

# DNARESOURCE.COM

Smith Alling Lane, P.S. provides governmental affairs services to Applied Biosystems. As part of this representation, the firm generates weekly reports on state and federal legislation and news articles. Applied Biosystems has authorized Smith Alling Lane to make these reports publicly available through this website. The information presented in these reports does not necessarily reflect the viewpoints of Applied Biosystems or Smith Alling Lane, P.S.

The October 18, 2002 DNA legislative and media summary is listed below.

These reports are prepared by Tim Schellberg and Lisa Hurst of Smith Alling Lane (253) 627-1091, on behalf of Applied Biosystems. Text of legislation can be obtained by following the appropriate state-link at this site: <http://www.ncsl.org/public/sitesleg.htm>. Please see the appropriate media website for the newspaper articles.

## COMMENTS

Backlogs made the news in Wisconsin, Louisiana, and Illinois, and casework backlogs have become a campaign issue in Wisconsin. Questions about a local lab in Texas have prompted prosecutors not to pursue the death penalty in a capital murder trial.

Cold hits identified suspects in New York (rape), Colorado (2 sexual assaults) and Missouri (15-year old sexual assault). DNA has linked a suspect to 5 sexual assault incidents in South Carolina, and has eliminated the only suspect in California's "Zodiac" murders of the 1960's.

Post conviction cases made headlines in Illinois, Maryland, and Kentucky. In Virginia, DNA testing has confirmed an inmate's guilt, and the family of a man who died in a Florida prison shortly before DNA testing exonerate him is suing local law enforcement. Illinois began comprehensive clemency hearings looking into the cases of most of the state's 159 death row inmates.

In International news: funding for DNA testing is an issue Jamaica elections. South Africa may establish a DNA database using roboticized testing methods. In Australia, DNA testing linked the prime suspect to the murder of a British backpacker, and a lawmaker has called for DNA testing of all residents. In New Zealand, a push to retest DNA evidence from unsolved crimes is underway. Canadian officials are considering adding a missing person's database to the national DNA database system. England continues to routinely solve property crimes through DNA matches.

## NEWS ARTICLES

1. "Australians missing after Bali blast falls to 140." Agence France Presse October 16, 2002.  
In Australia, police are now asking those with missing relatives believed to be killed in the recent bomb blasts in Bali to provide DNA from their loved ones to help speed up the identification process.
2. "DNA Doesn't Match Lone Zodiac Suspect." Los Angeles Times October 16, 2002.  
In California, DNA evidence has excluded the only suspect identified by investigators in the "Zodiac" killings of the late 1960s. Traces of saliva gathered from letters the killer sent to police do not match the DNA of the deceased suspect. Recently, police have discovered more evidence that could help them create a full DNA profile of the person who killed five people from 1968 to 1969.
3. "Crime a key issue in Jamaican vote." The Miami Herald October 16, 2002.  
Crime is a major issue for Jamaicans as they prepare to vote. Both parties put an emphasis on technology, the Labour Party promises to create a new police intelligence unit, spend more money on equipment for DNA and ballistics testing, and acquire new software to analyze crime trends
4. "South Africa; Robot to Speed Up Police DNA Tests" Africa News October 13, 2002.  
The South African Police Service is to set up a DNA database which will store the genetic fingerprints of convicted criminals. The database will be based on a new system which will enable DNA testing of blood to be performed by a robot. Testing saliva and other genetic materials will still be done manually because of the imperfect samples gathered from crime scenes. The system - known as the Marshal System - is expected to cut the time it takes to test DNA from 14 weeks to two weeks. The robot will be able to work for 23.5 hours every day, with a short break for repairs and to refuel.

