

MEMORANDUM TO CRIMINAL AND DELINQUENCY
PANEL ATTORNEYS

From: Bar Association of San Francisco, Indigent Defense Administration

RE: DNA CONTAMINATION

October 21, 2009

The Office of the District Attorney, pursuant to Court order, publicizes instances of DNA contamination and therefore forwarded the attached three (3) page Supplement Report of Laboratory Examination, Cold Hit Confirmation, Laboratory Number 08-005 as well as a copy of an order dated March 29, 2005 signed by Judge Morgan.

We have contacted Bicka Barlow of the Public Defender's office who has graciously provided a sample discovery compliance letter for your use and invites your questions or concerns regarding the impact, if any, of this DNA contamination on pending and future cases.



San Francisco Police Department
 Forensic Services Division – Criminalistics Laboratory
 Tel: 415-671-3200 / Fax 415-671-3290
Supplemental Report of Laboratory Examination
Cold Hit Confirmation

Case Number	[REDACTED]
Laboratory Number	08-0005
Incident Date	[REDACTED]
Requested By	[REDACTED]
Detail	[REDACTED]
Complainant / Victim	[REDACTED]
Suspect	[REDACTED]
Prior Report Date	[REDACTED]
Report Date	08/03/09

DESCRIPTION OF EVIDENCE

On October 20, 2008, Item #1 was retrieved from the SFPD Property Control Division (PCD). On July 30, 2009, Item #6 was retrieved from the SFPD PCD.

Item #1: Jacket

- #1A Jacket
- #1B Spark plug

Items #6A-1,2 and #6B-1,2: Oral reference swabs from [REDACTED] (4)

PURPOSE OF EXAMINATION

The purpose of the examination was to conduct genetic analysis on the reference sample from [REDACTED] (Item #6A) and compare his DNA profile to the previously obtained DNA typing results from the jacket (Item #1A).

RESULTS OF EXAMINATION

Biological Evaluation

Item #1A: Jacket

The brown jacket (Item #1A) appeared worn with several stains and tears. Dark brownish stains were found on the back exterior surface of the jacket; these stains tested negative in a chemical presumptive test for blood. The interior surface of the jacket collar was swabbed with sterile cotton swabs (Items #1A-1,2). The interior surface of the right cuff was swabbed with sterile cotton swabs (Items #1A-3,4). A portion of the collar swabs (Item #1A-1/2), cuff swabs (Item #1A-3/4), and a water control swab (Item #1A-WC) was sampled for genetic analysis.

The spark plug (Item #1B) was found inside the left pocket of the jacket (Item #1A) and was not examined at this time.

Items #6A-1,2 and #6B-1,2: Oral reference swabs from [REDACTED]

The oral reference swabs from [REDACTED] (Items #6A-1,2) consisted of two intact cotton tipped applicators. A portion of the oral reference swab (Item #6A-1) was sampled for genetic analysis. The remaining oral reference swab (Item #6A-2) was not sampled at this time.

cc: [REDACTED]

The other oral reference swabs (Items #6B-1,2) were not examined at this time.

Genetic Analysis

The oral reference swab (Item #6A-1) was subjected to a DNA extraction process. Following extraction, the sample was amplified and typed using the AmpFISTR Profiler Plus and COfiler DNA typing systems. The collar swabs (Item #1A-1/2), cuff swabs (Item #1A-3/4), and the water control swab (Item #1A-WC) were previously subjected to a DNA extraction process, amplified, and typed using the AmpFISTR Profiler Plus and COfiler DNA typing systems. See Tables of Results.

