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The November 29, 2002 DNA Resource Report 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

Louisiana is implementing a law that allows police to require a DNA sample upon arrest for certain felonies. A New York judge has prohibited authorities from comparing a suspect's DNA to unsolved crimes on the local database. The DNA database helped solved crimes in Colorado (serial rapist), Virginia (serial rapist), Pennsylvania (serial rapist), New Mexico (1998 rape), and Georgia (murder and rape). Michigan investigators are combing through cold cases for DNA evidence in the hopes of keeping a serial killer behind bars.

A Maryland county plans to use a federal grant to improve its DNA testing, and Indiana is adding DNA testing capabilities at an additional regional laboratory to help with backlog issues. Backlogs were also noted in Virginia and North Carolina.

A lapsed statute of limitations resulted in a Illinois judge's refusal to order DNA tests for two relatives of a man whose post conviction DNA tests indicate he could not have committed the 1993 rape. Legislation for the 2003 session in Montana would provide convicted felons with post conviction access to DNA testing. Post conviction testing cases made headlines in Tennessee and Louisiana, and an Innocence Project in Ohio is getting started.

In international news... a criminal DNA database is to be established in Ireland, and a South Korean official has proposed one for that country. England's proposal to eliminate "double jeopardy" rules has been expanded to be retroactive. In Canada, DNA tests exonerated a rape suspect who served 7 months in jail. Bali investigators are looking at DNA to identify a suicide bomber, and Brazilian authorities are using DNA to identify victims of former military regimes. New Zealand is considering mobile DNA units and is facing an overwhelming demand for forensic DNA testing. Australian states continue to implement their DNA database laws.

STATE LEGISLATION

Forensic DNA

1. Montana Draft Bill 133 -- Provides a procedure for post conviction DNA testing felony convictions if the person did not plead guilty to the felony. Requires the state to preserve evidence related to a felony conviction for three years if there is reason to believe it contains DNA material.

