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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 August 8, 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

Congressional hearings on federal funding for forensic DNA continued -- some interests expressed concern over the lack of attention to other types of forensic sciences. The first draft of the federal spending bill for next year includes \$179 million for forensic DNA. DNA backlogs in Alabama can mean a two year wait for evidence analysis, but recent federal funding has helped. West Virginia is considering consolidating its forensics labs. An investigation of the Houston DNA lab found no criminal wrong-doing.

One Virginia town of 45,000 has had 55 cold hits on the DNA database. DNA evidence aided investigations in New York (murder); Ohio (several rapes and a murder); Florida (sexual battery; murder); Texas (hit and run); Georgia (desecration of a cemetery); Pennsylvania (murder); and Nevada (robbery). A missing persons project has matched remains from an unknown corpse to a missing woman who died attempting to cross the US-Mexico border.

New York City has begun a program to indict unknown rapists based on their DNA profiles (aka, John Doe indictments). A late cold hit on California's database is in time to allow charges of rape, but the suspect can no longer be tried on additional charges that arose from the same crime. Men who volunteered DNA samples in a Louisiana sample are suing the state to have the samples returned. A North Carolina investigation is using race information extracted from DNA evidence in the hunt for a killer.

Florida's expiring statute that allows for post conviction DNA testing was in the news. A California man who was held in jail on rape charges for a month before DNA cleared him has gained the right to sue in state court.

In international news...DNA evidence solved old murder cases in England (14 years ago) and Australia (19 years ago); and provided valuable leads in a British investigation involving a murder and possible child trafficking ring. Turkish Cypriots have begun a DNA program to identify remains. A Romanian court has convicted a Greek criminal of double murder, based in part on DNA evidence

## NEWS ARTICLES

### Forensic DNA

1. "Death solves a murder - Autopsy unmask schoolgirl's killer." The Daily Telegraph (Sydney, Australia), August 6, 2003.  
In Australia, police were able to match a DNA profile from a girl killed in 1984 to a man who had been a suspect. When DNA samples collected from four other men who were suspects in the crime (one of whom was once charged with the murder) did not match the evidence, police began looking for the fifth suspect and learned he had

recently been killed in a car accident. A DNA sample from the man's autopsy was a match to the DNA evidence. "There may be no justice now but at least it's closure for the Kirk family, that is the way they look at it."

2. "BR man gets 2 life terms in attacks." The Advocate (Baton Rouge, LA), August 5, 2003.  
In Louisiana, a man who attacked nine women in six separate incidents has received two life sentences after pleading guilty to several of the charges. Of the two rapes the suspect pleaded guilty to, both included DNA evidence linking the man to the attacks.
3. "DNA check puts rapist in jail 14 years after au pair attack." The Daily Telegraph (London), August 5, 2003.  
In England, a former au pair who was raped 14 years ago recently saw her attacker, a father of three, jailed for a crime police once thought would never be solved. The case was reopened after the victim contacted police three years ago to ask if any progress had been made. The evidence was reviewed and a DNA profile was identified. One year later, the man was arrested on unrelated assault charges and a DNA sample linked him to the crime. The case was one of the first successes for Project Sapphire, a Metropolitan Police unit that reviews unsolved rape and sexual assault cases.
4. "Road To Exoneration; Deadline Looms For Inmates' DNA Claims." The Miami Herald, August 5, 2003.  
In Florida, a 2001 law gives anyone convicted of a crime two years to ask a judge to review DNA testing. Felons convicted before the law was enacted have until Oct. 1 of this year to petition the court. Lawyers have fielded 700 requests since 2001. They have reduced the claims to about 100 in which DNA could prove conclusively guilt or innocence. But filing a 30-40 page petition for each case is time-consuming work, and the article suggests that an extension should be granted.
5. "New York Pursues Old Cases Of Rape Based Just On DNA." The New York Times, August 5, 2003.  
New York City officials plan to systematically review biological evidence from hundreds of unsolved sex crimes, with the goal of indicting the unidentified attackers based on their DNA profiles before the 10-year statute of limitations runs out. The first roughly 600 cases for which evidence will be reviewed concern attacks in 1994, nine years ago. If the indictments are completed before the prosecution clock runs out, law enforcement officials say they believe the person with that DNA can be arrested and prosecuted any time in the future. The project has been dubbed the "John Doe Indictment Project." New York State law requires that a felony prosecution be brought within five years of those crimes, or within 10 years if the criminal's identity is unknown.
6. "W.Va. may consolidate forensics labs." The Associated Press State & Local Wire, August 4, 2003.  
West Virginia's Legislative Oversight Commission on Health and Human Resources Accountability was asked to consider consolidating the forensic labs of the State Police, medical examiners and public health division. The Military Affairs and Public Safety Secretary said that some of these agencies need more lab space, or are fragmented into far-flung offices. Others remain behind the curve on the latest methods of forensic science. Personnel turnover has been a primary difficulty for the crime lab, resulting in tremendous backlogs, and this issue wouldn't necessarily be helped by the consolidation.
7. "A DNA match, a suspect, but no arrest in '83 case." Chicago Tribune, August 4, 2003.  
In Missouri, the friends and family of a 1983 murder victim have been frustrated by the prosecutor's office failure to follow-up on a DNA database match that linked the murder to an inmate. The database match was made more than a year ago. The prosecutor's office declined to comment on their investigation, acknowledged that some cold cases involving suspects who already are serving prison sentences for other crimes are given a lower priority than cases in which suspects remain on the streets. "There is a degree to which you have to assess public safety."
8. "Phila. rape unit again faces scrutiny." Philadelphia Inquirer, August 4, 2003.  
In Philadelphia, police officials acknowledge that they failed to alert the news media about a sketch of the rapist who they say later went on to kill another victim. However, in recent years, the Department has been attempting to revamp its policies on sexual assault investigations. DNA tests are now conducted on every rape in which the attacker was not an acquaintance, which thus far has identified four serial rapists, three of whom have been arrested.
9. "Orchid Cellmark Selected to Conduct Forensic DNA Testing for Houston Police Department." PR Newswire, August 4, 2003.  
Orchid BioSciences announced that its Orchid Cellmark unit has been awarded a contract by the Houston Police Department to conduct forensic DNA analysis for new cases as well as retesting for prior cases. Previously, the

