cross/Rivera

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A Yes.

Q What about the 22nd, did you also work on this case on the 22nd?

A I believe the 22nd was a Saturday. I did not come in on Saturday.

Q What about the Monday following, the 24th?

A Yes.

Q And did you spend all day on this case also?

A I was finishing up on that date.

Q And this would be a Monday, is that right?

A Yes.

Q Do you recall what items you worked on the 21st and the 22nd?

A I worked on the Crime Scene samples. I worked on the victim's clothing and I worked on numerous other individuals' clothing.

Q Would these be the individuals that are on trial on this case, notably Antron McCray, Yusef Salaam and Raymond Santana?

A Yes.

Q That would be the 21st and the 20th, is that correct?

A Yes.

Q And you handed the results of your analysis to

Veit - People - Cross/Rivera

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2 individuals?

3 A Yes.

4 Q And you were told to give this case priority,
5 is that correct?

6 A Yes.

7 Q And you were told also this was an on-going in-
8 vestigation by the police, is that correct?

9 A Yes.

10 Q And they needed the results immediately, is that
11 correct?

12 A Yes.

13 Q Let me ask you another question. Do you know
14 how long a semen stain can remain on a piece of clothing?

15 A Indefinitely.

16 Q So, there is no known limitation of time as to
17 how long a semen stain can remain on a piece of clothing,
18 is that correct?

19 A No.

20 Q What about a blood sample or -- on a piece of
21 clothing, how long could that blood sample remain on that
22 piece of clothing?

23 A This is -- once it's deposited, I'm testifying
24 to, once it's deposited it can last indefinitely.

25 Q So, there is no way of you being able to tell

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the semen stain that was found on Raymond Santana's shirt, there is no way you are able to testify here today when that semen stain was deposited on that shirt, is that correct?

A Yes, it is.

Q That's your testimony, you can't tell?

A That's my testimony.

Q And also with the blood stain found on Raymond Santana's sneakers, there is no way of telling when that blood stain arrived on that sneaker, is that correct?

A That's correct.

Q Now, you received some slides from Metropolitan Hospital on September the 11th, is that correct?

A Yes.

Q And were these slides examined by chemists at Metropolitan Hospital, to your knowledge?

MS. LEDERER: Objection.

THE COURT: Objection sustained.

Q Were you asked to examine these slides or to re-examine the slides?

MS. LEDERER: Objection.

THE COURT: I'll let her answer.

A I was told to examine them.

Q No indication was given to you that you were

1 Veit - People - Cross/Rivera

2 asked to re-examine them, is that correct?

3 MS. LEDERER: Objection.

4 THE COURT: I'll let her answer.

5 A No, I don't remember that, no.

6 Q And you weren't told one way or the other whe-
7 ther these slides had been examined at Metropolitan Hospi-
8 tal, is that correct?

9 A Not when I first received them.

10 Q Were you ever told these slides were ever exa-
11 mined at Metropolitan Hospital?

12 MS. LEDERER: Objection.

13 THE COURT: Sustained.

14 Q Now, you testified as to various ABO blood types,
15 is that correct?

16 A Yes.

17 Q Now, isn't it correct that there's, when refer-
18 ring to type A blood, there's type A1 and type A2?

19 A Yes.

20 Q And isn't it correct that when referring to peo-
21 ple of European extraction that ten percent of indivi-
22 duals of that extraction have type A2 and 35 have type
23 A1?

24 A Yes.

25 Q By the way, were you able to determine the type,

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1
2 the sub-type of type A blood that you examined?

3 MS. LEDERER: Objection.

4 THE COURT: I'll let her answer.

5 A We do not do analysis to determine A1 and A2
6 in our laboratory because of the fact it does not always
7 cooperate with the antiserum.

8 MR. BURNS: I'm sorry, I didn't hear that
9 answer.

10 A It doesn't always cooperate with the anti-
11 serum we use. It's much more specific to get the Antigen
12 than to get the sub-type.

13 Q So, you have no knowledge as to the sub-type
14 of blood that was found that you tested, is that right?

15 A That's correct.

16 Q And you further have no knowledge of the sub-
17 type of the blood that Patricia Meili carries, is that
18 correct?

19 A That's correct.

20 Q Now, isn't it also further correct that type
21 H Antigen is a precursor to type A blood?

22 A Yes, it is.

23 Q As a precursor, that means it's found before
24 type AB blood is formed, is that correct?

25 A That's correct.

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Q And that the H Antigen is found in type A1 blood,
is that correct?

A Yes.

Q It's found in type B blood?

A Yes.

Q It's even found in type O blood, is that right?

A It's found in all blood types.

Q Except A1B, is that correct?

A No, Counsellor, I think it still is a precursor.

Q Aren't there some individuals that don't have
the H Antigen?

A No. The H Antigen is on the sugar cane, it's
a precursor before the other sugars are present, which
would determine what type you are.

Q Referring to the A Antigen, isn't the A Antigen
also found in type A1 blood?

A Yes.

Q Type A2 blood?

A Yes.

Q Type AB blood?

A Yes.

Q And type A blood?

A A Antigen?

Q A Antigen.

1 A Is not in A blood.

2 Q And those are the various blood types that peo-
3 ple have, types that I have indicated?

4 A Yes.

5 Q So, every individual has one of these types of
6 Antigen?

7 A Yes.

8 Q Withdrawn. One of these types of blood, is that
9 right?

10 A Yes.

11 Q Now, going to acid phosphatase. Isn't it also
12 correct that acid phosphatase is an osseo class?

13 A I don't know, Counsellor.

14 Q Is acid phosphatase part of the breakdown of
15 the bone?

16 A I don't know, Counsellor.

17 Q Is acid phosphatase a secretion of both men and
18 women?

19 A Yes.

20 Q I'm referring now to your lab number 892250.

21 MR. RIVERA: Can I have the sweatshirt?

22 (Handing)

23 MR. RIVERA: May I have one second, Judge?

24 (Short pause)

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Q Miss Veit, I show you People's 147.

(Handing)

Q Is this the sweatshirt that you tested in reference to your lab report --

A Yes, it is.

Q -- Lab 892250?

A Yes.

Q Can I have it back.

(Handing)

Q And you indicated in your testimony that you found semen stains, is that correct?

A Yes.

Q And the semen stains that you found on this shirt are in the lower portion of the shirt, is that correct?

A Yes.

Q And you found it in the -- in this area right here, is that correct?

A The waistband, yes.

Q This waistband right here, is that correct?

A Yes.

Q And the area that is cut out is the area where you found the semen stain, is that correct?

A Yes.

Q And you also found it in these two areas, these

1
2 two holes that are here, also indicate the areas you found
3 the semen stain, is that correct?

4 A Yes.

5 Q Now, you did not find any blood on Mr. Santana's
6 shirt, is that correct?

7 A Yes.

8 Q You did not find it, the answer is yes, you did
9 not find it?

10 A Yes.

11 Q You didn't -- you also tested Mr. Santana's under-
12 wear, is that correct?

13 A Yes.

14 Q And you did not find any semen stain on Mr. San-
15 tana's underwear, is that correct?

16 A Yes.

17 Q You did not find any blood?

18 A Yes.

19 Q You tested Mr. Santana's pants?

20 A Yes.

21 Q You did not find any semen stain?

22 A Correct.

23 Q You did not find any blood, is that correct,
24 on Mr. Santana's pants?

25 A Yes, that's correct.

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2 Q Mr. Santana, you tested a leather jacket belong-
3 ing to Mr. Santana?

4 A Yes.

5 Q And you did not find any semen stain on his jac-
6 ket, is that correct?

7 A Yes.

8 Q And you did not find any blood on his jacket,
9 is that correct?

10 A Yes.

11 Q And the answer would be the same with his socks,
12 is that correct?

13 A Yes.

14 Q And with his t-shirt, is that correct?

15 A Yes.

16 Q And you indicated that you found a stain of blood
17 on Mr. Santana's left sneaker, is that correct?

18 A No, I did not find blood on his left sneaker.

19 Q Was that his right sneaker?

20 A Yes.

21 Q And you don't know -- you aren't able to deter-
22 mine when that blood may have gotten on that sneaker, is
23 that correct?

24 A Yes.

25 Q And you don't know the type blood of that blood?

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2 A Yes.

3 MR. RIVERA: I have no further questions.

4 REDIRECT EXAMINATION

5 BY MS. LEDERER:

6 Q Other than the jacket that has been received
7 as People's 142, Yusef Salaam's jacket, did you examine
8 any other clothing belonging to Yusef Salaam?

9 A No.

10 Q Did you examine any fingernail scrapings for
11 Antron McCray?

12 A No.

13 MR. JOSEPH: Objection.

14 THE COURT: I'll allow it.

15 Q Did you examine any fingernail scrapings for
16 Yusef Salaam?

17 A No.

18 Q Did you examine any fingernail scrapings for
19 Raymond Santana?

20 A No.

21 Q You had indicated in response to a question just
22 a few minutes ago from Mr. Rivera, that the New York City
23 Police Department Lab does not do the testing on the sub-
24 typing of blood. Did you begin to explain something or
25 could you explain for what reason you don't do that tes-

1 ting and what tests you do perform instead?

2 A When the Antiserum is used in connection with
3 this type of evidence, it doesn't always cooperate, which
4 means it doesn't always give a readable answer or relia-
5 ble answer.

6 Q Is there a difference in the amount of acid phos-
7 phatase that is present in secretions found in a man as
8 opposed to secretions found inside a female?

9 A Yes.

10 Q Will you tell the members of the jury what that
11 difference is?

12 A The amount of acid phosphatase in a semen stain
13 is significantly higher than in the vaginal secretion.

14 Q Does acid phosphatase appear in the rectum or
15 any of the secretions in the rectum of a female?

16 A There was rectum acid phosphatase.

17 Q In what amount is there acid phosphatase in that
18 area?

19 MR. RIVERA: Objection.

20 THE COURT: Are you talking about --

21 MS. LEDERER: In a female.

22 THE COURT: I'll allow it.

23 A A small amount, not a large amount.

24 Q In the course of your work in this investiga-
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2 tion, did you ever receive any blood samples from an indivi-
3 dual by the name of Terrance Campbell?

4 MR. JOSEPH: Objection.

5 THE COURT: I'll allow it.

6 A No, I did not.

7 Q Did you ever examine any clothing from someone
8 by the name of Terrance Campbell?

9 A No.

10 Q Did you ever receive a blood sample from some-
11 one by the name of Doug?

12 MR. JOSEPH: Objection.

13 THE COURT: I'll allow it.

14 A No.

15 Q Did you ever examine any blood samples from some-
16 one by the name of Doug?

17 MR. RIVERA: Objection.

18 A No.

19 MR. BURNS: Judge.

20 Q Did you ever receive a blood sample from some-
21 one by the name of Jomo Smith?

22 A No.

23 Q Did you ever receive a blood sample from some-
24 one by the name of Ramsey Smith?

25 A No.

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Q Did you ever receive a blood sample from some-
one named Orlando?

MR. JOSEPH: Objection.

THE COURT: Overruled.

A No.

Q Did you ever receive a blood sample from some-
one named Jason?

A No.

Q Did you ever receive a blood sample from some-
one named Shuron?

A No.

Q Did you ever receive a blood sample from some-
one named Juan Brokeen (phonetic)?

A No.

Q Did you ever receive a blood sample from some-
one named Dennis?

MR. BURNS: Your Honor, do I have a conti-
nuing objection?

THE COURT: If it's the same.

MR. BURNS: It's the same.

THE COURT: Yes.

Q Did you ever receive a blood sample from some-
one by the name of Dennis?

A No.

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Q Did you ever receive a blood sample from someone by the name of Patrick?

A No.

Q Did you ever receive a blood sample from someone by the name of Tyrone?

A No.

Q Did you ever send any blood samples from any of the people that I just named to the FBI for genetic or DNA testing?

MR. BURNS: Objection.

THE COURT: Objection overruled.

A No, I did not.

Q Did you ever examine any clothing belonging to Ramsey Smith?

MR. JOSEPH: Objection.

THE COURT: Overruled.

A No.

Q Did you ever examine any clothing belonging to Orlando?

A No.

Q Did you ever examine any clothing belonging to someone by the name of Jason?

A No.

Q Did you ever examine any clothing belonging to

1 someone by the name of Shuron?

2 A No.

3 Q Did you ever examine any clothing belonging to
4 someone by the name of Rakeem?

5 A No.

6 Q Did you ever examine any clothing belonging to
7 someone by the name of Dennis?

8 A No.

9 Q Did you ever examine any clothing belonging to
10 a person named Patrick?

11 A No.

12 Q Did you ever examine any clothing belonging to
13 a person named Tyrone?

14 A No.

15 Q Thank you very much.

16 MR. JOSEPH: I have no questions.

17 THE COURT: Any questions?

18 MR. RIVERA: I have a couple of questions.

19 MR. BURNS: I do, I do.

20 CROSS EXAMINATION

21 BY MR. BURNS:

22 Q Do you know whether fingernail scrapings were
23 ever taken from Yusef Salaam?

24 A No.

25

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2 Q Do you know whether any other articles of clo-
3 thing were taken from Yusef Salaam other than the jacket
4 which is People's Exhibit 142, and I keep forgetting the
5 number, the jacket that you have examined, do you know
6 whether any other articles of clothing were taken from
7 Yusef Salaam?

8 A No.

9 MR. BURNS: I have nothing further.

10 MR. RIVERA: A couple of questions, Judge.

11 RE CROSS EXAMINATION

12 BY MR. RIVERA:

13 Q Did you have the authority to determine whose
14 blood samples you examined and whose blood samples you
15 don't examine?

16 MS. LEDERER: Objection.

17 THE COURT: I'll let her answer.

18 A Whatever blood sample was vouchered and given
19 to me I was able to analyze.

20 Q So, if you never got the sample from an indivi-
21 dual by the name of Jomo, a blood sample, you wouldn't
22 have examined it, is that correct?

23 A That's correct.

24 Q You only examined those items that were deli-
25 vered to you by police, is that correct?

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A Yes.

Q You, as a chemist, don't go out of your office and investigate cases, is that correct?

A That's correct.

Q You basically get the evidence from the police department, from police officers, and you examine them at the lab, is that correct?

A Yes.

Q You indicated in your testimony you had examined some acid phosphatase, is that correct, or you found some acid phosphatase, is that correct?

A Yes.

Q Were you able to -- can you tell us the amount of acid phosphatase you found?

A No, I can't.

Q You also indicated in your testimony that acid phosphatase is found more in men than in women, is that correct?

A Yes.

Q And the reason why it's found more in men is because the prostate gland is the gland that produces it in men, is that correct?

A Yes.

Q And an indication of large amount of acid phos-

Veit - People - Recross/Rivera/Re-redirect

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2 phatase in men indicates a prostate problem, is that cor-
3 rect?

4 A I don't know that.

5 MR. RIVERA: No further questions.

6 RE-REDIRECT EXAMINATION

7 BY MS. LEDERER:

8 Q You indicated that there were certain items of
9 evidence that you examined in this case, specifically semen
10 stains on the sweatshirt of Raymond Santana -- let me with-
11 draw that question.

12 I'd ask you to look at what's been received as Peo-
13 ple's 147 in evidence.

14 MR. RIVERA: Objection, your Honor, beyond
15 recross.

16 THE COURT: Objection sustained.

17 MS. LEDERER: I just want to establish -

18 -

19 THE COURT: Objection sustained.

20 Q Did you examine a sweatshirt of Raymond Santana?

21 MR. RIVERA: Objection.

22 THE COURT: Sustained.

23 Q Did you perform any acid phosphatase tests on
24 clothing --

25 MR. RIVERA: Objection.

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THE COURT: Let her finish the question.

Q -- On the semen stains of the clothing of Raymond Santana and Antron McCray?

MR. RIVERA: Objection.

THE COURT: Sustained.

MS. LEDERER: May I approach?

THE COURT: No.

Q Did you perform acid phosphatase tests on semen stains you examined in the course of this investigation?

MR. RIVERA: Objection.

THE COURT: I'll let her answer that question.

Q Did you perform acid phosphatase tests on semen stains that you examined in this case?

A Yes.

Q And will you describe, please, just briefly how that test is performed and what the results indicated, how you can read the results?

MR. RIVERA: Objection.

THE COURT: I'll allow it.

MR. JOSEPH: I will object to it as to my client.

THE COURT: I'll allow it.

A When you add a solution to a stain that has acid

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2 phosphatase present, there are chemicals in that chemical
3 that reacts. If it is a semen stain, it will turn deep
4 purple. If it's a vaginal phosphatase, it will be lighter
5 purple.

6 Q When you perform the test you performed on Peo-
7 ple's 147 in evidence, what was the color that was re-
8 ceived when you did the acid phosphatase on that exhibit?

9 A It was a dark purple.

10 Q And when you performed the acid phosphatase -

11 -
12 MR. JOSEPH: Judge, I would object to that,

13 as well.

14 THE COURT: Same ruling.

15 Q -- Test on People's 125 in evidence, what was
16 the result, what was the color that was produced in that
17 acid phosphatase?

18 MR. JOSEPH: Objection, Judge, beyond the

19 scope.

