
From: MacKinlay, Glenn (USAMA) <Glenn.MacKinlay@usdoj.gov>
Sent: Friday, October 02, 2009 3:49 PM
To: Khan, Annie (DPH)
Subject: RE: Predicate Court Questions (Drug Lab)

Thanks for doing this Annie. We would love to have the IR questions, if it is not too much work.

From: Khan, Annie (DPH) [<mailto:Annie.Khan@state.ma.us>]
Sent: Friday, October 02, 2009 3:36 PM
To: Sullivan, Suzanne (USAMA); Wortmann, John (USAMA); Richardson, Robert (USAMA); Bucci, Jeremy (SUF); Green, Matthew (PLY); Papachristos, George (NFK); Fregault, Garrett (BRI); Solet, David (NOR); Brennan, John (EAS); Shea, Bryan (CPI); Boivin, Mark (BRI); MacKinlay, Glenn (USAMA); Fisher, Robert (USAMA)
Cc: Strojny, Aaron (BRI); Gibson, Moya (NOR); Kidd, Robert (BRI); Fahy, Brian (SUF); Snook, Jennifer (NOR); Swadling, Mark (SUF); Nash, Amy (NOR); Barnes, Brendan (PLY); Hyde, Barrett (SUF); Haywood, Montez (SUF); Dolhun, Susan (EAS); LaMacchia, Brian (NOR); Brandt, Nicholas (SUF); Gyebe, Yaw (SUF); Clayton, David (NOR); Young, Christian (SUF); Friedholm, Greg (EAS); Buxton, Kristen (EAS); Lally, Adam (NFK); Cannon, Doug (NOR); Muche, Clint (EAS); Zaganjori, Samir (NOR); Ham, Catherine (PLY); Abely, William (NOR); Allain, Nicole (NOR); Healy, Jessica (PLY); Le, Cam (NFK); Rutley, Jonathan (NFK); Flynn, Maryclare (BRI)
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Hi,
I would like to thank everyone for their cooperation and patience since the Melendez-Diaz decision.

I have attached some predicate questions for drug analysis to this email. Please distribute to your colleagues.
General Questions
General Questions with GC/MS confirmatory testing (#17-34).

AUSA: If you need predicate questions for the Infra Red (IR) analysis, let me know. I will put together some basic questions.

If anyone needs clarification on the roles of the chemists, chain of custody, discovery packet or anything else pertaining to drug analysis, feel free to contact me.

I will be out of the Lab from October 3rd to 10th. I will be checking my emails and work cell.

Once again, thank you to everyone.

Thanks,
Annie Khan Dookhan
Chemist
Drug Analysis Laboratory
617-983-6631 (work)
617-983-6625 (fax)
781-367-4152 (w. cell)

From: Khan, Annie (DPH)
Sent: Sunday, March 28, 2010 1:18 AM
To: Papachristos, George (NFK)
Subject: Questions
Attachments: PREDICATE QUESTIONS.docx

See Attachment for answers to predicate questions

Also, questions posed by d/c. I will get into more details later

representative sampling

estimated weight

spot test...non specific test

isomers

polorimetry

balance...working appropriately

purity

QC/QA of GC/MS- calibration, maintenance etc Diluents or cutting agents present why is there two analysis on C or A
roles of both chemist knowledge of the sample prior to being submitted to the lab Molecular mass of cocaine chemical
structure of cocaine # atoms in cocaine who invented the MS are u an expert in GC/MS references percent error for MS
standards have u ever made a mistake have the incorrect results ever been documented for a C of A evidence weight
issue Defense Chemist re-weigh.. why is the weight different b/w the defense chemist and the primary chemist cross
contamination schematics of the GC/MS schematics of the computer

Annie

Drug Analysis Lab

617-983-6631 (work)

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From: Khan, Annie (DPH)
Sent: Friday, April 22, 2011 1:44 PM
To: Kowalski, Craig (NFK)
Subject: RE: Predicate questions with answers

Haha. What kind of class is "Dymanic Earth"? Just Kidding

Chemistry is fun . .we get to make things explode. Esp. with Drug lab . . we got the good stuff.