Houston Police Department performed the majority of its forensic DNA testing in its own crime laboratory, which has ceased operation of its DNA analysis unit after investigations revealed that it had failed to maintain certain standards needed to ensure the accuracy of its DNA testing.

10. "Mother pushing for DNA databank." St. John's Telegram, August 4, 2003.  
In Canada, a Vancouver Island woman is pushing for a national DNA databank. The woman wants DNA samples from missing people and found remains logged into Canada's databank to compare against unidentified crime-scene samples in the databank. She believes that her daughter's DNA could be sitting among the 6,000 crime-scene samples.
11. "South Africa; West African Gang Arrested in UK for Child Trafficking." Africa News, August 3, 2003.  
British police investigating the murder of a young African boy, whose body was found floating in the river Thames two years ago, arrested 21 people in London suspected of being involved in child trafficking. The body of the victim was traced by DNA evidence to a town in Nigeria, but no one has reported him missing. Police suspect that he had been the victim of a ritual sacrifice carried out within London's huge African community.
12. "DNA Links Vagrant To Grisly L.I. Slaying." Daily News (New York), August 3, 2003.  
In New York, a homeless man was arrested on murder charges after DNA evidence linked him to a vicious killing last month. An initial search of the crime scene turned up indications that the killer had accidentally cut himself, leaving traces of his blood. Police obtained DNA samples from persons known to frequent the location (a house where drugs were known to be sold and used), and a DNA sample submitted by the suspect has matched the evidence.
13. "Teen indicted in rapes, murder." Akron Beacon Journal, August 2, 2003.  
In Ohio, a 16-year-old has been indicted by a grand jury on nine counts, including murder and sex offenses involving three women and a girl. The suspect was linked to the killing after he was arrested in a peeping Tom incident about six months ago. DNA evidence connects the suspect to the murder and a separate rape case. Additionally, victims gave similar descriptions. They said they had a hard time understanding him when he spoke (the suspect is deaf) and that he had one blue eye and one brown eye.
14. "Another 50 men join DNA lawsuit." The Associated Press State & Local Wire, August 2, 2003.  
In Louisiana, 50 men who were swabbed for DNA during a serial killer investigation - some of whom claim to have lost their jobs or spouses because of it - are joining a federal lawsuit seeking to have the samples returned or destroyed. According to an attorney for the case, most of the plaintiffs claim investigators coerced them into providing their DNA. The Attorney General said he believes the swabs taken from more than 1,200 men during the serial killer investigation should remain in the database, comparing the DNA samples to fingerprints which are already kept on file. This suit is not expected to affect the case against the suspected south Louisiana serial killer, because a judge signed a subpoena forcing him to submit his DNA sample.
15. "Man charged in second sex battery." The Bradenton Herald, August 2, 2003.  
In Florida, DNA samples have linked a man already in jail on charges of sexual battery to a second sexual battery in the same area. The first charge came after a victim identified him by his lisp. Five women in all have reported similar sexual batteries in the area, stretching back to March 2002.
16. "New DNA tests weaken 4 cases." The Houston Chronicle, August 2, 2003.  
New DNA tests on evidence from four cases originally processed by the Houston Police Department's crime lab have found significantly weaker links between the evidence and the defendants than the first results. The retests show that HPD analysts miscalculated matches, overestimating their strength to the point that one prosecutor worries a defendant was incorrectly influenced to plead guilty to a sexual assault. Five other DNA tests support HPD's initial decision to include the defendants as suspects, including the case against one death row inmate.
17. "Police seek witnesses to hit-and-run wreck." San Antonio Express-News, August 2, 2003.  
In Texas, police are asking for help from anyone who saw a hit-and-run crash that left a pregnant woman with minor injuries and her 5-year-old son in a coma for two days. Police said they have DNA evidence linking an 18-year-old man to the car they suspect was involved in the accident, but they have insufficient evidence to charge the man with driving the car at the time.
18. "DNA Test Confirms Family's Worst Fear." The Arizona Republic, August 1, 2003.