5. "Sister of wrongly imprisoned death row inmate sues police." The Associated Press State & Local Wire October 12, 2002.  
In Florida, the sister of a death row inmate cleared by DNA evidence months after he died of cancer is suing sheriff's detectives, alleging they fabricated evidence and pressured witnesses to get him convicted. The man was found guilty of the April 1985 rape and murder of an 8-year-old and sentenced to death. He died January 2000 after 14 years on death row. A DNA test 11 months later pointed to another man as her killer.
6. "Man faces trial in disappearance " Milwaukee Journal Sentinel October 12, 2002.  
In Wisconsin, medical evidence has connected a 29-year-old man to the disappearance of a woman who has been missing since July and is presumed dead. The Marathon County District Attorney said blood found on one of the man's shoes matched the DNA acquired from the missing woman's toothbrush. A Circuit Judge ruled that prosecutors presented enough evidence at the preliminary hearing to try the suspect on counts alleging kidnapping and theft.
7. "VA. Tourists' Remains Confirmed" Daily Press October 11, 2002.  
In Virginia, DNA testing confirmed that human remains found in a Delaware landfill in June are those of two Virginia tourists killed in Ocean City over the Memorial Day weekend. A Pennsylvania couple has been arrested for the murders. The wife told investigators that her husband shot and killed the Virginia couple, then dismembered their bodies and dumped the remains in black plastic bags in a Rehoboth Beach, Del., trash bin. On June 3, investigators found human remains in black plastic bags in a landfill in Hardscrabble, Del. DNA testing on the skeletal remains was necessary because the bodies had decomposed.
8. "Vindicated ; Joanne's doubters silenced; This man will be charged." The Gold Coast Bulletin October 11, 2002.  
Australian authorities have moved forward in the British backpacker murder case as DNA results tie the suspect to the murder. Northern Territory police announced that the man's DNA matched that contained in a drop of blood left on the victim's girlfriend's T-shirt.
9. "Cops Nail Cig Clown." The Mirror, October 11, 2002.  
In England, a thief who stole a circus truck was caught because he had a quick cigarette at the scene. The suspect was trapped when police found the cigarette butt and saliva on it matched his DNA.
10. "Suspect Charged In Sexual Assaults." The Charlotte Observer October 10, 2002.  
In South Carolina, police have linked a 43-year-old man who has been jailed since January on assault and burglary charges with four other incidents and are investigating whether he was involved in more. Four of the five cases also involved sexual assaults or attempted sexual assaults. He has been held since January in connection with a Jan. 13 home break-in. While he was being held, fingerprint and DNA evidence tied him to the other incidents.
11. "DNA playing a larger role in solving Colorado crimes." The Denver Post, October 10, 2002.  
In Colorado, after examining DNA evidence left at the scene of an attempted sexual assault of an 11-year old girl, police issued an arrest warrant for a 44-year-old man. Police are increasingly using DNA in Colorado to help solve more and more crimes. Colorado requires all felons who are sent to prison to submit a DNA sample for the national database. Boulder police have had particular success with DNA identification. In May 2001, police arrested a 39-year-old as a suspect in a 1982 murder. Detectives linked him to the crime with a single hair, stuck underneath the victim's ring, that had sat in an evidence bag for two decades.
12. "DNA test sways prosecutors." Fort Worth Star Telegram October 10, 2002.  
In Texas, two weeks into jury selection for a capital murder trial, prosecutors decided not to pursue the death penalty after questions arose about DNA testing by the Fort Worth Police Department's crime lab. Citing second-opinion DNA test results that conflict with those of the police crime lab, prosecutors this week abruptly abandoned plans to seek the death penalty for a Fort Worth man accused of killing a motorist during a carjacking. The crime lab has recently been the focus of City Council discussions after a newspaper reported that it was plagued with problems, including understaffing, a backlog of cases, high turnover and unsafe working conditions.
13. "DNA samples overwhelm Pickton team." National Post (f/k/a The Financial Post) October 10, 2002.  
In Canada, the lawyer defending an accused serial killer says he needs to hire a co-counsel just to investigate the 200,000 DNA samples related to the investigation. Police have said DNA evidence seized on the family farm has been integral to the case against the pig farmer, who was arrested in February shortly after police sealed off the

farm and began a massive search. The man is accused of murdering 15 women who vanished between 1996 and last November. The women are from a list of 63 who have vanished from the Eastside since the mid 1980s.