12b. 100+ times and Courts: Federal- Boston & Worcester; Essex, Norfolk, Suffolk, Plymouth, Middlesex, Bristol & Barnstable Superior; various District courts.

Keep me posted.

Annie

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- 12) Approximately how many times have you had occasion to test for a controlled substance? 10s of thousands
- 12a) Have you testified in court before regarding analyses you have conducted? Yes.
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I don't know your answer to 12b, but I'm assuming it's good.

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Thanks again for all your help. Scientific things are not my strong suit. I took "Dynamic Earth" in college to fulfill my science requirements rather than chemistry, physics or biology.

Craig

Craig F. Kowalski
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Have a nice weekend as well.

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Commonwealth v. Alexander Fainer

WITNESS: ANNIE KHAN DOOKHAN, Chemist DPH Lab

1) Could you please state and spell your full name? Annie Dookhan

2) Where are you currently employed? Dept of Public Health – Drug Lab

3) How long have you been employed with the DPH State Drug Laboratory? 7 ½ years

4) What are the duties and responsibilities as a chemist/evidence officer at the Massachusetts DPH Drug Laboratory? To analyze and confirm unknown substances, as well as oversee the QC/QA program for the drug lab. QA/QC is responsible for accuracy and preventative maintenance of all instruments, balances, chemical reagents and to ensure that all the chemists are following the policies and procedures of the lab and DPH.

5) What is a custodial chemist? Maintains the chain of custody and the integrity of the sample.

They are the only one that handles the substance and are responsible for the weight and prelim tests. What is a confirmatory chemist? Is a chemist trained in the operation and interpretation of an instrument called a GC/MS (Gas chromatography/Mass spectroscopy). This instrument will structurally separate and identify the unknown substance and its components. They will visually compare a known standard to the unknown sample by the retention time (size of the molecule) and the ionic pattern (which is like a fingerprint of the molecule). Are you either? I am both a custodial and confirmatory chemist.

6) What formal education have you received? MS in Chemistry
BS in Bio-Chemistry

7) Have you also received specialized training in the field of drug analysis and identification? 6 week in house training by the lab supervisor (and other trainings)

8) Can you explain in general how you receive substances from police agencies?

Samples are submitted by the police dept. A drug receipt is filled out documenting the police dept, submitting officer and a description of the sample/s. The sample is assigned a Lab # and a gross weight. A control card is generated with the pertinent information from the drug receipt. The sample and the control card is placed into a manila envelope with the corresponding lab # and placed into the safe until the sample is assigned to a chemist.

9) Once the substance(s) have been logged in, are they assigned to a particular chemist for testing and analysis? Samples are assigned randomly to any of the chemist.

10) How do you receive case assignments for testing and analysis? Basically, I will ask the evidence officer for samples and they will assign me samples randomly.

11) What happens when you are assigned a case? The evidence officer will log out and assign me the samples. I will then check each manila envelope to make sure the control card, lab # and sample correspond with each other.

12) Approximately how many times have you had occasion to test for a controlled substance? 10s of thousands

13) In particular have you received training and learned how to test the presence of cocaine? Yes

14) Can you describe the test(s) to determine whether a substance contains cocaine? **Cocaine:** We perform prelim test which include 4 spot test and microcrystalline test

15) Does this test have a name/ Do these tests have names? **Cocaine:** Cobalt thiocyanate, marquis, froedhes, meckes, Gold chloride and TLTA

16) If cocaine is present, what happens during that test (those tests)? **Cocaine:** Cobalt thiocyanate test will turn from a pink to blue. Microcrystalline test will then be performed to determine the isomers and the diastereomers of cocaine is present. Basically, it is a structural ID of cocaine to tell the presence of D vs L cocaine. L being the naturally occurring cocaine. Then a small amount of sample is placed in the appropriate solvent (liquid) for confirmatory testing.

17) In particular have you received training and learned how to test for the presence of heroin? Yes

18) Can you describe the test(s) to determine whether a substance contains heroin? **Heroin:** We perform prelim test which include 4 spot test.

