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

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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 January 31, 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

Hawaii, Mississippi, Nebraska, Utah and West Virginia introduced bills to expand the offender DNA database. A California bill allows "good cause" for continuation of a hearing to include delays in DNA testing results. A Colorado proposal would permit police to collect DNA from felony arrestees. A Pennsylvania legislator has introduced a "Sexual Assault Testing and Evidence Collection Act."

Cold hits on the DNA database have identified that there is a serial rapist in Ohio, and solved two unrelated cases in Georgia (1993 rape and kidnapping; 2002 rape and kidnapping) and a sex assault/murder in Arizona. DNA evidence also helped identify suspects in Ohio (as many as 13 rapes linked to one suspect); Pennsylvania (murder); New Jersey (sexual assault by a parole officer of a parolee), Utah (murder), Kansas (1982 murder). Arkansas lawyers are attempting to suppress a DNA sample taken from a suspect without signed consent.

Legislative proposals for crime labs and DNA programs were introduced in Arkansas, Indiana, and Oklahoma. New crime labs may be built in Maryland and Texas, while Wisconsin is considering closing a lab. Backlogs made the news in Florida, Wyoming, Alabama and New York. Bills to create/expand DNA programs for missing and unidentified persons were introduced in New Mexico and New York.

Bills expanding access to post conviction DNA testing were introduced in Colorado, Ohio and West Virginia. New York and Hawaii introduced bills requiring the retention of DNA evidence used in convictions. In New York, 2 men who were wrongfully convicted settled their claims against the state for \$3.3 million.

In international news... In England, taken after a drunk and disorderly charge linked a man to 1999 burglary, and a sample taken from a man urinating on the street linked him to an unsolved rape. Australian investigators used DNA to find a suspect in a recent break-in of a Police Forensic Centre.

STATE LEGISLATIONForensic DNA

1. Arkansas SB 143 – Extends a time limitation on funds appropriated for the construction of a state crime laboratory.
2. California AB 155 – "Good cause" for continuation of a hearing in a criminal procedure for a homicide or forcible sex crime case includes the temporary unavailability of timely DNA analysis results and reports, when the DNA evidence at issue is pending analysis at a laboratory.

3. Colorado SB 128 – Allows a local law enforcement agency to administer a DNA test to a person who is arrested upon the suspicion of committing a felony. Local law enforcement must also pay for such tests.
4. Colorado SB 164 – Creates a procedure for requesting post-conviction DNA testing.
5. Hawaii HB 1005 & SB 1575 – Requires DNA evidence to be retained until all appeals have been exhausted or until the defendant has completed his sentence, including probation.
6. Hawaii HB 1065 – Expands offender DNA database to include all convicted felons and any sexual crime.
7. Indiana HB 1914 -- Increases the fee for vehicle registration from \$ 0.25 to \$ 1.25 and uses the fee cover the cost of a new state police laboratory. Requires the state police to establish a satellite police laboratory at the state police post in a certain county, which shall perform DNA testing.
8. Mississippi HB 1181 – Expands offender DNA database to include all convicted felons.
9. Mississippi HB 1283 – Expands offender DNA database to include all convicted felons.
10. Nebraska LB 662 – Expands offender DNA database to include all convicted felons.
11. New Mexico SB 157 – Creates a missing & unidentified persons DNA program.
12. New York AB 1820 -- Requires preservation of DNA evidence that is used as evidence in a criminal investigations and prosecutions that result in a conviction. The DNA must be preserved in cases where the person is sentenced to at least ten years, and for one year after the person’s parole has ended.
13. New York SB 871 – Requires county medical examiners to shall furnish state laboratory with DNA samples of deceased persons or unidentified body parts.
14. Ohio SB 11 – Provides for post conviction DNA testing motions.
15. Oklahoma HB 1580 – Removes a \$150 Laboratory Analysis Fee for DNA testing.
16. Pennsylvania SB 41 – “Sexual Assault Testing and Evidence Collection Act.” Provides minimum requirements for hospitals and health care facilities which provide emergency services to victims of sexual assault, and for a sexual assault evidence collection program.
17. Utah HB 107 – Expands offender DNA database to include persons convicted of immigration violations. Specifies that offenders incarcerated or on parole in the state for an applicable offense committed outside the state, must also provide DNA samples.
18. West Virginia HB 2693 – Expands offender DNA database to include all convicted felons. Language is permissive.
19. West Virginia HB 2710 -- Provides for forensic DNA testing of biological material in death penalty case

Genetic Privacy / Research

20. Connecticut SB 365 – Prohibits employment discrimination based on genetic information.
21. Connecticut SB 763 – Prevents discrimination against individuals because of their genetic information.
22. Illinois HB 253 – Prohibits human cloning.
23. Indiana SB 151 – Prohibits human cloning.