14. "Neighbor guilty of woman's murder." Rochester Democrat and Chronicle October 10, 2002.  
In New York, a man was found guilty of the brutal slaying of an elderly neighbor. Although the defendant denied three times that he knew the victim and claimed he had never been in her house, DNA extracted from three cigarette butts and a soda bottle found there was linked to him.
15. "DNA advances mean more cases revisited." Waikato Times (Hamilton) October 10, 2002.  
In New Zealand, police have asked scientists to retest DNA samples from high-profile crimes in the wake of a recent breakthrough in an old, unsolved case. The Police national crime manager said the DNA databank, which now had 27,000 blood samples -- was becoming a more useful forensic tool.
16. "Guilty plea to impregnating 10-year-old girl." The Associated Press State & Local Wire October 9, 2002.  
In Connecticut, a 75-year-old Bridgeport man has admitted impregnating a 10-year-old girl and is facing a lengthy prison sentence. The girl gave birth in May, and both she and her child are in state custody. DNA test results released last week confirmed that he is the baby's father. The man was arrested on March 22 when the girl's mother complained to police that he had impregnated her daughter.
17. "Crown: Killer Wanted Sex; Woman Died Of Beating And Strangulation." The Toronto Sun October 9, 2002.  
In Canada, a man forced an immigration consultant to perform oral sex on him before killing the woman at her downtown Toronto office. His semen was found in the victim's mouth and on her sleeveless black top, while semen matching her common-law spouse, was found in her vagina and on her skirt. The victim and her husband, who had lived together for about three years, had a fight the day before her death, the prosecutor said. She bruised his shoulder and dug her nails into his arm, but they later reconciled that night. Underneath her left hand fingernail were DNA materials from both the defendant and her husband, and under her right fingernail was material from only the defendant.
18. "Burglar's slip up in his hunt for food." Herald Express (Torquay) October 7, 2002.  
In England, a hungry burglar was caught using DNA testing. The would be robber looked through the window of a house and saw a bowl of fruit in the kitchen. But his midnight fruit feast failed when the homeowner saw him and grabbed his baseball cap. There was a scuffle between them and the suspect managed to escape through the back door, without his baseball cap which was traced through his DNA.
19. "GBI crime lab still plagued by staff shortages." The Associated Press State & Local Wire October 16, 2002.  
The Georgia Bureau of Investigation has a new \$2.4 million, 75,000-square-foot crime lab annex and morgue. But GBI officials say the lab's work will continue to lag until there are enough people to fill the space. State budget cuts have left 40 jobs unfilled, 29 in key areas where potential evidence in many criminal cases is handled. As a result, there is a backlog in handling cases that increase by about 500 per month, in a system of seven laboratories that handles about 10,000 requests monthly, lab officials say. To solve the 1999 backlog, \$25 million has been allocated for 85 GBI lab staffers and equipment. But 40 of the 85 new hires have left, leaving the lab system with 222 staff members, about half at headquarters.
20. "McCallum: Doyle let crime lab backlog grow." The Associated Press State & Local Wire October 14, 2002.  
In Wisconsin, Gov. Scott McCallum went on the attack accused his opponent of allowing the backlog of cases in the state's crime labs swell during his first term as attorney general. The AG had promised during his first campaign for attorney general he would speed up crime lab investigations, but the number of pending cases increased from 1,032 when he took office in 1991 to 1,400 in 1994.
21. "Lab processing backlog of DNA kits, official says." The Advocate (Baton Rouge, LA.) October 9, 2002.  
In Louisiana, the State Police Crime Lab has received about 500 requests for DNA analysis - and finished about half of them - since it started performing the tests about 18 months ago. The state lab is testing all cases submitted, whether there is a known suspect or not and regardless of the type of crime. Louisiana has started submitting DNA information for convicted criminals but has not provided any DNA information from unsolved crimes. Several criminologists have said that the Baton Rouge serial killer, linked by DNA to three slayings, probably committed sex crimes in the past. If that's so, his DNA could be in an untested kit, either at the State Police Crime Lab or at a law-enforcement agency. If a rape were solved, the test would give them the name of the killer.