DNA testing results have confirmed identified the remains of a young woman who died attempting to cross the U.S.-Mexican border. The DNA tests are the first known to be conducted on an undocumented border-crosser and was done through a project at Baylor University in Texas. The researcher is working with the Mexican Consulate medical examiners to put faces and names to the unidentified remains. The woman's family is thankful to finally have certain knowledge of her fate.

19. "Teenager arraigned on cemetery vandalism charges." The Associated Press State & Local Wire, August 1, 2003. In Georgia, a 16-year-old boy who allegedly toppled more than 120 gravestones in two local cemeteries more than a year ago has pleaded innocent. DNA testing on litter left at the scene that included cigarette butts and broken beer bottles implicated the boy, whose DNA sample was on file since he was on probation for a previous offense. Another DNA profile was obtained at the scene, and the boy has indicated an adult took part in the crimes, but no one else has been charged in the case.
20. "Grand jury says no criminal wrongdoing in crime lab problems." The Associated Press State & Local Wire, August 1, 2003. In Texas, a grand jury investigating the Houston police crime lab's DNA section said it could find no criminal wrongdoing. The grand jury wrote in a statement to the judge, "Sadly, we have learned that the knowledge of problems and a lack of action to correct them do not constitute criminal negligence. Ethics and moral violations, even if they severely violate the public trust, are beyond our jurisdiction."
21. "Police enlisting DNA tool." News Observer (Raleigh, NC), August 1, 2003. In a North Carolina murder investigation, police are using a DNA testing method that may be able to identify a suspect's race from DNA. The DNA test indicates that the killer is white, with 92 percent of Indo-European heritage and 8 percent Native American, to be exact. Investigators used the same technique in the Louisiana serial killer investigation earlier this year. In that case, the testing indicated that the killer was a black man, rather than a white man as police previously believed. Police have been collecting voluntary DNA samples from friends, neighbors and colleagues, but do not plan any mass DNA "dragnets" at this time. The police have also stressed that this DNA testing method is so new that it can only be used as an investigative tool -- they are not even sure they could use it to obtain a search warrant.
22. "Nassau Unveils New DNA Laboratory." Newsday (New York), August 1, 2003. Nassau County officials have revealed their new high-tech DNA lab, which is expected to save the county thousands of dollars spent annually paying private labs to analyze crime evidence. The county executive gave a conservative estimate of about \$500,000 a year that the county spends on having private labs analyze biological material and provide laboratory staff members for court testimony -- contrasted with the estimated \$165,000 the county will spend next year for the lab's supplies and equipment.
23. "Some prosecutors, lab experts criticize DNA focus." USA Today, August 1, 2003. At a recent congressional hearing, a panel of witnesses told a Senate Committee that the Justice Department's focus on solving crimes through DNA testing neglects other crime lab work including fingerprint analysis and drug tests. President Bush's plan to spend \$1 billion on DNA over five years has been lauded by officials who see DNA testing as the most significant advance in crime-solving since fingerprint analysis. However, the elimination of a key funding source for non-DNA tests -- a \$ 40 million grant program for state and local labs -- has raised concern that the administration is banking too much on new technology and giving short shrift to proven crime-solving techniques.
24. "Turkish Cypriots give blood for identification of missing persons." Xinhua General News Service, August 1, 2003. Turkish Cypriots have come to the Cyprus government controlled areas and given blood to help the process of identification of remains exhumed with the approval of the government. So far more than 100 remains have been identified, some belonging to Greek Cypriot soldiers, others to Greek nationals or Greek Cypriot civilians. The government has appealed to Turkish Cypriots to give blood to facilitate the task of identification by the DNA method. In 1997, the Greek Cypriot leader and Turkish Cypriot leader agreed to exchange information on missing persons and the location of mass graves on each side, but the deal fell through six months later. Last week the Turkish Cypriot leader proposed establishing his own DNA bank in the north where they could make their own identification.
25. "South Africa; British Tourist's Rape Trial Postponed." Africa News, July 31, 2003.

