

DNA RESOURCE REPORT JANUARY 10, 2003

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The January 10, 2003 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.

SUMMARY

Federal legislation from Senator DeWine addresses many DNA database issues including funding, allowable samples, statute of limitations, and training programs. Senator Biden also plans to reintroduce the “Debbie Smith Act” which passed the Senate last year but was not taken up by the House.

A New York bill would require DNA samples upon arrest for fingerprintable offenses, and multiple bills in Mississippi would expand the state DNA database to include all felons. New York legislation would extend the statute of limitations for certain crimes when DNA evidence is available, and the Alabama crime lab will ask for double the agency’s funding for 2003. The Minnesota Supreme Court ruled that PCR STR testing met the legal standard for general acceptance.

A New York county prosecutor is distributing DNA swab kits to local police for suspect sample collection. Database hits identified perpetrators in Georgia (2 rapes solved from DNA on Chap Stick), Pennsylvania (murder), and Virginia (robbery). DNA also was instrumental in cases in California (2 murders tied to the same man; and a 1969 murder), Kansas (a murder and many sex assaults linked to one man), Texas (2 murders and 5 sex assaults linked to one man), and Idaho (3 rapes linked to the one man). An Arizona city is starting a cold case review of more than 1000 cases.

Bills to provide inmates with greater access to post conviction DNA testing were introduced in Mississippi and Montana. 2 inmates in Pennsylvania and 1 in Connecticut filed post conviction DNA testing requests.

In international news...A mitochondrial DNA database in Spain used to identify missing persons and human remains has identified 32 skeletal remains. Japan will use DNA to identify unknown soldiers from previous wars. DNA testing of inmates in Australia continues to solve old crimes, and Canada’s national DNA database has identified a single perpetrator in four sex assaults.

STATE LEGISLATION

Forensic DNA

1. Federal S. 149 – “Rape Kits and DNA Evidence Backlog Elimination Act of 2003.” Expands types of federal and military criminals included in the DNA database. Allows states to include state-authorized samples. Reauthorizes funding for federal DNA grant programs and permits local jurisdictions to apply directly for such grants. Creates a grant program for sexual assault nurse examiner training and a grant program for prosecutor DNA training. Adjusts

the statute of limitations for certain crimes. “Sense of Congress” language to fund the National Forensic Science Improvement Act. Contact lhurst@smithallinglane.com for a section-by-section summary.

2. Federal legislation – Debbie Smith Act of 2003. Not yet introduced (similar to 2002 legislation). Reauthorizes funding for federal DNA grant programs and permits local jurisdictions to apply directly for such grants. Creates a grant program for sexual assault nurse examiner training and a grant program for law enforcement and prosecutor DNA training. Establishes quality assurance protocols, requires timely analysis of DNA cases, authorizes John Doe warrants, and implements DNA privacy safeguards. Contact lhurst@smithallinglane.com for a section-by-section summary.
3. Mississippi HB 64 -- Expands DNA database to include all convicted felons. Retroactive to include those still incarcerated for previous felony convictions.
4. Mississippi HB 169 - Allows for post-conviction motions for DNA testing for all capital death penalty cases.
5. Mississippi HB 286 -- Expands DNA database to include all convicted felons. Retroactive to include those still incarcerated for previous felony convictions.
6. Montana HB 77 – Allows for post-conviction DNA testing for convicted felons who did not originally plead guilty.
7. Montana Draft Bill 673 – Provides education aid for persons exonerated of a crime by post conviction DNA testing. The bill would provide state aid for tuition, fees, books, room and board.
8. New York SB 138 – Requires DNA samples upon arrest for inclusion in the state DNA database for any offense in which fingerprints are taken.
9. New York AB 232 – Extends the statute of limitations for certain cases if a DNA profile of the suspect is available.
10. Virginia HB 1768 – Clarifies that “epidermal cells” are a permissible type of DNA sample to be collected for offender testing.