NEWS ARTICLES

Forensic DNA

1. "DNA test deepens mystery of 1978 truck fatality of Florida man." The Associated Press State & Local Wire, November 26, 2002.
In Florida, DNA testing has proven that the remains once believed to be those of a trucker killed in a Missouri traffic accident more than 24 years ago are not his. The remains will soon undergo study to determine who was buried in his grave. The body was exhumed in February after the man's family received two mysterious phone calls from the same man claiming the 48-year-old was not killed in the accident and was still alive.
2. "Police looking for DNA match." The Hamilton Spectator, November 26, 2002.
In Canada, police are comparing blood stains found in a former crack house with DNA samples provided by the families of two women who disappeared off the streets. The families of the two missing women provided police with DNA samples so the Centre of Forensic Services can look for similarities. Blood from the house will also be tested to see if it matches that of a murdered prostitute or any other victims of unsolved crimes whose samples are stored in a national DNA bank.
3. "Defense Calls For New Trial In Rape Case." Orlando Sentinel Tribune, November 26, 2002.
In Florida, defense attorneys for a convicted child rapist argued that their client should get a new trial because the DNA expert who testified during the trial cheated on a competency test. The Assistant State Attorney object to a new trial, saying that there was so much evidence linking the defendant to the scene that the DNA test results wouldn't change the outcome of the trial. Moreover, a private lab retested the DNA evidence in this case, and conferred with the original analysis.
4. "Man cleared by DNA evidence." Toronto Star, November 26, 2002.
In Canada, a man jailed for seven months was cleared after DNA evidence showed he could not have committed the sexual assault of which he had been charged. Semen was found in the victim and she picked the man out of a photo lineup. The prosecution requested a DNA sample from the man for comparison, but he refused. A court order eventually forced a sample, and when the results were returned the prosecution immediately had the case brought to court so the man could be released from jail. Calling the case "regrettable," a judge agreed to the withdrawal after DNA evidence cleared the man who suffers from paranoid schizophrenia and sat in a detention center for almost seven months without treatment.
5. "County upgrades DNA lab to aid in crime fight." The Capital (Annapolis, MD), November 24, 2002.
In Maryland, Ann Arundel County police have upgraded their DNA lab and passed an accreditation inspection last month that qualifies them for better access to the state's DNA database. Faster matching of DNA evidence from a crime scene to a criminal through a statewide database could mean the difference between identifying and arresting a serial rapist today or two victims later. "Days matter," said the supervisor of the county police Evidence Collection Unit. "It certainly matters to a victim." The crime lab will also receive a \$75,000 federal grant to upgrade DNA equipment.
6. "Police to take DNA from parents of alleged Bali suicide bomber." Agence France Presse, November 23, 2002.
In Bali, investigators intend to take DNA samples from the parents of a man who is suspected to have blown himself up in one of the explosions in that country. The smaller explosion which allegedly killed the bomber, occurred seconds before the devastating car-bomb blast at a nearby nightspot in Bali's nightclub strip. Police said the body believed to be that of bomber was still in hospital in Bali and they were trying to determine if he was one of the bombers. The October 12 blast killed more than 190 people, almost half of them Australians
7. "Bank-Machine Bandits Nabbed." The Calgary Sun, November 23, 2002.
In Canada, DNA from drops of blood and an eyelash helped police link 2 suspects already in custody to a string of robberies. Police announced the discovery of an arsenal of powerful weapons and the dismantling of what they called a major bank-heist operation. The ring allegedly staged eight robberies in the Montreal, Quebec City and Saguenay regions by smashing through bank walls and stealing the contents of automatic teller machines. Police said they used DNA evidence to arrest 2 suspects who will face a total of 78 charges including armed robbery, weapons possession and drug trafficking. They were arrested on unrelated charges last spring but the DNA evidence allegedly linked them to the robberies only recently.
8. "Caretaker sentenced in disabled client's rape." The Orange County Register, November 23, 2002.
In California, a former caretaker at a home for the developmentally disabled was sentenced to 11 years in prison for raping and impregnating a 30-year-old woman. The victim, who has a severe seizure disorder, cerebral palsy and mental retardation, gave birth to a stillborn male fetus April 19, 2001, after an undetected pregnancy. DNA tests

identified the father as the defendant.

