The untold story of how the Golden State Killer was found: A covert operation and private DNA

BY PAIGE ST. JOHN | LOS ANGELES TIMES EXCLUSIVE

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The dramatic arrest in 2018 of Joseph James DeAngelo Jr. was all the more astounding because of how detectives said they caught the elusive Golden State Killer — by harnessing genetic technology already in use by millions of consumers to trace their family trees.

Investigators and prosecutors said the investigation relied on genetic information people voluntarily made public, though with little reason to suspect it might incriminate members of their families in crimes. The actual investigation was broader and more invasive, conducted without a warrant, and appeared to violate the privacy policy of at least one DNA company.

In late 2019, FamilyTreeDNA’s chief executive acknowledged giving the FBI access in 2017 without knowing the case being investigated. He said he did not believe it violated the company’s terms of service, which warned that it “may be required” to release personal information in response to a “lawful request by public authorities.”

Those terms were later changed to alert customers that law enforcement had access to the database.

MyHeritage’s privacy policy at the time stated that personal information “woul~~d on~~ly be released if required by law.” A corporate executive said the policy “did not explicitly” address such unprecedented police access. “It is possible that the civilian geneticist thought she was not violating our terms of service,” said Aaron Godfrey, vice president of marketing.

Nevertheless, the search was not sanctioned, and MyHeritage has since revised its policies to make it clear that “such investigations are prohibited,” Godfrey said.

Not disclosing that private consumer data were used in the investigation “perpetuates a fraudulent impression of all the methods implemented to identify Joseph DeAngelo,” Cheryl Temple, chief assistant district attorney for Ventura County, wrote in a January 2019 letter to the FBI. Even DeAngelo’s defense lawyers stood to be kept in the dark about how he was identified, she wrote.

DeAngelo, 75, pleaded guilty before going to trial. He is serving 26 life sentences in a California prison. And the legality of investigative genealogy, still relatively new, has not faced serious legal challenges. It is perceived in law enforcement circles as a vital tool for solving even current crimes, but regulations and legislation have not yet

caught up.

Some legal and privacy experts are concerned that the race to use genealogical databases will have serious consequences, including eroding privacy protections and broadening police power. There have also been instances of the wrong people being accused.

GEDmatch’s new search guidelines by classifying a case as a sexual assault but filed only burglary charges after an arrest.

Paul Holes was chief of forensics for the district attorney’s office in Contra Costa County, one of half a dozen Northern California counties where the East Area Rapist struck from 1976 to 1979, assaulting nearly 50 women and girls. In 2017, Holes used DNA from one of the few surviving rape kits to develop a Y-chromosome profile, found a partial match on a free website called Ysearch.org, and with the FBI obtained a federal grand jury subpoena to require Ysearch’s parent company, Gene by Gene, which also owns FamilyTreeDNA, to release information on that account holder.

The search led Holes and agents from Orange County to an elderly man in a nursing home in Oregon, but he turned out to be an exceedingly distant relation — with no shared ancestor for 900 years. After that, Holes said, federal agents in Northern California lost interest, and funding for more DNA ventures dried up. But an FBI lawyer in Los Angeles was “all in.”

Holes and Kramer canvassed counties that still had rape kits from the Golden State Killer crimes and found one still sealed in Ventura County, from the 1980 rape and murder of Charlene Smith and the murder of her husband, Lyman Smith. Temple said Ventura County Dist. Atty. Greg Totten approved of conducting a genetic investigation.

Court discovery records show the FamilyTreeDNA data profile was then compared by computer with the profiles of the company’s 2 million other customers. The law enforcement team was provided a list of the close matches, including names and other personal information account holders made disclosable. A similar comparison was performed on GEDmatch.com. These secret searches provided only lists of third cousins, Holes confirmed.

Then in February 2018, a civilian genealogy expert helping the team announced that she had, on her own, uploaded the FBI’s forensic DNA to another consumer ancestry company, MyHeritage, and found a much closer match. A summary of the

investigation written by the Ventura County district attorney’s office notes that this search violated MyHeritage’s privacy policies.

That expert, Barbara Rae-Venter, was already helping law enforcement agencies investigate the murders of four women whose skeletons were found in barrels at Bear Brook State Park in New Hampshire. The four turned out to be the victims of a California drifter. Unreleased court records show Rae-Venter was given access to the passwords and logins of the FBI’s fake account on FamilyTreeDNA. She also had independently uploaded the forensic DNA to GEDmatch.

Rae-Venter said she used her personal account on MyHeritage and did not notify the company. She said her actions were approved by Kramer at the FBI. “He said if we’re going to solve this case, we need better matches,” Rae-Venter said. “In his opinion, law enforcement is entitled to go where the public goes.”

The second cousins discovered by Rae-Venter’s surreptitious search created a narrow pool of suspects whom investigators code-named the “Wright” family.

A month later, the FBI visited one of those cousins, an Orange County woman, to ask for her DNA. Her brother had become the prime murder suspect. That woman’s genetic information cleared her brother but told Rae-Venter the killer was related through the women on the family trees that authorities were building on yet another consumer genealogy site, Ancestry.com.

Only six male cousins were possible fits. An FBI search of California driver’s license records showed that only one of those six men had blue eyes that fit the profile Rae Venter said she had built: DeAngelo. Months after the arrest, the FBI sought to keep the involvement of FamilyTreeDNA and MyHeritage secret, even from DeAngelo’s lawyers. The federal agency invoked a legal privilege that protects the names of confidential sources. According to court discovery records reviewed by The Times, Holes told investigators preparing the criminal case against DeAngelo that that was why he was not allowed to divulge their identities.  
Rae-Venter also said she encountered efforts to revise the account of how DeAngelo was captured when she was asked to omit references to the “match lists” — names of genetic relatives to the killer — she had seen during the investigation.

Gay Hardwick, who was repeatedly raped by DeAngelo while her future husband was tied up, said she was concerned that the investigators’ tactics could have given theserial killer’s defense team grounds for appeal had he not pleaded guilty.

Jennifer Carole, whose father’s and stepmother’s murders had yielded the crime scene evidence that identified DeAngelo, was unconvinced the arrest merited the larger erosion of privacy.

But Debbi Domingo McMullan, whose mother, Cheri, was raped and beaten to death by DeAngelo in 1981, had no such reservations. After DeAngelo’s arrest, she encouraged consumers to give law enforcement access to their DNA to help solve other crimes.