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INTERVIEW OF MELISSA PEMBERTON

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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MS. CALLAHAN: Okay. So Ms. Pemberton, are you there?

MS. PEMBERTON: Yes.

MS. CALLAHAN: Okay, good morning.

MS. PEMBERTON: Morning.

MS. CALLAHAN: So if I could just kind of go back and let you know that we have about 20 minutes per analyst. And I -- I'm going to try to not take longer than that. It will go a lot faster if you ask me, for example, if you don't understand the question, to clarify it. And it also go -- go a lot faster if you answer just straight forwardly.

So my -- I just want to say a few things in -- in -- in opening -- as a way of opening is that my -- my guess is that most of you are professionally embarrassed by what's happened. And that you value your professional honor and your ethical responsibilities. And people that we've talked to at the State Patrol have really expressed that to us; that they don't have anything to hide. And in that spirit, I will -- that's the spirit that these interviews go forward.

Now before I start my questions I want to say that I feel it is my ethical obligation to inform each witness, and I will say this to everyone, that you have a right to a lawyer of your choosing. Although the attorney general is present, I believe her capacity -- and I may be wrong, but I prefer to err on the side of caution. Her capacity is to represent the

1 agency and possibly not you personally. And this is important  
2 because I may ask a question and the answer to that question  
3 could possibly be incriminating. And I'm not saying this to  
4 frighten or intimidate. I just want to be sure that you  
5 understand that you always have the right to an attorney of  
6 your choosing. And if you wish, we can reschedule the  
7 interview so that you can do that.

8 So Ms. Pemberton, do you have any questions so far about  
9 anything?

10 MS. PEMBERTON: No.

11 MS. CALLAHAN: Okay. Now would you identify for me  
12 all the persons who are present and may be listening?

13 MS. PEMBERTON: Matt Anderson from King County,  
14 Doctor Logan, and --

15 MS. INGLIS: Shannon Inglis.

16 MS. PEMBERTON: Shannon.

17 MS. CALLAHAN: Okay, all right. Ms. Pemberton,  
18 Doctor Logan graciously provided me with a schematic that is a  
19 map of, I believe, of the -- of the lab. Do you have a copy  
20 of that somewhere nearby you?

21 MS. PEMBERTON: Yes.

22 MS. CALLAHAN: Okay. I'm going to put a -- I'm  
23 going to write right on it at the lower left hand corner -- or  
24 right hand corner, Exhibit 1. And I'm going to ask you  
25 did -- did this -- is this a schematic of the lab?

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MS. PEMBERTON: Yes.

MS. CALLAHAN: Okay. And where is the section that is the toxicology section? Is that up on the -- toward the top of the page?

MS. PEMBERTON: The schematic I have is of our laboratory.

MS. CALLAHAN: Okay. And is -- is this schematic your entire laboratory?

MS. PEMBERTON: It appears to be.

MS. CALLAHAN: Okay. Now I'm holding up the sheet -- and perhaps I should be holding it -- instead of as a normal piece of paper, should I be holding it horizontally?

MS. PEMBERTON: You can if you want.

MS. CALLAHAN: Okay. Can you tell me, I'm holding it horizontally now. Can you explain to me where in this diagram the solution is prepared?

MS. PEMBERTON: It's over near the alcohol GC area.

MS. CALLAHAN: Okay. And where would that be on this -- on this map?

MS. PEMBERTON: Well if you're holding it horizontally, the writing up on top.

MS. CALLAHAN: Okay. I see a 1, a 2, and a 3.

MS. PEMBERTON: It would be in the bottom right hand corner.

1 MS. CALLAHAN: The bottom right hand corner? Okay.  
2 In the bottom right hand corner the way I'm looking at this,  
3 there's a conference room.

4 MS. PEMBERTON: Oh, yeah. And then there is a --  
5 on the -- just on top of that it looks like there's a --  
6 another room, and then above -- see I can't tell.

7 MS. CALLAHAN: Okay.

8 MS. PEMBERTON: So -- so above the conference room  
9 there is another area. And to the right of that there is  
10 another open area, and it would be right in that area.

11 MS. CALLAHAN: Okay. Now --

12 DOCTOR LOGAN: Linda --

13 MS. CALLAHAN: Yes.

14 DOCTOR LOGAN: If I could, I think Ms. Pemberton  
15 just moved it vertically. So I just wanted to clarify that.  
16 Maybe Melissa could say it again, keeping it horizontally.

17 MS. PEMBERTON: It's -- so moving to the left of  
18 that conference room that's where -- and there's an open area  
19 there and that's where it would be.