9. "Crime-busting plan." Waikato Times (Hamilton), November 23, 2002.
In New Zealand, mobile DNA collectors and a hot-line that pays rewards for tips are among suggestions to help Auckland police fight crime. Projections show a small, mobile DNA team could solve up to 5000 crimes a year in greater Auckland alone. The crime-line would be based on a New South Wales, Australia, system that has solved 31 killings and snared more than \$ 60 million of drugs. The ideas come as Auckland's three police districts grapple with a shortage of 120 officers.
10. "Gene bank suggested to curb sex crimes." The Korea Herald, November 22, 2002.
In South Korea, a forensic expert at the Supreme Public Prosecutors' Office proposed a central databank containing the genetic details of convicted sex offenders as part of efforts to combat sex crimes. He asserted the establishment of a genetic database is also necessary because DNA testing is useless if there is no suspect in a sex offense. The prosecution researcher further said "a gene bank would make it unnecessary for the law enforcement authorities to call in innocent people as suspects for questioning about unsolved sex offenses." The proposal was made at "symposium on the eradication of assaults on women" organized by the Ministry of Gender Equality.
11. "DNA Bank To Be Set Up." The Mirror, November 22, 2002.
In Ireland, a national DNA database is to be set up to help identify criminals. The plan - together with other legal reforms - is intended to give greater powers to the gardai.
12. "Blood 'clue' on screwdriver." Yorkshire Post, November 22, 2002.
In England, a screwdriver recovered from a suspect's vehicle was found to have blood on it matching that of the householder who was stabbed when he tried to stop a car theft. A forensic scientist told the jury that further tests were done on scrapings from under the victim's fingernails after his death. A full profile was obtained on the scrapings from his right hand, which included cellular material such as skin which matched one of the defendants. Blood was also found on a pair of boots recovered from the home of one of the defendants. Tests done on leg hairs in the boots matched the DNA of another of the defendants, suggesting he regularly wore them.
13. "New DNA tests denied in '93 rape." Chicago Tribune, November 21, 2002.
In Illinois, a judge refused to order DNA testing on two male relatives of a Chicago man who tests show did not commit a 1993 sexual assault for which he is serving a 90-year sentence. An Assistant State's Attorney asked the Judge to grant an order forcing two of the man's uncles, including one who said he had consensual sex with the victim the night of the attack, to give DNA samples. The Judge refused, saying he may not have the authority to impose such an order. The statute of limitations on sexual assault cases at the time the case was tried was three years, which could prohibit new charges even if a match were made. A state law passed in 1999 changed that to 10 years. There have been several bills proposed in the state legislature that could change the law again, making it possible to file new charges in the case.
14. "Police link sexual assault to homicide: DNA tests help task force working case." Montreal Gazette, November 21, 2002.
In Canada, a police task force assembled to track a predator is sexually assaulting women has now linked the suspect to a homicide. Through DNA, the man has been tied to two violent sexual assaults and the killing of an 18-year-old waitress found dead three days after she disappeared from her home. The same DNA match was made in the investigation of a sexual assault involving a 15-year-old girl. To date, the investigators have only found DNA links to the three cases.
15. "DNA Results Are Barred From Placement on Local Database Without Defendant's Consent Criminal Practice." New York Law Journal, November 20, 2002.
In New York, a defendant, indicted for rape and related crimes, sought to prevent the prosecution's comparison of his DNA with any DNA in any other case. He argued that the use of the DNA results for any purpose other than the indictment violated his Fourth Amendment freedom from unreasonable searches and seizures. The prosecution had stated that the DNA results would be placed on a local database for comparison with other DNA information but would not be put in the state's database until the defendant's prosecution. The court held that a determination of the defendant's constitutional argument was unnecessary because Executive Law §995-d prohibits the disclosure of DNA results without the test subject's consent. It noted that "the plain meaning of this statute would prohibit ... placing the results of the defendant's DNA test in the [local database], since this would be disclosing a DNA finding without the defendant's consent to a public entity."