In South Africa, the rape trial against four men accused of abducting and raping British tourist was delayed for yet another month while the court awaits a decision by the directorate of public prosecutions on whether the matter should be heard in the sexual offences court or the high court. The prosecution is also still awaiting DNA tests which are expected to link the men to the attack. The article reports that the DNA tests are costly and are seldom ordered in "normal" rape investigations.

26. "Houston city council paying \$900,000 to speed DNA retesting." The Associated Press State & Local Wire, July 31, 2003.  
In Texas, Houston's city council, acting on a request from the Harris County district attorney, is spending \$900,000 to accelerate retesting of hundreds of DNA samples after problems, such as possible evidence contamination, were revealed at the Houston police crime lab. The council has agreed to move \$600,000 from a disaster fund and another \$300,000 from an asset forfeiture fund to so the police department can secure contracts with private DNA labs.
27. "Sessions: DNA cases account for only small slice of evidence backlog." The Associated Press State & Local Wire, July 31, 2003.  
Scientific advancements in DNA have drawn public attention and federal money, but Alabama Sen. Jeff Sessions says Congress must not overlook basic state and local forensic labs that handle most crime cases and account for much more of an evidence backlog. Although he heralded President Bush's proposal to direct \$1 billion over five years to reduce a backlog of DNA evidence, Sessions expressed concern that basic fingerprint, drug and ballistic evidence would be pushed farther down the national priority list. DNA accounts for only 5 percent of the delay in processing evidence at state and local forensic laboratories.
28. "Georgia crime labs backlogged." Chattanooga Times Free Press, July 31, 2003.  
Georgia has spent millions upgrading its crime lab facilities, but those labs remain understaffed. And those staffing shortages create a backlog of cases that hold up the judicial process, law enforcement officials and prosecutors say. In a memo this week to sheriff's departments in the state, the Georgia Bureau of Investigation said, "The state crime lab is greatly understaffed for the amount of work that is currently being requested by local agencies. "Vacancies and the absence of additional positions needed to meet the increasing workload have created significant backlogs in the lab and these backlogs will continue to grow." The memo said the agency needed 109 more people, at a cost of more than \$4.8 million a year, to control and then reduce the backlog.
29. "Mikus DNA prompts call for charges." The Dominion Post (Wellington, New Zealand), July 31, 2003.  
The convicted killer in a well-known murder case in New Zealand has allowed his DNA to be used to point blame back at his father for fathering a 14-year-old girl's baby nearly 30 years ago. The Crown has now asked a High Court judge to revive sex charges --including rape, sodomy and indecent assault -- that were effectively thrown out in early July.
30. "Cash influx speeds agency's DNA tests." The Montgomery Advertiser, July 31, 2003.  
Several federal grants should help the Alabama Department of Forensic Sciences reduce a massive case backlog. Within the past year, the department has received nearly \$2.5 million in federal grants to improve its facilities and equipment, which will help speed analysis of DNA evidence. "It's really just a drop in the bucket in terms of our overall needs, but it certainly won't hurt us any," said the lab director. In Alabama, there are 1,900 DNA cases awaiting analysis. It often takes up to two years for DNA evidence to be processed. That slow turn-around time often causes delays in police investigations, leads to trials being postponed and adds to the frustration of crime victims.
31. "State reconsiders, pays Green." Plain Dealer (Cleveland, Ohio), July 31, 2003.  
Ohio officials changed their minds recently and agreed to give Michael Green \$523,186 - part of what he is owed for the nearly 13 years he spent in prison for a rape he didn't commit. The man was freed through post conviction DNA testing in October 2001.
32. "Greek most wanted fugitive sentenced to life in prison in Romania." The Associated Press Worldstream, July 30, 2003.  
A court in the Romanian capital found a Greek fugitive guilty of a double murder and sentenced him to life in prison. He was convicted of premeditated murder after a trial in which prosecutors relied on DNA evidence, phone records, and the testimony of his alleged accomplice. He has been Greece's most wanted fugitive since February 2001, when he escaped from prison after shooting two police officers to death. The Athens police chief resigned a

few months later after an operation to capture him failed and authorities lost track of him.