20 MS. CALLAHAN: Okay, okay, I see it. Is that  
21 the -- at the very bottom someone wrote in computer in small  
22 words?

23 MS. PEMBERTON: Well I think actually that would be  
24 the logging area. And then there's another area to the left  
25 of that.

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MS. CALLAHAN: Uh huh.

MS. PEMBERTON: And there's two like open areas with a counter in -- in between. And it would be the left open area where the sink is.

MS. CALLAHAN: Okay. Now the area where the solution is made, is this an open area or are these walls? Are these cubicles, or actual walls that separate the preparation area from other offices?

MS. PEMBERTON: There are no offices in that area.

MS. CALLAHAN: Okay. So if I'm looking all the way to the right of this piece of paper where I see office -- there's a stairway at the top, and there's office 1, office 2, office 3, office 4, office 5, and conference room. And there's a hallway, that wall along the hall -- that's a wall along that hallway, right?

MS. PEMBERTON: Yes.

MS. CALLAHAN: Okay. Now are these offices -- who -- who occupies these offices, 1 through 5?

MS. PEMBERTON: The supervisors do.

MS. CALLAHAN: Okay. So is one of those your offices -- your office?

MS. PEMBERTON: Yes.

MS. CALLAHAN: Okay. And where was Ms. Gordon's office?

1 MS. PEMBERTON: Outside over to the left, to the  
2 far end.

3 MS. CALLAHAN: Okay. In that -- in the area of  
4 where it says lab manager in the corner?

5 MS. PEMBERTON: Yes.

6 MS. CALLAHAN: Okay. Now let's -- let's talk about  
7 this area here because it says toxicologist work area, eight  
8 cubicles. Is that for the support staff, or is that for  
9 actually the analysts?

10 MS. PEMBERTON: That's where the analysts do their  
11 computer work.

12 MS. CALLAHAN: Okay, okay. Okay, so let's get back  
13 to the preparation area. Where is the gas chromatograph --  
14 chromatograph machine -- can I just call it a GC?

15 MS. PEMBERTON: Yes.

16 MS. CALLAHAN: Okay. Where is the GC?

17 MS. PEMBERTON: If you go to the right of the  
18 preparation and it says -- there's three benches there that  
19 say GC.

20 MS. CALLAHAN: Okay, I see that. Okay. HS --  
21 HSGC.

22 MS. PEMBERTON: Yes.

23 MS. CALLAHAN: Okay. And that's head space gas  
24 chromat -- I can't say it -- chromatography?

25 MS. PEMBERTON: Yes.

1 MS. CALLAHAN: Okay, all right. Now to the left of  
2 the -- the HC -- or the GH, I see -- I see -- is that -- is  
3 that a table that says LC something?

4 MS. PEMBERTON: Yes.

5 MS. CALLAHAN: Okay. Is that a table?

6 MS. PEMBERTON: It's a bench.

7 MS. CALLAHAN: It's a bench, okay. And what is  
8 that for?

9 MS. PEMBERTON: LCMS.

10 MS. CALLAHAN: Okay, so that's for the mass  
11 spectromagraph, or whatever that is?

12 MS. PEMBERTON: It's for an LCMS.

13 MS. CALLAHAN: Okay, and what does that stand for?

14 MS. PEMBERTON: Liquid chromatography mass  
15 spectometry.

16 MS. CALLAHAN: Okay, okay. So now I'd like to talk  
17 about the actual preparation of the solution. Do you -- do  
18 people take turns in preparing it? Who decides who's going to  
19 be the preparer?

20 MS. PEMBERTON: We have a schedule with our names  
21 on it, and we move down the list.

22 MS. CALLAHAN: Okay. And do you -- do you know  
23 approximately how many batches of the .08 simulator solution  
24 for use in the field are made every year?

25 MS. PEMBERTON: It really varies.

1 MS. CALLAHAN: Okay. And what are the variables?  
2 MS. PEMBERTON: As to the demand for the solution.  
3 MS. CALLAHAN: Okay. Is there like an average  
4 number that you could just estimate for me?  
5 MS. PEMBERTON: Between 30 and 50.  
6 MS. CALLAHAN: Okay. And how about the QA  
7 solutions? About how many of those are made a year?  
8 MS. PEMBERTON: I don't know.  
9 MS. CALLAHAN: Okay. Now is there -- is there any  
10 practice that requires -- during preparation that the process  
11 be observed by another analyst?  
12 MS. PEMBERTON: No.  
13 MS. CALLAHAN: Okay. Now my understanding -- and  
14 I -- I'm not going to go over the protocol. But you know,  
15 I've read it and I understand, you know, basic mixing the --  
16 the ethanol in with -- with water. Now this -- is this water  
17 is -- it's de-ionized water?  
18 MS. PEMBERTON: Yes.  
19 MS. CALLAHAN: Okay. And -- and -- and it's --  
20 I -- I -- I received some information from Doctor Logan the  
21 other day that it's -- you actually have a tap, don't you,  
22 that there are tanks with this water in it?  
23 MS. PEMBERTON: Yes.  
24 MS. CALLAHAN: Okay. And it's different from the  
25 regular tap water?