16. "New forensic science will identify Brazil's "disappeared"." PR Newswire European, November 20, 2002.
In Brazil, collaboration between forensic scientists from England and Brazil using a new DNA extraction technique has identified two homicide victims whose skeletons were found dumped in sugar cane plantations near Sao Paulo in the late 1990s. The same technique is now to aid the task of identifying the remains of hundreds of victims of Brazil's former military governments. The scientists are now turning their attention to older forensic cases: those of the desaparecidos-or disappeared-from the periods of military government in Brazil from 1964 to 1985. As a result of their preliminary research, a skeleton recovered from a clandestine cemetery discovered on the outskirts of Sao Paulo city in 1990 is believed to be that of an individual last seen alive in 1972.
17. "Indiana State Police reveal plan for handling lab backlog." The Associated Press State & Local Wire, November 24, 2002.
In Indiana, as part of a four-year plan to alleviate the backlog, State Police lab officials plan to offer DNA analysis at the Fort Wayne regional lab, which will bring the lab in line with regional labs in Evansville and Lowell. State police also are looking at using private labs to perform DNA analysis in criminal cases. In April, the Governor signed a measure passed by the state legislature that funneled a portion of an existing Bureau of Motor Vehicles fee to the state police lab. The additional money - \$1.1 million this year - will allow the state police to put the lab improvement plan to work. The lab expects to receive an additional \$2.6 million from the fee in 2003, \$4.2 million in 2004 and \$4.6 million in 2005.
18. "DNA Databank a Victim of Success; Cases Slowed as Police Demand for Genetic Records Rises." The Washington Post, November 24, 2002.
In Virginia, police and prosecutors are hailing the success of the forensics program and urging greater funding for it. It can take months for the investigative tool to produce results, they said, because as more police turn to DNA to solve crimes, the databank's backlog grows. Starting in January, people arrested but not yet convicted of a violent felony will be required to submit DNA samples. If the suspect is acquitted or the case is dismissed, those samples would be expunged. Prosecutors say the tool is underused because of the limited capacity of the laboratory to process genetic matches quickly. The Division of Forensic Science operates on \$25 million annually and has recently agreed to a 9 percent cut to help balance the state budget. In January, the governor and lawmakers will have to cut more than \$ 1 billion from the state's \$ 50 billion biennial budget because of falling tax revenue and the increasing cost of services.
19. "Forensic backlog stresses workers." The Dominion Post (Wellington), November 23, 2002.
In New Zealand, an increase in serious and violent crimes is stretching forensic scientists to the breaking point. The backlog of cases has increased in the past six months as violent crime increased and police took advantage of new techniques, including more sophisticated DNA testing to crack unsolved crimes. In April, there were more than 40 murder cases and 135 sexual assaults being investigated. The institute is advertising for two extra forensic scientists. Top forensic scientists earn about \$ 70,000 a year and new starters \$ 45,000.
20. "Rape evidence sits unused." Morning Star (Wilmington, NC), November 21, 2002.
In North Carolina, up to 20,000 untested rape kits remain on evidence shelves because of insufficient resources. Because the State Bureau of Investigation lab is overwhelmed with all kinds of work, it took about six months to analyze DNA samples from a woman who was raped in Durham earlier this year. The DNA tests led to the arrest of a convicted rapist six months later. There was reason to believe that in that six months, he had raped at least four other women. Neighboring Virginia has 35 DNA analysts, but North Carolina, with a million more residents, has only five.
21. "Double Jeopardy Reforms Extended." Birmingham Post, November 22, 2002.
In England, the Government unveiled the new Criminal Justice Bill which massively extended plans to abandon the 800-year-old double jeopardy rule, which stops anyone being tried twice for the same crime. The proposed change will also apply retrospectively. Someone acquitted of a crime will face a second trial if 'compelling new evidence subsequently comes to light' which indicates they were guilty, such as DNA or fingerprint tests or new witnesses. The National Crime Faculty has calculated that there are currently 35 murder cases in which defendants who were acquitted could be re-investigated and new charges brought if the law was changed retrospectively.
22. "Witness DNA laws." The Advertiser, November 21, 2002.
In Western Australia, new laws giving police the power to take DNA samples just went into effect. The Premier has said the Criminal Investigation (Identifying People) Act 2002 is a major step in crime-fighting. The new laws

give police the right to take DNA samples from people, including witnesses, victims and suspects, whether they have been charged with crimes or not.