20 THE COURT: I'll allow it.

21 A It was also a dark purple.

22 Q Thank you.

23 THE COURT: Anything else?

24 MR. RIVERA: One question.

25 RE-RE-CROSS EXAMINATION

1
2 BY MR. RIVERA:

3 Q The presence of acid phosphatase also indicates
4 there is presence of sperm, is that correct?

5 A No.

6 Q It's the liquid with the sperm inside it, is
7 that correct?

8 A Yes.

9 Q That's all it indicates, is that right?

10 A It's a presumptive test.

11 Q So, that's the fluid with the sperm inside it?

12 A Yes.

13 MR. RIVERA: No further questions.

14 THE COURT: Thank you.

15 We'll take a short recess, ladies and gen-
16 tlemen of the jury. Please don't discuss the
17 case.

18 (Recess declared and taken.)

19 (After the recess, at the Bench, the follow-
20 ing took place:)

21 THE COURT: The next witness, I'm told,
22 is Detective Harry Hildebrandt, and in the course
23 of his testimony, presumably you're going to
24 offer a statement of Antron McCray.

25 MS. LEDERER: That's right.

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COLLOQUY

COURT CLERK: The defendants, their attorneys, the Assistant District Attorneys and all sworn jurors are present.

THE COURT: Who's the next witness?

MR. CLEMENTS: People call Detective Nicholas Petraco

D E T. N I C H O L A S P E T R A C O, called as a witness by the People, having been first duly sworn, testified under oath as follows:

COURT OFFICER: In a loud, clear voice, state your name, spell your last name, shield and current assignment.

THE WITNESS: My name is Nicholas Petraco, P-E-T-R-A-C-O. I am a retired detective from the New York City Police Lab.

COURT OFFICER: People's witness.

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Detective, during 1989 where were you employed?

A At the New York City Police Department Laboratory.

Q And what was your assignment there?

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 A I was assigned as a criminalist.

3 THE COURT: Keep your voice up.

4 THE WITNESS: Yes, sir.

5 Q Would you repeat what your assignment was?

6 A I was assigned as a criminalist.

7 Q What were your duties as a criminalist?

8 A Examination of various types of trace
9 evidence.

10 Q And what is trace evidence?

11 A It can be any type of particular matter,
12 such as hairs, fibers, pieces of glass, paint chips,
13 soils, minerals, soils like very tiny particles.

14 Q What's your background training and
15 experience in the area of criminalistics?

16 A I have a BS degree in Chemistry from John
17 Jay College of Criminal Justice. I have a Master's
18 degree in Forensic Science from John Jay College of
19 Justice. I've taken numerous courses in the
20 examination of physical evidence, use of microscope
21 and chemical analysis. I also have been trained at
22 the FBI Academy and trained at the Police Laboratory
23 on police evidence.

24 I've been involved in research in the use
25 of evidence in forensic science, and have published

PETRACO - PEOPLE - DIRECT - CLEMENTS

1
2 various articles on forensic science and also
3 contributed to several books.

4 THE COURT: Talk into the microphone.

5 A I've taught forensic science at John Jay
6 School of Criminal Justice, and St. John's
7 University. I also am a Fellow of the New York
8 Microscopical Society.

9 Q How long did you work at the New York City
10 Police Lab?

11 A Just under 17 years.

12 Q And before that, were you also working for
13 the New York City Police Department?

14 A Yes, I was.

15 Q And how did you begin your career with
16 them?

17 A I was a trainee with the Police Department,
18 and I also was a street police officer for
19 approximately five years.

20 Q How is the examination of trace evidence
21 used for in the field of law enforcement?

22 MR. JOSEPH: Objection. I'd object to
23 general statements.

24 THE COURT: What is your question?

25 MR. CLEMENTS: I'll withdraw the

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 question, your Honor.

3 Q Have you been qualified previously in the
4 courts of New York as an expert in the field of
5 criminalistics?

6 A Yes, I have.

7 Q Approximately how many times.

8 A Over 200 times.

9 Q Detective, I'd like to direct your
10 attention to April 20, 1989. Did you work that day?

11 A Yes, I did.

12 Q And did you receive an assignment around
13 midday?

14 A Yes, I did.

15 Q Where did you go as a result of receiving
16 that assignment?

17 A I was asked to go up to Central Park to
18 collect some physical evidence.

19 Q At the Central Park Precinct did you
20 receive any property there vouchered under D480442
21 and D480443, vouchered under the name of Police
22 Officer Darby?

23 A May I refer to my notes?

24 Q Yes.

25 MR. BURNS: I didn't hear, Mr.

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 Clements, vouchered under the name of who?

3 MR. CLEMENTS: Police Officer Darby.

4 MR. BURNS: Darby?

5 MR. CLEMENTS: Yes.

6 A Yes.

7 Q And just generally, what was the nature of
8 that property vouchered under those two voucher
9 numbers?

10 A It was material collected by the crime
11 scene unit and vouchered at the Central Park
12 Precinct by Police Officer Darby. And when I
13 arrived at the precinct, he gave me these items to
14 bring back to the laboratory.

15 Q And did you return to the laboratory?

16 A Yes, I did.

17 Q What did you do with the property?

18 A I assigned it, had it assigned lab numbers
19 and I took it into my office for examination.

20 Q Beginning first with Property Voucher
21 480442. Did you examine that property at your
22 laboratory?

23 A Yes, I did.

24 Q What was vouchered under that voucher
25 number?

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 MR. JOSEPH: Objection. May we just
3 approach?

4 (Discussion at sidebar as follows:)

5 MR. JOSEPH: What I'm asking of the
6 Prosecution now asking the detective about
7 a specific number, the Prosecution has
8 provided us with discovery material
9 relating to this witness. My only concern
10 is when they say a lab number, they start
11 asking a question. I'm thumbing through to
12 see which report they are talking about.
13 I'm asking if we can now be told what lab
14 numbers and what it relates to.

15 THE COURT: So far they only talked
16 about voucher numbers.

17 MR. JOSEPH: Lab numbers or voucher
18 numbers, whatever they are talking about.

19 For instance --

20 MR. CLEMENTS: I'm not trying to
21 confuse you.

22 MR. JOSEPH: I don't mean that.

23 MR. CLEMENTS: I'm talking about the
24 first two vouchers relating to material
25 handed over by Detective Darby. I can't

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 really go to a lab number.

3 MR. JOSEPH: I don't care about that.
4 All I'm asking, whose property are we
5 talking about?

6 MR. CLEMENTS: He was describing it.

7 MR. JOSEPH: I understand. My
8 objection has been and will be, if he's
9 going to talk about Kevin Richardson,
10 that's what I'm objecting to.

11 THE COURT: I assume some of it does.

12 MR. CLEMENTS: Not yet.

13 THE COURT: It will.

14 MR. CLEMENTS: yes.

15 THE COURT: I assume this is the same
16 as the reason why we have talked about
17 evidence from Kevin Richardson before?

18 MR. CLEMENTS: Absolutely.

19 THE COURT: And I made a ruling on
20 that. It's the same. You have an
21 exception.

22 MR. BURN: What I think what he's
23 trying to say, since obviously it relates
24 to people who are in custody, is it
25 possible that you can tell us who you're

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 talking about?

3 MR. JOSEPH: What order are you going
4 to do it?

5 MS. LEDERER: Why is it necessary to
6 tell you at this point what the direct
7 examination is going to be?

8 THE COURT: First of all, we know the
9 voucher number. Don't you have the
10 vouchers?

11 MR. JOSEPH: I do. Okay.

12 (End of sidebar)

13 BY MR. CLEMENTS:

14 Q Detective, with respect to the evidence you
15 examined, that was vouchered under Voucher D480442,
16 would you tell the members of the jury what was
17 vouchered under that voucher number?

18 A Well, there were several items. The first
19 three items were marked possible blood specimens and
20 labeled H1, H2, and H3, respectively. And I gave
21 those to the serology section for examination.

22 The fourth item was marked hair sample,
23 labeled -- it was labeled H4, the fifth item was a
24 pair of sneakers and they were marked H5 and H6.
25 The sixth item was a long sleeve shirt, and it was

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 labeled H7. The seventh item was a rock and on the
3 voucher it's stated hair, blood, fibers, and it was
4 labeled H8, and the eighth item, the final item
5 which says one female jogging bra.

6 Q Other than the items H1, H2, and H3 that
7 you sent to serology, did you examine the other
8 items you just mentioned?

9 A Yes, I did.

10 Q Did you examine them together or one at a
11 time?

12 A One at a time.

13 Q Would you describe the procedure by which
14 you examined that evidence for trace evidence when
15 you looked at it in your lab?

16 A Well, the first item I examined was marked
17 item four of eight. From the voucher it was marked
18 H4. It was a piece of paper wrapped, inside was a
19 fiber.

20 THE COURT: Inside was a what?

21 THE WITNESS: A fiber.

22 A I opened up the piece of paper and removed
23 the fiber and examined it under a stereo microscope
24 and also visually, and then I also mounted it on a
25 microscope slide with a mounting medium and examined

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 it with a microscope.

3 MR. CLEMENTS: At this time I would
4 ask the witness if he can be shown what has
5 been premarked as People's 158 for
6 identification.

7 (Handing to witness)

8 Q What is People's 158, Detective?

9 A This is a hair that was packaged in that
10 package that was marked H4. I designated it as Q-1,
11 just meaning question number one, and I put the
12 laboratory number on it, and the item from the
13 voucher number on it.

14 Q You mentioned Q, is there any other letter
15 of the alphabet you use in your work to designate
16 other types of samples?

17 A One is K, meaning known. I use S for soil
18 sample, et cetera.

19 Q Did you also examine H5 and H6, the
20 sneakers?

21 A Yes, I did.

22 Q Would you describe to the members of the
23 jury how you examined them?

24 A I removed them from their containers and
25 looked at them visually and with a stereo

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 microscope, and I removed the material that I saw on
3 the exterior surfaces from the sneakers.

4 Q And did you recover any material?

5 A Yes, I did.

6 Q What did you recover?

7 A Some soil.

8 Q And did you label that in any way?

9 A The soil I labeled as Q3, meaning question
10 number three.

11 Q And what was the next item you examined
12 after the shoes?

13 A Next item -- well, I examined a rock, one
14 of the items I examined next.

15 Q Is that H8?

16 A That was marked h8, right.

17 Q And what, if anything, did you observe
18 about the rock or recover from the rock?

19 A It looked like it had a reddish/brown stain
20 on it, and I also saw at the high point of the rock,
21 some fiber like material.

22 Q Did you remove that material?

23 A Yes, I did.

24 Q And what did you do with that material?

25 A I looked at it visually, I looked at it

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 with the stereo microscope and then I mounted it on
3 a microscope slide and I examined it with the
4 microscope.

5 MR. CLEMENTS: At this time I'd ask if
6 the witness could be shown People's 159 for
7 identification.

8 (Handing to witness)

9 Q Do you recognize People's 159?

10 A Yes, I do.

11 Q And what do you recognize it to be?

12 A As the fiber material I removed from the
13 rock.

14 Q Are People's 158 and 159 in substantially
15 the same condition as when you mounted the
16 specimens, as you just described?

17 A Yes, sir.

18 MR. CLEMENTS: AT this time I offer
19 People's 158 and 159.

20 MR. BURNS: These are both from the
21 rock?

22 MR. CLEMENTS: No.

23 MR. BURNS: One is from the rock?

24 MR. CLEMENTS: The first one, H4.

25 MR. JOSEPH: I have no objection.

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PETRACO - PEOPLE - DIRECT - CLEMENTS

THE COURT: Mark 158 and 159

(People's 158 and 159 received and marked in evidence.)

MR. CLEMENTS: This might be a good place to stop.

THE COURT: We're going to recess at this point, at my request, until 2:15. Please don't discuss the case or come to any conclusions about it. See you back here at 2:15.

(Jury exits the courtroom and a luncheon recess is taken.)

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COLLOQUIY

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2 A F T E R N O O N S E S S I O N - Jury not present.

3 (At the bench, the following took place:)

4 MR. JOSEPH: Mr. Clements had brought up
5 before the question of showing slides to the
6 jury with this expert.

7 And it was mentioned, I think, off the
8 record, but I don't think it was resolved, and
9 I see a slide machine.

10 So, I just thought we ought to do it.

11 MR. CLEMENTS: Detective Petraco will
12 testify about, about the way in which hairs
13 vary from one person to another.

14 His testimony involves a lot of
15 terminology, that is, I would expect very
16 unfamiliar to the jurors, certainly very
17 unfamiliar to me, before I began this case.

18 There are things about the way he
19 describes hair, the different characteristics
20 of the hair, the different morphology, the
21 cuticle, the medulla, the cortex, other areas
22 of the hair that probably none of us are
23 familiar with.

24 It seems to me that he should be permitted
25 to use approximately fifteen to twenty slides

COLLOQUY

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2 taken during the course of his time at the New
3 York City Police Department which are unrelated
4 to this case, but which serve to demonstrate to
5 the jury something about the science and the
6 way in which he is able to look under a
7 microscope and observe different
8 characteristics relating to hair.

9 I would make it very clear that these
10 slides are not from this case.

11 He will not refer to the cases from which
12 these slides were obtained, photographed.

13 And I expect that in the end, it will save
14 time, because, for him to attempt to verbally
15 describe this different, these different
16 characteristics that he examines when he looks
17 at hair, I think, will take much longer than if
18 he is allowed to point out the characteristics
19 to the jury.

20 I really think this is a case where a
21 picture is worth many, many thousands of words.

22 MR. BURNS: Is he going to testify that he
23 can talk -- what is the science of hair
24 analysis called?

25 MR. CLEMENTS: The general science is

COLLOQUY

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2 Criminalistics.

3 MR. BURNS: All right, is he going to be
4 able to give an opinion, as an expert, with a
5 reasonable degree of a criminalistic scientist,
6 as it relates to hair?

7 MR. CLEMENTS: Yes.

8 MR. BURNS: That the hair that was found
9 on Richardson belonged to the jogger?

10 MR. CLEMENTS: He can say that it's similar
11 to and could have come from.

12 MR. BURNS: Could have, not -- he couldn't
13 say that it came from the jogger.

14 MR. CLEMENTS: Right. He can't say that.
15 No expert in this area can say, the way
16 you can with a fingerprint, for example, which
17 you're all familiar with that, and hair is
18 absolutely unique to an individual.

19 THE COURT: He can't say that hair is
20 absolutely unique, is that what you're saying?

21 MR. CLEMENTS: Yes.

22 MR. BURNS: But hair is unique to an
23 individual -- it's not unique to an individual?

24 MR. CLEMENTS: There are a number of
25 characteristics that he examines and he will

COLLOQUY

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2 say that the --

3 THE COURT: Let's finish this. That's
4 fine. It's not -- he can't say that this hair,
5 a hair came from a particular individual;
6 patterns, I suppose.

7 MR. CLEMENTS: There are a number of
8 characteristics. If I can analogize to
9 something else, it's probably like an expert
10 talking about a tire tread impression at the
11 scene of a crime.

12 He can say it came from a particular type
13 of tire, but he can't say that it came from one
14 tire in particular.

15 It's -- there are a number of
16 characteristics that he will describe.

17 And he will say that the questioned hair
18 samples fit within the range of characteristics
19 that he observed in the known sample.

20 THE COURT: That won't involve any of
21 these three defendants, though.

22 MR. CLEMENTS: That's correct.

23 THE COURT: This is Kevin Richardson.

24 MR. CLEMENTS: This is Kevin Richardson
25 and also certain Crime Scene evidence.

COLLOQUY

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2 MR. JOSEPH: Judge, my position, as has
3 been stated, is that, as it relates to Kevin
4 Richardson, should not be admissible against
5 these defendants at this trial, and that what
6 the People are attempting to do is to introduce
7 it in a type of bootstrap theory, that should
8 not be permitted. That's number one.

9 Number two, if the Court overrules my
10 objection, and does admit it in evidence, I
11 have an objection to slides being used.

12 I don't see that as being a proper way to
13 bring forth the evidence to the jury.

14 THE COURT: Let me just understand your
15 objection.

16 Is your objection the same as the
17 objection that you placed on the record before
18 about Kevin Richardson, the evidence obtained
19 against Kevin Richardson, and to be used in
20 this way against your client?

21 MR. JOSEPH: It's two-fold.

22 Number one, it's based on the same
23 position I took before, based upon the same
24 position I've stated before.

25 That since it's not a defendant, since

COLLOQUY

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2 it's a bootstrap theory, it shouldn't be
3 admitted.

4 But secondly, I think that when the People
5 are attempting to introduce evidence, as they
6 candidly admit, is of a nature that a witness
7 could say this hair is similar to, or
8 consistent with, that it becomes speculative
9 and should not be admitted as expert testimony.

10 It shouldn't be admitted in any case,
11 certainly when it deals with an individual who
12 is not the subject of this case.

13 So, I would object on that ground as well.

14 And then, a separate objection would be to
15 the use, even if your Honor overruled my
16 objection, I would continue with an objection
17 to the presentation of a slide lecture to the
18 jury from this witness.

19 MR. BURNS: I join in the application.

20 MR. RIVERA: Judge, I also --

21 MR. BURNS: My objection is still the
22 same.

23 THE COURT: Okay. I've already --

24 MR. RIVERA: Judge, just for the record, I
25 also join, just to point out the fact that the

COLLOQUY

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2 evidence, the main evidence in this case, has
3 been the evidence against, the video tape
4 evidence against our clients.

5 This evidence has very little probative
6 value.

7 Yet, the prejudicial effect of this
8 evidence is -- far outweighs the probative
9 value of this evidence.

10 THE COURT: In effect, I have already
11 ruled on the use of Kevin Richardson evidence
12 in this case.

13 And I'm going to adhere to that ruling,
14 that it may be used, based on prior ruling.

15 Insofar as the testimony of this witness,
16 I think it should be first brought out to this
17 witness as to what the degree of certainty they
18 can establish question to known.