1 MS. PEMBERTON: Yes.

2 MS. CALLAHAN: Okay. Now once you mix the ethanol  
3 with the -- with the water -- with this de-ionized, or  
4 laboratory grade water, and then you place it in the carboy,  
5 right?

6 MS. PEMBERTON: Yes.

7 MS. CALLAHAN: And then you fill it up to a certain  
8 level with the de-ionized water?

9 MS. PEMBERTON: Yes.

10 MS. CALLAHAN: And there's a magnetic stirrer that  
11 you apply to the solution?

12 MS. PEMBERTON: Yes.

13 MS. CALLAHAN: Okay. Is there a timer on that  
14 stirrer?

15 MS. PEMBERTON: No, there's not.

16 MS. CALLAHAN: Okay. So how -- how is it -- how  
17 does the analyst keep track of the time to ensure it's been  
18 stirred for a sufficient time?

19 MS. PEMBERTON: I can state for myself.

20 MS. CALLAHAN: Okay.

21 MS. PEMBERTON: I look at a clock and I go, okay,  
22 pour in the sample, it's 8:00, it mixes until 10:00.

23 MS. CALLAHAN: Okay. So you -- you just have your  
24 own informal procedure for just watching the clock and -- and  
25 then going back when it's done?

1 MS. PEMBERTON: It has to be a minimum of two  
2 hours.

3 MS. CALLAHAN: Okay. Once the testing, or once the  
4 solution is thoroughly mixed then, you remove some of the  
5 solution for testing, right?

6 MS. PEMBERTON: Correct.

7 MS. CALLAHAN: How much do you remove?

8 MS. PEMBERTON: Oh, 30 to 50 mils.

9 MS. CALLAHAN: Okay. And what do you put that in?  
10 What kind of container do you put it in?

11 MS. PEMBERTON: Screw cap glass tube.

12 MS. CALLAHAN: And is -- I'm sorry, could you  
13 repeat that? I couldn't hardly understand you.

14 MS. PEMBERTON: Screw cap glass tube.

15 MS. CALLAHAN: Okay. So when you say screw cap,  
16 it -- it has a cover to it?

17 MS. PEMBERTON: Yes.

18 MS. CALLAHAN: Okay. Now is it your practice to  
19 run your test immediately at that point?

20 MS. PEMBERTON: It depends on my daily -- on my  
21 daily requirements for that day.

22 MS. CALLAHAN: Okay. So if -- if -- if you're not  
23 able to test it right away, then you take it to the  
24 refrigerator?

25 MS. PEMBERTON: Correct.

1 MS. CALLAHAN: Okay. After it's labeled and -- and  
2 all that?

3 MS. PEMBERTON: Correct.

4 MS. CALLAHAN: Okay. What other items are stored  
5 in that refrigerator, if any?

6 MS. PEMBERTON: It is a refrigerator used to store  
7 many things such as quality assurance controls for the GC  
8 alcohol testing.

9 MS. CALLAHAN: Okay. Are there any personal items  
10 stored in that -- in that refrigerator?

11 MS. PEMBERTON: No.

12 MS. CALLAHAN: Okay. Now let's talk about the  
13 solution now that's in the carboy. At what point does that  
14 get bottled?

15 MS. PEMBERTON: When it has been tested to show  
16 that it has met the requirement.

17 MS. CALLAHAN: Okay. So if for example you had to  
18 testify in court, you'd done the mixing in the morning and  
19 then you had to testify in the afternoon and you couldn't do  
20 the testing, you would place the screw cap bottle -- glass  
21 bottle in the -- in the refrigerator and would you just cover  
22 the carboy?

23 MS. PEMBERTON: The carboy has a cover on it.

24 MS. CALLAHAN: Okay. And it -- it would be left  
25 there?

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MS. PEMBERTON: Yes.

MS. CALLAHAN: Okay. And then if you had time the next day you'd do your testing, and then would -- would you bottle it right then and there?

MS. PEMBERTON: Yes.

MS. CALLAHAN: Okay. Would you mix it again before bottling it?

MS. PEMBERTON: Yes.

MS. CALLAHAN: For how long?