24. Michigan SB 51 – Provides for privacy of genetic testing information.
25. New Jersey SB 2256 -- Requires Medicaid coverage of HIV drug resistance testing, including, but not limited to, genotype assays, phenotype assays, and other assays using phenotype prediction with genotype comparison.
26. New York AB 1819 -- Prohibits human cloning. Clarifies that research involving the derivation and use of human embryonic stem cells, human embryonic germ cells, and human adult stem cells from any source, including somatic cell nuclear transplantation, shall be permitted.
27. North Dakota HCR 3031 – Resolution urging North Dakota State University to host the Center for Genetic Research and become a national and international leader in biotechnology research.
28. Washington SJR 8004 – Requests that if Province of British Columbia determines that the release of grizzly bears is necessary, that DNA samples from each grizzly bear be obtained, recorded, and transmitted to the Washington State Department of Fish and Wildlife.
29. Washington HB 1461 – Prohibits human cloning.

Paternity

30. Mississippi HB 1319 -- Provides that a husband of a child born during a marriage may be determined to be the father if such determination is in the best interest of the child, regardless of genetic paternity test results.
31. Texas HB 503 – Allows child support orders to be vacated if genetic paternity tests indicated that a man is not the biological father.
32. Utah SB 132 -- Provides definitions for "declarant father" and "presumptive father". Allows child support orders to be vacated if genetic paternity tests indicated that a man is not the biological father.

NEWS ARTICLES

Forensic DNA

1. “Monarch Sex Beast Is Trapped By His DNA.” Daily Record, January 28, 2003.
A repeat sex offender was caught in England after the entire male population of a Highland village was DNA-tested. Following the man’s arrest for sexually assaulting a woman while she was unconscious at a New Year's party last year, two more women came forward and told police they had been sexually abused by him in the 1980s. He was arrested after his DNA profile matched semen swabs taken from the victim. In court, he admitted to numerous sexual assaults, including several committed against children.
2. “Homeless woman charged after baby abandoned.” The Guelph Mercury, January 28, 2003.
In Canada, a 41-year-old homeless woman was charged with child abandonment after a newborn baby was found in frigid weather outside City Hall. The baby girl was in serious but stable condition after being taken to the hospital. Officials said she had been born 10 to 15 minutes before she was discovered. DNA tests indicated the woman is the mother of the abandoned infant.
3. “Suspect in Ohio State U. area rape case indicted.” University Wire, January 27, 2003.
In Ohio, a man suspected of raping at least six Ohio State University students was named in a 15-count indictment. Police said he was a strong suspect in at least 13 rapes in the Columbus area since May. During the arraignment, the lead investigator in the case said the suspect has been linked to the one of the incidents through DNA evidence taken from saliva left at the scene of the assault. He previously served seven years in prison after being convicted of attempted rape in Cuyahoga County.
4. “Toss DNA results, lawyer asks.” The Arkansas Democrat-Gazette, January 25, 2003.

In Arkansas, attorneys for a murder suspect filed a motion to suppress the DNA evidence linking him to the crime after a State Police investigator acknowledged that he didn't ask the suspect to sign a consent form before drawing his blood for DNA evidence in connection with the 1994 killing. DNA from the blood taken from the suspect matched DNA found under the victim's fingernails. Defense counsel asked the judge to throw out the evidence, saying his client didn't know he could have refused to provide the sample. The judge took the motion to suppress the DNA evidence under advisement.