Genetic Privacy

11. Mississippi HB 6 -- Prevents genetic discrimination in health insurance; prohibits the use of genetic information by employers; prohibits mandatory genetic testing; prohibits the collection of genetic information; prohibits the disclosure of genetic information without consent.
12. Mississippi HB 38 -- Creates the "Genetic Information Nondiscrimination in Health Insurance Act." Health benefit plans may not deny, cancel or refuse to renew benefits or coverage on the basis of genetic information
13. Mississippi HB 143 -- Prohibits the use of genetic testing for discriminatory purposes by employers.
14. Mississippi HB 145 -- Genetic information is personal property and to require informed consent for genetic testing.
15. New York AB 199 – Establishes a genetics advisory council to study and make recommendations to the governor and the legislature with respect to issues such as genetic testing by insurers and employers, and licensure of genetic counselors.
16. New York AB 280 -- Prohibit discrimination in life and disability insurance based upon genetic characteristics.
17. New York SB 206 -- Creates the Human Cloning Prohibition Act
18. Virginia HB 1708 -- Government Data Collection and Dissemination Practices Act is amended to include genetic information in the definition of “personal information.”

NEWS ARTICLES

Forensic DNA

1. "Social benefits of non-criminal genetic databases: missing persons and human remains identification." Jose A. Lorente, Carmen Entrala, J. Carlos Alvarez, Miguel Lorente, Félix Carrasco, Blanca Arce, Beatriz Heinrich, Bruce Budowle & Enrique Villanueva.
A Missing Persons Genetic Identification Program was implemented in Spain in order to try to identify cadavers and human remains that could not be identified using traditional forensic approaches. Two separate mitochondrial DNA (mtDNA) databases (the Reference and the Questioned databases) have been generated and comparisons can be made automatically to match identical or similar sequences contained in both databases. For more information, please contact the program at jlorente@ugr.es
2. "Man charged in assaults of GSU students in dorm." The Atlanta Journal and Constitution, January 8, 2003.
In Georgia, police have arrested a man in connection with a December sexual assault of two female students in a school dormitory. The man was charged with two counts of aggravated sodomy and five counts of kidnapping after police said that they matched DNA evidence from Chap Stick left in the dorm room to a 1999 sexual assault. The suspect was identified through the state DNA databank, using evidence from a 1999 case in which the man was acquitted of raping an exotic dancer in her apartment. The woman reported the rape immediately and told police that the suspect put a knife to her throat and threatened to kill her daughter if she didn't comply. Physical evidence from that case was submitted to the databank. The Georgia database has matched 276 offenders to crimes since it was created.
3. "Kiwi named as body in bag victim." The Dominion Post (Wellington), January 8, 2003.
In England, the third alleged victim of the "bin bag killer" was identified when DNA from a body part was matched on a police database. Her head and hands are believed to still be missing. Authorities have a suspect in custody. He is suspected of killing and dismembering three women and leaving their body parts in dust bins near his flat.
4. "Los Angeles; Man Gets Life in Murders of 3 Women." Los Angeles Times, January 8, 2003.
In California, a man was sentenced to life in prison without the possibility of parole after pleading guilty to killing two women in 1992 and one in 2000. The defendant was in custody last year awaiting trial in the 2000 slaying of a woman when DNA evidence from a baseball cap linked him to the killing of two other women more than a decade ago. He changed his plea in Los Angeles County Superior Court two days before a preliminary hearing in his case.
5. "Japan to speed identification of war dead with DNA testing." Associated Press Worldstream, January 7, 2003.
Japan will speed identification of remains believed to belong to Japanese soldiers who died in conflicts more than half a century ago by increasing its use of DNA testing. The Health, Labor and Welfare Ministry has some 5,000 sets of human remains on hand that have gone unidentified or do not match government records of soldiers who died in fighting in the first half of the 20th century. While DNA testing has been used before, it was paid for by families who requested it. The ministry is planning to take responsibility for identifying dead Japanese soldiers by no longer requiring individuals to pay the 50,000 yen (US \$415) fee. Many of the remains date back more than 50 years and only those in good enough condition - mostly retrieved from colder climates like Russia and northern China - can be tested.
6. "Squad to crack burglary." Herald Sun(Melbourne), January 7, 2003.
In Australia, burglars and car thieves will be the target of a new team of crime scene officers operating in Melbourne. The forensic specialists will give investigators a head-start on solving break-ins and car thefts in what Victoria Police says is a first for Australia. Launching the project as part of Operation Clarendon, the 20 specialized officers would use the latest equipment to capture DNA and fingerprints from burgled homes, vandalized property and stolen cars. Authorities say they see this as a means to better use resources and time to focus on the proactive strategies, to prevent crime before it begins and actively address crime in a specialist way as it happens.
7. "Washington County: Ruling likely to send DNA testing issue to top court." Saint Paul Pioneer Press, January 7, 2003.
In Minnesota, the state Supreme Court ruled that PCR STR testing is generally accepted. This ruling clears the way for the Minnesota Supreme Court to assess admissibility of such DNA evidence. Washington County District