MS. PEMBERTON: For a short while.

MS. CALLAHAN: Okay. And why is that?

MS. PEMBERTON: It's common laboratory practice to mix those up after they've been sitting. But then I just do.

MS. CALLAHAN: Okay. And so it didn't -- it didn't require a two hour mix?

MS. PEMBERTON: No.

MS. CALLAHAN: Okay. Now the -- the analysts don't really -- do they have their own offices in this lab?

MS. PEMBERTON: The offices are outside the laboratory area.

MS. CALLAHAN: Okay, okay. And so they have offices, or cubicles, or work stations? What -- what does their work area look like?

MS. PEMBERTON: Cubicles.

1 MS. CALLAHAN: Okay. Does each analyst have their  
2 own computer in their -- in their work station, or cubicle?  
3 MS. PEMBERTON: Yes.  
4 MS. CALLAHAN: Okay. And where are their offices  
5 in relation to Ms. Gordon's office?  
6 MS. PEMBERTON: Outside of that office.  
7 MS. CALLAHAN: In the toxicologist work area?  
8 Where it says toxicologist work area/eight cubicles?  
9 MS. PEMBERTON: Yes.  
10 MS. CALLAHAN: Okay, okay. Is the person who  
11 prepares the solution always the first one to test it on the  
12 GC?  
13 MS. PEMBERTON: No.  
14 MS. CALLAHAN: Okay. How many times have you  
15 prepared solution? I mean probably a lot, but just if you  
16 could take a guess.  
17 MS. PEMBERTON: I can't guess.  
18 MS. CALLAHAN: Okay, too many times? Has the  
19 solution that you prepared ever failed through testing?  
20 MS. PEMBERTON: No.  
21 MS. CALLAHAN: Okay. Now the -- the -- the GC is  
22 full. In other words, you've got it full to capacity and then  
23 you -- you go ahead and you run it. How long is it going to  
24 take to -- to process that run?  
25

1 MS. PEMBERTON: We have a 70 vial GC. And it takes  
2 approximately three minutes per vial plus a ten minute waiting  
3 period.

4 MS. CALLAHAN: Okay, okay. So it can be several  
5 hours then?

6 MS. PEMBERTON: If it were full.

7 MS. CALLAHAN: Okay. How many times a day is it  
8 run?

9 MS. PEMBERTON: It really depends. At least once a  
10 day Monday through Friday. But again, it really depends  
11 whether someone's running that day or not.

12 MS. CALLAHAN: And is this GC used for any other  
13 testing? Like blood testing or anything like that?

14 MS. PEMBERTON: The headspace gas chromatographs  
15 are used for the (unintelligible) testings.

16 MS. CALLAHAN: Okay, and just for that?

17 MS. PEMBERTON: Pardon?

18 MS. CALLAHAN: And -- and that -- and that alone?

19 MS. PEMBERTON: Yes.

20 MS. CALLAHAN: Okay. Okay. Now, is -- is there an  
21 acting manager, or someone -- has someone replaced Ms. Gordon  
22 yet?

23 MS. PEMBERTON: No.

24 MS. CALLAHAN: Is -- is there anyone acting in her  
25 behalf in her absence?

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MS. PEMBERTON: Yes.

MS. CALLAHAN: And who would that be?

MS. PEMBERTON: Doctor Logan.

MS. CALLAHAN: Okay, okay. Have you ever sat in for Ms. Gordon when she was on vacation, or sick leave, or anything like that?

MS. PEMBERTON: No.

MS. CALLAHAN: Okay. Do you ever recall seeing Ms. Gordon take samples from the -- from the refrigerator from the mixed solution and -- and laid them for testing?

MS. PEMBERTON: She and I have worked for a long time. I do not recall any specific time in the most recent years.

MS. CALLAHAN: Okay, okay. So you recall maybe at sometime, but it was awhile back?

MS. PEMBERTON: Yes.

MS. CALLAHAN: Okay. Has Ms. Gordon ever asked you to test samples for her that she didn't personally draw from the mixed solution?

MS. PEMBERTON: No.

MS. CALLAHAN: Okay. Have you ever witnessed her ask anyone else to do that for her?

MS. PEMBERTON: No.

MS. CALLAHAN: Okay. When did you first learn of the allegation that she was signing certificates indicating

1 that she had test -- she had done tests that she had not  
2 personally done? When did you first learn of this?