22. "State lags in DNA data compliance." The State Journal-Register (Springfield, IL) October 3, 2002.  
Because of a cash crunch, Illinois already is 8,000 cases behind in complying with a new law that requires all convicted felons to submit DNA samples to the state's database. Officials say it could be months before many more new DNA samples can be added to the database, due to funding challenges. One solution is to charge felons for the tests. Revenue to pay for the state's cost could come from a \$200 DNA fee to be charged to convicted felons. The fee would generate \$7 million to \$10 million annually. However, judges doubt that convicted felons, who often lack regular employment, will pay.
23. "DNA database call renewed." Townsville Bulletin October 16, 2002.  
In Australia, a Member of Parliament has renewed his controversial call for the establishment of a national database to hold DNA information on all Australians. He wants the DNA database debate renewed, in light of the arrest of a suspect in a widely publicized outback murder case. Currently, only convicted criminals have their DNA recorded. The MP suggests that if there had been a national DNA database of all Australians, the police may have resolved that matter much more quickly.
24. "Missing girl's mother fights for DNA bank: National service 'would absolutely solve more crimes'" National Post (f/k/a The Financial Post) October 12, 2002.  
Canada's two-year-old DNA Identification Act has already been outpaced by DNA science and the ethical challenges that come with it, so the Justice Department has initiated a public consultation process that will continue until the end of this month. Four hundred matches have been made since the program was launched in June, 2000. In addition to finding the guilty, DNA evidence has been used to exonerate the innocent. Despite these successes, there is a gap in the system. The DNA of missing people is not entered into the data banks because even when foul play is suspected, there is no crime scene attached to their disappearance. Efforts are underway to add such a database to the national system.
25. "Plea Deal Gets Rapist 17 Years." Daily News (New York) October 11, 2002.  
In New York, a man who raped and robbed a television producer in midtown Manhattan in 1999 agreed to a 17-year prison sentence yesterday as part of a plea deal. He was arrested in May 2001 after investigators matched his DNA in a state database. The defendant had given a DNA sample in 2000 to comply with a 1999 state law requiring them from all violent felons and some nonviolent felons.
26. "DNA IDs 2 more sex-assault suspects" The Denver Post, October 11, 2002.  
In Colorado, Denver police have identified suspects in two more unsolved sexual-assault cases through DNA evidence. The identifications mark the third time this week police have found leads in brutal, year-old sex-assault cases based on DNA matches to convicted sex offenders. Both of the newly identified suspects are already in prison serving time for sex-related crimes. Investigators matched DNA evidence from the unsolved crime scenes to the suspects through the Colorado Bureau of Investigation's DNA database. Both men are accused of committing rapes in the summer of 2001.
27. "DNA evidence's value in '87 case is disputed" Kansas City Star October 10, 2002.  
In Missouri, attorneys for a man charged with attacking a woman 15 years ago said jurors should rely on the memory of the mentally impaired victim, who identified a different man as her attacker. But prosecutors said jurors should trust DNA evidence, which they say clearly pinpoints the defendant as the assailant in the rape and assault. Police said in 2001 they ran the semen through a DNA database and found a match with the defendant, who then was in prison.
28. "On Trial in Illinois: The Death Penalty; Review Board Faces Basic Issues in Clemency Hearings for 142 Inmates" The Washington Post, October 16, 2002.  
The Illinois Prisoner Review Board this week launched an unprecedented and controversial series of back-to-back clemency hearings for most of the state's 159 death row inmates in a system that has been described as so flawed that it risks executing an innocent man. The hearings, scheduled to last the next two weeks, are the culmination of the most comprehensive review of the death penalty by any state. They come at a time when national surveys suggest public support for the ultimate punishment is diminishing, and some polls say a majority of Americans believe an innocent person has been executed in the past five years.
29. The Daily Record (Baltimore, MD.) October 15, 2002.

In Maryland, a man jailed for murder and rape has failed in his attempt to force a retrial. Despite a lower court's ruling to the contrary, the Court of Appeals ruled that the defendant was not deprived of his right to effective assistance of counsel because of alleged mistakes made by his trial attorney. The top court affirmed the Court of Special Appeals' decision to reverse the ruling by a Circuit Judge granting the petition for post-conviction relief.