5. "Teenager convicted in neighbor girl's death." The Associated Press State & Local Wire, January 25, 2003.
In Pennsylvania, a teenager faces life in prison after being convicted of first-degree murder, kidnapping, rape and assault in the death of his 6-year-old neighbor. An FBI investigator testified that the victim's DNA was found on the inside of the defendant's underwear.
6. "14 Years Jail For Addict Marvin Marcus." Birmingham Evening Mail, January 25, 2003.
In England, a crack cocaine addict who robbed and assaulted his elderly next door neighbors during a burglary attempt has been jailed for 14 years after DNA testing from evidence led investigators to him.
7. "Bugden Murder Charge." Illawarra Mercury (Australia), January 25, 2003.
In Australia, detectives charged a Queensland man with a 1999 murder after FBI experts in New York examined DNA samples that implicated him and had him extradited to New South Wales to stand trial.
8. "Ironic twist as DNA identifies thief." Northern Territory News, January 25, 2003.
In Australia, in an ironic twist, DNA has nabbed a juvenile who broke into the Police Forensic Centre in Darwin. Police arrested a juvenile at his home after his DNA matched blood found after the break-in. He allegedly smashed a glass panel in the front entrance door to gain entry. There was a trail of blood at the scene -- this blood led police, through forensic testing, to their man.
9. "Former parole officer receives probation." The Record (Bergen County, NJ), January 25, 2003.
In New Jersey, a parole officer was sentenced to three years probation for criminal sexual contact with a woman he was supervising. The man pleaded guilty to the charges, saying he engaged in the sex act during a visit to the woman's home in March 2001. The victim saved a semen-stained washcloth, and the DNA was traced back to the suspect. He was fired shortly after the charges were filed, and the plea bans him from public employment.
10. "Suspect in attack on officers identified by DNA." The Associated Press State & Local Wire, January 24, 2003.
In Utah, based on new DNA evidence police have identified a suspect in a 1999 incident in which an SUV driver ran over one officer after fighting with another. The Idaho State Police Crime Lab matched DNA from blood found on one of the assaulted officers with the suspect. The testing was done in Idaho because that state had a sample of the suspect's blood due to his criminal history there.
11. "Ehrlich allots funds for prisons." The Baltimore Sun, January 24, 2003.
Maryland's Governor announced a nearly \$1 billion state construction program that included the proposal for building a state police crime lab in Baltimore County and a biotechnology center in Montgomery County. "These are the priorities of this administration," Ehrlich said during a news conference to release his first capital budget, which relies on \$740 million in borrowing and \$246 million in other funds. Public safety projects, including prisons and the crime lab, would receive \$123.7 million.
12. "Just Time For One Last Rape." The Mirror, January 23, 2003.
In England, a freed rapist who broke his parole terms attacked another woman apparently because he knew he would be sent back to prison soon. When quizzed by detectives, he told them: "What did I have to lose? They had already told me I was going back to prison for another five years. I wouldn't be seeing another woman for a long, long time, so I decided to rape the first one I could get." The man was serving 11 years for a 1995 rape, but was allowed out in April after psychologists and senior evaluators decided he was not a risk to the public. After he broke curfew three nights running probation chiefs told him he was being sent back to jail to finish his sentence. The following afternoon he raped a woman and two days later he was returned to jail - it was three months before detectives identified him from his DNA.
13. "Crime Laboratory in Wausau could be target for closure." The Associated Press State & Local Wire, January 22, 2003.

In Wisconsin, the closing of a 10 year-old state crime laboratory in Wausau is being considered to help solve the state's money shortage. Prosecutors say that closing the lab would seriously hamper prosecution of cases in northern Wisconsin. The state Attorney General told district attorneys at a state conference last week that shutting down the crime lab could be part of "phenomenally significant" spending cuts at the Department of Justice.