19 MR. CLEMENTS: Right.

20 THE COURT: And so that, you know, a jury
21 will then be able to accept or reject it, based
22 upon whatever scientific value it has.

23 And finally, as far as the slides are
24 concerned, it's demonstrative evidence to
25 establish how a scientist learned in this field

COLLOQUY

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2 would make their determination.

3 I will allow it for that reason.

4 MR. JOSEPH: Judge, just -- I would
5 suggest that the demonstration of the science
6 that this detective is testifying to should be
7 outside the presence of this jury.

8 THE COURT: Why?

9 MR. JOSEPH: Well, to convince the Court
10 that his testimony is not speculatiive in
11 nature.

12 THE COURT: Well, he has already given his
13 credentials.

14 MR. JOSEPH: I'm not contesting his
15 credentials.

16 THE COURT: Well, what are you talking
17 about?

18 MR. JOSEPH: I'm saying whether it's
19 efficient for somebody to give a conclusion
20 whether something is similar to or consistent
21 with.

22 We dealt with a different situation, but
23 there was some question raised by the
24 Prosecution in terms of the conclusions in the
25 psychological reports, presented by the --

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THE COURT: That was a different issue.

MR. JOSEPH: It's absolutely a different issue.

I'm just saying that the conclusion, that the conclusion here is a questionable conclusion, as to whether it should be presented to a jury, to say something is similar to or consistent with.

THE COURT: What do you have, you have something in your hands.

MR. CLEMENTS: Yes, I do.

I have a case that I would like to share with the Court, People v. Alweis, reported at 48 New York 2d, dealing with the admissibility, or one of the points deals with the admissibility of hair evidence.

THE COURT: What does it say?

MR. CLEMENTS: In essence, it says, quoting from Page 346, which is New York Sub. Cite 421, New York Sub. Cite.

"We all know that the value of hair evidence is recognized by legal scholars," and cites McCormack and a number of other cases."

And I think it's directly on point.

COLLOQUY

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2 Talks about the admissibility of this
3 evidence.

4 THE COURT: Is that a murder case?

5 MR. CLEMENTS: Yes. If I could just add.

6 The opinion will be stated to a reasonable
7 degree of scientific certainty.

8 The ultimate conclusion is, as we've
9 stated, that the hair could have come from, and
10 is similar to the known sample.

11 But he does have an opinion, to a
12 reasonable degree of scientific certainty.

13 I think that any objection that is made
14 deals with the weight of the evidence and the
15 probative force of the evidence, not the
16 admissibility of the evidence.

17 THE COURT: All right. I will allow the
18 testimony, I will allow the testimony before
19 the jury.

20 MS. LEDERER: There have been three
21 stipulations that have been prepared and shown
22 to the defense. This is the last one.

23 That has to do with the hair samples that
24 were taken from Patricia Meili.

25 I believe all the defense attorneys have

COLLOQUY

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2 seen it, but because this witness will be
3 testifying about certain materials, this
4 stipulation should probably be read before the
5 witness resumes the stand.

6 (Handed to and examined by defense
7 attorneys.)

8 MR. BURNS: Yeah. I don't have any problem
9 with that, but there's one other stipulation.

10 MR. CLEMENTS: Are we going to work that
11 out?

12 MR. JOSEPH: Apparently not.

13 THE COURT: Okay.

14 So, that stipulation is agreed to and can
15 be read, and should be marked.

16 Are you going to -- you're just going to
17 read it into the record?

18 MR. CLEMENTS: Actually, I would like to
19 read it before Detective Petraco takes the
20 stand again, since it really bears on hairs
21 that he looked at.

22 THE COURT: We'll bring the jury in, we'll
23 bring the jury in first, rather than bring him
24 in first.

25 MR. CLEMENTS: Exactly.

COLLOQUIY

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2 THE COURT: Bring the jury out.

3 (Whereupon, the jury entered the
4 courtroom.)

5 COURT CLERK: The defendants, their
6 attorneys, the Assistant District Attorneys and
7 all sworn jurors are present.

8 MR. CLEMENTS: Your Honor, before the
9 witness is recalled, I would just like to read
10 to the jury a stipulation that was entered into
11 between all parties.

12 It is hereby stipulated by and between the
13 parties that if called as a witness, retired
14 Detective Joan Canty would testify that at
15 approximately 1:00 p.m. on April 21, 1989, she
16 and Detective Shandon were present at
17 Metropolitan Hospital and observed Doctor Azar
18 take head and pubic hair samples from Patricia
19 Meili, which samples were vouchered under
20 Voucher Number D605403, and delivered to the
21 New York City Police Department laboratory.

22 I would ask if Detective Petraco could be
23 recalled.

24 COURT CLERK: Mr. Petraco, may I remind
25 you, you are still under oath.

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 Q Detective, before lunch you were talking about
3 examination of items vouchered under 480442, and I
4 believe you testified about examining some sneakers?

5 A Yes, I did.

6 Q After you examined the sneakers, you talked
7 about examining a rock.

8 What was the next item you examined after the rock?

9 A After the rock I looked at the jogging bra, a
10 bra.

11 Q And did you recover any trace evidence from
12 the bra?

13 A Yes, I did.

14 Q What trace evidence did you recover?

15 A I recovered some soil and in the soil there
16 was a fragment of a hair.

17 Q And did you label the hair in any way, did you
18 mount it on a slide?

19 A Yes, I did.

20 Q And how did you denote that?

21 A I marked it as Q8, meaning Question Number 8.

22 Q What was the next item of evidence you
23 examined?

24 A (No response.)

25 Q Was that Voucher D480443?

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 A Yes.

3 Q Can you tell the members of the jury what was
4 vouchered under that voucher number?

5 A There were five items.

6 Q What was the nature of that property?

7 A These were items that were removed from the
8 Crime Scene.

9 Q Were they labelled in any way with H numbers?

10 A Yes, they were.

11 Q And what was the first item you examined?

12 A Pair of black pants and it was labelled H9.

13 Q Did you recover any trace evidence from H9?

14 A Yes, I did.

15 Q What trace evidence did you recover?

16 A Some soil.

17 THE COURT: Some what?

18 THE WITNESS: Soil.

19 Q What was the next item you recovered -- I'm
20 sorry, examined?

21 A There were -- a sock.

22 Q Was that sock denoted in any way?

23 A Yes, it was.

24 Q What was the designation on that sock?

25 A Was H10.

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 Q Did you recover any trace material from that?

3 A Not from that sock.

4 Q What was the next item of evidence you looked
5 at?

6 A Another sock.

7 Q Did you recover any trace material from that
8 item?

9 A Yes.

10 Q What was that?

11 A It was a hair.

12 Q Did you denote that hair in any way?

13 A Yes, I did.

14 Q And what Q number did you assign to that?

15 A Q4.

16 Q What was the next item of evidence you looked
17 at?

18 A There was an instep, which was from a sneaker.
19 I examined that.

20 Q Did you recover any trace material from that
21 item?

22 A None of value.

23 Q What was the next item you recovered -- I'm
24 sorry, examined?

25 A I looked at, from a different voucher, a

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 long-sleeve shirt.

3 THE COURT: Did he say a different
4 voucher?

5 THE WITNESS: Yes.

6 THE COURT: Would that be which voucher
7 number?

8 A That's original voucher D480442.

9 Q And was there a reason why you delayed in
10 examining that item?

11 MR. JOSEPH: Objection.

12 THE COURT: I don't understand what he
13 means by delayed.

14 A I just took things as they came along. I was
15 taking one at a time. I chose that one out of sequence
16 for some reason.

17 Q Did you recover any trace material from that
18 item?

19 A From the long-sleeve shirt there was some soil
20 on it.

21 Q What was the next item you examined?

22 A There was, from a different voucher.

23 Q Which voucher would that be?

24 A This is D480443.

25 Q And what was that item you examined?

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 A One item was black pants.

3 Q And did you recover any trace material from
4 the black pants?

5 A Yes, I did.

6 Q And what kind of trace material did you
7 recover?

8 A Some soil.

9 MR. JOSEPH: Some what?

10 THE COURT: You want to come up here?

11 MR. BURNS: I can't hear him.

12 THE COURT: Soil.

13 (Sidebar conference, out of the hearing of
14 the jury:)

15 THE COURT: I asked the District Attorney
16 to come up because the witness now testified
17 about something I have a note he already
18 testified about.

19 MR. CLEMENTS: That's right.

20 THE COURT: Are we going to go over the
21 whole thing again?

22 MR. CLEMENTS: No. That would be the
23 black pants he already testified to.

24 (End of sidebar conference.)

25 MR. CLEMENTS: At this time I would ask if

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the witness could be shown People's 173 for
identification.

Q Do you recognize People's 173 for
identification?

A Yes, I do.

Q What do you recognize that to be?

A This is the soil I removed from the clothing
that was found at the crime scene.

Q Would that be the soil you recovered from the
bra, the pants and the shoes and the shirt?

A Yes.

Q And how is it packaged?

A Some of it in containers, some of it on
microscope slides, placed in a plastic.

Q Did you place those items in the plastic
that's in front of you?

A Yes, I did.

Q Is the soil from each item in a separate
container?

A Some of it is, yes.

Q And is the rest of it on a slide, microscopic
slide?

A The rest of it is either in an aggregate
sample or microscope slide.

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2 MR. CLEMENTS: At this time I offer
3 People's 173 into evidence.

4 MR. JOSEPH: I have no objection.

5 MR. RIVERA: No objection.

6 MR. BURNS: No objection.

7 (Whereupon, the reporter marked the
8 above-mentioned exhibit as requested.)

9 MR. CLEMENTS: At this time I would ask if
10 the witness could be shown People's 164A and B,
11 previously marked, and an envelope that has not
12 been marked.

13 (Handing.)

14 Q Do you recognize People's Exhibit 164A and B?

15 A Yes, I do.

16 Q What do you recognize them to be?

17 A This is an envelope in which was marked pubic
18 hair and when I opened it up, I removed these fibers
19 that turned out to be pubic hairs. I designated them as
20 Q7.

21 Q Where did you get that envelope?

22 A This envelope was contained in a kit, in the
23 assault kit that was received.

24 Q When you say "assault kit", do you mean the
25 Vitulo kit?

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2 A Yes.

3 Q Under what number was the Vitula kit
4 vouchered, if you know?

5 A Voucher Number was D303511 -- I'm sorry, it's
6 wrong. D480441, Central Park Precinct.

7 MR. CLEMENTS: At this time, I offer 164A
8 and B in evidence.

9 THE COURT: What are you offering?

10 MR. CLEMENTS: I'm offering 164A and B.

11 The envelope, which is previously marked
12 49E -- I'll offer that, as well.

13 MR. JOSEPH: I have no objection.

14 THE COURT: Mark it.

15 (Whereupon, the above-mentioned exhibits
16 were marked as requested.)

17 (Sidebar conference out of the hearing of
18 the jury:)

19 THE COURT: My question is, is 49E being
20 offered in evidence as 49E?

21 MS. LEDERER: Yes.

22 THE COURT: And 164A and 164B are also
23 being offered at this time?

24 MR. CLEMENTS: Right.

25 MS. LEDERER: Those are two slides

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 containing hair.

3 MR. JOSEPH: Am I correct in understanding
4 what you say is that those are hairs taken from
5 the Vitulo kit?

6 MR. CLEMENTS: Yes.

7 MR. JOSEPH: The only other thing, as to
8 the soil, I don't care about the hairs, but I
9 may want to open up the package later, I don't
10 know.

11 MR. CLEMENTS: That's no problem.

12 (End of sidebar conference.)

13 BY MR. CLEMENTS:

14 Q Detective, would you look at People's 49,
15 please?

16 Do you recognize People's 49?

17 A Yes, I do.

18 Q Is that the rape kit, the Vitulo kit which you
19 obtained the envelope marked 49E in Evidence?

20 A Yes, I did.

21 Q From that envelope, did you obtain pubic
22 hairs, which you mounted on the slide?

23 A Yes.

24 Q The slides I'm speaking of are People's 164A
25 and B in evidence?

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 A Yes, Sir.

3 Q Thank you.

4 Detective, did you examine any fingernail scrapings
5 as part of that Vitulo kit?

6 A Yes, I did.

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

8 A No trace evidence.

9 THE COURT: Please talk up.

10 A No trace evidence.

11 THE COURT: I'm sitting right beside you,
12 I can't hear you. The speaker is right beside
13 me, I can't hear you. Speak into the
14 microphone.

15 Q Did you have any experience with respect to
16 fingernail scrapings as you examined in other rape kits?

17 MR. JOSEPH: Objection.

18 MR. RIVERA: Objection.

19 THE COURT: I'll allow it.

20 A Yes, I have.

21 Q What's your experience with respect to
22 fingernail scrapings?

23 MR. RIVERA: Objection.

24 THE COURT: Overruled.

25 MR. JOSEPH: Judge, other cases?

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2 THE COURT: I'll allow what his experience
3 is in examining fingernail scrapings.

4 MR. JOSEPH: That's over objection.

5 A Rarely do you find something of value
6 underneath fingernails as far as trace fibers or trace
7 hairs. Rarely, most times you don't.

8 Q Now, I'd like to direct your attention to
9 Voucher 480442. Did you examine any property vouchered
10 under that voucher number?

11 A (No response.)

12 Q Let me do it a different way. Would you look
13 at People's 121 for identification.

14 Do you recognize People's 121?

15 A Yes, I do.

16 Q What do you recognize that to be?

17 A It is soil samples collected at the crime
18 scene.

19 Q Were they designated with any H numbers?

20 A Yes, they were.

21 Q What numbers were those?

22 A The soil samples were, one sample was marked
23 H3, one sample was marked H4, one sample was marked H5
24 and one sample was marked H7.

25 Q And were those items, did you receive those

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 items under 480442?

3 A Yes, I did.

4 Q Were there any other items under that voucher
5 that had H numbers?

6 A Yes.

7 Q What type of items were those?

8 A Those were items marked hospital blood
9 samples.

10 Q Did you examine those?

11 A No, I did not.

12 Q Did you designate People's 121, the soil
13 samples, in any way?

14 A Yes, I did.

15 Q How did you designate them?

16 A As S1.

17 Q Meaning?

18 A Sample, Soil 1.

19 MR. CLEMENTS: At this time I would offer
20 People's 121 into evidence.

21 MR. JOSEPH: Judge, I have no objection it
22 going into evidence. I would reserve the
23 right, if I may, to talk about the writings
24 that are on the top.

25 THE COURT: Mark it.

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(Whereupon, the reporter marked the above mentioned exhibit, as requested.)

Q Detective, did you have occasion to examine any clothing vouchered under D4655405, relating to Antron McCray?

A Yes, I did.

Q And when you received the clothing, how was it packaged?

A The clothing was packaged in a large paper bag.

Q Was that bag sealed when you received it?

A Yes, it was.

Q Did you examine the clothing before it went to serology?

A Yes, I did.

Q For what reason?

A For the purposes of removing any trace evidence.

Q Would you describe to the members of the jury the procedure by which you examined clothing, that clothing for trace evidence?

A First thing we do is have a clean area, we put fresh examination paper down. We remove the items one at a time from, in this case the container was a bag,

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2 from a bag. We placed the items on the examination
3 table and we go over it visually. The next thing we do
4 is go over it with a stereo microscope. A stereo
5 microscope is a device that allows you to see in three
6 dimension and allows you to go magnify up to about a
7 hundred power. Almost like normal vision, but only it's
8 magnified vision.

9 The next thing we do is examine the items by
10 lifting tape liftings. Each item is tape lifted and any
11 fibers or hairs that we might pick up are adhered to the
12 tape and we examine those tapes under a stereo
13 microscope at a future time.

14 Also sometimes we'll fully vacuum the clothing to
15 remove any other traces we couldn't get with the other
16 methods.

17 MR. CLEMENTS: AT this time I would ask if
18 the witness could be shown People's 165 for
19 identification.

20 (Handing.)

21 Q Do you recognize People's 165?

22 A Yes, I do.

23 Q What do you recognize it to be?

24 A This is the soil I removed from that clothing.

25 Q Which items of clothing did you remove the

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 soil?

3 A The soil was removed from the sweatshirt,
4 jeans and sneakers.

5 Q And those items belong to Antron McCray?

6 A Yes.

7 MR. JOSEPH: Objection, Judge.

8 I would object to it, who it belongs to.

9 THE COURT: I mean, is there some
10 identification marked on it?

11 MR. CLEMENTS: I'm sorry.

12 THE WITNESS: Yes, Sir, there's a mark,
13 lab number.

14 THE COURT: Just give us the numbers that
15 are on it.

16 THE WITNESS: 89224 -- 892249 is the lab
17 number.

18 And I have designated S3, meaning Soil
19 Sample Number 3, marked on the items.

20 MR. CLEMENTS: At this time, I offer
21 People's 165 in evidence.

22 (Handed to and examined by defense
23 attorneys.)

24 MR. JOSEPH: Again, I have no objection to
25 it going into evidence, but I do have objection

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2 to certain of the writings contained on it.

3 THE COURT: Okay. Mark it.

4 (People's Exhibit 165 received in Evidence
5 and appropriately marked.)

6 MR. BURNS: I'm sorry, is this S3?

7 THE WITNESS: Yes, Sir.

8 MR. BURNS: It's not Q25?

9 THE COURT: Please.

10 Q Did you recover any other trace evidence or
11 trace material from the clothing from Antron McCray,
12 vouchered under D565405?

