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A WEB SITE FOR ANYONE WHO SEEKS INFORMATION ON THE LATEST DEVELOPMENTS IN FORENSIC DNA POLICY

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The December 20, 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.

SUMMARY

Legislation in Idaho would expand the state DNA database to include burglary, and an Arkansas legislator has announced plans to propose legislation for an all-felons database. Inmates in Utah are challenging a county jail's use of inmate funds to pay for DNA testing. A California court ruled that DNA wrongly obtained and entered into the database can be used in the trial of a suspected rapist..

DNA databases identified criminals in New York (convicted burglar linked to a rape), and Wisconsin (convicted car thief linked to burglary). DNA evidence was also important in solving serious crimes in Nebraska (from a knife handle), Virginia (dried sweat from a latex glove), Illinois (a cosmetic fingernail), Maine (hair found in a car), and Utah (a cigarette butt). Two California murders in 1965 and an Oklahoma murder in 1975 have been linked to a single suspect through DNA.

A California city must pay damages to a man who was jailed for three months before being exonerated by DNA, and a drunk driving charges against a California man were dismissed when DNA analysis showed that someone else's sample had been tested.

Montana legislation requires potential DNA evidence to be kept for three years following a conviction. Post conviction testing requests were granted in Florida, and denied in Tennessee. Some Louisiana inmates may have problems with post conviction DNA testing requests due to lack of state funding.

In international news...in Canada, DNA testing has linked 3 sexual assaults to a single suspect, and linked a perpetrator to a 2-year old sexual assault. In New Zealand, police want authority to collect DNA from suspects of all crimes that carry a sentence of three years or more. Japan has announced plans to begin using new DNA testing methods next year.

STATE LEGISLATION

1. Idaho HB 48 -- Expands DNA collection requirements to add burglary to the list of qualifying offenses for the DNA database.
2. Montana HB 77 -- Requires any evidence which may contain material for DNA testing to be kept for 3 years following conviction where the defendant did not plead guilty.

NEWS ARTICLES

1. "Lab worker's cases reviewed after Montana testimony questioned." The Associated Press State & Local Wire, December 17, 2002.
The Washington State Patrol Crime Lab is reviewing some cases of a forensic scientist after his credibility was questioned in a 15-year-old Montana case. The scientist's work came into question after DNA tests exonerated a man who had been convicted of child rape more than 15 years ago in Montana, where the scientist formerly served as director of that state's crime laboratory from 1970 to 1989. The scientist testified on hair sample comparisons at the 1987 trial.
2. "Fewer directed to death row." Courier Mail, December 17, 2002.
A total of 155 inmates in the US received a death sentence in 2001, the smallest number in 28 years, according to a Justice Department report recently released. The third consecutive annual decline happened at a time of growing national debate about capital punishment, sparked in part by recent exonerations of death row inmates with DNA evidence and calls for more state moratoriums on executions. The report by the department's Bureau of Justice Statistics found a steady decline in the number of inmates who received a death sentence, with 304 in 1998, 282 in 1999 and 229 in 2000.
3. "Motorist Beats Charge; Police tested wrong blood." The Gold Coast Bulletin, December 17, 2002.
In California, a judge has dismissed drunk-driving charges against a 20-year-old college student after DNA testing paid for by the young man's parents showed police had used the wrong blood sample. The Los Angeles Police Department has also launched an investigation into the mix-up.
4. "Suspect linked to three sex assaults: Knife-point attacks." National Post (f/k/a The Financial Post), December 17, 2002.
In Canada, police have used DNA evidence to link a single unidentified suspect to three sexual assaults in Toronto over the last three months. In all three cases, the female victims were walking alone when the suspect approached and engaged them in conversation. After producing a knife, he dragged them into nearby alleys where they were sexually assaulted.
5. "DNA links wife to knife used in death, documents show." Omaha World-Herald, December 17, 2002.
In Nebraska, DNA tests have linked an Omaha woman to the knife used to kill her husband last month. The woman had maintained that she and her husband had been home alone when she passed out in the basement. When she woke up, she said, she found her wounded husband. She said she had blood on her shirt sleeve because she tried to perform CPR on him. Police found a knife in the trash can between the kitchen and basement. Tests found the victim's blood on the blade and the suspect's DNA on the handle.
6. "Lawsuit Challenges S.L. County Jail's Fee Policy for DNA Tests." The Salt Lake Tribune, December 17, 2002.
In Utah, a proposed class-action lawsuit filed on behalf of Salt Lake County Jail inmates challenges the jail's policy of using inmate funds to pay a \$ 75 fee for DNA testing of felons. Both of the named plaintiffs in the suit found that money their families had given them to buy toiletries was confiscated by the jail to put toward the DNA fee. According to the suit, Salt Lake County takes "the position that all felony inmates . . . have the ability to pay for the DNA test and that no inmate [indigent or not] will have that fee waived." The suit seeks a judge's ruling that the inmates are not required to pay the fee until an administrative determination is made on their ability to pay. The suit seeks to include the claims of all past, current and future inmates who allegedly suffered damages because they were not properly evaluated.
7. "ACLU suit: Inmate collected DNA from CO who raped him." Corrections Professional, December 16, 2002.
In Texas, the ACLU filed a lawsuit over prisoner rape charging that a corrections officer who repeatedly raped a 22-year-old man was not punished until after the prisoner provided DNA evidence of the assaults. After the first attack in October 2001, the inmate secretly collected the guard's semen on a handkerchief and mailed it to the United States Attorney's Office in Houston. A Texas prison prosecutor confirmed that testing conducted on the sample linked the accused officer to the assaults.
8. "Dried sweat in glove tip leads to arrest." The Associated Press State & Local Wire, December 14, 2002.
In Virginia, DNA tests on dried sweat in the tip of a latex glove led to an arrest in a year-old robbery case. The suspect was binding the hands of a bowling alley employee with a hard plastic tie when a fingertip from the latex gloves he was wearing snagged and ripped off. Investigators found the glove fragment three months later when