14. "Serial Rapist In Linden Area." The Columbus Dispatch, January 22, 2003.
In Ohio, DNA testing has linked a serial rapist to at least 10 of 19 attacks in which he is suspected over the past 10 years. To date, 19 women between the ages of 15 and 45 have been attacked. The attacks began in 1992 when six women were attacked. Seven more were raped between 1993 and 1995. DNA has linked a suspect to 10 of the attacks. The other nine are linked by the rapist's behavior during the assault, the location of the attack and his physical description. Detectives have searched a statewide database of DNA samples taken from thousands of convicted violent offenders in an attempt to identify a suspect. No matches have been made.
15. "Man Admits To Killing Elderly Widow In Spain." The Northern Echo, January 22, 2003.
In England, a man has confessed to killing an elderly widow in Spain after samples of his DNA were found under her fingernails. The man has been locked in Spanish jail for the past ten months, and had denied involvement in the murder. But following the discovery of the body, 179 items of her jewelry were found at the suspect's home. The confession came after forensic tests found that hair under the victim's finger- nails matched him.
16. "FDLE labs have thousands of DNA test requests pending, paper says." The Miami Herald January 28, 2003.
The state agency responsible for analyzing DNA evidence in Florida is overwhelmed by requests for testing evidence in current and past cases. The Florida Department of Law Enforcement has nearly 2,700 requests pending for DNA analysis on open cases and about 8,300 additional DNA samples from prison inmates also awaiting testing. Because of the backlog, police and prosecutors have to wait in some cases from six months to a year to find out whether their DNA evidence is a match with a suspect. The FDLE intends to use federal money to upgrade equipment to make testing quicker. Next month it will also be sending about 750 cases to a private laboratory to help reduce the backlog.
17. "Cowboy Enterprise: Blood sample can lock up a criminal or free him." The Associated Press State & Local Wire, January 27, 2003.
In Wyoming, required testing of DNA samples from convicted felons has a backlog of about six months, according to the Wyoming State Crime Laboratory in Cheyenne. That's the amount of time needed to test the 1,000 or so DNA samples in stock, process them according to strict time-consuming quality assurance measures and enter them into state and national databases. The problem is, with an average of 1,500 DNA samples submitted annually by the Wyoming Department of Corrections, mandated DNA testing of felons generates a constant backlog.
18. "Running in place: Funds, staff lacking at state crime labs." The Associated Press State & Local Wire, January 26, 2003.
In Alabama, with a backlog of about 2,000 DNA cases, and a struggle for any new funds and staff, it's not unusual for forensics work in an Alabama murder case to take about two years. The backlogs are steep in other sections, too, but where the lab is hurting most is in DNA, according to the new Chief. Things got so bad last year, then-Gov. Don Siegelman released a one-time \$1 million grant from his emergency fund to augment the legislative allocation and prevent the department from having to cut some services. And just recently, U.S. Rep. Spencer Bachus, R-Alabama, announced a one-time \$1 million grant from the U.S. Department of Justice, which is expected to further ease the crunch.
19. "Mendoza suggests building lab." The Fort Worth Star-Telegram, January 22, 2003., Wednesday
In Fort Worth, Texas, the city's top officer recommends creating a new \$1.6 million lab to better handle evidence collected at crime scenes. The Police Chief said that the money could come from the Crime Control and Prevention District, which is funded through a half-cent city sales tax. Crime tax funds are not now used to support the crime lab. He could get final approval from the City Council as soon as next week to ask the crime district for the \$1.6 million, and for an additional \$120,000 for the department to gain national DNA certification. Case backlog and staffing shortages were among crime lab problems spotlighted last year.
20. "State Of The State - DNA plan could hit probation staff hard." Press & Sun-Bulletin (Binghamton, NY), January 9, 2003. Thursday
The New York Governor's proposal to expand the state's DNA database to include all convicted criminals instead of just violent felons could inundate an already overburdened county probation department, its director said. The

Broome County Probation Department processed about 200 DNA tests last year for defendants either sentenced to probation or given a conditional discharge on charges classified as "violent." Under Pataki's proposal, that number would likely increase by hundreds and be the responsibility of a department that lost five probation officers to retirement last fall.

