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INTERVIEW OF JUSTIN KNOY

Interview Conducted by:
Linda M. Callahan

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

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DOCTOR LOGAN: Linda?

MS. CALLAHAN: Yes, I'm here.

DOCTOR LOGAN: We're back on the phone and Justin Kroy is here.

MS. CALLAHAN: Okay, thank you.

MS. INGLIS: He has agreed to be tape recorded.

MS. CALLAHAN: Okay, thank you. Is the tape going?

FEMALE VOICE: Yes, numbers are happening.

MS. CALLAHAN: Okay, all right. And is it -- is it -- how do you pronounce your last name, sir?

MR. KROY: It's Kroy.

MS. CALLAHAN: Kroy, okay, thank you. Okay. And just kind of briefly I just want to -- to have a few opening remarks here about I don't think your deposition is going to be even 20 minutes long.

DOCTOR LOGAN: And -- and just to make it clear, it's not a deposition, but it's --

MS. CALLAHAN: I'm sorry, that's right. I mis-spoke. The interview, thank you, Doctor Logan. I'm going to try not to interrupt your answers, and if you could likewise wait until I finish my question before you answer then we'll get a decent record. We are being recorded, as you know. I hope it -- it goes faster than -- than 20 minutes, but we'll see.

1 And I just want to also let you know that although the AG
2 is present in her capacity, she probably is representing the
3 agency and possibly not you personally. And you have a right
4 to a lawyer. I'm not saying this to frighten you, but just to
5 let you know that you always have the right to an attorney.
6 And if you want one, we can always reschedule the interview.
7 So do you have any questions?

8 MR. KNOY: No, I don't.

9 MS. CALLAHAN: Okay. Can you tell me who's
10 present -- who's present in the room right now?

11 MR. KNOY: The assistant attorney general, a
12 prosecutor, and Doctor Logan.

13 MS. CALLAHAN: Okay, all right. Mr. Knoy, I want
14 to talk to you a little bit about the simulator solution
15 preparation. And you should have a stack of -- of the -- I
16 don't know what you call these forms but --

17 MR. KNOY: I have it.

18 MS. CALLAHAN: -- everybody signs them. What do
19 you call these forms?

20 MR. KNOY: They are just a -- a business record of
21 our -- of our results -- the compilation of our results.

22 MS. CALLAHAN: Okay. So we can call them the
23 results -- the results form?

24 MR. KNOY: Sure, yes.

25

1 MS. CALLAHAN: Okay, okay. So can you locate 06001
2 batch?

3 MR. KNOY: 06001?

4 MS. CALLAHAN: Right.

5 MR. KNOY: Yes, I have it in front of me.

6 MS. CALLAHAN: Okay, great. And then this -- this
7 one shows that -- that you certified the -- you certified --
8 well not -- I'm sorry, I mis-spoke. This isn't that you
9 certified, this is that you tested the sample from this batch
10 on January 19th of 2006?

11 MR. KNOY: That's correct.

12 MS. CALLAHAN: Okay. And so did Mr. Formoso on the
13 same day?

14 MR. KNOY: That is correct.

15 MS. CALLAHAN: And so did Ms. Gordon on the same
16 day?

17 MR. KNOY: That is correct.

18 MS. CALLAHAN: Okay. And do you remember seeing
19 her -- and I know it's -- it's January of '06. But do you
20 remember that day and seeing her draw samples out of the
21 aliquot -- or draw an aliquot out of the -- the -- the glass
22 jar?

23 MR. KNOY: I can't say I remember that, no.
24
25

1 MS. CALLAHAN: Okay. Do you remember any occasion
2 when you saw her doing that; drawing the aliquot out of -- out
3 of the screwed cap glass jar that you keep the sample in?

4 MR. KNOY: I've seen her in the -- in the
5 (unintelligible) where we perform our alcohol analysis, the
6 dilution of the alcohol. But as to what she was testing at
7 any of those times, I couldn't tell you what it was.