19) Does this test / these tests have names? **Heroin:** Cobalt thiocyanate, marquis, froedhes & meckes

20) If heroin is present, what happens during that test (those tests)? **Heroin:** Cobalt thiocyanate test may turn from a pink to a blue color. Marquis test will turn from a clear to purple color. Froedhes test will turn from clear to purple color. Meckes test will turn from a clear to a green color. These tests are indicative of the presence of an opiate. Then a small amount of sample is placed in the appropriate solvent (liquid) for confirmatory testing.

21) In particular have you received training and learned how to test the presence of oxycodone? Yes

22) Can you describe the test(s) to determine whether a substance contains oxycodone? We will visually identify the markings or ballistics of the tablet/s. Using the password protected Micromedex Software or other literary references, like PDR, Drug ID Bible, we can identify markings of the tablets. We will document the ballistics of the tablet, (color, shape, marking, appearance and count). A portion of the tablet is cut and crushed and placed in the appropriate solvent (liquid) for confirmatory testing.

23) Did you have an opportunity to analyze some substances in this case? Yes

24) On 8/3/2009, did the lab receive items for analysis from Quincy Police? Yes

25) Was some information received from Quincy along with those items? Yes

26) What information was received with those items on 8/3/2009? A drug receipt is filled out documenting the police dept, submitting officer and a description of the sample/s. The sample is assigned a Lab # and a gross weight.

- 27) Did your laboratory assign analysis numbers to those items? Yes
- 28) What analysis numbers were assigned to the case? (B09-11142, -11143, -11144, -11145)
- 29) On 3/1/2010, did you analyze these items? Yes
- 30) Can you tell us step by step what you did with those substances? Once assigned the sample/s, I made sure the gross weight, lab #s and description of the sample was accurate. Then I started to analyze the first Lab #. Once I determine the sample was intact and the integrity of the sample was maintained, I open the sample and began my analysis. I document my observations and description of the sample, did a gross weight and then a net weight of the sample. Then the prelim test and confirmatory test was done on each sample. For Lab # B09-11142 & 11143, I did a representative sampling each lab # since there were several samples involved. I tested 1 out of 4 and 1 out of 9 for Lab #11142 & 11143 respectively. It is the current Lab policy that we do a representative sample of 10% for samples of lesser magnitude, as long as the samples are off similar size, color, texture and overall appearance.
- 31) Are the steps you just described the normal policies and procedures for testing an unknown substance? Yes
- 32) Were you able to conclude to a reasonable degree of scientific certainty what substance was contained in the items submitted by Quincy? Yes, lab # B09-11142: contained cocaine; B09-11143: contained Heroin; B09-11144: contained oxycodone; B09 -11145: contained heroin.
- 33) What test(s) were used to determine that? The prelim and confirmatory test.
- 34) How much did these items weigh? B09-11142: net weight of 1 analyzed was 0.38g; B09 -11143: net weight of 1 analyzed was 0.78; B09 -11144: net weight was 0.12g; B09 -11145: net weight was 0.31g
- 35) Was a report generated that documented your observations and analysis? Yes
- 36) I am placing a document before you do you recognize that document? Yes, it is the certificate of analysis for Lab # B09-11142, -11143, -11144, -11145.
- 37) Did you include the information that you received with this substance on this document? Yes
- 38) Is that your signature on the document? Yes
- 39) Does this document relate to these drugs? (show drugs) Yes
- 40) How do you know that these drugs relate to this drug certificate? The laboratory # and my initials/signature

ENTER CERTS

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Sent: Friday, April 22, 2011 1:13 PM
To: Khan, Annie (DPH)
Subject: RE: Predicate questions with answers

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9) Once the substance(s) have been logged in, are they assigned to a particular chemist for testing and analysis? Samples are assigned randomly to any of the chemist.

10) How do you receive case assignments for testing and analysis? Basically, I will ask the evidence officer for samples and they will assign me samples randomly.

11) What happens when you are assigned a case? The evidence officer will log out and assign me the samples. I will then check each manila envelope to make sure the control card, lab # and sample correspond with each other.