The judge had found that the defendant's trial lawyer fell below the constitutional standard by failing to object to the admissibility of PCR-DNA evidence and to alleged "guilt assuming" questions put to the defendant's character witnesses under cross-examination. However, the Court of Appeals ruled that had the DNA evidence not been used, it would not have affected the outcome of the trial because of the "overwhelming" amount of uncontested evidence supporting the conviction.

30. "Released on DNA evidence, man may return to jail" The Lexington Herald Leader October 12, 2002.  
In Kentucky, an inmate released from prison three weeks ago on the basis of DNA evidence, could go back to jail if a judge decides to set aside an order that the man is entitled to a new trial. A Circuit Court will soon decide whether to grant a prosecutor's motion for a hearing in which an analyst would explain her interpretation of DNA evidence involving pubic hairs. The analyst concluded earlier this year that hairs taken from a rape scene probably did not come from the defendant. That analysis and other evidence persuaded the judge to order the inmate's Sept. 18 release from the Kentucky State Penitentiary.
31. "Hearing delayed for man pinning hopes on DNA test." Chicago Tribune, October 10, 2002.  
In Illinois, prosecutors asked for more time to consider a petition seeking exoneration of a Chicago man serving 90 years in prison for sexually assaulting a woman in 1993. The petition was filed after new DNA tests showed that the inmate's DNA does not match the DNA recovered from the assault victim. The new test results raise questions about DNA analysis conducted by the Chicago police crime lab under the supervision of biochemist Pamela Fish. At the time, Fish said the sample of evidence was too small to reveal a DNA profile of the woman's attacker--an assertion disputed by private DNA lab experts.
32. "DNA Tests Confirm Conviction of Rapist; Inmate Claimed Innocence in '89 Case" The Washington Post, October 10, 2002.  
In Virginia, an inmate who for more than a decade has claimed he was wrongly convicted of a 1989 rape learned last week that a new round of DNA testing has confirmed his guilt. The man became the second Northern Virginia inmate in six months whose guilt was supported by the tests.

### Paternity

33. "Ruling adds three heirs to singer's estate" The Associated Press State & Local Wire October 15, 2002.  
In Texas, three people have won their two-year court battle to have themselves declared children of blues singer Johnnie Taylor, who died in May 2000. DNA evidence was presented to the county probate judge during a hearing last week. A doctor with a genetics-testing firm certified that the results showed there to be a "99.9999 percent probability" that Taylor was their father. DNA samples from two of Taylor's known children was compared to tissue from the three disputed heirs.
34. "Paternity laws 'legal fiction': Fathers pay support for others' children in most U.S. states" Calgary Herald October 15, 2002.  
In Michigan, and across the country, a push is underway to institute "paternity fraud" laws. The new legislation would cancel mandated child support payments -- and those in arrears -- for men who can prove through DNA testing that they are supporting children who are not their flesh and blood. In some cases, the laws would provide criminal penalties for women who willingly lie about the father of their children.

### Industry

35. Applera Corporation announced that it will issue fiscal year 2003 first quarter results for Applied Biosystems Group and Celera Genomics Group on Thursday, October 24, 2002. Results are scheduled for release before the opening of trading on the New York Stock Exchange.

## CONGRESSIONAL RECORD

36. Senate -- Thursday, October 3, 2002  
Department Of Justice Appropriations Authorization Act -- In Congress, the forensic capability was identified as the single greatest bottleneck in the criminal justice system, allowing criminals to stay free and reoffend, and those wrongly accused to remain in limbo until scientific evidence can prove their innocence. Support for the Coverdell forensic science legislation was discussed by Senator Sessions.
37. House of Representatives – Thursday, September 26, 2002.  
Conference Report On H.R. 2215, 21st Century Department Of Justice Appropriations Authorization Act – Floor discussion from Rep. Nadler (D-NY) focuses on DNA backlogs and urges the House to take up S. 2513.

## FEDERAL REGISTER

38. State Justice Institute -- Proposed Grant Guideline.  
The Institute is particularly interested in supporting the development of educational programs that:  
Educate State court judges, law clerks, and staff counsel about capital case law, DNA evidence, and other legal and scientific issues related to the trial and appeal of capital cases; Educate judges about capital case law, DNA evidence, and judicial administration issues arising from death penalty cases, *e.g.*, court security, jury sequestration, and media management.