13 MR. JOSEPH: Objection to the question.

14 THE COURT: What is your question?

15 Q Did you recover any other trace material from
16 the clothing that was vouchered under D565405, the
17 clothing from Antron McCray?

18 MR. JOSEPH: Objection.

19 THE COURT: Come up here for a minute.

20 (AT the bench, the following took place:)

21 THE COURT: Isn't there a lab number?

22 MR. CLEMENTS: He knows it to the extent
23 that the bag is marked on it, it is marked with
24 his name on the bag.

25 Detective Gonzalez testified to vouchering

1 PETRACO - PEOPLE - DIRECT - CLEMENTS
2 clothing from Antron McCray.

3 MS. LEDERER: Judge, if I could just --
4 this clothing is in evidence, it's been
5 identified.

6 THE COURT: Let him identify it. Show it
7 to him, show it to him.

8 If he can identify it from the clothing,
9 let him do it.

10 But I mean, he's given a name, maybe he
11 knows, maybe he doesn't.

12 MR. CLEMENTS: I'm -- I was trying to
13 simplify.

14 THE COURT: That's not possible in this
15 case.

16 MR. CLEMENTS: Okay.

17 (In open court, on the record, the
18 following took place:)

19 MR. CLEMENTS: At this time I would ask if
20 the witness could be shown People's 124, 125,
21 126, 127A and B.

22 (Handed up to and examined by the
23 witness.)

24 BY MR. CLEMENTS:

25 Q Do you recognize those items?

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2 A Yes, I do.

3 Q And how do you recognize those items?

4 A By my initials and my lab number.

5 Q Do your initials appear on those articles of
6 clothing?

7 A Yes, Sir.

8 Q Are those the articles of clothing from which,
9 other than the underwear, from which you obtained the
10 soil sample you mentioned, S3?

11 A Yes.

12 Q Did you recover any other trace evidence from
13 those, any of those articles of clothing?

14 A Yes, I did.

15 Q And what trace evidence, if any, did you
16 recover?

17 A There was some fibers that turned out to be
18 hair.

19 Q Did you designate them in any way?

20 A Q26.

21 MR. JOSEPH: Objection, relevance.

22 THE COURT: Overruled.

23 Q Thank you. If we could, at this time, I would
24 ask if the witness could be shown People's 147, 148,
25 149, 150, 151A and B, 152, 153A and B, 154.

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 (Handed up to and examined by the

3 witness.)

4 Q Do you recognize those articles of clothing?

5 A Yes, I do.

6 Q Did you receive those articles of clothing
7 under a particular voucher number?

8 A Yes, I did.

9 Q Under what number did you receive those
10 clothing -- that clothing?

11 A From Voucher Number -- on Voucher Number D as
12 in David, 565489, 20 Precinct

13 Q Would you describe the condition of the
14 container in which you found that clothing when you
15 first examined it?

16 A There was two paper bags.

17 Q Were they sealed?

18 A Yes, they were.

19 Q Did you examine that clothing in a manner
20 similar to the way in which you examined the clothing
21 from Antron McCray?

22 A Yes, I did.

23 Q Did you recover any trace evidence from that
24 clothing?

25 A Yes, I did.

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2 Q What trace evidence did you recover, if any?

3 A I recovered some soil, which I designated as
4 S4, Soil Sample Number 4.

5 MR. CLEMENTS: AT this time, I would ask if
6 the witness could please be shown People's 168
7 for Identification.

8 (Handed up to and examined by the
9 witness.)

10 Q Do you recognize that?

11 A Yes, I do.

12 Q What do you recognize that to be?

13 A The soil that I removed from sneakers in this
14 case, and I designated as S4.

15 MR. CLEMENTS: At this time, I offer
16 People's 168 into evidence.

17 (Handed to and examined by defense
18 attorneys.)

19 MR. RIVERA: I have no objection, your
20 Honor.

21 THE COURT: Okay. Mark it.

22 (People's 168 received in Evidence and
23 appropriate marked.)

24 Q Did you recover any other trace evidence from
25 those articles of clothing?

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 MR. JOSEPH: Objection.

3 THE COURT: I'll allow it.

4 A Yes.

5 Q And would you tell the members of the jury
6 briefly what you recovered and how you designated those
7 items, if any?

8 A I recovered hairs from hair of socks that I
9 designated as Q28.

10 THE COURT: Q28?

11 THE WITNESS: Q28.

12 A I recovered some more hair from a blue
13 underpants, underwear, that I designated as Q29 and Q30.

14 I recovered another hair from a navy blue
15 sweatshirt that I designated as Q31.

16 MR. CLEMENTS: At this time, I would ask
17 if the witness could be shown People's 142 in
18 Evidence.

19 (Handed up to and examined by the
20 witness.)

21 Q Do you recognize People's 142?

22 A Yes, I do.

23 Q And what do you recognize it to be?

24 A It's a jacket that I received, and it was
25 removed from Yusaf Hawkins -- I'm sorry, Yusaf Salaam.

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 Q And did you recover any trace evidence from
3 that article of clothing?

4 A Excuse me?

5 Q Did you recover any trace evidence from that
6 article of clothing?

7 A No, I did not.

8 MR. BURNS: I'm sorry, what was that?

9 THE WITNESS: No, I did not.

10 MR. BURNS: I see.

11 MR. CLEMENTS: Thank you.

12 At this time I would ask if the witness
13 could be shown People's 128, 129, 130A and B,
14 131, 132, 133, 134.

15 (Handed up to and examined by the
16 witness.)

17 Q Do you recognize those articles of clothing?

18 MR. JOSEPH: Objection as to relevance.

19 THE COURT: I'll allow it. Overruled.

20 Q Do you recognize those articles of clothing?

21 A Yes, I do.

22 Q And how do you recognize them?

23 A From my markings, from the lab number, from my
24 initials.

25 Q And what do you recognize them to be?

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 A As clothing that I was -- that I received at
3 the laboratory, and that was marked Kevin Richardson's
4 clothing.

5 Q And did you recover any trace evidence from
6 his underpants?

7 MR. JOSEPH: Object.

8 THE COURT: Overruled.

9 A Yes, I did.

10 Q And what, if any, trace evidence did you
11 recover?

12 A One fragment of light colored hair that I
13 designated as Q11, and five brown colored hairs that I
14 designated as Q12.

15 MR. CLEMENTS: AT this time, I would ask if
16 the witness could be shown People's 161 for
17 Identification.

18 (Handed up to and examined by the
19 witness.)

20 Q Do you recognize 161 for Identification?

21 A Yes, I do.

22 Q What do you recognize it to be?

23 A As a slide that I mounted the hair on and the
24 hair I removed from the underwear that I marked Q11.

25 Q Is that the light colored hair you mentioned?

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 A Yes, Sir.

3 Q Now, did you recover any trace evidence from
4 the tee-shirt?

5 MR. RIVERA: Objection as to leading.

6 MR. JOSEPH: I would object.

7 THE COURT: I will allow it.

8 A Yes, I did.

9 Q And what trace evidence did you recover?

10 A One brown colored hair which I designated as
11 Q13, one light colored hair that I designated as Q14.

12 MR. CLEMENTS: AT this time, I would ask if
13 the witness could be shown People's 162 for
14 Identification.

15 (Handed up to and examined by the
16 witness.)

17 Q Do you recognize it?

18 A Yes, I do.

19 Q What do you recognize it to be?

20 A It's the light colored hair that I designated
21 as Q14, that I removed from the tee-shirt.

22 Q And did you mount it on that slide?

23 A Yes, I did.

24 Q Did you recover any trace evidence from the
25 jeans?

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2 A Yes, I did.

3 Q What trace evidence did you recover?

4 MR. JOSEPH: Objection.

5 THE COURT: Overruled.

6 A I recovered a tuft of fibers --

7 THE COURT: What?

8 THE WITNESS: A tuft, or a little dust
9 ball of fibers from, and I designated it as Q9,
10 some soil, which I designated as Q10, and one
11 light colored hair fragment that I designated
12 as Q16.

13 MR. CLEMENTS: At this time, I would ask
14 if the witness could be shown People's 163 for
15 identification.

16 (Handed up to and examined by the
17 witness.)

18 Q Do you recognize People's 163?

19 A Yes, I do.

20 Q What do you recognize it to be?

21 A It's the light colored hair I removed from the
22 blue jeans, that I designated Q16, that I mounted on
23 this microscope slide.

24 MR. CLEMENTS: At this time, I offer
25 People's 161, 162, 163.

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2 (Handed to and examined by defense
3 attorneys.)

4 MR. JOSEPH: Objection.

5 THE COURT: Do you have an objection, yes
6 or no?

7 MR. BURNS: It's the same.

8 MR. RIVERA: We all object.

9 THE COURT: Subject to our bench
10 conference.

11 (People's Exhibits 161, 162 and 163
12 received in Evidence and appropriately marked.)

13 Q Detective, I would like to direct your
14 attention to August 18, 1990.

15 Did you return to --

16 MR. CLEMENTS: Withdrawn.

17 Q Did you go to Central Park that day?

18 A Yes, I did.

19 Q I'm sorry, 1989.

20 Did you go with another detective?

21 A Yes, I did.

22 Q Who was that?

23 A Detective Arroyo from Central Park Precinct.

24 Q Did you collect any soil samples at Central
25 Park on that day?

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2 A Yes, I did.

3 Q And do you recall where you collected them
4 from?

5 A From the area that was close to a tree, marked
6 H2, it's about fifty feet away.

7 I was directed by Detective Arroyo, that the area
8 was an area where a blood sample was found, and I
9 collected some soil there.

10 I also collected soil from the bridle path.

11 Q Did you voucher that soil under a particular
12 number?

13 A Yes, I did.

14 Q And under what number was that?

15 A It was vouchered under Voucher Number D, as in
16 David, 30369-- I'm sorry, 629, Scientific Research
17 Division.

18 Q And did you designate that soil in any way?

19 A Yes, I did.

20 Q And how did you designate it?

21 A Mark it S7.

22 MR. CLEMENTS: At this time, I would ask
23 if the witness could please be shown 172 for
24 Identification?

25 (Handed up to and examined by the

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 witness.)

3 Q Do you recognize People's 172 for
4 Identification?

5 A I recognize it.

6 Q What do you recognize it to be?

7 A These were hair standards that were removed
8 from Patricia Meili and vouchered by Detective Tandi,
9 and brought to the laboratory for examination.

10 Q And did you examine what is contained in
11 People's 172 for Identification?

12 A Yes, I did.

13 Q And what did you find within People's 172 for
14 Identification?

15 MR. BURNS: Objection.

16 THE COURT: I'll allow it.

17 A They are hair standards.

18 Q What do you mean by "hair standards"?

19 A Known head hair and pubic hair specimens
20 removed from Patricia Meili.

21 Q Did you do anything with the head hair and th
22 pubic hair that you found in People's 172?

23 A Yes, I did.

24 Q What did you do with that?

25 A I removed them from the containers, and I

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2 examined them visually with the stereo microscope, and
3 then mounted them on microscope slides and then did my
4 examination.

5 I designated the head sample as K1, and the pubic
6 hair specimen as K2.

7 Q Excuse me. K1 was the?

8 A Head hair specimen.

9 Q From Patricia Meili?

10 A Yes.

11 MR. CLEMENTS: AT this time, I offer
12 People's 172.

13 (Handed to and examined by defense
14 attorneys.)

15 MR. JOSEPH: No objection.

16 THE COURT: All right. Mark it.

17 (People's Exhibit 172 received in evidence
18 and appropriately marked.)

19 MR. CLEMENTS: At this time I would ask
20 the witness could be shown People's 171 for
21 Identification.

22 (Handed up to and examined by the witness.)

23 Q Do you recognize People's 171?

24 A Yes, I do.

25 Q What do you recognize it to be?

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 A These are head hair standards and pubic hair
3 standards that I received and designated.

4 Head hair I designated as K5. The pubic hair I
5 designated as K6.

6 They were received from Kevin Richardson.

7 Q And did you receive those standards under a
8 particular voucher number?

9 MR. JOSEPH: I would object to that
10 testimony.

11 MR. RIVERA: I join in that.

12 THE COURT: Overruled.

13 A Under Voucher Number D, as in David, 607638.

14 Q And who was the vouchering officer on that
15 voucher?

16 A Detective Arroyo.

17 THE COURT: What is K5?

18 THE WITNESS: Head hair specimen.

19 Q And the pubic hair specimen is K6.

20 MR. CLEMENTS: At this time, I offer
21 People's 171.

22 MR. JOSEPH: I object.

23 THE COURT: All right.

24 Subject to our bench conference, I will
25 allow it to be marked in evidence.

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 MR. RIVERA: I join in the objection.

3 MR. BURNS: I also join.

4 THE COURT: Overruled.

5 (People's Exhibit 171 received in Evidence
6 and appropriately marked.)

7 MR. CLEMENTS: At this time, I would ask
8 if the witness could be shown People's 166A and
9 B for Identification.

10 (Handed up to and examined by the
11 witness.)

12 Q Do you recognize them?

13 A Yes, I do.

14 Q What do you recognize them to be?

15 A These are head and pubic hair standards that
16 were received at the laboratory from Antron McCray.

17 Q Did you designate them in any way?

18 A I designated the head sample as K11 and the
19 pubic hair specimen as K12.

20 Q Did you receive those items for examination
21 under a particular voucher number?

22 A Yes, I did.

23 Q And what number was that?

24 A It was D, as in David, 607744, Central Park
25 Precinct.

1 PETRACO - PEOPLE - DIRECT - CLEMENTS

2 Q Who was the vouchering officer?

3 A Detective Arroyo.

4 Q What -- did you mount those hair standards on
5 slides?

6 A Yes, I did.

7 Q Are those the slides contained in People's
8 166A and B?

9 A Yes.

10 MR. CLEMENTS: At this time, I offer
11 People's 166A and B.

12 MR. JOSEPH: I have no objection.

13 I would object on the ground of relevance.

14 (People's Exhibits 166A and B received in
15 evidence and appropriately marked.)

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Q Detective, would you look at 167A and B, please, for identification.

(Handing.)

Were those in the container you examined a few moments ago?

A Did I receive them in this container?

Q No, no. Were they in the container you just examined in connection with People's 166A and B?

A These slides, yes.

Q And with respect to 166A and B, are they adhere samples?

MR. JOSEPH: Objection to leading.

THE COURT: 166A?

MR. CLEMENTS: Yes.

MR. RIVERA: Objection, your Honor. Let him say what they are.

A It's marked back here on the slide as 166A.

MR. JOSEPH: Objection.

THE COURT: No. What is 166A?

THE WITNESS: Head hair specimens.

Q What is 166B?

A Pubic hair specimens.

Q What is 167A?

A I'm sorry, 166A and B are head hair specimens. 167A

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2 and B are public hair specimens.

3 Q Did you designate A and B, 167A and B with a K
4 number?

5 A Yes, I did.

6 Q What K number was that?

7 A 167A and B is K12.

8 MR. CLEMENTS: At this time I offer People's
9 167A and B.

10 MR. RIVERA: Objection, your Honor.

11 MR. JOSEPH: Objection.

12 THE COURT: Overruled.

13 MR. RIVERA: I don't know as to who, your
14 Honor, against who are they being offered?

15 THE COURT: Come up here for a moment.

16 Q Are they samples from Antron McCray?

17 A Yes, they are.

18 Q 167A and B?

19 A Yes, sir.

20 MR. BURNS: I'm sorry, we're not coming up?

21 THE COURT: I don't think it's necessary, it's
22 been established.

23 Q 166A and B are?

24 A Head hair samples.

25 Q From Antron McCray?

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2 A Yes.

3 THE COURT: Mark it.

4 (Whereupon, the reporter marked the
5 abovementioned exhibits, as requested)

6 MR. CLEMENTS: At this time I would ask if the
7 witness could be shown 170 for identification.

8 (Handing)

9 Q What is 170 for identification, if you know?

10 A These are head and pubic hair specimens that were
11 sent to me from Yusef Salaam.

12 MR. BURNS: Actually he didn't send them.

13 A That were sent to me, I'm sorry, as being from Yusef
14 Salaam.

15 Q Did you receive them under a particular voucher
16 number?

17 A Yes, I did.

18 Q What number was that?

19 A Was voucher number D610950.

20 Q What did you do with those samples, did you mount
21 them on slides?

22 A Yes, sir.

23 Q And are those the slides you have before you?

24 A Yes, they are.

25 Q Who was the vouchering officer, if you know?

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2 A Detective Arroyo.

3 MR. CLEMENTS: At this time I offer People's
4 170.

5 MR. JOSEPH: No objection.

6 THE COURT: Mark them.

7 (Whereupon, the Reporter marked the
8 abovementioned exhibit, as requested.)

9 MR. CLEMENTS: At this time I would ask if the
10 witness could be shown People's 169 for
11 identification.

12 (Handing)

13 Q Do you recognize People's 169?

14 A Yes, I do.

15 Q And what do you recognize People's 169 to be?

16 A As head hair and pubic hair specimens that were sent
17 to me that were said to be Raymond Santana's.

18 Q Did you receive them under a particular voucher
19 number?

20 A Yes, I did.

21 Q What number was that?

22 A Voucher number D607745, Central Park Precinct.

23 Q Did you designate those head and pubic hair samples
24 in any way?

25 A Yes, I did.

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2 Q How did you designate them?