8 MS. CALLAHAN: Okay. Okay, my -- my question's a
9 little bit more specific. Had -- have you seen -- do you
10 recall any occasion where you saw her actually draw the
11 aliquot out of that screw cap glass jar?

12 MR. KNOY: I can't recall any -- any time, no.

13 MS. CALLAHAN: Okay, okay, thanks. Now did Ann
14 Marie Gordon ever ask you to run her samples for her?

15 MR. KNOY: No, she did not.

16 MS. CALLAHAN: Okay. Now I have sent over a
17 document -- okay. These are -- there should be three quality
18 assurance solution pages. And they're for batches -- I'm
19 sorry, it's four. 07019, 07020, 07021, and 07022. And I'll
20 give you a minute to find those.

21 MR. KNOY: I have those in front of me too.

22 MS. CALLAHAN: Okay, great. And so Mr. Knoy, when
23 you tested 07019, what was the date that you tested that?

24 MR. KNOY: On July 12th of 2007.

25

1 MS. CALLAHAN: Okay. And -- and what was the date
2 that you tested 07020?

3 MR. KNOY: July 11th of 2007.

4 MS. CALLAHAN: And 07021?

5 MR. KNOY: July 12th of 2007.

6 MS. CALLAHAN: Okay. And -- and what was the date
7 that you signed 07022?

8 MR. KNOY: July 11th. I -- I tested it July 11th,
9 2007.

10 MS. CALLAHAN: Okay. And you know, I'm not sure if
11 these got faxed over. But I have your certificate, your
12 DataMaster Quality Assurance Solution Certification for batch
13 number 07019. And I don't know, maybe I didn't fax that over
14 to you.

15 DOCTOR LOGAN: I'm sorry, it was 07019?

16 MS. CALLAHAN: Right. Do you have his
17 certification there, Doctor Logan?

18 DOCTOR LOGAN: No, we didn't get that.

19 MS. CALLAHAN: Okay.

20 DOCTOR LOGAN: (Unintelligible) number 07003 but
21 not for 19.

22 MS. CALLAHAN: Okay. I -- I think what I'll do is
23 I'll go ahead and -- I'm just going to go ahead and I'll talk
24 about them briefly and then I'll have someone scan them right
25 over. But there are -- can you -- you signed the certificate

1 for each one indicating -- okay, so let me start with 07019,
2 then 20, then 21, and then 22. If we try to fax this, will it
3 go right to where you are, Doctor Logan?

4 DOCTOR LOGAN: No.

5 MS. CALLAHAN: Okay.

6 DOCTOR LOGAN: I would have to go find it.

7 MS. CALLAHAN: Okay.

8 DOCTOR LOGAN: We can -- we can do that if you'd
9 like.

10 MS. CALLAHAN: Okay. We're -- we're probably
11 better off to scan it and e-mail it. But let me just go ahead
12 and -- and indicate, Mr. Knoy, on the -- for lot number 07019,
13 you did certify that you tested it -- that the solution was
14 prepared on 7/12 of '07 and that you -- you examined and
15 tested it. However with regard to lot number 07020, you
16 indicated that it was prepared on 7/12/2007.

17 DOCTOR LOGAN: I'm sorry, that -- reading that,
18 that doesn't look correct.

19 MS. CALLAHAN: Yeah, exactly.

20 DOCTOR LOGAN: (Unintelligible)

21 MS. CALLAHAN: Exactly. Okay, well why don't we do
22 this. Why don't we just take a short break and I'll e-mail
23 this over so that we have it.

24 DOCTOR LOGAN: Okay.

25

1 MS. CALLAHAN: Okay. Okay, and we're going to
2 e-mail it to Kitty as well as you, Doctor Logan. Okay. I --
3 I could ask -- ask some other questions while we're waiting
4 for that to happen, if you want.