3 MS. PEMBERTON: The allegation?

4 MS. CALLAHAN: Yeah.

5 MS. PEMBERTON: Just recently.

6 MS. CALLAHAN: Okay. Would that be in July?

7 MS. PEMBERTON: Yes.

8 MS. CALLAHAN: Okay. How -- what -- on what day in  
9 July?

10 MS. PEMBERTON: I don't recall.

11 MS. CALLAHAN: How is it that you found out about  
12 the allegation?

13 MS. PEMBERTON: She resigned.

14 MS. CALLAHAN: Okay. Did you -- did she have a  
15 conversation with you about resigning?

16 MS. PEMBERTON: Not about resigning.

17 MS. CALLAHAN: Okay. What conversation did she  
18 have with you?

19 MS. PEMBERTON: She had a conversation with the  
20 laboratory saying that she was resigning.

21 MS. CALLAHAN: Okay. So she had a -- she had a  
22 meeting with all the analysts and staff?

23 MS. PEMBERTON: Yes.

24 MS. CALLAHAN: Okay. Now the State Patrol website  
25 states that as of July 21, 2007, all of her certificates were

1 removed because she did not -- "she did not personally examine  
2 and test the solutions." So did you know before that day?  
3 Before July 21<sup>st</sup> of 2007?

4 MS. PEMBERTON: Did I know what?

5 MS. CALLAHAN: Did you know that there were  
6 allegations against her?

7 MS. PEMBERTON: No, I did not.

8 MS. CALLAHAN: Okay. Did she give a reason for her  
9 resignation when she held this meeting?

10 MS. PEMBERTON: No.

11 MS. CALLAHAN: Okay. So how is it that you found  
12 out the -- what the allegations were?

13 MS. PEMBERTON: There was detectives here asking us  
14 questions in regards to her signing of the certificates.

15 MS. CALLAHAN: Okay, okay. Okay, some final  
16 questions and I'm almost done here. The software program that  
17 the GC numbers are entered into, I want to talk just real  
18 briefly about that. When the GC is done, it prints out in  
19 graph form, doesn't it?

20 MS. PEMBERTON: Yes.

21 MS. CALLAHAN: Now then you take this -- the graph,  
22 and you manually enter the numbers on the graph into the  
23 software?

24 MS. PEMBERTON: Yes.

25

1 MS. CALLAHAN: And then the software calculates the  
2 statistics?

3 MS. PEMBERTON: Yes.

4 MS. CALLAHAN: Okay. Is there a mechanism or  
5 procedure by which your manual data entry is double-checked by  
6 you or someone else?

7 MS. PEMBERTON: I double check my numbers as I'm  
8 entering them.

9 MS. CALLAHAN: Okay. If there was a human error in  
10 entering the data from the printout, like you know, would --  
11 would the spreadsheet catch it?

12 MS. PEMBERTON: If there were a human error, no.  
13 No, the spread -- the spreadsheet will take whatever number is  
14 entered.

15 MS. CALLAHAN: Okay. So it's up to the individual  
16 analyst to check his or her own accuracy?

17 MS. PEMBERTON: Yes.

18 MS. CALLAHAN: Okay. Have you ever found yourself  
19 catching yourself making an error in your transcription from  
20 the printout to the spreadsheet?

21 MS. PEMBERTON: Yes.

22 MS. CALLAHAN: Okay. Now do other -- other  
23 analysts have access to your numbers?

24 MS. PEMBERTON: Yes.

25

1 MS. CALLAHAN: Okay. Did -- did Ms. Gordon have  
2 access to that spreadsheet as well?

3 MS. PEMBERTON: Yes.

4 MS. CALLAHAN: Okay. And do you know whether  
5 Ms. Gordon was making up numbers and entering them in the  
6 sheets?

7 MS. PEMBERTON: I do not know that.

8 MS. CALLAHAN: Okay. There's -- there's some --  
9 there's some allegation that someone possibly at the Crime Lab  
10 was -- was a -- was a whistle blower in this case and -- and  
11 turned her in. Is -- is that person you?

12 MS. PEMBERTON: I don't know. I mean I didn't make  
13 any call -- any phone call. I don't know anything about the  
14 allegation.

15 MS. CALLAHAN: Okay. Do you -- do you have any  
16 idea who the whistle blower person is?

17 MS. PEMBERTON: No, I do not have first hand  
18 knowledge of that.

19 MS. CALLAHAN: Okay, all right. Well thank you.  
20 That's all I have.

21 DOCTOR LOGAN: Okay, thank you. We're going to put  
22 you on hold just a second, Linda, and we'll go and get our  
23 next candidate.

24 MS. CALLAHAN: Okay, thank you.

25 DOCTOR LOGAN: Okay.

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MS. CALLAHAN: We'll turn off the recording for  
now.

DOCTOR LOGAN: Okay.

\* \* \* \* \*