Court Judge Stephen Muehlberg held a hearing to determine whether the DNA testing method used by the state's lab is an accepted science. It is generally accepted that the results of the test, called a PCR-STR test, are reliable and meet the standard to be admitted at trial, Muehlberg ruled.

8. "Note led police to beheading suspect." The Wichita Eagle, January 7, 2003.
In Kansas, the trail that led police to an arrest in a decapitation slaying started with a piece of paper found in the apartment where the victim died. Written on the paper, discovered near her body, was a name and a phone number. The number belonged to a former truck driver who was questioned in the case. Six months later the man was arrested in connection with a robbery and investigators got a search warrant for his DNA, which matched evidence from the crime scene. He is also now a suspect in a string of unsolved sexual assaults across the region in the mid-1990s, and has been connected through DNA to attacks in Salina and Madison County, Illinois.
9. "Arlington man goes on trial for one of two bathtub slayings." The Associated Press State & Local Wire, January 6, 2003.
In Texas, more than six years after two Arlington teachers were found dead in their bathtubs, the suspect's capital murder trial began. Authorities say DNA evidence links the man to both a December 1996 rape and murder and a September 1996 killing, as well as five sexual assaults in 1999 in Arlington, Grand Prairie and Lancaster. The man's identity was originally uncovered through a hit on the national fingerprint database.
10. "Neighborhood mobile substation visit extended." The Idaho Statesman, January 5, 2003.
In Idaho, DNA evidence has linked three rapes to the same man. In their search for leads to a serial rapist, Boise police are extending their mobile substation visits to a closely watched neighborhood and translating crime prevention literature for residents who don't speak English. Many of the Bosnian residents in the area felt intimidated by police before the outreach effort began and hadn't been reporting crimes such as theft.
11. "DNA jail tests help sex cases." Sunday Mail (QLD), January 5, 2003.
In Queensland, Australia, DNA tests in jails and watchhouses have led to prisoners being charged with 31 previously unsolved sexual offences. Officials said that since DNA testing began in correctional centers in December 2000, and in watchhouses for people charged with indictable offences in mid 2001, DNA had linked 461 people to crimes. More than 30,000 DNA samples had been collected. Most the DNA links related to previously unsolved armed robbery, break-and-enter, willful damage and unlawful use of a motor vehicle offences. But DNA also had linked offenders to assaults and a range of sexual offences. Authorities said the program would be expanded this year, with DNA samples to be taken from offenders on post-jail, community-based release programs.
12. "DNA tests restricted." Waikato Times (Hamilton), January 4, 2003.
In New Zealand, one community has had to place tighter restrictions on voluntary DNA testing used to identify criminals. Bay of Plenty police had used nearly 90 per cent of their DNA testing budget, just halfway through the financial year. Police have funding for 770 voluntary DNA tests for the financial year and so far about 670 voluntary samples have been taken.
13. "Advert placed on burglars' DNA." The Press (Christchurch), January 3, 2003.
In New Zealand, a woman has vented her frustration with an advertisement in local newspaper. It told the culprit: "Your DNA was left behind. See you in court". The woman had come home from work to find her house had been ransacked a second time. Burglars had smashed a window and stolen all they could find. Only three months earlier the family had lost their television, video, and microwave to burglars. But the latest break-in was different. This time the thieves cut themselves climbing through the smashed window and left a pool of blood. They also left a clear set of fingerprints on the window. Police said the DNA left behind should greatly increase the chance of solving the crime.
14. "DNA kits join police arsenal." The Times Union (Albany, NY), January 2, 2003.
In New York, the Albany County District Attorney is distributing DNA kits to local police in hopes of encouraging the swabbing of suspects, especially at smaller agencies not accustomed to the technique. Recognizing that DNA has become the tool of choice in crime-solving, the DA used drug seizure funds to buy 300 kits, at \$3.50 each, and to pass them out to police agencies in 10 Albany County communities and the sheriff's department.
15. "Crime lab needs staff, chief says." The Montgomery Advertiser, January 2, 2003.
In Alabama, the new director of the Alabama Department of Forensic Sciences plans to ask the Alabama Legislature to nearly double the agency's funding for next year. The state faces budget problems, but the director