5 DOCTOR LOGAN: That's fine, whatever you want to
6 do.

7 MS. CALLAHAN: Okay. Okay, so Mr. Knoy when you --
8 you -- you made -- prepared the solution yourself, right?

9 MR. KNOY: No, I did not prepare -- are we talking
10 about 07020?

11 MS. CALLAHAN: No, I'm sorry. Just in general,
12 you've done preparation before?

13 MR. KNOY: Yes, I have. Yes.

14 MS. CALLAHAN: Okay. And after you prepared the --
15 after you've put the alcohol in with the -- or rather the
16 ethanol in with the distilled water, or de-ionized water and
17 mixed it, then you -- then you put it into the carboy, right?

18 MR. KNOY: That's correct.

19 MS. CALLAHAN: And then you fill the carboy with a
20 certain amount of the laboratory grade water?

21 MR. KNOY: That is correct.

22 MS. CALLAHAN: And then you apply the magnetic
23 stirrer to the -- to the carboy?

24 MR. KNOY: Yes, that's correct.

25 MS. CALLAHAN: Okay. And how long do you stir it?

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MR. KNOY: A minimum of two hours.

MS. CALLAHAN: Okay, and do you -- how do you time that you're -- that it's two hours?

MR. KNOY: I look to see what time it is when I -- when I start and then just note when two hours would be up.

MS. CALLAHAN: Okay, do you have a notebook that you note that in?

MR. KNOY: No, I do not.

MS. CALLAHAN: You just make a mental note?

MR. KNOY: That or on scratch paper.

MS. CALLAHAN: Okay. So let's say that you've done a batch and it's all stirred, but you -- you're called away to testify or something and so you can't -- you can't do your test right now. So -- but you've pulled a sample and you've put it in a screw cap bottle, and you've put it in the refrigerator, right?

MR. KNOY: Okay.

MS. CALLAHAN: Okay. So now it's the next day and you want to go ahead and -- and test it. So you do your testing and everything comes out right, and then it looks like a couple -- two other analysts have done the testing and so there's a minimum of three. And you always -- you always be sure you have a minimum of three before you bottle it, right?

MR. KNOY: Yes.

1 MS. CALLAHAN: Okay. So now you're going to bottle
2 it. Do you mix it again?

3 MR. KNOY: Well it's -- it's continuously mixing
4 the entire time.

5 MS. CALLAHAN: Okay. So you leave the magnetic
6 stirrer on?

7 MR. KNOY: Yes, I do.

8 MS. CALLAHAN: Okay. How did you become aware that
9 Ms. Gordon was going to be resigning?

10 MR. KNOY: There was a laboratory meeting called on
11 the morning of Friday, July 20th. And she told us herself.

12 MS. CALLAHAN: Okay. And before that, did you have
13 any idea that something was going to be happening to her?

14 MR. KNOY: No, I did not.

15 MS. CALLAHAN: And did detectives come and talk to
16 you at some point?

17 MR. KNOY: Yes, they did.

18 MS. CALLAHAN: And when was that?

19 MR. KNOY: It was, I believe, sometime within the
20 next two weeks.

21 MS. CALLAHAN: Okay. Do you -- apparently -- I'm
22 assuming that someone blew the whistle on Ms. Gordon that she
23 wasn't personally testing, yet she was signing the
24 certificate. Do you know who that person was that blew the
25 whistle on her?

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MR. KNOY: No, I don't.

MS. CALLAHAN: Okay. Was it you?

MR. KNOY: No, it was not me.

MS. CALLAHAN: Okay. After you test the solution, you enter -- you -- you get a printout from the -- from the GC, right? And then you take the numbers from that printout and enter them into a software program?

MR. KNOY: That is correct, if the -- if the results are valid, yes.

MS. CALLAHAN: Okay. What happens if the results are not valid?

MR. KNOY: If they're not valid, then I would -- well, re-calibrate and re-aliquot the samples.