23. "Sheriff says he's ready to defend DNA sampling." The Associated Press State & Local Wire, November 23, 2002. In Louisiana, the Iberia Parish sheriff has started taking DNA samples from people arrested for certain crimes in the second phase of the state police database program. State law allows DNA to be taken from certain persons upon arrest, but this provision was never implemented until now. The law allows people who are not convicted, to have their samples destroyed by court order. After the system is run in Iberia Parish for 60 days, state police will begin training other parishes on how to sample suspects. The list qualifying offenses in Louisiana includes: rape, murder, sexual battery, molestation of a juvenile, simple battery, aggravated battery, aggravated assault, simple assault, terrorizing, stalking and kidnapping. The State Police anticipates a lawsuit on the collection of DNA from arrestees, but the local ACLU chapter indicates its current plans are simply to monitor the program.
24. "Sex assault suspect linked to Colorado attack." The Associated Press State & Local Wire, November 25, 2002. In Colorado, a man suspected in a string of sex assaults in four states has been linked to another assault in Colorado. The man is already suspected of raping or attacking 14 women and children in Tucson, Ariz.; San Diego; Sparks, Nev.; and Norman, Okla., from Sept. 1999 to May 2002.. The new case was expected to delay his extradition. Last week, the Colorado Bureau of Investigation linked Selby's DNA to an attack in which an intruder broke into a home and raped a 55-year-old woman July 25 in Colorado Springs.
25. "Murder Charge First For DNA Data Bank." Sydney Morning Herald, November 25, 2002. In Australia, mass DNA testing of prisoners has led to the first case in New South Wales of a person being charged with a previously unsolved murder as a result of a match on the database. The suspect's DNA is among almost 13,000 such samples taken from inmates in New South Wales' 8 jails since January 2000, when the collection program was introduced. Inmates' DNA is being compared with more than 20,000 samples from unsolved crimes dating back to the 1960s. The "cold storage" DNA ranges from blood, dandruff, hair, sweat, saliva and even skin tissue scrapings found at crime scenes. Police would not say how many inmates whose DNA had been matched to crimes had since been charged, but most DNA matches so far related to property crime.
26. "Police link recent sexual assault to past crimes on U. Virginia campus." University Wire, November 25, 2002. In Virginia, DNA analysis has linked a Nov. 11 sexual assault to four other unsolved cases spanning the last five years. The Virginia Division of Forensic Science determined the common genetic thread in the cases by comparing the DNA profile of the Nov. 11 attack to a state database of unsolved crimes. The two other linked cases are the February 1997 rape of a woman in her hotel room and the June 1999 rape of a woman in her residence. All four attacks occurred between 11 p.m. and 3 a.m.
27. "DNA links man to '98 rape at motel." Albuquerque Tribune, November 22, 2002. In New Mexico, DNA evidence helped police track down a man they believe raped and nearly killed a California woman who was traveling through Albuquerque four years ago. The case had stalled until DNA evidence could be compared to a national database.
28. "Warrant issued for man accused of Germantown rapes based on DNA." The Associated Press State & Local Wire, November 22, 2002. In Pennsylvania, an arrest warrant was issued for a man accused of several rapes in Philadelphia, based on DNA evidence gathered at the crime scenes. Evidence gathered from each of the four crime scenes matched DNA already on file in a national databank. Authorities wouldn't say why the suspect's DNA was on file in the databank.
29. Former Plainfield resident charged with Georgia murder, rape." Courier News (Bridgewater, NJ), November 21, 2002. A man who served time for rape in New Jersey has been charged with murder and rape by Georgia authorities in two unsolved cases. The man is currently being held in connection with a rape in May at a Kentucky auto shop. Georgia authorities say they have linked DNA collected in that case with two unsolved crimes there. Now police in DeKalb County, Georgia have charged him in a December 1998 murder and a rape in May 1999.
30. "Parole date reignites fears; Task force to retrace deaths tied to killer." The Detroit News, November 24, 2002. In Michigan, state police are convening a task force to re-examine several slayings and attacks throughout southeast Michigan from 1975-81 in hopes of pinning one on a man already in jail. Police want evidence to prevent a

confessed killer of 13 women from making history May 8, 2006. That's when he is scheduled to benefit from a legal fluke and plea deal to become the first known U.S. serial killer to walk free from custody. He will be 52 years old and has vowed to kill again. State police scientists have begun DNA tests on a broom, belt and other evidence used in a 1980 killing but results aren't expected for a few months. Ann Arbor police, meanwhile, have stopped re-investigating a trio of 1980 murders. DNA tests of clothing and hand tools failed to connect the deaths to the suspect.

31. "Lost Clue May Reveal '60s Killer." The Express, November 22, 2002.