3 A I designated the head hair as K15 and the pubic hair
4 as K16.

5 Q Did detective Arroyo's name appear on that voucher
6 that you read?

7 MR. RIVERA: Objection.

8 THE COURT: I'll allow it.

9 A Yes, it does.

10 MR. CLEMENTS: At this time I offer People's
11 169 into evidence.

12 MR. RIVERA: I object to the introduction, your
13 Honor.

14 THE COURT: Overruled. Mark them.

15 (Whereupon, the abovementioned exhibit, was
16 marked as requested.)

17 Q Detective, as part of your responsibilities in the
18 criminalistics section, did you conduct microscopic
19 examinations and comparisons of soil from a known source with
20 soil from an unknown or unidentified source?

21 MR. JOSEPH: Objection as to form.

22 THE COURT: I'll allow it.

23 A Yes, I did.

24 Q Can you describe the kind of information an expert
25 in criminalistics can obtain from the examination of soil?

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2 MR. JOSEPH: Objection.

3 THE COURT: Overruled.

4 A You cannot just from microscopic, but you can
5 determine color, do a color comparison, look at the mineral
6 content, do a mineral comparison and render an opinion as to
7 whether a questioned sample could have originated from a
8 source of some known samples after you do the comparison.

9 Q Did you compare the questioned soil samples from the
10 clothing of Raymond Santana, Antron McCray and Kevin
11 Richardson with the known soil samples you collected from the
12 crime scene and were sent to you?

13 MR. RIVERA: Objection.

14 THE COURT: Overruled.

15 A Yes, I did.

16 Q Will you briefly explain how the questioned samples
17 from the three individuals I mentioned and the known samples
18 were analyzed?

19 A Well, one thing I did was to look at color of the
20 soil samples after sieving them. One thing I did was sieve
21 them through different tractions. Another thing I did was
22 examine mineral content under a microscope and also to examine
23 some of the minerals with different forms of instrumentation.

24 I also used a density grading method.

25 Q Would you explain what you mean by sieving?

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2 A Sieving is you take the whole sample and you put it
3 through various mesh, sieves, different sizes, starting out
4 with the largest mesh, going down to the smallest mesh.

5 Q What, if anything, does that tell you?

6 MR. JOSEPH: Objection.

7 THE COURT: I'll allow it.

8 A Basically, it just sieves fractions, you want to
9 collect any evidence that might be in the fractions, also you
10 see different fractions that make up the soil.

11 Q And you talked about a density gradient. What do
12 you mean by that?

13 A Different materials have different densities. What
14 you do is you make up a tube with various density liquids in
15 it, mixtures of, and you put individuals soil samples in them,
16 and if they have similar content, they will have a similar
17 density in distribution.

18 Q You also talked about mineral content. With respect
19 to the samples you examined, would you tell the members of the
20 jury what you found to be the mineral content of the samples?

21 A The sample had quartz, different samples had quartz,
22 felspar, which is a mineral.

23 MR. JOSEPH: Objection.

24 THE COURT: I'll allow it.

25 MR. JOSEPH: Judge, my objection is he examined

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2 a variety of samples.

3 THE COURT: We'll find out.

4 A All the samples that I examined, the questioned and
5 known samples had quartz, feldspars and primarily mica, various
6 kinds of mica, and also some traces of garnet and some
7 hornblende. Also had vegetable matter in them and other
8 materials.

9 Q Did you compare the questioned soil samples from
10 Antron McCray's clothing from the known samples that you
11 received from the crime scene and you collected yourself?

12 A Yes, I did.

13 Q What were the results of that comparison?

14 MR. JOSEPH: Objection.

15 THE COURT: Which comparison is this?

16 MR. CLEMENTS: Antron McCray.

17 THE COURT: I'll allow it.

18 A My conclusions were that they were similar in
19 mineral content and composition, and the questioned sample
20 could have originated from the source of the known samples.

21 MR. JOSEPH: I would restate my objection and
22 move to strike.

23 THE COURT: I'll let it stand.

24 Q Did you compare the questioned soil samples from the
25 material of Raymond Santana that you collected and were sent

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2 from the crime scene?

3 A Yes.

4 Q What did you conclude?

5 A I concluded they were similar in mineral content and
6 composition and that the questioned sample could have
7 originated from the source of the known.

8 Q And did you compare the questioned soil sample from
9 the clothing of Kevin Richardson with the known soil samples
10 you collected and were sent to you?

11 A Yes.

12 Q What were the results of that comparison?

13 A I concluded they were similar in mineral content and
14 the questioned sample could have originated from the source of
15 the known samples.

16 Q Detective, did you collect samples from elsewhere in
17 the park at all?

18 A Other than the bridal path and where I collected,
19 no, sir.

20 Q Are you familiar with the soil within Central Park?

21 A Yes, I am.

22 Q And do the characteristics of the soil that you
23 examined in the area of the crime scene differ with respect to
24 soil that exists in the rest of Central Park?

25 A Well, if the area is cultivated area, it would be

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2 different.

3 Q What do you mean by cultivated.

4 A Areas such as ballfields, bridal paths, gardens,
5 things like this, places like that. Other areas that are
6 uncultivated the soil will be similar.

7 Q As part of your responsibilities in the
8 criminalistics section, could you conduct or did you conduct
9 microscopic examinations and comparisons of human hairs with
10 comparisons with hairs from a known source and with hairs from
11 an unknown source or unidentified source?

12 A Yes, I did.

13 Q Can you describe what kind of information an expert
14 in your field could derive from the microscopic examination of
15 human hair?

16 A In a case of hair --

17 MR. JOSEPH: Objection.

18 THE COURT: Overruled.

19 A In a case of hair you can -- first thing we usually
20 do is see what type of millian hair it is and if it is a
21 human, mammal, that's the first thing we do. We identify on
22 the basis of morphology whether it is a human hair.

23 Next thing we do is try to associate the hair with one of
24 the major three categories of race. The three categories are
25 Caucasoid, Mongoloid and Negroid. And you can determine

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2 sometimes upon the basis of these characteristics which -- a
3 give hair came from, given information from a different race.

4 Another thing you can do is, in fact, look at the hair to
5 see if it is from head hair, pubic region, mustache, different
6 hair bodies, areas.

7 Another thing you can do is see if there is any force
8 used to remove the hair or if it was just naturally shaved
9 hair.

10 Q You mentioned several different racial
11 classifications. Where did those terms originate?

12 A Originate from literature.

13 Q Literature in your field?

14 A Literature in anthropology and in my field and
15 several other fields.

16 Q And with respect to the term Mongoloid. What
17 countries might people of that race be associated with?

18 MR. JOSEPH: Objection.

19 THE COURT: I'll allow it.

20 A It would be hair from individuals that could be
21 American Indians, Eskimos, some Oriental people could fall
22 into that category.

23 Q Did you determine the sex of a person based on their
24 hair?

25 A No, I cannot.

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2 Q With respect to human hair, how many different
3 characteristics can you examine in the case of a particular
4 type of human hair?

5 A There's some 20 odd characteristics, depending on
6 which literature you read, but approximately 20 different
7 characteristics.

8 Q And what is the standard by which a hair from a
9 known source can be compared with a hair from a questioned
10 source?

11 MR. JOSEPH: Objection.

12 MR. RIVERA: Objection.

13 THE COURT: I'll allow it.

14 A What an examiner does, in fact, after determining a
15 hair, say a Caucasoid head hair, is to examine for a standard
16 from someone who might be a suspect or who might be involved
17 in a situation, and they want to associate that questioned
18 hair as possibly originating from a given individual. So, we
19 would ask for a sample of an individual's hair. If it was
20 head hair, we would ask for a sample of hair representing the
21 whole head, a couple of dozen hairs, at least.

22 The reason we ask for a lot of hairs is because hair
23 varies.

24 The hair in my own head, for instance, varies in color,
25 there's gray hair, there's darker brown hair, lighter brown

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2 hair. The shape varies, the length will vary. And there are
3 several microscopic sized characteristics you can only see
4 with a microscope that also vary. So, what you have to do is
5 look at this range in a given known sample. After you do
6 that, you take the head hair and you see if that questioned
7 hair can fit into the range of known sample. If it can, then
8 you can eventually associate it and say that questioned hair
9 could have originated from the source of the known. If it
10 does not fall within the range, you can say it did not, is not
11 consistent with the range of physical characteristics and
12 could not have originated from the source of the known.

13 There is also an in between answer that you just can't
14 draw a conclusion for various reasons.

15 Q So, you cannot make individualized determinations as
16 to the source of a particular strand of human hair say the way
17 you can with fingerprints?

18 A No, you cannot.

19 Q Can you estimate what percentage of the population
20 would have hair possessing a certain set of characteristics
21 that you are able to measure?

22 MR. BURNS: I object to that.

23 THE COURT: I'll let him answer, if he can.

24 A No, you cannot.

25 Q Would you explain to the members of the jury how

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2 hair is lost or shed?

3 MR. JOSEPH: Objection.

4 THE COURT: I'll let him answer.

5 A Hair is basically just shed. It has a lifespan, and
6 when the root dries up, it will just naturally shed. I seen
7 in literature where it's estimate the average individual sheds

8 --

9 MR. JOSEPH: Objection.

10 THE COURT: I'll allow it.

11 A -- approximately 100 hairs a day.

12 Q And can hair be transferred from one individual to
13 another?

14 A Yes, it can.

15 Q In what ways?

16 A Primarily by touching, touching people or places in
17 people, things in people. When two things come into contact,
18 there can be a mutual transfer of trace material and hair is
19 one source of trace material, one type of trace material. So
20 it can be transferred during touching.

21 Q Can it be transferred in ways other than touching?

22 A It's primarily that way. But can be airborne.
23 There are other ways, but primarily coming into contact.

24 Q Now, you talked about different characteristics that
25 exist with respect to human hair. Do you have any slides that

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2 you brought with you today that can illustrate the types of
3 characteristics you look for when you examine hair?

4 A Yes, I do.

5 Q Are those slides related to this case, were they
6 taken in connection with this case?

7 A No, they were not.

8 MR. CLEMENTS: With the Court's permission, I'd
9 ask if the witness could explain different
10 characteristics that he has observed in connection
11 with his analysis.

12 MR. JOSEPH: Objection.

13 THE COURT: Subject to a conference we had at
14 the bench, I will allow it.

15 Q Detective, would you, using the slide, explain to
16 the members of the jury what characteristics you look for when
17 you examine hair and how you examine it?

18 A This is what a typical human head hair that has the
19 three major anatomical regions looks like. The only thing
20 that would be different pigment density, things like this.
21 There is an outer region, you see that clear outer region.
22 It's pretty thick and it's clear. That's known as a cuticle.
23 That's made up of scales and it's primary purpose is to
24 protect the hair.

25 There is another large area, that whole brown area, dark

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2 area, this area in here that's known as the cortex. That's
3 the main body of the hair, that has the pigment in it. Any
4 other kinds of bodies such as ovoid particles, these are
5 bodies you will find in here to use for comparison.

6 Q And this central portion of the hair, which is known
7 as the medulla, and it can take a lot of different
8 configurations, the medulla. This happens to have a thick
9 amorphous medulla, very pigmented hair. Some human hairs do
10 not have medulla, they will not have this or you cannot see it
11 as clearly as this because they might be infiltration from
12 mounting medium or might be cortical material, cortical cells
13 that make up the cortex inside the medulla. So, you can't
14 distinguish it. It takes on the various kind of
15 configurations. As that last hair had a very thick cuticle,
16 that outer margin, this hair has what would be considered a
17 very thin cuticle. In fact, you cannot see it when you look
18 under a microscope.

19 This hair has no -- you cannot see medulla -- medulla is
20 not obvious. You can't see it. It would be said to be
21 absent. The pigmentation is absent. The size, shape of the
22 pigment granulars, the distribution of the pigment granulars
23 that give the pigment the color are obvious much different
24 than the last hair. These are kinds of things you look at.

25 This happens to be a light color brown hair. This would

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be a hair that has a cuticle that's serrated and this particular hair happens to be from chemical damage and from mechanical damage, but see how the cuticle is lifted away from the hair.

Some hair has that naturally, some human hairs will have that naturally or could be caused by chemical or mechanic damage.

This happens to be a gray hair. A gray hair is hair that has no pigment. Again, you can see the cuticle as its own manifestation. And this particular hair there is no medulla. These are known as cortmaduci (phonetic), which are spaces in the hair and there is a lack of pigment in this hair.

This happens to be a head hair. It's a red colored hair from an individual that has red hair. It's a natural color. The pigment in a person with red hair tends to move towards or be towards the center of the hair rather than the outer peripheries.

You can also see the pigment isn't as prominent as the last hair.

The pigment is distributed in a certain way again. In red hair the distribution is toward the center of the hair and this hair also doesn't have the medulla.

This hair happens to be a light brown hair. You can see it has it's own manifested cuticle. No medulla. And the

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1 pigment is distributed in a certain way. It's fairly even.
2 The distribution pigment throughout the hair. The size and
3 shape of the granules are distinctive, they are small, very
4 tiny and even distribution.
5

6 This hair, see it's a little thicker than the hairs
7 before. All these hairs are at about 100 magnification, an
8 100 power magnification. It has a thick cuticle, no medulla,
9 and you can see that the pigment is towards the peripherias
10 and distribution isn't as even as some of the other hairs.
11 And granules, the pigment causing granules that give it it's
12 color are, in fact, distributed not as evenly as some of the
13 other hairs.

14 This can vary greatly. This happens to be a little
15 darker round hair when the cuticle is, cuticle margin isn't as
16 prominent. The distribution is much different. This happens
17 to have a fragmented medulla, which means it's broken up and
18 it's also amorphous, it appears black with no shape,
19 amorphous.

20 This happens to be a very heavily pigmented human hair
21 and has a lot of pigment in it, so you can't even see through
22 the hair when you look at it with a microscope.

23 This happens to be a very thick cuticle, just slightly
24 serrated. There is a medulla, but you can't see it because of
25 the heavily pigmentation.

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2 This is the way some chemically treated hairs appear.
3 This is the chemical treatment up here. This is where the
4 root has grown out into the chemical treatment and you can see
5 that doesn't look natural as far as pigment goes, looks like
6 it's painted.

7 You can usually tell when hair has been treated with some
8 kind of chemical or dye. These are not pigment granules,
9 these are corticose (phonetic). You can tend to see that a
10 lot in hair that's treated because what happens before you
11 treat it usually you have to break down the hair in order to
12 get out cortex so you can add the pigment or add the dye.

13 Caucasoid hair, this is a cross section, Caucasoid hair
14 tends to be oval in shape and again you see the medulla in the
15 center. If it's present, you will see that. If not, that
16 will not be there, like that hair. And you can see how the
17 pigment is distributed and also you can see the cuticle around
18 here. It tends to be oval shaped. That's oval in cross
19 section. A little thicker in the middle than it is at the
20 end.

21 This one fairly typical human head hair with Caucasoid,
22 fairly medium color brown and the pigment is fairly even. The
23 hair isn't that thick, usually about a tenth of a millimeter
24 in diameter, which would be across this way. And the cross
25 section would be oval and the pigment would look something

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2 like this. There can be many different variations.

3 This is a cross section of a hair from a person who is of
4 the Negroid race.

5 This hair tends to be just a little flatter.

6 In cross section, it's what they call oblate, and it has
7 a lot of pigment in it, as you can see, and the cuticle is
8 fairly thin.

9 And again, if there is a medulla present, you will see
10 it.

11 If there isn't the medulla present, you wouldn't see it.

12 Hair from people of the Negroid race sometimes have
13 kinks, or tends to have kinks in it, and this is what a
14 typical kink would look like, it's just a twist in the hair.

15 And at the ends, it's broken or frayed many times, and it
16 happens to be brittle for some reason.

17 This is a typical cross section of a hair from a person
18 of Mongoloid race.

19 And again, their hair tends to be round in shape, and
20 again, that's usually heavily pigmented hair, and again,
21 towards the outer peripheries.

22 And if there is a medulla present, there usually is a
23 medulla present in Mongoloid, not all the time, but if it is,
24 it's usually in the center, and it is usually pretty large,
25 and the cuticle tends to be large, and thick and clear, but it

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2 can vary.

3 It can have pigment in there, can have all the
4 characteristics, could be serrated, could be any variation.

5 This is a longitudinal view of the same hair, same type
6 of hair.

7 See the thick cuticle and hair from people of Mongoloid
8 race tends to be fairly thick.

9 It's usually a little thicker than average Caucasoid
10 hair, or average hair from Negroid peoples.

11 Another thing we look at is the distal end of the hair,
12 or the tip end of the hair.

13 And it can have a tapered tip, you'll see, as hair from
14 pubic region, hair from head, transitional areas, in temporal
15 areas, et cetera.

16 This tip of the hair that's been cut is a head of hair
17 that's been cut.

18 This is the kind of thing you would see during normal
19 grooming, barber, beautician, the hair would look, it would
20 cut straight across.

21 This is typical hair where there is some kind of
22 abrasion.

23 Usually, you will see this on the axillary hair, which is
24 hair from under the arms, or hair from the pubic area, where
25 there's wear.

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2 The hair is pretty brittle.

3 So, what happens is, it just kind of sands down, rubs
4 against clothing, and just forms a rounded edge.

5 Pubic hair tends to have buckles in it, tends to be much
6 coarser, much thicker.

7 And this is a hair from all the races.

8 Again, pubic hair will be buckled, have a thick amorphous
9 medulla, and have a bleaching color to its pigmentation.

10 This is just a slide to show you the difference in
11 buckling thickness.

12 Another variation is that it will vary in thickness from
13 -- especially public hair, especially will change in variation
14 from thickness, very quickly, abrupt variation.