they examined the tie for fingerprints. DNA from the glove tip matched the DNA profile of the suspect, whose record includes convictions for drug possession and distribution, credit-card theft, forgery, burglary, larceny and malicious wounding.

9. "Woman convicted in fatal beating; Romantic rival guilty of murder." Chicago Tribune, December 14, 2002. In Illinois, a woman was found guilty of first-degree murder in the death of a romantic rival. Investigators discovered three pieces of DNA evidence, including a cosmetic fingernail found next to the victim's body that matched the suspect's DNA profile.
10. "Storage lacking for criminal investigations." Statesman Journal (Salem, OR), December 13, 2002. In Oregon, police evidence rooms are becoming cramped. Advances in DNA analysis and other forensic sciences have created new opportunities to track down criminals, but have also helped create new headaches for managers of police evidence rooms. The amount of evidence being handed over for storage has increased dramatically, and managers are being asked to keep it around longer and longer. Other factors also have increased the amount of evidence being held by police: more criminal cases, longer appeals, extended statutes of limitation for some crimes. There's so much evidence at the Salem Police Department that they have are renting five private self-storage units at a cost of \$9,240 per year.
11. "Armed robber given eight years." Yorkshire Post, December 13, 2002. In England, an armed robber who took part in a post office raid during which a shot was fired, has been jailed for eight years. One of the robbers was caught because his hood slipped during the raid, which was captured on security video, and he was recognized by two policeman. Another was traced through his DNA because he cut himself when the glass shattered and left traces of blood.
12. "New, high-tech state crime lab opened." The Associated Press State & Local Wire, December 12, 2002. In Washington state, state leaders say a new \$13 million crime laboratory will lead to much quicker processing of forensic evidence in rape and homicide investigations. The 50,000-square-foot Forensic Laboratory Services Bureau Headquarters recently opened in south Seattle. The new lab has six examination rooms, 3,000 square feet of evidence storage, room for 56 scientists and a \$22 million annual budget. It will be used to handle DNA typing, chemical analysis, ballistic testing of firearms, trace evidence examination and other tests.
13. "Expert: Defendant behind wheel." Bangor Daily News (Bangor, Maine), December 12, 2002. In Maine, jurors heard testimony about DNA testing of hairs caught inside the roof of a car as prosecutors offered evidence to show that the defendant was the driver of a car that crashed and fatally injured a 20-year old. Although the 1995 Ford Escort was owned by the victim, the Assistant District Attorney contends that the defendant was driving. The defendant has consistently denied operating the car, although he admitted at least twice to police at the accident scene that he was driving at the time of the crash.
14. "Charges filed in death, burning of woman." The Deseret News (Salt Lake City, UT), December 12, 2002. In Utah, DNA evidence left on a discarded cigarette butt was apparently the smoking gun prosecutors needed to file a murder charge against a woman accused of killing another woman and burning her body. The DNA from saliva on a cigarette butt found about one block from the victim's house was matched to the defendant's DNA, according to court documents. A witness had told police that he had seen a suspicious woman in the neighborhood the night of the attack who was pacing back and forth while smoking a cigarette.
15. "Police to use new DNA testing methods from Sept.." Japan Economic Newswire, December 12, 2002. In Japan, the police plan to introduce new DNA testing methods starting next September to boost criminal investigation capabilities involving the identification of suspects and victims. Around 10 new methods will replace three of the four types currently being used. This is expected to increase the precision of identification, which is said to stand at the rate of up to one in 2.8 million people, to one in several hundred million. The new genetic analyzer will also speed up the testing time and halve the cost per analysis, which is currently around 200,000 yen, the officials said. The Japanese police have conducted about 2,300 cases of DNA testing from 1992 to March 2000. About 200 of the tests were presented as evidence at trials, according to the officials.
16. "California woman charged in killing of mother, kidnapping of infant six years ago." Associated Press Worldstream, December 11, 2002. In California, a woman accused of killing a young mother, abducting her baby and raising the boy for six years has been charged with murder and kidnapping. Police say an anonymous tip led them to the suspect who had been

