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INTERVIEW OF CHRIS JOHNSTON

Interview Conducted by:
Linda M. Callahan

Also Present:
Doctor Barry Logan
Shannon Inglis, Assistant Attorney General
Matt Anderson, King County Prosecuting Attorney
Blakeley Warbinton

1 DOCTOR LOGAN: Linda?
2 MS. CALLAHAN: Yes, sir.
3 DOCTOR LOGAN: Okay, we're back on the line and we
4 have Chris here, Chris Johnston.
5 MS. CALLAHAN: Okay, thank you very much. Good
6 afternoon, Mr. Johnston.
7 MR. JOHNSTON: Good afternoon.
8 DOCTOR LOGAN: Hold on just a second. We're going
9 to put you back on hold. We just need to explain to Chris
10 about the recording.
11 MS. CALLAHAN: Okay.
12 DOCTOR LOGAN: Thanks. Okay, sorry. We're back on
13 the -- the line again.
14 MS. CALLAHAN: Okay, thank you. Mr. Johnston, this
15 is being recorded. Is that -- you're aware of that now?
16 MR. JOHNSTON: Yes.
17 MS. INGLIS: He has agreed to be tape recorded.
18 MS. CALLAHAN: I beg your pardon?
19 MS. INGLIS: He's agreed to be tape recorded.
20 MS. CALLAHAN: Okay, thank you. And we will be
21 getting copies of the recording to you after -- after this is
22 done, within a week. We'll get it to the State Patrol so you
23 can -- you can have a copy of it as well. We're probably not
24 going to take the full 20 minutes that Doctor Logan has
25

1 allotted. We're a little behind schedule, so I'm trying to --
2 I'm trying to keep to our time.

3 It will go faster if you ask me to clarify questions if
4 I -- if they sound confusing. And if you answer straight
5 forwardly. If you want to have a lawyer present, you are
6 welcome to do that. The AG is there, but I believe her
7 capacity may be just to represent the agency and -- and
8 possibly not you personally. And I'm not saying this to
9 intimidate you, I just want you to know that if you want a
10 lawyer present, you can have one and we'll reschedule your --
11 your interview. Do you have any questions?

12 MR. JOHNSTON: No, go ahead.

13 MS. CALLAHAN: Okay. What type of software is used
14 to record the results of your analysis of the simulator
15 solution?

16 MR. JOHNSTON: What software?

17 MS. CALLAHAN: What kind of software?

18 MR. JOHNSTON: Let me look at my notes real quick
19 here, if that's cool. I don't have them with me, sorry.

20 MS. CALLAHAN: I'm sorry, could you repeat that?

21 MR. JOHNSTON: I don't have an answer for you,
22 sorry.

23 MS. CALLAHAN: Okay, you don't know?

24 MR. JOHNSTON: Not off the top of my head.
25

1 MS. CALLAHAN: Okay. Now do you manually enter all
2 the results into -- into the software after you test the
3 solution?

4 MR. JOHNSTON: Are you -- you're referring to the
5 simulator solution results?

6 MS. CALLAHAN: Right.

7 MR. JOHNSTON: Okay. Yes, we enter those manually
8 into a database.

9 MS. CALLAHAN: Okay. Now have you ever made a
10 mistake in entering those into the database?

11 MR. JOHNSTON: Not that's permanently gone into the
12 database. I've always checked and double-checked my results.

13 MS. CALLAHAN: Okay. So as -- as far as you know,
14 you've been able to catch any errors that you've made?

15 MR. JOHNSTON: Correct.

16 MS. CALLAHAN: Okay. Have you ever tested any
17 simulator solutions for any other person in the lab?

18 MR. JOHNSTON: No, I have not.

19 MS. CALLAHAN: Okay. Has anyone -- has -- did
20 Ms. Gordon ever ask you to test the solutions for her?

21 MR. JOHNSTON: She never asked me.

22 MS. CALLAHAN: Okay. Did -- do you know if she
23 asked anyone else to?

24 MR. JOHNSTON: Yes.

25 MS. CALLAHAN: And -- and who did she ask?

1 MR. JOHNSTON: Ed Formoso.

2 MS. CALLAHAN: Okay. And how -- how is it you're
3 aware of that?

4 MR. JOHNSTON: He had mentioned it.

5 MS. CALLAHAN: Okay. Do you know of anybody else?

6 MR. JOHNSTON: No.

7 MS. CALLAHAN: Okay. And when did he mention this
8 to you?

9 MR. JOHNSTON: He mentioned it in passing. I don't
10 recall a specific date.

11 MS. CALLAHAN: Okay, but it wasn't today?

12 MR. JOHNSTON: It was not today, correct.

13 MS. CALLAHAN: Okay. So did he -- what did you
14 think of that?

15 MR. JOHNSTON: I was under the assumption it was
16 under the supervisor's jurisdiction to do so.

17 MS. CALLAHAN: Okay. Did you -- but you -- when
18 you sign your certificates, you're signing them under the
19 penalty of perjury. You understand that, right?

20 MR. JOHNSTON: That is correct.

21 MS. CALLAHAN: And you take it seriously, right?

22 MR. JOHNSTON: I do.

23 MS. CALLAHAN: Yeah. So did you kind of have a
24 little bit of a -- you know, like a twinge of, you know, how
25 could they do that?