15 And pubic hair tends to have some kind of oblong cross
16 section or triangular section.

17 Other body hair have regular cross sections.

18 This is a triangle or shaped beard hair.

19 I can tell from the slide, it's thicker on this side than
20 on that side.

21 Q What kind of microscope was used in that hair?

22 A This is a special kind of microscopy, known as
23 Polarized Light Microscopy, and allows you to see variations
24 in thickness, barbs, et cetera.

25 This would be a cross section of the hair that looked

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2 like that longitudinal view, very triangle cross section.

3 This is known as proximal end. This is the root end of
4 the hair. And these are just two slides.

5 This would be what they naturally shed, hair dried up,
6 root bulb, just a bulb, and there would be no pain associated
7 with this coming out.

8 Where a root like this, which is known as actively
9 growing root, or anigen root, is where it has tissues still
10 connected to it, and everyone -- if you comb your hair, you
11 could inadvertently do that, you could get a root that comes
12 out like this, and just an actively growing root, so, you get
13 the whole root follicle.

14 These are -- this hair from a Caucasoid person, it's
15 pubic hair, same person, and a head hair from the same person.

16 You could see the way they vary in thickness, in pigment
17 distribution, in pigment appearance, in thickness of medulla,
18 cuticle, et cetera. They would vary a lot.

19 And again, I would like to point out that in these hairs,
20 all you're really looking at in hair slides is a very tiny
21 part of the hair.

22 A hair that would be two or three centimeters long, you
23 would have to take a couple of hundred photographs to
24 represent every area that was in the hair.

25 This is only a tiny portion of the hair, but you can --

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2 but it -- you can fairly represent some of the characteristics
3 that you look at when you take photographs like this.

4 This is a hair from a person of the Mongoloid race.

5 Again, head hair, round cross section, cylindrical shape,
6 heavily pigmented.

7 Pubic hair is much thicker, much coarser medulla, bleachy
8 appearance, the pigment.

9 This is a hair from a person of the Negroid race, pigment
10 that tends to be clumpy.

11 The hair in this case has no medulla.

12 That doesn't necessarily hold, but you can see it's much
13 different than the pubic hair, which is much thicker, ^{Amor phod} ~~a more~~
14 ~~has~~ medulla, buckling, et cetera. _{for}

15 This is a hair from when you get an admixture.

16 And whenever you get an admixture, people of mixed racial
17 background, you can get potpourri of characteristics that
18 could be expressed in the hair.

19 This is a head hair, and this is a public hair.

20 And someone who examined might identify hair like this as
21 hair from person of mixed racial origin, some might, depending
22 on their experience, identify it as a hair, and couldn't give
23 it a racial origin, they could just say it's a human head hair
24 or human pubic hair.

25 In cases of force, or in other cases of split end, you

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2 can see hair that's actually break. Again, it's brittle

3 stuff, so, it can break.

4 When it's cut with a sharp instrument, such as a knife,

5 or an axe, things like this, it can look pretty angular, can

6 also be cut with scissor, but it will have angular shape, and

7 it can be cut with glass, in case of an auto accident, where a

8 person's head might hit windshield, hair can be shaved, and

9 look something like this.

10 Can also be crushed, and this is what a typical crush

11 hair would look like.

12 And what we do is, when we have a question hair and a

13 known hair sample, that we think the question -- want to

14 determine whether that question could have come from that

15 known, this is known as a comparison microscope, and what it

16 is is two light microscopes or two polarized microscopes

17 bridged together with Optical bridge, and allows you to

18 compare the hair, question and known hair, to determine

19 whether the hair was common origin or dissimilar, does not

20 have common origin, or inconclusive, you can't really say

21 because of the various situations that arise in the sample.

22 And this, pretty much what you would see, you just see

23 one hair, and compare it against the other.

24 And in comparison, you would go from the tip end to the

25 route end, and you would also look at many hairs in the case.

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2 We look at, you know, 20, 30 hairs from a given source,
3 at least, and compare them to a question hair.

4 You go from the tip -- look for any differences, any
5 subtle differences that might exclude the question hair, or
6 any subtle differences that might include the question hair as
7 being possibly from that source.

8 Q Detective, with respect to the hair you designated
9 as Q1, People's 158 in evidence, the same sample received from
10 detective Honeyman, marked H4.

11 Did you examine that with any of the known samples that
12 have been received in evidence here today?

13 A Yes, I did.

14 Q And what were the results of your comparison?

15 A I concluded that Q1 hair was similar to the known.

16 THE COURT: Well have to take a short recess.
17 Jurors asked for a brief recess. So, we'll take a
18 short recess.

19 Please don't discuss the case.

20 (Recess declared and taken.)

21 (After the recess, in open court, on the
22 record, the following took place:)

23 (Detective Petraco resumed the witness stand
24 and testified further, under oath, as follows:)

25 , JURY PRESENT

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2 THE COURT CLERK: Defendants, their attorneys,
3 assistant district attorneys and all sworn jurors
4 are present.

5 Detective Petraco, you're still under oath.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. CLEMENTS:

8 Q Detective, with respect to Q1 that was received into
9 evidence as People's 158.

10 Did you examine that and determine the type of hair it
11 was?

12 A Yeah.

13 I examined, and determined it was one fragment of light
14 colored head hair of Caucasoid origin, and I compared it.

15 Q And did you compare it with all the known samples
16 that were introduced here today?

17 A Yes, I did.

18 Q What were the results of that comparison.

19 A I concluded that the question hair in Q1 is a
20 fragment of head hair, could have originated from the source
21 of the K1 sample, which was the known head hair from Patricia
22 Neilli.

23 MR. JOSEPH: Judge, we have the objection based
24 on the conference.

25 THE COURT: Yes.

1 Petraco - People - Direct - Clements

2 Q And is that opinion -- are you stating that opinion
3 to a reasonable degree of scientific certainty.

4 MR. JOSEPH: Object to it.

5 THE COURT: I'll allow it.

6 A Yes, I am.

7 Q And with respect to Q1, that was also designated H4
8 by detective Honeyman?

9 A Yes, it was.

10 Q Now, did you also have occasion to examine Q2, using
11 the methods that you've described during the slide show, in
12 examining the characteristics that you mentioned?

13 A Yes, I did.

14 Q What were the results of that examination?

15 A I determined those hairs to be three fragments of
16 light colored head hair of Caucasoid origin, and I compared
17 those.

18 Q And did you compare those three fragments with the
19 known samples that were introduced here today?

20 A Yes, I did.

21 Q And what were the results of that comparison?

22 A My conclusion was that those three fragments were
23 similar to the known head hair, K1, which was from Patricia
24 Mieli.

25 Q And, from what item of evidence did you recover Q2?

1 Petraco - People - Direct - Clements

2 A From the rock.

3 MR. CLEMENTS: At this time, I would ask if the
4 witness could be shown People's 114 in evidence.

5 (Handed up to and examined by the witness.)

6 Q Do you recognize People's 114?

7 A Yes, I do.

8 Q Can you show the members of the jury from what part
9 of the rock you obtained those three fragments you designated
10 as K2?

11 A Area in here.

12 THE COURT: Show it to the jury.

13 (Exhibited to jury.)

14 Q Is there a brownish red stain in that area that
15 remains?

16 A Yes, there is.

17 Q What was the condition of those three fragments when
18 you examined it, examined the, under the microscope?

19 A They were crushed and broke.

20 Q Do you have an opinion, to a reasonable degree of
21 scientific certainty, as to how those hairs came to be
22 crushed, the three fragments?

23 MR. JOSEPH: Objection.

24 THE COURT: I'll allow it.

25 A It was force from the rock, and it was my belief

1 Patraco - People - Direct - Clements
2 that the rock could have been used to strike the side of the
3 head of Patricia Mieli.

4 MR. JOSEPH: Objection.

5 THE COURT: I'll allow it.

6 Q With respect to these fragments that you observed
7 the under microscope, were you able to determine the part of
8 the body that they come from?

9 A They're head hairs, from the temporal area.

10 They tend to have a very fine tapered medullar and fair'y
11 distinctive appearance, not medulla, I'm sorry, tip and fairly
12 distinctive appearance.

13 Q And where is the temporal area?

14 A The temporal area is this area around the ear.

15 Q Now, with respect to Q7, the pubic hair combings
16 from the Vitulo kit.

17 Did you examine those under the microscope?

18 A Yes, I did.

19 Q And did you compare them with the known samples?

20 A Yes, I did.

21 Q And what were the results of that comparison?

22 A I determined all pubic hairs light colored and that
23 they were similar to the known pubic hair specimen from
24 Patricia Mieli I designated as K2.

25 Q Now, with respect to Q14, the hair that you

1 Petraco - People - Direct - Clements
2 recovered from Kevin Richardson's T-shirt.

3 Did you examine that, using the methods you described,
4 during the slide show?

5 A Yes, I did.

6 Q And what type of hair was that?

7 MR. JOSEPH: Objection.

8 THE COURT: I'll allow it.

9 A This is Q14?

10 Q Q14.

11 A I determined Q14 to be a light colored pubic hair of
12 Caucasoid origin.

13 And I compared it to the known pubic hairs of Patricia
14 Miel.

15 And I concluded it was similar, and could have come from
16 the known source, which was K2.

17 Q K2 being Patricia Miel's pubic hair?

18 A Yes.

19 Q Did you also examine Q11, recovered from Kevin
20 Richardson's underwear?

21 A Yes, I did.

22 Q And what type of hair was that?

23 A I determined that to be one fragment of a light
24 colored head hair of Caucasoid origin.

25 And I compared it, and determined that it could have come

1 Petraco - People - Direct - Clements
2 from, come from the source of K1, which is Patricia Mieli.

3 MR. RIVERA: I would object, your Honor, and
4 move to strike.

5 THE COURT: Overruled. I'll allow it.

6 Q K1 is her head hair?

7 A Yes.

8 Q Did you also examine Q16 under the microscope, using
9 the methods you described?

10 A Yes, I did.

11 Q And what type of substance was that?

12 A I determined that to be one light colored fragment
13 of Caucasoid head hair.

14 And I compared it to the knowns, and concluded that it
15 could have come from the source of the K1 specimen, which was
16 known head of hair of Patricia Mieli.

17 MR. BURNS: I'm sorry. What number was that?

18 MR. CLEMENTS: Q16.

19 MR. BURNS: Q16?

20 THE COURT: Yes.

21 Q Did you also examine and compare, before Q8, Q9,
22 Q12, Q13 and Q26, Q26 being the hairs from Antron McCray.

23 Did you compare those hairs that I just mentioned with
24 the known samples that were introduced here today in court?

25 A Yes, I did.

1 Petraco - People - Direct - Clements

2 Q And what were the results of that comparison?

3 A I concluded they were not from Patricia Mieli.

4 Q And did you examine them with respect to all the
5 known samples from the defendants?

6 A Yes, I did.

7 Q And what was your conclusion?

8 A That they were not from the defendants. As far as
9 the couple of hairs that were question hairs from her
10 clothing, Q8 hair and Q4 hair.

11 Q Earlier you testified concerning your opinion with
12 respect to certain soil samples recovered from the clothing of
13 Antron McCray, Kevin Richardson, and Raymond Santana. Was the
14 opinion that you expressed with respect to those samples
15 stated to a reasonable degree of scientific certainty?

16 A Yes, it was.

17 Q With respect to all the evidence that you examined
18 in this case, did you identify with your initials and other
19 markings?

20 A Yes, I did.

21 Q Lab numbers and voucher numbers and so forth?

22 A Yes, special lab numbers and my initials.

23 Q Thank you.

24 MR. CLEMENTS: I have no further questions.

25 THE COURT: All right. Ladies and gentlemen,

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Petraco - People - Direct - Clements

we're going to recess at this point until 10:30 tomorrow morning. So you will not be expected to be here until 10:30. Hopefully we will be able to start at 10:30 tomrrow.

In the meantime, as always, please don't discuss the case, come to any conclusions, don't let anyone talk about the case. Please do not read any media accounts of this case nor visit the location. Have a good evening. See you tomorrow at 10:30.

(Whereupon, the jury left the courtroom.)

THE COURT: 10:30 tomorrow.

(Whereupon, the trial was adjourned until July 20, 1990.)

1 SUPREME COURT OF THE STATE OF NEW YORK
 2 COUNTY OF NEW YORK : CRIMINAL TERM : PART 59
 3 THE PEOPLE OF THE STATE OF NEW YORK

4 -against-

5 ANTRON McCRAY, RAYMOND SANTANA, YUSEF SALAAM,
 6 Defendants.

7 July 20, 1990

8 B E F O R E:

9 HONORABLE THOMAS GALLIGAN, J.S.C.
 10 (Appearances as heretofore noted)

11 * * * * *

12 (Discussion at the bench as follows:)

13 MR. JOSEPH: Judge, I want to renew
 14 the application I had previously made for
 15 the production of those documents which I
 16 have suggested should be provided under --
 17 as Brady material.

18 And I would suggest that the cross
 19 examination of, I believe it was the Police
 20 chemist, Miss Veit, provides further reason
 21 why this material should be turned over.

22 Ms. Lederer in -- I'm sorry, not in
 23 cross examination, it was redirect of Ms.
 24 Veit, went into a list of individuals,
 25 saying, did you ever check any of their

COLLOQUY

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2 clothing and named a series of names. The
3 answers given by Ms. Veit were no, she was
4 never given their clothing.

5 I think it becomes even more important
6 that the Defense be provided with the
7 statements, provided by any of those
8 individuals, any written reports relating
9 to conversations had with those
10 individuals, since it is now suggested by
11 the Prosecution's questioning that these
12 are individuals who might have been
13 present, who might have had evidence of
14 their presence, such as blood on their
15 clothing, and that the -- that no
16 conclusion can be drawn by the jury from
17 the failure to find blood on any of the
18 named individuals, since, since the fact
19 that the chemist did not examine certain
20 other individuals might mean that those
21 unexamined clothes would have contained the
22 blood.

23 I think that that's an unfair
24 inference to leave the jury with, if those,
25 in fact, those are individuals who the

COLLOQUY

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2 prosecution has reason to believe were not
3 even at the scene of the attack of the
4 female jogger or if any other relevant
5 information would come forth from the
6 examination of those documents.

7 Again, this is, this is just an
8 argument that I think shows further reason
9 why the documents previously requested are
10 Brady material and shows a further reason
11 why it increases the possibility that the
12 presence of those documents could affect
13 the final outcome of this case and
14 certainly would assist in the Defense.

15 MR. RIVERA: I join in his
16 application.

17 MR. BURNS: I would join and also add
18 the fact that on my cross examination,
19 evidently precipitated the questioning by
20 Ms. Lederer, I was not given to even touch
21 that area -- I'm sorry, my question,
22 relative to whether other clothes were
23 examined for serological stains, the
24 presence of serological stains, it was
25 objected to by Ms. Lederer and sustained by

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the Court.

I wasn't permitted to go into it in any degree at all. She was permitted to ask the questions relating to what the clothing of several individuals who, obviously, at one point, or at some point in time, were involved in the investigation.

THE COURT: All right.

MS. LEDERER: My recollection of Mr. Burns' cross examination is different than that which he just stated. I recall that he went through all of the people whose clothes were examined by Mary Veit. But, be that as it may, the questions that followed on redirect were questions put to Miss Veit about whether she examined clothing from a series of people. The names of those people were names from the statements of these defendants. It was not simply reading a list of people that have been interviewed in this investigation. Those names came from the statements made by each of the defendants. And my

COLLOQUY

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2 recollection of the sequence was that when
3 Mr. Burns tried to bring out the other
4 people whose clothing was examined, I
5 objected, and I believe the Court overruled
6 my objection, and permitted him to bring
7 out the people whose clothes had been
8 examined which did not result in any
9 finding of stains of serological value.
10 And, because of that line of questioning, I
11 then asked whether she had examined
12 clothing of people named by these
13 defendants in their own statements, and she
14 indicated that she did not.

15 I don't think that it changes the
16 ruling with respect to the Brady
17 application at all. I think it was based
18 on the statement by these defendants. And
19 I think it was a proper line of questions.
20 But, I don't think it has any impact on the
21 Court's ruling of the Brady material.

22 MR. BURNS: If I may just briefly
23 respond. The statement which is attributed
24 to Salaam by Detective McKenna, who is the
25 officer who took the statement, only

COLLOQUY

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2 mentions two individuals by name, two
3 individual by name, and doesn't mention
4 these other people, makes not reference to
5 these other people. It's no -- there's
6 nothing that you can determine from the
7 reading of the statement which would give
8 rise to these others, to the alleged
9 statement attributed -- taken by Detective
10 McKenna.

11 So that that -- when Ms. Lederer says
12 that each one of the defendants mentioned
13 each of these individuals --

14 THE COURT: I don't think she said
15 that.

16 MS. LEDERER: I didn't mean to give
17 the impression.

18 MR. BURNS: That's what I -- you may
19 not have understood it.

20 THE COURT: I understood what she
21 said. I didn't understand her to say that.
22 I understood her to say, and that's my
23 understanding before she spoke, that the
24 names of the persons who were inquired
25 about were people who were named by the

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defendants.

MR. BURNS: No, your Honor.

I'm talking about the names that she brought up on redirect, that you permitted. Those names were not mentioned in the defendant's statement.

THE COURT: Three defendants on trial.

MR. BURNS: And her statement to you just now is that each of the defendants mentioned each one of those people's names.

THE COURT: That's your understanding, that's not mine.

MR. JOSEPH: Judge, if I may say something?