said the increase to \$24 million, up from about \$14 million this year, is justified. The money would be used to bolster staff and reduce case backlogs that add to a bottleneck in the criminal justice system. Today's technology won't work without money and manpower. The director said his department has a backlog of about 2,000 DNA cases, and growing. Turnaround time for results can be as long as 18 months. Currently, the state has 50,000 offenders in the database, only about half the number of samples it has on hand.

16. "Man linked to more assaults." Toronto Star, January 8, 2003.
In Canada, DNA samples matching a profile from the national database have led Toronto police to re-arrest and lay sex assault charges against a man already serving jail time for three sex attacks. Between March and April 1991, four women between 18 and 47 years old were sexually attacked in Toronto by the same man. Last September, police charged a man in one of those alleged attacks. The DNA of a man in custody was matched to DNA evidence from the assault. He now faces 13 charges related to the four alleged attacks.
17. "Poquoson Woman Gets 24 Years For Robberies." Daily Press, January 7, 2003.
In Virginia, a 20-year-old woman was sentenced to 24 years in prison for robbing fast-food restaurants and video-rental stores. Store clerks in each of the robberies -- which happened between Feb. 9 and April 7 -- were forced to turn over cash to knife or gun-wielding assailants whose faces were covered with ski masks. On two occasions, store clerks were cut with a knife during a struggle. In one case, a clerk suffered a broken hand and a facial cut. Police were led to the thieves when one of them left a watch at a Subway restaurant that had fallen off during a tussle. DNA was isolated from the wristband and submitted to the state DNA databank, where it matched a DNA profile of one of the robbers, who was a convicted felon.
18. "PA. Law Requiring DNA From Convicts Is Solving Crimes." Pittsburgh Post-Gazette, January 5, 2003.
In Pennsylvania, a suspect in the October 1998 stabbing death of a 21-year-old was identified through DNA testing. The state's computerized DNA database matched the crime-scene evidence with a DNA sample from an inmate in a state penitentiary. The suspect is serving a 20- to 40-year sentence for a 1999 assault. The case marked the first time Allegheny County police had made an arrest using the state's DNA database, but it is unlikely to be the last. Last year the Legislature passed a law that more than doubles the number of crimes for which convicts must submit DNA samples, and as the pool of potential suspects grows, the more likely it becomes that a "hit" will occur. Currently, the state's DNA database includes about 19,000 offender samples. Since becoming operational in 1996, the state police DNA lab has had 14 national and 91 in-state hits, which aided more than 145 investigations without a solid suspect.
19. "Mesa police to re-examine unsolved sex crime cases." The Associated Press State & Local Wire, January 2, 2003.
In Arizona, the Mesa Police Department has assigned at least one of its detectives to a full-time review of more than 1,000 unsolved sexual assault and child molestation cases, some of which date back two decades. The detective will be reviewing more than 1,000 cases, some nearly 20 years old. He said he's confident there will be enough physical evidence in many of the cases to restart an investigation, especially since current DNA technology can test smaller samples than in the past. Of the 69 cases he has reviewed so far, nearly half have enough physical evidence for DNA testing. In Phoenix, which has used an investigator to track cold cases full time for the last 18 months, police have identified 17 suspects through DNA testing. The DNA testing cleared more than 45 cases because some offenders were tied to other crimes.
20. "Police hope DNA reveals '86 killer." The Morning Call (Allentown), January 2, 2003.
In Pennsylvania, authorities hope new technology and old-fashioned police work will help solve the nearly 17-year-old murder of a prostitute whose body was dumped in the Poconos. Fingernail clippings that investigators removed from the victim after the 1986 murder may be the key. State police believe the victim struggled before she was strangled, and her killer's DNA might still be on her fingernails. Police recently sent clippings of the nails to be examined for DNA.
21. "City finally got its man in old case." Tulare Advance-Register (Tulare, CA) December 28, 2002.
In California, DNA evidence led to a conviction for a 32-year old murder. The defendant, found guilty in May and sentenced to life in prison in June, was convicted thanks to information obtained during DNA testing on evidence collected in 1969. He was arrested and charged with the murder in 1998 while serving time in prison for an unrelated offense. The victim, a social worker, had been found dead in her apartment. Evidence was collected and stored, but it wasn't until new tests were completed in 1997 that prosecutors finally believed they had what they needed to go to trial.