1 MR. JOHNSTON: I don't know. It wasn't something
2 that was to me.

3 MS. CALLAHAN: It was -- it was okay because it had
4 been going on for so long and that was just the way it was
5 done, right?

6 MR. JOHNSTON: I didn't know what rules applied in
7 that situation.

8 MS. CALLAHAN: Okay, okay, fair enough. Okay.
9 When you test -- let's say that you're making a batch of -- of
10 a solution for the simulator, external standard. And so -- so
11 can you describe for me how you do that? What do you do,
12 step-by-step?

13 MR. JOHNSTON: I don't have the protocol in front
14 of me. Do you want just a general explanation?

15 MS. CALLAHAN: Sure.

16 MR. JOHNSTON: Roughly we -- we'd add the
17 prescribed amount of ethanol to the prescribed amount of
18 water, and then allow that to mix for the acquired amount of
19 time. It would then be bottled and tested by each of the
20 analysts that was available.

21 MS. CALLAHAN: Okay. So you bottle it before it's
22 tested?

23 MR. JOHNSTON: We would have at least several -- at
24 least three people check it before it was bottled.

25

1 MS. CALLAHAN: Okay. Now is that magnetic stirrer
2 in the carboy, is that like a separate stirrer that you put in
3 there, or is it -- is it part of the carboy?

4 MR. JOHNSTON: We would -- we would put that into
5 the container to mix it.

6 MS. CALLAHAN: Okay. So it's a separate device
7 that goes into the carboy?

8 MR. JOHNSTON: Correct.

9 MS. CALLAHAN: Does -- does it stay in the carboy?

10 MR. JOHNSTON: It's not permanently fixed in there.
11 I don't know if we'll take it out every single time or not.

12 MS. CALLAHAN: What do you do?

13 MR. JOHNSTON: Most of the time I believe I have it
14 out, I make sure all the measurements are to the correct line,
15 and then I add it in later.

16 MS. CALLAHAN: Oh, okay. Why do you add it in
17 later?

18 MR. JOHNSTON: Just to make sure that the volume is
19 correct. It might add or subtract probably a fraction, not
20 even a worthy amount. But just in case, I don't add it until
21 later.

22 MS. CALLAHAN: I don't know what you mean by the
23 volume. The volume in the carboy?

24 MR. JOHNSTON: The volume in the container we mix
25 it in, because it would displace a small amount of liquid.

1 MS. CALLAHAN: Okay. Okay, I see. I see what
2 you're saying. Okay. Do you -- let's say that you test -- or
3 let's say you've mixed your solution and then you have to
4 testify in court, or you have some other activities to do and
5 you're not able to -- or you know, the other analysts haven't
6 checked it yet so you're not able to package it right away.

7 MR. JOHNSTON: Correct.

8 MS. CALLAHAN: Okay. So it may -- may be a couple
9 days before you can package it.

10 MR. JOHNSTON: Correct.

11 MS. CALLAHAN: Do you -- do you stir it again
12 before you package it?

13 MR. JOHNSTON: I'd make sure that it was stirring
14 the whole time.

15 MS. CALLAHAN: Okay, okay. I think that's all that
16 I have.

17 MR. JOHNSTON: Okay.

18 MS. CALLAHAN: Thank you very much, Mr. Johnston.

19 MR. JOHNSTON: Thank you.

20 MR. ANDERSON: If you don't mind, I have a couple
21 of clarifying questions. This is Matt Anderson from the
22 Prosecutor's office of King County.

23 MS. CALLAHAN: No, I don't have a problem at all.

24 MR. ANDERSON: Okay. You answered a question
25 from -- well, do you remember a question from the defense

1 attorney asking whether or not Ed ever indicated that Ann
2 Marie Gordon had asked him to do solutions for Ann Marie
3 Gordon?

4 MR. JOHNSTON: Correct.

5 MR. ANDERSON: Okay. I just want to clarify what
6 exactly you remember about what Ed said. Did Ed indicate that
7 he performed solutions for Ann Marie Gordon? Did he indicate
8 that Ann Marie Gordon actually asked him to? Because there's
9 a difference.

10 MR. JOHNSTON: Okay. I don't know if I can explain
11 the -- the exact quote since I can't remember it. He said,
12 oh, I need to test the simulator solution for Ann Marie
13 because she is busy, or whatever. So he basically said I need
14 to test it for her.

15 MR. ANDERSON: Okay. So do you have -- did -- did
16 you receive any direct communication from him indicating how
17 he arrived at that conclusion?

18 MR. JOHNSTON: No.

19 MR. ANDERSON: So do you know if he did it right at
20 the conclusion based on his own thinking, or based on a
21 request by Ann Marie Gordon?

22 MR. JOHNSTON: I do not know, correct.

23 MR. ANDERSON: Thank you. I don't have anything
24 else on that.

25 MS. CALLAHAN: Okay, thank you very much.

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DOCTOR LOGAN: Okay. Thanks, Chris.

MR. JOHNSTON: Thank you.

DOCTOR LOGAN: Okay, we'll go to our next subject.

MS. CALLAHAN: Okay, thank you.

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