I see it a little bit differently than Mr. Burns. It seems to me that the stronger reason to provide us with this material as Brady material is the very words spoken by Ms. Lederer, that being that the Prosecution is saying these are names given by the defendants in their statements. The Prosecution has been permitted by this Court to take a name, given by a defendant, and introduce

COLLOQUY

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2 evidence against that individual, under the
3 theory that it's relevant because a
4 defendant names that person.

5 Therefore, if a defendant names that
6 person and it can be proven by scientific
7 evidence that he was there, that's
8 something the jury should know.

9 The other side of that must also be
10 consistent. If a defendant names another
11 individual, and if the Prosecution has
12 interviews with that individual, has police
13 notes, or documents of any sort that would
14 be of assistance to the Defense in
15 establishing that the person names by a
16 defendant in a statement was not, in fact,
17 present at the scene of the assault on the
18 female jogger, for example, then that is
19 not only of assistance to the Defense, it's
20 absolutely necessary, especially in light
21 of the Court's ruling concerning Kevin
22 Richardson.

23 The jury is being told, yes, Antron
24 McCray says Kevin, and here's proof that
25 Kevin had clothing containing hair,

COLLOQUY

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2 consistent with the female jogger. All
3 right?

4 Should I not be allowed information
5 that would show that my client also named
6 three other people that the Prosecution has
7 evidence in their possession which would,
8 which would at least indicate that that
9 individual was not present.

10 And it seems to me that it's the very
11 basis of my defense. It's the very basis
12 of their prosecution against my client.
13 It's not a collateral issue, it's the case.

14 THE COURT: Do you want to be heard?

15 MR. BURNS: You have another
16 situation, and -- the Kevin Richardson
17 statement, the statement that's attributed
18 to Kevin Richardson doesn't refer to Yusef
19 Salaam.

20 THE COURT: So?

21 MR. BURNS: Doesn't refer to Yusef
22 Salaam.

23 THE COURT: So, what does that mean?

24 MR. BURNS: Well, they can use, they
25 can use the evidence against Richardson to

COLLOQUY

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2 holster or to lend some measure of
3 credibility to the alleged statement of
4 Yusel Salaam, and then introduce that kind
5 of evidence, and, on the other hand, Kevin
6 Richardson's statement, which -- in which
7 he described the incident, doesn't refer to
8 Yusef Salaam. Isn't that Brady material?

9 THE COURT: I'm not going to answer
10 your question in the way it's posed. I'll
11 just wait til the jury passes. The ruling
12 that I made originally will not be changed
13 at this point. The record will reflect
14 your arguments and my rulings, and it
15 doesn't change.

16 People ready?

17 MR. CLEMENTS: Yes.

18 THE COURT: Defendants ready?

19 MR. JOSEPH: Just one moment, your
20 Honor, and I will be.

21 (Short pause)

22 MR. JOSEPH: I am ready, Judge.

23 THE COURT: Bring out the jury.

24 (Whereupon the jury enters the
25 courtroom.)

COLLOQUY

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2 MS. LEDERER: Could we approach for a
3 second?

4 (Discussion at sidebar as follows:)

5 MS. LEDERER: My notes from
6 yesterday's examination of Detective
7 Petraco showed People's 160 for
8 identification was received in evidence, I
9 don't see it marked on the exhibit. I was
10 just wondering if we could clarify that
11 before we proceed.

12 MR. BURNS: I got it in on the 19th.

13 THE COURT: I didn't have a note it
14 was in yesterday.

15 MR. RIVERA: We'll stipulate to that.

16 MS. LEDERER: Mr. Burns has no
17 objection and Mr. Rivera and Mr. Joseph.
18 If we can just mark it received in
19 evidence.

20 (Exhibit 160 received and marked into
21 evidence.

22 (End of sidebar:)

23 COURT CLERK: The defendants, their
24 attorneys, the Assistant District Attorney
25 and all sworn jurors are present.

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Mr. Petraco, can I remind you you're still under oath.

CROSS EXAMINATION

BY MR. JOSEPH:

Q Mr. Petraco, am I correct in understanding you are no longer working in the Police Department?

A Yes.

Q You were employed with the Police Department for how long?

A For just about 22 years.

Q And prior to working in the Police Department, you told us that you had studied at John Jay College?

A While I was in the Police Department I studied at John Jay College.

Q And you studied specifically criminology while you were there?

A Forensic sciences, chemistry. A variety of different sciences.

Q And you went on and attended St. John's University?

A I taught at St. John's.

Q And you also taught at John Jay, is that right?

1 PETRACO - PEOPLE - CROSS - JOSEPH

2 A Yes, I have.

3 Q At or about the time you received the items
4 of evidence that you testified about, you were
5 employed in the Police Lab?

6 A Yes, I was.

7 Q And you were provided with a series of
8 pieces of property and told to examine them, is that
9 correct?

10 A Yes.

11 Q And, in fact, one in particular, you were
12 given some clothing that you were informed belonged
13 to or was labeled Antron McCray; is that correct?

14 A Yes.

15 Q And you were informed that he was a suspect
16 and that you were to look at those clothings to see
17 if you could find anything in your area of specialty
18 of evidenciary value?

19 A Yes, sir.

20 Q And yesterday you were shown out of a bag
21 some clothing that you said, yes, you recognized
22 that clothing as being the clothing that you
23 examined?

24 A Yes, sir.

25 Q And, would I be correct that when you

1 PETRACO - PEOPLE - CROSS - JOSEPH

2 examined that, you did that in the Police Lab?

3 A Yes, I did.

4 Q And you looked at that clothing,
5 understanding that you were to see if you could find
6 anything of evidenciary value?

7 A Yes, sir.

8 Q And I assume that you examined it closely
9 to do your job well?

10 A Yes, sir.

11 Q And you examined all of the clothing that
12 was contained in that bag is that right?

13 A Yes, I did.

14 Q And having examined all that clothing, you
15 told us that you came up with two hairs, is that
16 right?

17 A Yes, sir.

18 Q And having found the hairs -- withdrawn.

19 The hairs that you found, that seems to be
20 the only things of evidenciary value in your areas
21 of specialty, right?

22 A We also found some soil.

23 Q And the soil, correct.

24 We're talking about the soil in the mud
25 were the two things you found worth following

PETRACO - PEOPLE - CROSS - JOSEPH

1 through and examining?

2 A Yes, sir.

3 Q Nothing else?

4 A No, sir.

5 Q And when you were going to examine the
6 hairs, am I correct in understanding that you had
7 been provided with some known samples?
8

9 A Yes, I was.

10 Q And you had been told by the Police
11 Department these are samples of a victim, Patricia
12 Meili?

13 A Yes.

14 Q And you were given her hair samples, right?

15 A Yes, I was.

16 Q You were aware -- withdrawn.

17 It even came about you went to the crime
18 scene at one point in reference to this case?

19 A Yes.

20 Q So, you were aware something of the facts
21 relating to the incident?

22 A Yes.

23 Q And you had an idea what you were looking
24 for; is that right?

25 A When you look at clothing, you look

PETRACO - PEOPLE - CROSS - JOSEPH

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2 objectively, you can find just about anything. If
3 something is there, you find it. If something isn't
4 there, you don't find it.

5 Q What you found in reference to Antron
6 McCray was some soil and these two hairs, correct?

7 A Yes, sir.

8 Q And you look at these hairs under the
9 microscope you showed us yesterday in those slides,
10 right?

11 A Yes, sir.

12 Q And you compared those hairs, the hairs on
13 the Antron McCray clothing to the hairs of the
14 victim, the known hairs, right?

15 A Yes.

16 Q And to your knowledge, the known hairs were
17 hairs that had been taken from her by a police
18 officer to assist you in your examination?

19 A Yes, sir.

20 Q And when you compared the hairs from the
21 McCray clothing to the hairs -- known hairs of
22 Patricia Meili, am I correct that you saw that those
23 hairs were not the same?

24 A Yes.

25 Q You could tell that those hairs did not -

1 PETRACO - PEOPLE - CROSS - JOSEPH

2 the hairs on the McCray clothing did not come from
3 Patricia Meili?

4 A Yes.

5 Q And would I be -- by the way, did you
6 compare the hairs on the McCray clothing to McCray's
7 own hairs?

8 A No, I did not.

9 Q So, you don't know whether or not it's his
10 own hair?

11 A No.

12 Q And you told us yesterday, I think, you
13 gave us some numbers saying under normal condition
14 we all would shed about a hundred hairs a day?

15 A Yes.

16 Q And you didn't compare the hairs found on
17 McCray's clothing to his own hair?

18 A No, I did not.

19 Q Would I be correct, doing an analysis of
20 hair, such as you did, that it is easier and more
21 accurate to exclude than it is to say they came from
22 the same source?

23 A Oh, yes.

24 Q For instance, if you look at a hair from
25 one person of one race and a hair from a person of

1 PETRACO - PEOPLE - CROSS - JOSEPH

2 another race, based on what you taught us yesterday,
3 you could say hair number one doesn't come from
4 person number two?

5 A Yes.

6 Q And when you say that, you can be certain
7 of that?

8 A Yes.

9 Q Because when a hair is dissimilar, then it
10 couldn't have come from a person who has hair
11 dissimilar to the sample you're looking at?

12 A Yes.

13 Q What I believe you were telling us
14 yesterday, as well, if you take the other side of it
15 and try to talk about hairs that are similar, you
16 can't go as far to a reasonable degree of scientific
17 certainty, is that right?

18 A You can go to a reasonable degree of
19 scientific certainty in saying they are similar and
20 could have come from a given individual. That's to
21 a reasonable degree of scientific certainty.

22 Q But I think you told us yesterday, it's not
23 like a fingerprint, you can't say hair number one
24 definitely came from Mr. Jones?

25 A You can't, that would be an

PETRACO - PEOPLE - CROSS - JOSEPH

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2 individualization and you can't individualize hair.
3 You can't say that a given hair came from one given
4 individual to the exclusion of all others in the
5 whole world, and that's what individualization is.

6 Q Am I correct, because of the nature of
7 hairs, that what you were telling us yesterday, that
8 you can't even give percentages? You can't even
9 say, well, it's a 20 percent possibility or anything
10 like that?

11 A Yes, sir.

12 Q And you can't even tell us how many other
13 people might have a hair similar to this hair?

14 A No, I cannot.

15 Q All you can tell us is that this hair,
16 under the best of circumstances, a certain hair is
17 similar to another hair?

18 A Yes, sir.

19 Q And you can't tell us how many people in
20 the world might have such a similar hair under
21 normal conditions?

22 A No, I cannot.

23 Q Now, you did tell us under the questioning
24 by Mr. Clements that certain hairs you examined of
25 property, I think, identified as Kevin Richardson's

1 PETRACO - PEOPLE - CROSS - JOSEPH

2 were not dissimilar, that they were similar to those
3 of the victim, Patricia Meili?

4 A Certain of the hairs found on his clothing,
5 yes.

6 Q And I think you told us that these hairs
7 could have originated from K-1 or K-2, meaning the
8 victim?

9 A Yes, sir.

10 Q Just so it's clear. You are not saying
11 that that hair definitely came from Patricia Meili,
12 you can't say that to a reasonable degree of
13 scientific certainty?

14 A You can say to a reasonable degree of
15 scientific certainty that it could have come from.

16 Q Correct.

17 A You cannot individualize it.

18 Q Right. So what you're basically doing is
19 you're saying this hair is not -- withdrawn.

20 Let me rephrase that.

21 That Patricia Meili is not excluded as a
22 source of that hair?

23 A That would be one way of looking at it,
24 yes.

25 Q And similarly, you would agree that that

1 PETRACO - PEOPLE - CROSS - JOSEPH

2 hair, talking about the hair found on Kevin
3 Richardson, there may be -- withdrawn.

4 You can't tell us how many other people
5 also have hairs similar to the hair found on the
6 Richardson clothing?

7 A No, I could not.

8 Q But, again, talking about my client, Antron
9 McCray, the hairs found on his clothing allow you to
10 say that they did not come from Patricia Meili?

11 A Yes, sir.

12 Q Let me just talk to you about the testimony
13 concerning the soil.

14 Again, when you're talking about soil, it's
15 not like fingerprints, you can't say this soil
16 definitely came from this little hole in the ground
17 here, and no where else?

18 A Yes, sir.

19 Q And I think you explained to us all you
20 could talk about in soil is similarities again, is
21 that right?

22 A You can say it's consistent and could come
23 from.

24 Q And you told Mr. Clements, the soil you
25 examined, that was removed from Central Park, may be

1 PETRACO - PEOPLE - CROSS - JOSEPH

2 consistent with soil in lots of other parts of the
3 Park?

4 A Yes, it could be so.

5 Q And, in fact, would you agree with me that
6 if you talk about what you call the uncultivated,
7 unchanged part of the Park, not changed by man, one
8 could assume the soil would be similar to that in
9 the area you looked?

10 A It's very possible.

11 Q It's more than possible. Would you agree
12 it's likely, because soil in areas generally don't
13 change every ten feet?

14 A Yes.

15 Q That soil may be different than the makeup
16 of soil in Arizona because of different climatic
17 conditions and a variety of things, but probably
18 would be similar throughout the Park and throughout
19 the New York area, wouldn't it?

20 A Not throughout the New York area, but
21 throughout the park, yes.

22 Q You talked a little bit about areas that
23 were changed by man. I think you had an example you
24 gave was like the baseball field.

25 A That would be a good example.

PETRACO - PEOPLE - CROSS - JOSEPH

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2 Q When you talk about an infield of a
3 baseball field, that's dirt, somebody came and put
4 sand down, then obviously that would be different
5 than the normal make up of Central Park, is that
6 what you're talking about?

7 A Yes.

8 Q Am I correct in understanding then that --
9 withdrawn.

10 You were given the clothes of Antron McCray
11 and you removed some particles of soil, is that
12 right?

13 A Yes.

14 Q Can you tell me how many particles you
15 removed?

16 A It was a large quantity of soil. I didn't
17 weigh it. There is still more soil on the clothing.

18 Q And that soil was compared to a known soil
19 substance, right?

20 A Yes, it was.

21 Q And the know soil substance was obtained by
22 police or by you with police?

23 A Yes.

24 Q And you didn't choose where to select the
25 soil from?

PETRACO - PEOPLE - CROSS - JOSEPH

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2 A Well, when I went there, I was told about
3 -- I was interested in looking at the color of the
4 soil in the crime scene area, and I chose, after I
5 was told that, I chose the soil samples myself.

6 Q I understand. But you chose the actual
7 samples. But it was the police who said here's the
8 area we're talking about?

9 A Yes, sir.

10 Q And the police didn't take you to any other
11 area of the park and say take samples here, as well?

12 A No. I was free to do that. I had looked
13 at other areas of the park, just not in this case.

14 Q All I'm asking, the areas you selected the
15 soil from was the area the police took you to?

16 A Yes.

17 Q And would you agree with me that the test
18 that you conducted and the conclusion that you
19 reached don't cause you or allow you to say to a
20 reasonable degree of scientific certainty that the
21 soil must have come only from this crime scene area?

22 A No, all it would allow you to say, it could
23 have come from that area, within a reasonable degree
24 of scientific certainty.

25 Q It could have come from that area, it could

1 PETRACO - PEOPLE - CROSS - JOSEPH

2 have come from the area of Central Park around 90th
3 Street. Could have come from the area around
4 Central Park, around 72nd Street, right?

5 A It's possible.

6 Q When you say possible?

7 A You would have to look at these samples
8 because, again, there are a lot of cultivated areas
9 in Central Park. It's not all uncultivated. A
10 great deal of it has been cultivated.

11 Q But if you went to an uncultivated area,
12 you would assume that it would be the same, right?

13 A Yes, similar.

14 Q When you say similar, the test that you
15 conducted of the samples didn't show that the soil
16 on the McCray clothing was exactly the same as the
17 soil that you took from Central Park when you went
18 there?

19 A No, it did not.

20 Q It showed similar?

21 A Yes.

22 Q Am I correct that when you looked at the
23 color, you concluded that the colors of the soils
24 were close, but not exactly the same?

25 A Yes, sir.

1 PETRACO - PEOPLE - CROSS - JOSEPH

2 Q And would I be correct that you did a
3 break-down of the make-up of the soil?

4 A Yes.

5 Q And, for instance, you did an area of the
6 crime scene you called like crime scene area?

7 A Yes.

8 Q And just pulling something out, on the like
9 crime scene area, you found the quartz and fellsbar
10 made up about 87 percent of that soil?

11 A Yes, sir.

12 Q And in contrast, the McCray clothing that
13 you examined, the soil from the McCray clothing had
14 only 36 percent of quartz and fellsbar?

15 A Yes.

16 Q So, they weren't identical?

17 A Not for that one particular area, no.

18 Q And you listed something as opaque
19 materials, that's also part of the make-up of the
20 soil?

21 A Yes, it could consist of vegetation,
22 materials like that.

23 Q And you put in the like crime scene area
24 materials you took from the park, you said that had
25 a trace of that or one percent of the opaque

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PETRACO - PEOPLE - CROSS - JOSEPH

particles as compared to the McCray soil, soil from the McCray clothing, which was 21 percent of that opaque, is that correct?

A Yes.

Q And you talked also about the soil from the victim, did you examine that too?

A Yes, I did.

Q And there again the soils were not exactly the same make-up?

A No, they were not.

Q All you can tell us at best is that the soils are similar, correct?

A Yes.

Q And you're not telling us that the soil found on the McCray clothing from one area and one area alone, correct?

A Yes.