living with the 6-year-old just four miles from the site of the kidnapping. DNA tests were needed to prove the identity of the child, who had been missing since May 17, 1996, the same day his 17-year old mother was killed.

17. "Judge admits DNA evidence linking accused serial rapist." The Associated Press State & Local Wire, December 11, 2002.

In California, a judge has ruled that prosecutors may use DNA from a suspected serial rapist at trial even though the evidence was wrongly obtained and entered into a state-run criminal database. The decision, upholding key evidence linking the defendant to a series of 1994 rapes, is believed to be the nation's first case in which a trial judge allowed a case to proceed based on erroneously obtained DNA evidence. Prosecutors conceded that the defendant's profile was wrongly entered into the databank for his previous convictions of being in possession of stolen property and assault, which was not a qualifying offense in California. But authorities say it was a good faith mistake. Last year, the California Supreme Court declined to dismiss the charges against the defendant, who was the nation's first suspect arrested under a warrant that lacked his name or description, identifying him solely by genetic code.

18. "Animal mauls drug suspect ; N.Y. killing may be tied to Atascosa case." San Antonio Express-News, December 11, 2002.

In Texas, two pit bulls are being DNA tested to determine whether they killed an upstate New York man in an attack that police believe may have been revenge for a drug bust.

19. "DNA On The Move In Bid To Speed Up Justice." Scotland on Sunday, December 8, 2002.

In Scotland, DNA and other forensic evidence is set to be shipped between Scotland's police laboratories in an effort to overcome backlogs and solve crimes more quickly. Senior police officers and ministers are concerned that Scotland's four forensic centers are in danger of being swamped with large amounts of evidence, leading to delays in getting evidence ready for trials. The move is part of a review of Scotland's police forensic science system, which is investigating how the latest police scientific techniques might be used to convict offenders and speed up justice. Scottish courts' rules on beginning trials within 110 days of a suspect first appearing in court and being remanded means that evidence must be processed quickly. The move comes in the wake of a report from inspectors of police which claimed that forces might be losing the opportunity to solve a large number of crimes, such as housebreaking and car crime, by not making more use of forensic evidence. These so-called 'volume' crimes are frequently perpetrated by known criminals, whose DNA profiles are often already recorded by police labs.

20. "Arkansas news briefs." The Associated Press State & Local Wire, December 16, 2002.