12) Approximately how many times have you had occasion to test for a controlled substance? 10s of thousands

13) In particular have you received training and learned how to test the presence of cocaine? Yes

- 14) Can you describe the test(s) to determine whether a substance contains cocaine? **Cocaine:** We perform prelim test which include 4 spot test and microcrystalline test
- 15) Does this test have a name/ Do these tests have names? **Cocaine:** Cobalt thiocyanate, marquis, froedhes, meckes, Gold chloride and TLTA
- 16) If cocaine is present, what happens during that test (those tests)? **Cocaine:** Cobalt thiocyanate test will turn from a pink to blue. Microcrystalline test will then be performed to determine the isomers and the diastereomers of cocaine is present. Basically, it is a structural ID of cocaine to tell the presence of D vs L cocaine. L being the naturally occurring cocaine. Then a small amount of sample is placed in the appropriate solvent (liquid) for confirmatory testing.
- 17) In particular have you received training and learned how to test for the presence of heroin? **Yes**
- 18) Can you describe the test(s) to determine whether a substance contains heroin? **Heroin:** We perform prelim test which include 4 spot test.
- 19) Does this test / these tests have names? **Heroin:** Cobalt thiocyanate, marquis, froedhes & meckes
- 20) If heroin is present, what happens during that test (those tests)? **Heroin:** Cobalt thiocyanate test may turn from a pink to a blue color. Marquis test will turn from a clear to purple color. Froedhes test will turn from clear to purple color. Meckes test will turn from a clear to a green color. These tests are indicative of the presence of an opiate. Then a small amount of sample is placed in the appropriate solvent (liquid) for confirmatory testing.
- 21) In particular have you received training and learned how to test the presence of oxycodone? **Yes**
- 22) Can you describe the test(s) to determine whether a substance contains oxycodone? **Oxycodone:** We will visually identify the markings or ballistics of the tablet/s. Using the password protected Micromedex Software or other literary references, like PDR, Drug ID Bible, we can identify markings of the tablets. We will document the ballistics of the tablet, (color, shape, marking, appearance and count). A portion of the tablet is cut and crushed and placed in the appropriate solvent (liquid) for confirmatory testing.
- 23) Did you have an opportunity to analyze some substances in this case? **Yes**
- 24) On 8/3/2009, did the lab receive items for analysis from Quincy Police? **Yes**
- 25) Was some information received from Quincy along with those items? **Yes**
- 26) What information was received with those items on 8/3/2009? **A drug receipt is filled out documenting the police dept, submitting officer and a description of the sample/s. The sample is assigned a Lab # and a gross weight.**

- 27) Did your laboratory assign analysis numbers to those items? Yes
- 28) What analysis numbers were assigned to the case? (B09-11142, -11143, -11144, -11145)
- 29) On 3/1/2010, did you analyze these items? Yes
- 30) Can you tell us step by step what you did with those substances? Once assigned the sample/s, I made sure the gross weight, lab #s and description of the sample was accurate. Then I started to analyze the first Lab #. Once I determine the sample was intact and the integrity of the sample was maintained, I open the sample and began my analysis. I document my observations and description of the sample, did a gross weight and then a net weight of the sample. Then the prelim test and confirmatory test was done on each sample. For Lab # B09-11142 & 11143, I did a representative sampling each lab # since there were several samples involved. I tested 1 out of 4 and 1 out of 9 for Lab #11142 & 11143 respectively. It is the current Lab policy that we do a representative sample of 10% for samples of lesser magnitude, as long as the samples are off similar size, color, texture and overall appearance.
- 31) Are the steps you just described the normal policies and procedures for testing an unknown substance? Yes
- 32) Were you able to conclude to a reasonable degree of scientific certainty what substance was contained in the items submitted by Quincy? Yes, lab # B09-11142: contained cocaine; B09-11143: contained Heroin; B09-11144: contained oxycodone; B09 -11145: contained heroin.
- 33) What test(s) were used to determine that? The prelim and confirmatory test.
- 34) How much did these items weigh? B09-11142: net weight of 1 analyzed was 0.38g; B09 -11143: net weight of 1 analyzed was 0.78; B09 -11144: net weight was 0.12g; B09 -11145: net weight was 0.31g
- 35) Did you generate a report that documented your observations and analysis? Yes
- 36) I am placing a document before you do you recognize that document? Yes, it is the certificate of analysis for Lab # B09-11142, -11143, -11144, -11145.
- 37) Did you generate that document? The evidence office did.
- 38) Did you include the information that you received with this substance on this document? Yes
- 39) Is that your signature on the document? Yes
- 40) Does this document relate to these drugs? (show drugs) Yes