Q Thank you.

MR. JOSEPH: I have no further questions.

CROSS EXAMINATION

BY MR. BURNS:

Q Detective Petraco.

A Yes.

1 PETRACO - PEOPLE - CROSS - BURNS

2 Q And you're no longer a detective with the
3 Police Department?

4 A Yes.

5 Q What are you now?

6 A Right now I'm a student.

7 Q A private student?

8 A Yes.

9 Q I'll call you Mr. Petraco.

10 A All right.

11 Q Now, Mr. Petraco, when was the first time
12 you visited the crime scene?

13 A Myself?

14 Q Yes.

15 A When I actually went to the crime scene
16 area?

17 Q Yes, when you actually went to the crime
18 scene area?

19 A In August of 1989.

20 Q '89?

21 A Yes.

22 Q And you were taken there by Detective
23 Arroyo?

24 A Yes.

25 Q Did he show you where the body of the

PETRACO - PEOPLE - CROSS - BURNS

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female jogger was found?

A He showed me the general crime scene. My main concern was --

Q I understand that.

A All right.

Q But did he show you where the, where the body of the female jogger was found?

A He pointed out approximately where she was found.

Q I see.

A We have a set of crime scene photographs and we went over the crime scene, and it was approximately.

Q Were there any signs of dampness in the area that he pointed out to you in August of 1989?

MR. CLEMENTS: Objection.

MR. JOSEPH: Objection.

THE COURT: Objection sustained.

Q The photographs that he showed you, did that depict where the jogger was found?

MR. CLEMENTS: Objection.

THE COURT: I'll let him answer.

He said he had photos.

A He had photographs. He showed me

1 PETRACO - PEOPLE - CROSS - BURNS
2 approximately where she was found.

3 Q And the area where she was found was a damp
4 area, was it not?

5 MR. CLEMENTS: Objection.

6 THE COURT: Objection sustained.

7 Q Well, when you went to the, that was the
8 20th Precinct, on the --

9 A Central Park Precinct.

10 Q The Central Park Precinct?

11 A Yes.

12 Q On April 20th of 1989, you received certain
13 items that had been gathered by the Crime Scene
14 Unit?

15 A Yes.

16 Q And I just ask you to recollect.

17 When you looked at the photographs of this
18 area where the, where the female jogger was found,
19 could you detect fingerprints -- footprints?

20 Were there any signs of footprints?

21 MR. CLEMENTS: Objections.

22 THE COURT: Is this in August? Are
23 you asking him in August?

24 MR. BURNS: When he looked at the
25 picture, your Honor.

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PETRACO - PEOPLE - CROSS - BURNS

Q I'm sorry.

Did you understand that, Mr. Petraco?

When you looked at the picture. I wasn't permitted to ask you --

MR. CLEMENTS: Objection.

THE COURT: Objection sustained.

Q I'm asking you, when you looked at the picture. When did you look at the picture which depicted where the female jogger's body was found, when was that, sir?

MR. CLEMENTS: Objection.

THE COURT: I'll let him answer it.

A Again, that was in August. The first time I saw the set of photographs was when I went out to the Central Park Precinct. Detective Arroyo had a set of photographs, he showed them to me when we were at the crime scene area.

Q And didn't that photograph depict a dark area, a area which is consistent with dampness?

MR. CLEMENTS: Objection.

THE COURT: If he can answer it, I'll let him answer it.

A There were several photographs. One had, what I would call, a bog area, dark.

1 PETRACO - PEOPLE - CROSS - BURNS

2 Q Dark, damp?

3 A Yes.

4 Q The Crime Lab, don't they have facilities
5 where they can take molds of footprints and preserve
6 them?

7 A It's normally done by the Crime Scene Unit,
8 if there are footprints, they would -- they can take
9 casts of footprints, but that's Crime Scene Units.

10 Q That would be like Detective Honeyman?

11 A Yes, sir.

12 Q And is it your understanding that if
13 Detective Honeyman found footprints, he would have
14 taken molds, plaster molds, of the footprints?

15 MR. CLEMENTS: Objection.

16 THE COURT: Whether he specifically
17 would or could? What's your question?

18 Q Did you understand my --

19 MR. BURNS: Wouldn't you let him
20 answer my question?

21 THE COURT: That's my question.
22 Objection sustained.

23 Q Did I understand you to say that the Crime
24 Scene Unit, and we know that Detective Honeyman is a
25 member of the Crime Scene Unit, the Crime Scene

PETRACO - PEOPLE - CROSS - BURNS

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2 Unit, when they go to the scene, and if they see
3 footprints, they will take plastic casts, plaster
4 molds, isn't that true?

5 MR. CLEMENTS: Objection.

6 THE COURT: Objection sustained.

7 Q Were you supplied with any plaster cast of
8 footprints that were recovered from the Crime Scene?

9 A No, I was not.

10 Q Did I also understand you to say, sir, Mr.
11 Petraco, Mr. Petraco, did I understand you to say,
12 Mr. Petraco, yesterday, that everything that is
13 gathered by the Crime Scene unit is, is examined by
14 you first for trace evidence?

15 A Well, in this case, yes. It depends on
16 what type of physical evidence it is. If they want
17 to look for trace evidence first, what we try and
18 do, and what Crime Scene tries to do is to sort out
19 different items, if there's blood, if there are
20 blood samples, to try and sort them out, so we can
21 give them to the appropriate section, because we
22 have different sections in the crime -- in the
23 Police Lab. And we would try, for the purposes of
24 being as efficient as possible, try to sort them
25 out, and give them to the appropriate.

1 PETRACO - PEOPLE - CROSS - BURNS

2 Q So, would it be fair to say that the unit
3 which you worked in was the unit which made the
4 determination as to where things went?

5 A Well, if something was marked possible
6 blood standard on the voucher and on the item, I
7 have -- I take the individual's word, to give that
8 to the serology section.

9 If something is marked, for example, trace
10 evidence, then I would keep it. It's basically a
11 decision that's almost made. Never ask you for a
12 given type of material. You might find something
13 else, but when you take the case in, they make a
14 request for analysis and that's really, really where
15 you go. You usually start out with, and you use
16 your own judgment. You go from there to the next
17 step.

18 Q Well, it comes to your first before it goes
19 to serology.

20 A In this case, I hand carried the material
21 back from Central Park Precinct, and was the person
22 who had the lab numbers assigned to it. As my
23 superiors told me to bring it back to my office and
24 examine it.

25 Q Do you generally go to the crime scene --

1 PETRACO - PEOPLE - CROSS - BURNS

2 withdrawn.

3 Do you generally go to the precinct to pick
4 up specimens which have been collected by the Crime
5 Scene Unit?

6 A No, I do not.

7 Q Doesn't it generally come to you in the
8 ordinary course of business?

9 A Yes, sir.

10 Q But it wasn't done that way in this case?

11 A No, it was not.

12 Q Do you recall who told you to go to the
13 Central Park Precinct to pick up the specimens?

14 A I was ordered by my lieutenant, whose name
15 is Yander, and I went up there with him.

16 Q The lieutenant went up there, too?

17 A Yes.

18 Q And when you went to the Central Park
19 Precinct with Lieutenant Yander, who did you report
20 to?

21 A The chief of detectives.

22 Q Is that Chief Coangelo?

23 A Yes, at the time, it was Chief Coangelo.

24 Q And at that time, did Chief Coangelo give
25 you a, a briefing, as to what had transpired?

PETRACO - PEOPLE - CROSS - BURNS

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A He spoke to my lieutenant and he told us what they wanted us to do.

Q And, at what time -- at what point in time did you complete your examinations of the trace evidence specimens which had been submitted to you?

A Towards the end of December of 1989.

MR. BURNS: Withdrawn.

I don't know what I'm withdrawing, I didn't ask the question.

Q Let me ask this: Had you completed any examinations prior to August of 1989?

A Maybe one, one or two that I actually completed. It was a couple of items that were, fingernail scrapings that I had looked at, I wrote one before. Mostly I finished my examinations because I had to wait for hair standards and things like this, towards the end of the year, 1989.

Q Did you ever get a hair standard, both head hair or pubic hair, from someone by the name of Kevin O'Reilly?

A No, I did not.

Q You were waiting for -- withdrawn.

You say that you didn't complete, you did not complete your testing analysis until sometime in

PETRACO - PEOPLE - CROSS - BURNS

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late 1989, is that correct?

A Yes, sir.

Q And that would be the examination relative to the hair?

A Well, all, the soil and the hair, all the different trace materials. There was some fibers there.

Q Well, had you completed anything, any analysis, prior to August of 1989?

A Well, again, I looked at a couple of items that were negative, that I wrote some -- where I think I wrote one report, but, on some of the items there -- they were parts, parts of larger parts of cases.

So, I waited until I finished everything in a given case to write a final report. And that's pretty much when I wrote my final reports towards -- in the -- mostly in December of '89, towards the end of the month.

Q Did you ever write any preliminary reports other than the report that related to fingernails?

A I, I never wrote a report, but there was a preliminary report given in April, I think it was, I forget the day, it was either Saturday or Sunday,

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PETRACO - PEOPLE - CROSS - BURNS

which would be the -- the 22nd or 23rd of 1989.

Q Within two or three days?

A I didn't write it, someone else did, yes.

Q What did that report deal with?

A Some --

MR. CLEMENTS: Objection.

THE COURT: I'll let him answer.

A Some potential valuable hair evidence, some potential, potentially valuable blood evidence, things like this.

Q And finally, did I understand you to say, as you sit there, that you cannot, to a reasonable degree of scientific certainty, tell us that the hair, that was found in Kevin Richardson's underclothing, came from the female jogger?

A No. What I said was --

Q I know what you said.

MR. CLEMENTS: Objection.

Q I -- I would just like you to answer my question.

THE COURT: Read --

Q You can't tell us, to a reasonable degree of scientific certainty, that the hair that was found on Kevin Richardson's underclothing came from

PETRACO - PEOPLE - CROSS - BURNS

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the female jogger. You cannot tell us that, is that correct?

A I can't tell you that it could have come from.

Q I understand. Anything could have.

A No, not anything could have, that's not so.

Q Excuse me. A lot of things could have.

A Not necessarily so. It would have to fit in the range of physical characteristics.

Q I understand.

A I excluded many more hairs in this case than I included as possibly coming from individuals.

Q But a lot of things, a lot of sources fall in that category, isn't that true?

MR. JOSEPH: Objection.

A I can't give you a number.

Q That's correct. So, you can't tell us it came from that.

THE COURT: You can't tell us it came from that?

Q You can't tell us, to a reasonable degree of scientific certainty, that the hair that you found came from the female jogger, isn't that true?

MR. JOSEPH: Objection.

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PETRACO - PEOPLE - CROSS - BURNS

A That it could have come from.

Q Isn't that true?

THE COURT: I'll let the answer stand.

He said it could have.

Q And then my question is --

MR. BURNS: And my question is unanswered?

THE COURT: Your question is answered as far as it's going to be answered.

MR. BURNS: Thank you, Mr. Petraco.

CROSS EXAMINATION

BY MR. RIVERA:

Q Officer, when did you examine the hair samples?

A Excuse me? I'm sorry?

MR. RIVERA: Withdrawn.

Q When did you examine the soil samples?

A All over the course of and period of time starting from April, on through and to, towards the end of the year.

Q When was the first time that you examined the soil samples?

A I started examining them on Sunday which I believe was the 23rd of April, 1989.

1 PETRACO - PEOPLE - CROSS - RIVERA

2 Q And did you report your results immediately
3 to the officers of the Central Park Precinct?

4 A No. I said I had soil that I would need --
5 I needed, might need to get more standards, things
6 like this. But I didn't have any results til,
7 towards the end of the year.

8 Q Did you-- you indicated also, on Mr.
9 Joseph's questioning of you, that the soil samples
10 that you compared could only have come from the
11 Central Park area, is that correct?

12 A Well, Manhattan is built on a plate, which
13 is known as Manhattan Schist, which is spelled, S-C-
14 H-I-S-T, and it's called Manhattan Schist because
15 it's indigenous to this area. Central Park is the
16 biggest outcropping of that plate. And, as far as
17 being fairly pristine, it's cultivated to a certain
18 degree, but not totally. There are a lot of parks
19 in Manhattan. There might be one or two square
20 lots, they are cultivated. You would have to go
21 subterranean, or underground to get samples that
22 might represent that material.

23 Q Are there other parks in Manhattan where
24 this square soil sample, similar to this, could have
25 been found?

1 PETRACO - PEOPLE - CROSS - RIVERA

2 A There's some potential of that, if it's not
3 a cultivated park, yes.

4 Q What parks would they be?

5 A Probably towards the lower end of
6 Manhattan.

7 Q Did you compare the hair samples of John
8 Loughlin?

9 A John?

10 Q Loughlin?

11 A I don't believe so. I don't remember that
12 name. John Loughlin?

13 Q Yes.

14 A No, never received a sample that I can
15 tell.

16 Q Thank you very much.

17 THE COURT: Any questions?

18 MR. CLEMENTS: One second, your Honor.

19 (Short pause)

20 REDIRECT EXAMINATION

21 BY MR. CLEMENTS:

22 Q Detective Petraco, or Mr. Petraco, did you
23 examine all of the evidence that was vouchered in
24 this case before any other part of the Police
25 Laboratory?

PETRACO - PEOPLE - REDIRECT - CLEMENTS

MR. RIVERA: Objection, your Honor.

THE COURT: I'll let him answer.

A Well, I went over it. I didn't examine it, every piece of evidence. Items that were marked blood or something like that, I sent to different areas. Items marked fingerprints I sent to a different area.

Q What about the Vitulo kit or the rape kit?

A Yes.

Q Who examined that first?

A I believe it was Mary Veit.

Q Thank you.

MR. RIVERA: Objection, your Honor, move to strike.

THE COURT: I'll let him answer that. Any other questions?

MR. JOSEPH: Yes, I do.

RECROSS EXAMINATION

BY MR. JOSEPH:

Q You told us that you sent fingerprints, where did you send the fingerprints?

MR. CLEMENTS: Objection.

THE COURT: I'll allow it.

A There was -- we have a latent fingerprint

1 PETRACO - PEOPLE - RECROSS - JOSEPH

2 section that tries to develop any fingerprints. And
3 I gave it to that section.

4 Q When you were given the samples.

5 A I physically carried those samples back,
6 and I gave that to the officer.

7 Q And you had, you had been given those
8 samples or fingerprints by Police Officer --

9 A They weren't -- they were objects that
10 might have fingerprints on them.

11 Q Okay.

12 A They wanted to have these objects checked
13 for latent fingerprints.

14 Q And you brought them to that area?

15 A It's within the confines of the laboratory
16 section I worked in.

17 Q And there's an individual within that area
18 that is a specialist or an expert in fingerprints I
19 assume?

20 A In developing, yes.

21 Q And you gave it to that individual for him
22 or her to examine?

23 A Yes, sir.

24 Q Thank you.

25 THE COURT: Anything else?

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PETRACO - PEOPLE - RECROSS - BURNS

RECROSS EXAMINATION

BY MR. BURNS:

Q How many different items were sent for fingerprint checking?

A It was one voucher that had, I think -- I don't recall the number of items that were on the voucher. I just -- the vouchers of that individual, I believe it was a couple, two or three items. I can look it up. It was one voucher with several items on it.

Q Do you have it there?

A I have it somewhere in here. I'll find it. I have the voucher number. I don't have a copy of the voucher. It was voucher number D, as in David, 480444, Central Park Precinct. And I delivered it to the officer, Detective. Romeo. I don't know the number. I believe it was just a few items on the voucher.

Q Okay.

A I never opened it.

MS. LEDERER: I'm sorry.

THE WITNESS: I never opened the container.

Q Well, let me ask this question: Would any

PETRACO - PEOPLE - RECROSS - BURNS

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2 items that's going to be checked for fingerprints,
3 would that come through you?

4 A Not necessarily. I happen -- I happen to
5 bring the items over and one of the requests for
6 analysis, that these items be checked for
7 fingerprints. They were put on a separate voucher
8 by the vouchering officer and I just delivered that
9 voucher to that section.

10 Q So, there may have been other items that
11 went to finger -- for fingerprint checking directly
12 --

13 MR. CLEMENTS: Objection.

14 Q -- without you knowing anything about it?

15 THE COURT: Objection sustained.

16 He can only tell you what he knows.

17 Q Have you ever heard of Inwood Park of in --

18 A Yes.

19 Q Aren't there -- they don't have
20 uncultivated areas of Inwood?

21 A It's a different plate. That's the Inwood
22 plate. Pretty much out of dolomite. It's a
23 different kind of metal.

24 Q And, Riverside, too, Riverside Park?

25 A I'm pretty sure that might include

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PETRACO - PEOPLE - RECROSS - BURNS

Riverside Park. I'm not certain about that.

Q You're not certain?

A It's up towards the 100's, 110, in that area, where there's a -- there's a big hill in Manhattan up in the 100's, and one plate, Inwood Plate, goes over the Manhattan Plate, and that's where you get the hill, that's where the soil starts to change.

Q I see. Thank you.

A You're welcome.

MR. RIVERA: No questions.

THE COURT: Thank you, sir.

(Witness excused.)

MS. LEDERER: People call Detective John Hartigen.

D E T. J O H N H A R T I G E N, called as a witness by the People, having been first duly sworn, testified under oath as follows:

COURT OFFICER: In a loud, clear voice, state your name, spelling your last name, give your shield number and current assignment.

THE WITNESS: John Hartigen, H-A-R-T-I-G-E-N.