In Arkansas, a state legislator says he will propose legislation to require all new state prison inmates to provide DNA for the state's database. Rep. John Paul Verkamp wants to expand the state's database of 15,000 DNA profiles of felons. Currently, only inmates convicted of certain violent and sexual offenses and burglary are required to submit blood samples to the lab. Officials hope that expanding the database will help solve crimes. However, the crime lab director has pointed out that the lab cannot handle any increase in workload without more money.

21. "State fund for DNA testing empty." The Associated Press State & Local Wire, December 16, 2002.

In Louisiana, the 2001 legislature did not appropriate state funding for its new laws allowing post conviction DNA testing, which cost about \$1,000 each. Prisoners also find difficulties in locating evidence from a case, often years old. That requires an attorney, which takes more money often not available to prisoners. So far, eight prisoners have requested tests of their physical evidence in their cases be tested. Defense attorneys say at least three others plan to apply for the testing. The changes in the law to allow for the test are set to expire in August 2005. In comparison, when the California legislature passed its post-conviction DNA statute, \$850,000 was appropriated for law schools to work on prisoner cases.

22. "Death-Penalty-Study Bill Replaces Version Calling for a moratorium." New Jersey Law Journal, December 16, 2002.

In New Jersey, a bill that began as a suspension of capital punishment but changed into a proposal to study such an abolition passed the Assembly Law and Public Safety Committee. Supporters of the bill said the study would serve a worthwhile purpose. They also noted that public opinion about the death penalty is beginning to change in light of DNA tests in other states, conducted years after the convictions, that exonerated the defendants.

23. "Police want to extend DNA sampling tests." The Dominion Post (Wellington), December 14, 2002.

In New Zealand, police are asking the Government to extend proposals to allow collection of DNA samples from suspects in all crimes that carry a jail sentence of three years or more. The Police Association spokesman told Parliament's law and order select committee that the proposed bill did not allow police to take DNA samples from people suspected or convicted of a number of serious offences. The bill, introduced to Parliament in May, will allow the extension of compulsory DNA testing to serious offenders in prison who were convicted of relevant crimes before changes made in 1996 that allowed for testing. It will also allow police to take mouth swabs, as well as collect DNA from burglary suspects. Currently, DNA samples can only be taken from those convicted of offenses such as murder, serious violence and sexual crimes, and must be obtained within six months of conviction. Samples can also be taken from those suspected of serious crimes.

24. "Almost-Free Con's New Rape Rap." The New York Post, December 17, 2002.
In New York, a 41-year-old robber was to be freed after five years behind bars - until a last-minute DNA test linked him to a 1993 rape in a Midtown office building. He had been imprisoned on robbery and burglary charges in 1997. He had to submit to a DNA test before his release, and the results linked him to a Feb. 3, 1993, rape of a woman in a building.
25. "DNA Clue In 2001 Assault; Warrant In Sex Case." The Toronto Sun, December 14, 2002.
In Canada, authorities have matched DNA found after a sexual assault almost two years ago with a man whose DNA profile was on the national databank due to a previous sexual assault. Samples from bloodstains found on the victim's friend's jacket were sent to the Centre of Forensic Sciences. Because of a large backlog of police evidence, experts only recently were able to notify the sex crimes unit of the DNA match.
26. "State's databank of felon DNA leads to theft conviction." Milwaukee Journal Sentinel, December 13, 2002.
In Wisconsin, a burglary that was solved by a cold hit from the state's DNA database has resulted in a conviction and a prison sentence. The only evidence tying the suspect to the crime was a red bandanna found on a living room floor. A small sweat stain on the bandanna produced a DNA sample that was enough to be run against the state's databank of DNA from 40,000 felons. The DNA from the sweat matched that of the suspect, who had been ordered to supply a DNA sample when he was imprisoned last year for driving stolen cars. The DNA analysts also identified the DNA of another, unidentified person on the bandana.
27. "DNA Clue To 1978 Murder." Western Daily Press, December 16, 2002.
In England, detectives on a 24-year-old murder investigation are hopeful of finally catching the schoolgirl's killer. The 13-year-old paper girl vanished in 1978 and despite repeated public appeals and a huge inquiry no trace of her has ever been found. But now officers from the Devon and Cornwall force have discovered genetic material from a jumper belonging to the youngster. The detective leading the investigation said his team had found the DNA on a jumper which was kept by Genette's mother. The DNA will now be cross checked against unsolved murder inquiries in Britain and Europe and could prove to be the vital piece of evidence needed to bring a prosecution.
28. "Arrest 28 years late revives family pain Slain Tulsa woman's kin relive '75 death." The Arkansas Democrat-Gazette, December 15, 2002.
DNA has helped link a man to a 1975 Arkansas murder and two California murders committed in 1965. An Arkansas woman's 1975 abduction and murder in Tulsa has been genetically linked to a man facing murder charges in California. California police, who had questioned the man in one of the 1965 slayings but didn't have enough evidence to file charges, got their break earlier this year when the FBI obtained licksealed envelopes that the man mailed to a trucking company he worked for before winning a disability claim in 2000. The DNA evidence linking the suspect to the murders in California also connects him to the murder of the Arkansas woman in Tulsa. The suspect, who was released from prison in 1993, served more than two decades in prisons, mostly in Arkansas, on assault, rape and drug convictions. Police are investigating whether other unsolved crimes can be tied to the man who was a former truck driver and had traveled the 48 contiguous states.
29. "Judge denies man's request for DNA testing under new law." The Associated Press State & Local Wire, December 17, 2002.
In Tennessee, a judge has again denied DNA testing for a man serving life in prison for strangling a 15-year-old girl to death. The defendant asked the court to order DNA analysis of blood from his blue jeans and from the victim's fingernails that he says would prove he is innocent. But the Circuit Judge ruled that the defendant's confession eliminates any need for DNA testing on blood samples. "The state had more than ample evidence for a conviction," the Judge said. "The DNA analysis doesn't make a bit of difference. It doesn't matter whose blood is under her fingernails. He testified he killed her." The defendant had appealed to the Tennessee Court of Criminal