MS. CALLAHAN: Okay, you'd re-calibrate the GC?

MR. KNOY: Yes, and -- re-calibrate and re-aliquot the simulator solution.

MS. CALLAHAN: Okay. Would you -- would you use it from the same sample, or would you get another sample from the carboy?

MR. KNOY: I would go with the same sample.

MS. CALLAHAN: Okay. Have you ever had it fail that way?

MR. KNOY: No, I have not.

MS. CALLAHAN: Okay. Okay, if you all would let me know as soon as you get that -- that e-mail.

1 DOCTOR LOGAN: Yeah, we haven't received it yet.

2 MS. CALLAHAN: Okay, it's -- it's sent -- it's been
3 sent. Now how much of a sample do you take for the screw top
4 bottom glass jar?

5 MR. KNOY: From the -- the carboy?

6 MS. CALLAHAN: Yes.

7 MR. KNOY: 40 to 50 milliliters.

8 MS. CALLAHAN: Okay. Oh, I'm sorry, we have a --
9 can you bring that here? We lost our Kirkland prosecutor and
10 she's back. All right, are you on speaker?

11 FEMALE VOICE: No, she's on hold.

12 MS. CALLAHAN: Oh, she's on hold, okay. Hi, this
13 is Linda.

14 MS. WARBINTON: -- the prosecutor's office.

15 MS. CALLAHAN: Okay, right. I've got you now.

16 MS. WARBINTON: Okay.

17 MS. CALLAHAN: Sorry about that. How -- we'll --
18 you'll get the tape.

19 MS. WARBINTON: Okay.

20 MS. CALLAHAN: Yeah. And I don't know if you're
21 aware, but we're having a little bit of a delay because we're
22 waiting for an e-mail to drop into Doctor Logan's box.

23 MS. WARBINTON: Okay. Yeah, I got that part.

24 MS. CALLAHAN: Okay.

25 MS. WARBINTON: And somehow I was disconnected.

1 MS. CALLAHAN: Okay. Mr. Knoy, do you have --
2 let's -- let's say that you've done your testing and you're
3 going to enter it into the computer now, into the software
4 program. Do you -- do you recheck the -- the numbers as you
5 enter them?

6 MR. KNOY: As I enter them?

7 MS. CALLAHAN: Uh huh.

8 MR. KNOY: Do I recheck -- as I'm typing them in,
9 yes.

10 MS. CALLAHAN: Okay. Have you ever entered results
11 in the spreadsheet that were wrong?

12 MR. KNOY: Not to my knowledge, no.

13 MS. CALLAHAN: Okay. Have you ever entered someone
14 else's data into the spreadsheet?

15 MR. KNOY: No, I have not.

16 MS. CALLAHAN: Other people have access to the
17 spreadsheet though and they could change your numbers?

18 MR. KNOY: Yes.

19 MS. CALLAHAN: Hypothetically speaking.

20 MR. KNOY: Yes, it's -- they could, potentially.

21 MS. CALLAHAN: Okay. And Ms. Gordon had access to
22 that database, or that software program as well?

23 MR. KNOY: Yes, she did.

24 MS. CALLAHAN: Can you tell me about that software
25 program? Do you know the name of it?

1 MR. KNOY: No, I -- I don't know the name of it.
2 We call it database solution, but I don't know the name of the
3 software.

4 MS. CALLAHAN: Okay, database solution.

5 MR. KNOY: I mean solution database.

6 MS. CALLAHAN: Okay. And then I guess it's got --
7 it's got an internal program that calculates the standard
8 deviation and competence intervals?

9 MR. KNOY: Yes, that's correct.

10 MS. CALLAHAN: Is there ever like a check done on
11 that using Excel, or some other program to ensure that it's --
12 it's accurate?