In England, a blood-stained knife found in a disused police basement could provide vital DNA clues to solve a 35-year-old child murder. Workmen upgrading a sprinkler system at Brighton Police Station uncovered the locked room which contained boxes of evidence relating to the murder of a 12-year-old boy whose body was found on May 6, 1967. Inside one of the boxes was the murder weapon - a knife found days later in school grounds a mile away. The weapon was still stained with the victim's blood - and that of another person, possibly his killer. It is hoped modern forensic tests can find a DNA match from among the original suspects, one of whom is now dead.

32. "California death row inmates give DNA to help solve crimes." The Associated Press State & Local Wire, November 26, 2002.

In California, death row inmates are now complying with a state law that requires them to give DNA samples for a genetic data bank for crime investigations. A 1997 lawsuit kept the 618 death row inmates from providing their genetic profiles to the state. But in May, a state appellate court rejected the basis of the legal challenge. This week, the California Department of Corrections collected saliva, a palm print and some blood from each condemned inmate. The samples will be added to a state data bank, which already includes more than 60,000 inmates who aren't on death row. Even though death row inmates will most likely spend their lives in prison, the testing is still important to unsolved crimes.

33. "\$100K raised for criminal reviews." The Cincinnati Enquirer, November 23, 2002.

In Ohio, organizers have raised \$100,000 toward starting Ohio's Innocence Project. The primary speaker was Innocence Project founder Barry Scheck, who spoke of the urgency of getting started on cases before DNA evidence is routinely destroyed. The plan is for law students to receive college credit for screening requests, reviewing cases and tracking down evidence for DNA testing. Licensed attorneys would donate any legal work, but the cost of DNA testing would have to be paid by an inmate's family or others.

34. "Tenn. High Court To Review Rape-Murder Conviction." The Commercial Appeal (Memphis, TN), November 23, 2002.

In Tennessee, the Supreme Court was ordered to review the case of a condemned killer after he presented strong evidence that he was wrongly convicted of a 1985 rape and murder. In a 6-5 vote, the Sixth U.S. Circuit Court of Appeals in Cincinnati said the state's high court must examine whether Tennessee law calls for a new trial when "newly discovered evidence of actual innocence . . . creates a serious question of doubt that the defendant is guilty." DNA evidence from semen found on the victim's body was recently shown to match the victim's husband. During the trial it was linked to the defendant based on a blood-type test. Since the rape also was one of the aggravating factors cited by prosecutors in seeking the death penalty, the high court must also determine whether the sentence was proper.

35. "Lawyer; DNA proves La. man's innocence." The Times-Picayune (New Orleans), November 23, 2002.

In Louisiana, DNA tests prove a man serving a life sentence was wrongly convicted in the rape of a teenage girl 16 years ago, according to his attorneys, who have asked prosecutors to drop the charges and free the Angola inmate. If the Baton Rouge district attorney's office agrees that the tests are valid, the man will be the first person in Louisiana exonerated by DNA testing since the state passed a law last year making it easier for convicts to have old evidence retested.

Paternity

36. "Supreme Court: Man deceived about his paternity cannot sue mom." The Associated Press State & Local Wire, November 25, 2002.

In Nebraska, the Supreme Court ruled that a man who turned out to not be the father of boy to whom he had paid child support for years cannot sue the boy's mother to recover child support payments or damages for emotional distress. DNA testing taken in 1999 proved the man was not the biological father of the 11-year-old boy he thought

was his son. He and the boy's mother had divorced when the boy was about 4. He learned nearly eight years later that the boy was not biologically his.

37. "\$70,000 Paternity Ruling Sets Precedent." *The Age* (Melbourne), November 23, 2002.

In Australia, a man who successfully sued his former wife for damages because she told him he was the father of her lover's children had set an Australian legal precedent. The court had heard that the man married his wife in 1988. DNA tests in 2000 showed that he was the biological father of only the first of their three children born between April, 1989, and, November, 1991. After the couple separated late in 1992, he made child support payments for all three children until 1999. At one time his take-home pay was reduced to about \$130 a week. The Judge said evidence suggested that the wife knew her husband was not the father of either child.