22. "Woman wins court motions in effort to free jailed father." The Associated Press State & Local Wire, January 7, 2003.

In Pennsylvania, a Florida woman may be one step closer in her quest to free her incarcerated father now that a judge has ordered examiners and investigators to hand over all DNA and other physical evidence gathered for his double-murder trial. In a recent motion, the judge ordered a hospital, a coroner's office and state police to hand in evidence, including blood and semen samples and nail scrapings. The inmate has spent the past 17 years in prison serving a life term for a 1977 double murder. The daughter and her attorney said the evidence, some of which was uncovered by the Innocence Institute of Western Pennsylvania, suggests that the defendant may have been in Oklahoma at the time of the murders.

23. "Man Convicted Of Rape Seeks New Trial." The Hartford Courant, January 7, 2003.

In Connecticut, lawyers for a man convicted of rape and kidnapping asked a Hartford Superior Court judge for a new trial arguing that results from recent DNA tests could lead to a different outcome in the case. The man was arrested in November 1996, shortly after a 30-year-old woman reported that she was accosted and raped. The woman identified the suspect as her assailant during his 1997 trial, and a state criminalist testified that three pubic hairs found on the victim were microscopically similar to his. He was convicted and sentenced to 12 years in prison. Last year, mitochondrial DNA testing determined that the pubic hairs were not his. This week, the president of the laboratory that performed mitochondrial DNA tests testified that the victim could not be excluded as the source of the hairs.

24. "Convict asks for DNA test under new law." The Morning Call (Allentown), January 7, 2003.

In Pennsylvania, a man convicted of raping and murdering a teenager almost 20 years ago is one of the first inmates in the state to ask for DNA analysis of evidence under a new law that expands inmates' rights. The defendant, who was convicted long before DNA testing was used in investigations and trials, has been seeking the test for 10 years. The district attorney's office has repeatedly opposed the requests, and county and appellate judges have consistently denied them. His newest request comes under a new law making it easier for inmates to obtain post-conviction DNA testing. In the petition, defense counsel is asking the court for testing of semen samples taken from the victim, the stocking that was used to strangle the girl, cloth patches with stains, bloodstains on the victim's clothing, the victim's fingernails and blood or bodily fluids from the defendant's boyhood friend who also is serving time in the killing.

Genetic Privacy / Research

25. "Group that claims to have cloned human won't allow DNA tests." The Miami Herald, January 8, 2003.

Nearly two weeks after a company announced the creation of the first human clone in a Hollywood hotel, the claim may never be verified because Clonaid announced recently that it was not going to allow independent scientists to conduct DNA tests on the newborn.