21. "County indicts fugitive in Texas." The Atlanta Journal and Constitution, January 24, 2003.
In Georgia, a suspected serial rapist was indicted for a 1993 rape and kidnapping. The man is already serving life sentences for two 1992 DeKalb County rapes after his conviction in 1998. The new charges resulted from a relatively new state law requiring prisoners to give DNA samples. DNA evidence taken from the 1993 rape victim was preserved by the State Crime Lab and made a match in 2000 with a DNA sample from the suspect. It was one of the first DNA matches to be made and to result in an arrest since the law took effect in July 2000.
22. "Macon man gets life for rape of Mercer student" The Macon Telegraph, January 22, 2003.
In Georgia, a man who kidnapped, beat and repeatedly raped and sodomized a Mercer University freshman last September was sentenced to life in prison. At the time of the assault, the defendant had been out of a Florida prison for less than two years on 1985 charges of attempted murder, robbery and a burglary assault. DNA evidence from the Georgia sexual assaults was matched to his DNA profile on the Florida database. Based on that match, an arrest warrant was issued for the suspect and a new blood sample was taken.
23. "Burglar's Blood Sample Matched." Evening Herald (Plymouth), January 13, 2003.
In England, a man has been sentenced to a 150-hour community punishment order, after being found guilty of burglary more than three years after the offence took place. He had been arrested in June last year for being drunk and disorderly. His DNA was then found to match a sample of blood taken from the scene of a burglary in Tamerton Foliot. Blood had been found on the window and light switch of an unoccupied Ministry of Defence property that was burgled in October, 1999.
24. "Former fugitive given life, 45 years for woman's death." The Associated Press State & Local Wire January 28, 2003.
In Kansas, a man who eluded authorities for nearly 20 years has been sentenced to life in prison for killing a 22-year-old woman. A jury convicted the defendant in November of premeditated first-degree murder and rape, largely upon the strength of DNA evidence collected from the victim.
25. "Ventura County; Killing Called a Random Attack." Los Angeles Times January 28, 2003.
In California, defense attorneys for a man on trial for murder argue that he was in a methamphetamine haze when he allegedly raped and killed a woman and set fire to her home a decade ago. Though the defense admits to drug use by the defendant, they claim the murder was not planned. The argument is crucial for the defense attorneys, who have very little to contest because DNA evidence taken from the crime scene indicates that the defendant raped the victim before killing her. The slaying went unsolved for years, until the defendant confessed the crime to his ex-fiancee in 1999 who then told police. Investigators were then able to match the suspect's DNA samples with semen found at the crime scene.
26. "Tempe police use DNA to make arrest in 25-year-old murder case." The Associated Press State & Local Wire, January 25, 2003.
In Arizona, police used DNA evidence to make an arrest in a 25-year-old sexual assault and murder. An Arizona State University student was sexually assaulted and strangled to death in her Tempe apartment in 1978. When police reviewed the old case and submitted DNA evidence to a nationwide database, the evidence matched an inmate serving a life sentence in an Arizona prison for the 1986 rape of a Northern Arizona University student. He was arrested on the new murder charges.
27. "Science finds a murder suspect 12 years later." The Daily Telegraph(Sydney), January 25, 2003.
In Australia, officers from the State Crime Command's homicide squad called arrested a man for a 1990 murder. The arrest was made after updated DNA testing of evidence provided a breakthrough in the police investigation of the crime -- which was committed on July 10, 1990.
28. "DNA Conviction May Herald Sex Crimes Breakthrough." The Northern Echo, January 25, 2003.
In England, police are poised to make several arrests as part of their investigations into unsolved sex crimes. Under Operation Phoenix, officers have been using DNA techniques to revisit sex cases from 1985 to 1999. This week, officers saw the first conviction under Operation Phoenix when a man was jailed for five years. A DNA sample,

taken after the man was arrested recently for urinating in the street, matched with DNA taken after the unsolved rape of a 19-year-old student seven years earlier. Now police are set to make further arrests. Forensic scientists have examined 61 historical cases of rape and indecent assault and come up with 38 full DNA profiles. Eighteen of them have matched the DNA of people already on the National DNA Database.

29. "Petitions to free 2 men await new DNA results." Chicago Tribune, January 23, 2003.
In Illinois, attorneys for two men appealing their convictions for the 1976 rape and murder of a 9-year-old girl said they plan to file a petition in the next few weeks to have the convictions set aside as soon as results from another round of DNA testing are returned. DNA tests on semen found at the scene have excluded both men as sources, but prosecutors still want to test some hair.
30. "\$3.3 Mil. Wrongful Conviction Award OK'd Largest Award." The Legal Intelligencer January 17, 2003.
In New York, two men who spent 14 years in prison for a murder they did not commit have settled their wrongful conviction claims against the state for \$3.3 million. Anthony Faison, 36, and Charles Shepherd, 40, will split the combined award, which is the largest ever in New York. Their individual shares are the second-highest settlement since the Unjust Conviction and Imprisonment Act, which allows suits against the state, was passed in 1984.

Paternity

31. "He's Not Dad, But Budget Trumps DNA." The Tampa Tribune January 26, 2003.,
In Florida, the booming movement of men forced to pay child support for children they didn't father has a snappy rallying cry: "If the genes don't fit, you must acquit." But two weeks after the Florida Supreme Court ruled that a Tampa police officer must continue paying \$8,000 a year to support a child that's not his, state lawmakers may have their own reasons to not change the law: "The DNA test may be right, but our budget's too tight." The problem for lawmakers: If thousands of men paying child support for children they didn't father were let off the hook, the state might have to pay millions in increased assistance to handle an influx of single mothers receiving no support. Since DNA testing became affordable and accessible in the 1990s, nine states have changed their laws to allow men to stop paying support if they can prove they are not the biological father. In California last year, Gov. Gray Davis vetoed a similar bill. Among his reasons for the veto, Davis said \$40 million in federal funding was in jeopardy.