41) How do you know that these drugs relate to this drug certificate? The laboratory
and my initials/signature

ENTER CERTS

From: Kowalski, Craig (NFK)
Sent: Wednesday, April 20, 2011 3:08 PM
To: Khan, Annie (DPH)
Subject: Alex Fainer

Annie,

It looks like the Alex Fainer trial will be going to trial next week afterall. I will be picking a jury on Tuesday. I have several witnesses in this case that will take up Wednesday so I'm thinking the best time for you would be 9am Thursday. Is that a possibility for you? I also summonsed Daniel Renczkowski and he'd go on after you.

Attached are some sample questions for this case I believe taken from samples you sent me before. Does it look okay? Please let me know if I should be asking things differently.

I will email/call you Tuesday after picking the jury to confirm with you that the trial started and then we can discuss your time for testimony. I can be flexible if you have other places to be.



Annie Khan Qs
Fainer.doc

Thanks!
Craig

Craig F. Kowalski
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(781) 830-4800, extension 282

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Commonwealth v. Alexander Fainer

WITNESS: ANNIE DOOKHAN KHAN, Chemist DPH Lab

- 1) Could you please state and spell your full name?
- 2) Where are you currently employed?
- 3) How long have you been employed with the DPH State Drug Laboratory?
- 4) What are the duties and responsibilities as a chemist/evidence officer at the Massachusetts DPH Drug Laboratory?
- 5) What is a custodial chemist? What is a confirmatory chemist? Are you either?
- 6) What formal education have you received?
- 7) Have you also received specialized training in the field of drug analysis and identification?
- 8) Can you explain in general how you receive substances from police agencies?
- 9) Once the substance(s) have been logged in, are they assigned to a particular chemist for testing and analysis?
- 10) How do you receive case assignments for testing and analysis?
- 11) What happens when you are assigned a case?
- 12) Approximately how many times have you had occasion to test for a controlled substance?
- 13) In particular have you received training and learned how to test the presence of cocaine?
- 14) Can you describe the test(s) to determine whether a substance contains cocaine?
- 15) If cocaine is present, what happens during that test (those tests)?
- 16) Does this test have a name/ Do these tests have names?

- 17) In particular have you received training and learned how to test for the presence of heroin?
- 18) Can you describe the test(s) to determine whether a substance contains heroin?
- 19) If heroin is present, what happens during that test (those tests)?
- 20) Does this test / these tests have names?
- 21) Did you have an opportunity to analyze some substances in this case?
- 22) On 8/3/2009, did the lab receive items for analysis from Quincy Police?
- 23) Was some information received from Quincy along with those items?
- 24) What information was received with those items on 8/3/2009?
- 25) Did your laboratory assign analysis numbers to those items?
- 26) What analysis numbers were assigned to the case? (B09-11142, -11143, -11144, -11145)
- 27) On 3/1/2010, did you analyze these items?
- 28) Can you tell us step by step what you did with those substances?
- 29) Are the steps you just described the normal policies and procedures for testing an unknown substance?
- 30) Were you able to conclude to a reasonable degree of scientific certainty what substance was contained in the items submitted by Quincy?
- 31) What test(s) were used to determine that?
- 32) How much did these items weigh?
- 33) Did you generate a report that documented your observations and analysis?
- 34) I am placing a document before you do you recognize that document?
- 35) Did you generate that document?

- 36) Did you include the information that you received with this substance on this document?
- 37) Is that your signature on the document?
- 38) Does this document relate to these drugs? (show drugs)
- 39) How do you know that these drugs relate to this drug certificate?

ENTER CERTS

From: Khan, Annie (DPH)
Sent: Thursday, April 21, 2011 10:49 PM
To: Kowalski, Craig (NFK)
Subject: Predicate questions with answers
Attachments: fainer.docx

See attachment for the predicate question with my answers.

Avoid questions that deal with: accreditation, publications and external training.

Additional questions that may help build creditability(at least in my experience):

Have you ever testified before?

If so, approximately how many times and which courts?

Hope this helps. Let me know if I need to clarify or expand on any particular topics.

PS: Debi and George knows how to find me.

Annie