Appeals last year based on a new state law that allows the DNA analysis in some instances.

30. "Belmont Rapes." City News Service, December 16, 2002.

A federal appeals panel has unanimously ruled that the city of Long Beach, California must pay \$1.75 million in actual and punitive damages to a man jailed for three months after being falsely accused as the Belmont Shore rapist, a federal appeals panel ruled. The man, who initially was charged with a series of 9 rapes and related felonies, was released because forensic evidence found at crime scenes did not match his DNA. In their ruling, the judges noted that the evidence upon which the investigators based their arrest did not "amount to probable cause at all, much less as a matter of law."

31. "DNA Tests To Be Done In '74 Case;." Orlando Sentinel Tribune, December 13, 2002.

In Florida, the lawyer for an inmate has persuaded an Orange County circuit judge to allow DNA testing on a piece of evidence collected from a 1974 rape that resulted in a life sentence for the former biker. The Judge agreed last week to let clothing kept in evidence since the rape trial to be tested. The defendant was sentenced to life in 1975 for stabbing and raping a 16-year-old high-school student and leaving her for dead.

Genetic Research

32. "TB found in Iron Age man." The Australian, December 13, 2002.

The earliest recorded case of tuberculosis in Britain has been diagnosed by scientists from the bones of an Iron Age man first found nearly 30 years ago. The discovery predates by at least 300 years the next recorded case of the disease, and exonerates the Romans, who were thought to have introduced it. The skeleton of the man, aged about 35, was found in southwest England in the 1970s, but a positive diagnosis of tuberculosis has only now been made possible by advances in DNA testing. DNA extracted from bone samples showed the disease had spread from his lungs through his bloodstream to the rest of his body. His spine was so badly eroded he would have been unable to stand or look after himself.

Paternity

33. "Hair Raid Warning; Bizarre Plot Hatched To Grab Harry's DNA For Paternity Test." Daily Record, December 16, 2002.

In England, authorities have uncovered a plot to obtain a strand of Prince Harry's hair in order to conduct DNA testing to determine whether Princess Diana's former lover was, in fact, the prince's father. The bizarre plan, hatched by a private security firm, was for an attractive girl to run her fingers through the 18-year-old prince's hair and pluck one out. St James's Palace believe that Prince Harry's DNA was to have been offered to a foreign newspaper or magazine for thousands of pounds.