13 MR. KNOY: Not to my knowledge, no.

14 MS. CALLAHAN: Okay. Okay, still no e-mail Doctor
15 Logan?

16 MS. INGLIS: Doctor Logan left to go print it, I
17 believe.

18 MS. CALLAHAN: Okay, okay. Did -- Mr. Knoy, did
19 you -- I don't know if I asked you this already, I may have.
20 But did you ever witness Ms. Gordon asking someone to run her
21 samples for her?

22 MR. KNOY: No, I did not.

23 MS. CALLAHAN: Do you know who was running her
24 samples for her?
25

1 MR. KNOY: I didn't have direct personal
2 knowledge -- direct personal knowledge of that.

3 MS. CALLAHAN: Okay, okay. You know what's odd to
4 me is that -- that nobody ever sees her drawing aliquots, and
5 she's out of the lab a lot because she's -- you know, she goes
6 on trips, and she goes to conferences, and she testifies. But
7 nobody ever questions why she's signing the certificates. I
8 mean did you ever question that?

9 MR. KNOY: No, I didn't. She was here hours before
10 I come into work and after I leave, and on the weekends as
11 well. So there's plenty of time that I didn't see her.

12 MS. CALLAHAN: Okay, okay.

13 DOCTOR LOGAN: Linda, we have copies of those
14 documents you sent.

15 MS. CALLAHAN: Okay, thank you, Doctor Logan.
16 Okay, Mr. Knoy, I'm going to just give you some time to go
17 ahead and look those over.

18 MR. KNOY: Okay.

19 MS. CALLAHAN: Okay. So on the first -- lot number
20 07019 the -- it indicates that the solution was prepared on
21 7/12 of 2007.

22 MR. KNOY: Yes.

23 MS. CALLAHAN: And comparing that to the -- to the
24 results form for 07019, you tested it that same day?

25 MR. KNOY: Yes, I tested it on the 12th.

1 MS. CALLAHAN: Okay. Now turning to 07020, this
2 indicates that the solution was prepared again on 7/12 of '07.
3 But the results form indicates that you tested it on 7/11 of
4 '07.

5 MR. KNOY: I did test it on the 11th.

6 MS. CALLAHAN: Okay. And then on -- with regard to
7 07021, the certification indicates that you prepared -- that
8 the solution was prepared on 7/12 of 2007. And the results
9 form for 07021 indicates that indeed you did test it on
10 7/12/2007, right?

11 MR. KNOY: Yes, I tested it on the 12th.

12 MS. CALLAHAN: And then the final batch, the 15
13 batch, which is lot number 07022, indicates it was prepared on
14 July 12th of 2007. But on the results form you indicate that
15 you -- you actually tested it the day before it was prepared?

16 MR. KNOY: I tested it on the 11th, yes.

17 MS. CALLAHAN: Okay. So I guess what I -- what I
18 don't understand is how you could test a solution before it
19 was made -- before it was prepared, or how you could sign
20 something under the penalty of perjury that you did? Those
21 two don't add up for me.

22 MR. KNOY: I tested all four on the 11th, and when
23 I tested them, the -- the -- the 07019 and the 07021, I had
24 used a -- a .04 level control with -- instead of a plain 10
25 control. And when I realized I had done this, I retested them

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on the 12th with the 0.10 level control and reported those values.

MS. CALLAHAN: Okay, but I don't think you're getting the point of my question. Because in your certifications, all of them certify under penalty of perjury that these solutions, all the lot numbers we've been discussing, were prepared in the State Toxicology Laboratory on July 12th of 2007. But then you indicate on the results form for 07020 and 07022 that you actually tested them the day before they were actually prepared. So which is right?

MR. KNOY: I know my testing dates are right specifically because of the error I made with the control level.

MS. CALLAHAN: Okay. Okay, that's all I have. Thank you very much.

DOCTOR LOGAN: Okay, we're going to put you back on hold.

MS. CALLAHAN: Okay, thanks.

* * * * *