**Table of Results
 AmpFISTR Profiler Plus**

ITEM	D3S1358	vWA	FGA	AMEL	D8S1179	D21S11	D18S51	D5S818	D13S317	D7S820
#6A-1: Reference Swab [REDACTED]	14,15	18,18	21,21	X,Y	14,16	28,30	13,15	12,12	12,13	9,11
#1A-1/2: Collar swab†	14,15> 16,17	18,18> 15,16	21,21>*	X,Y	14,16> 11>*	28,30	13,15	12,12> *	12,13	9,11
#1A-3/4: Cuff swab†	14,15	18	21	X,Y	14,16	*	ND	12	ND	ND
#1A-WC: Water control†Σ	16,*	17	*	Y,*	14	*	*	10	ND	ND
R/B(s)	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND

Key: X,Y = indicative of male gender † = alleles recorded only, not genotypes ‡ = major genotype denoted with minor alleles recorded
 ND = not detected Σ = consistent with SFPD staff DNA profile (DNA typing information not shown)

**Table of Results
 AmpFISTR COfiler**

ITEM	D3S1358	D16S539	AMEL	TH01	TPOX	CSF1PO	D7S820
#6A-1: Reference Swab [REDACTED]	14,15	9,12	X,Y	6,7	8,8	12,12	9,11
#1A-1/2: Collar swab†	14,15> 16,17	9,12>*	X,Y	6,7>*	8,8> 11	12,12	9,11
#1A-3/4: Cuff swab†	14,15	ND	X,Y	*	*	ND	ND
#1A-WC: Water control†Σ	16	*	*	*	9	ND	ND
R/B(s)	ND	ND	ND	ND	ND	ND	ND

Key: X,Y = indicative of male gender † = alleles recorded only, not genotypes ‡ = major genotype denoted with minor alleles recorded
 ND = not detected Σ = consistent with SFPD staff DNA profile (DNA typing information not shown)

Genetic analysis results indicate a mixture of DNA, from at least two individuals, was detected on the collar swabs (Item #1A-1/2). The major DNA profile is the same as [REDACTED]'s DNA profile (Item #6A-1). Therefore [REDACTED] (Item #6A-1) is included as a possible donor of the major DNA

[REDACTED] / CN: 08-0005
 cc: [REDACTED]

profile detected from collar swabs (Item #1A-1/2). Additional genetic comparison is available upon request and submission of appropriate reference sample(s).

The probability that a random unrelated individual, by chance, would possess the same major DNA profile as that detected from the collar swab (Item #1A-1/2) is approximately 1 in 2 quadrillion for US Caucasians, 1 in 28 quadrillion for African Americans, 1 in 7 quadrillion for California Hispanics, and 1 in 17 quadrillion for the general Asian population.

Genetic analysis results indicate a partial DNA profile was detected on the cuff swabs (Item #1A-3/4). [REDACTED] (Item #6A-1) is included as a possible donor of the partial DNA profile detected on the cuff swabs (Item #1A-3/4).

Genetic analysis results indicate a partial DNA profile was detected on the water control swab (Item #1A-WC). The DNA types detected in the water control swab (Item #1A-WC) are consistent with SFPD DNA Analyst [REDACTED] is excluded as a possible contributor to the DNA mixture detected on the collar swabs (Item #1A-1/2) and the partial DNA profile detected on the cuff swabs (Item #1A-3/4).

DISPOSITION OF EVIDENCE

DNA extracts generated from the examination of Items #1 and #6 were packaged with their original evidence envelopes. Item #6 remains in the custody of the SFPD Crime Laboratory pending its return to the SFPD Property Control Division. On December 10, 2008, Item #1 was returned to the SFPD PCD.

Examined By:



Kevin Kellogg, Criminalist II

cc: [REDACTED]

[REDACTED] / CN: 08-0005

GORDON PARK-LI, Clerk
Superior Court of California, County of San Francisco
BY: [Signature]
DEPUTY CLERK

GORDON PARK-LI, Clerk
BY: CARLOS BARRAZA
Deputy Clerk

People of the State of California vs. DANNY FONTANA Present

SC # 192597	Dept. No. S22	Judge MARY MORGAN
Assistant DA of Record C. DELROSRIO	<input checked="" type="checkbox"/> Present	Attorney of Record C. GOULD <input checked="" type="checkbox"/> Present

Count	Code	Section	Degree	MC #	Plea	Finding	Term
001	PC	289 (A) /F		02097646		NG	
002	PC	289 (A) /F		02097646		NG	
003	PC	288AC2/F		02097646		NG	
004	PC	220/F		02097646		NG	

Defendant has retained C. GOULD, Esq.

Special appearance by B. WOODS, DA for the Assistant DA of Record.

Based upon the evidence received on February 1, 2, 7, 9, 14, and 15 and argument of counsel on February 17, and March 14, 2005, at the hearings on Defendants' Motion to Compel Production of Materials Pertaining to DNA Testing, it is hereby ordered that the District Attorney produce for inspection and copying the following:

1. Any and all documentation in the possession of the SFPD Crime Lab relating to standard maintenance and calibration of the ABI310 and thermalcycler for a period of 6 months before and 6 months after testing in the instant case.
2. Any and all documentation, including but not limited to corrective action logs, incident files, contamination logs, and quality control logs, in the possession of the SFPD Crime Lab relating to contamination events, errors, and-or corrective actions for a period of 6 months before and 6 months after testing in the instant case.

Defense counsel or her or his designee may visit the SFPD Crime Lab to examine internal validation studies (as presently defined by the SFPD Crime Lab QA manual Sec. 8.1.2 and 8.1.3) which the defense deems relevant to the instant case, and request copies same. Requested documents must be provided to defense for copying to be paid for by defense.

Whenever the summaries of proficiency tests of lab analysts indicate some type of discrepancy-corrective action, counsel or her or his designee may visit the SFPD Crime Lab to examine the actual proficiency test file in question and request copies of such files to be provided by the Crime Lab at the expense of defense counsel.

If the SFPD Crime Lab does not have any of the above documentation in its possession, a declaration under penalty of perjury by the director of the DNA unit of the SFPD Crime Lab must be provided attesting to the nonexistence of such documentation.

Date: March 28, 2005

FD-102(12/2002) 1.21.00k

Print Date: 03/28/2005

Court Order Line#45

[Signature]
Judge of the Superior Court

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I am requesting the following information be supplied as soon as possible to facilitate my investigation regarding the Lab Report discovered to me dated 8/3/09, lab no. 08-0005:

1. An unredacted copy of the laboratory notes and report;
2. The name of the analyst whose DNA was found in the water control sample and that analysts DNA profile;
3. A legible copy of the complete case file including all records of DNA testing. For materials that are represented in any format other than black and white paper copies please provide copies which are equivalent in content and quality to the originals (that is, photographic quality copies of photographs and Polaroids, electronic copies of computerized data files, copies of GeneScan printouts, including tabular data and copies of Genotyper printouts).
4. Data files:

Please provide copies of all data files used and created in the course of performing the testing and analyzing the data in this case. These files should include all data necessary to, (i) independently reanalyze the raw data and (ii) reconstruct the analysis performed in this case. In the event that any of these items cannot be provided due to loss, destruction or inability to locate the file(s) in question, please provide an explanation for the non-production of the item in question (see request #11 below). These materials should include, but not be limited to:

(4.1) All ABI Prism 310 Collection files, including samples sheets, injection lists and log files.
(4.2) All GeneScan files, including sample files.
(4.3) All Genotyper files, including stutter filter percentage assignments for each locus tested.
5. Any corrective actions taken regarding this incident, including notations to the case file, corrective action log and/or the contamination log;
6. Any documents from the analysts personnel file relating to this incident;
7. A list of cases that the analyst was involved with at any stage in the 6 months preceding and the 6 months following this incident of contamination;
8. Electronic data of all control samples from 6 months preceding and the 6 months following this incident of contamination.

This request is made pursuant to the order of the Court that documentation should include "any and all documentation, including but not limited to corrective action logs, incident files, contamination logs, and quality control logs, in the possession of the San Francisco Police Department Crime lab relating to contamination events, errors, and/or corrective actions." See, Court Order, dated March 28, 2005, Aguilar et al. SCN 192770/MCN 2147894

Sincerely,