33. "Forensic analysis leads to charges after lengthy wait." Philadelphia Inquirer, July 30, 2003.  
In Pennsylvania, forensic analysis of evidence found at the scene of a murder indicated that blood and semen recovered from the scene came from the same person, and that a hair that was found there appeared to have been dyed. This evidence led police to take another look at the victim's coworkers, and eventually led to a suspect. However, in announcing the arrest of the suspect, the prosecutor showed his frustration with having to wait eight months for forensic analysis of evidence critical to the case.
34. "Ruling permits coercion lawsuit." San Jose Mercury News, July 30, 2003.  
In California, a 19-year-old who claims police coerced him into confessing that he raped a 94-year-old woman before DNA evidence exonerated him has won the right to sue in state court. The man has already pursued his case on another front, suing the city in federal court July 15. In that complaint, he said police coerced him last July into confessing he raped and beat the woman at her retirement home in May 2002. The federal lawsuit also contends police falsely stated they had evidence against him, including fingerprints, hair, blood, DNA and security camera footage. He served nearly a month in jail before DNA evidence showed he was not the perpetrator.
35. "Partial charges are dismissed in 1996 San Carlos rape case." San Mateo Times, July 30, 2003.  
In California, a cold hit on the DNA database has linked a known offender (currently serving 28 years for another crime) to an unsolved case involving rape, burglary, robbery and attempted sodomy. The statute of limitations has run out for all of the charges, excluding the rape charge. The inmate's defense attorney had argued that the rape charge was not legal because the charges were filed after the new law extended the statute of limitations from six to 10 years. He said outside court that he is also looking into possible legal issues over making prisoners submit to a blood-and-saliva sample for DNA testing, and that it could constitute unreasonable search and seizure. If convicted on the single rape charge, the man could face an additional eight years in prison.
36. "Police Re-Arrest Murder Suspect." Sun-Sentinel (Fort Lauderdale, FL), July 30, 2003.  
The Fort Lauderdale Police homicide squad, which saw one of its murder cases unravel after the sheriff's office crime lab erred in DNA testing, has re-arrested the man they think committed the crime, saying they developed additional evidence against him. The additional evidence includes several pieces of evidence that detectives never submitted in the original case. This evidence was tested at the state crime lab and yielded DNA evidence placing the suspect at the murder scene.
37. "Circumstantial Evidence: Jury will weigh LV robbery case." Las Vegas Review Journal, July 29, 2003.  
In Nevada, a prosecutor has asked a jury to convict a man of participating in a violent armored truck robbery, saying DNA evidence indisputably proves the man's guilt. The defendant's DNA was found on a water bottle inside a getaway car used in the 1999 robbery. Two armored car guards were wounded by gunfire in the heist, and the odds are 600 billion to 1 that the DNA taken from the water bottle is not the defendant's. Shell casings found in the same getaway car also match those found at the crime scene.
38. "How San Diego County's forensic scientists and field personnel are teaming up to solve cold cases, identify serial killers and rapists, and free the innocent." The San Diego Union Tribune, July 27, 2003.  
Article regarding the increasing role of forensic science – particularly DNA – in criminal investigations. Several points are made, including: "the training of front-line law enforcement becomes a new priority, the quality of the evidence being only as good as the skill of those who identify it and collect it...The syllogism is simple: New science creates new opportunity to analyze old evidence, which in turn creates a higher demand for the scientific examination of evidence...None of this is cheap. Staffing a forensic laboratory with first-rate professionals and equipping it with cutting-edge equipment are expensive endeavors...Even so, there's a human cost for failing to do so...For now, forensic science will continue to unravel mysteries of crime that were once thought unsolvable at a pace that will seem far too slow."
39. "Officers To Discuss DNA Success." The Daily Progress, July 21, 2003.  
In Virginia, Charlottesville police have had more DNA "cold hits" in three years than 15 states combined have had in their histories. Since October 1999, the city has had 55 hits at the state's DNA databank. Forty-one of those identified specific persons, and the rest were of people not yet in the databank. Twenty convictions resulted from the evidence. [City population of approximately 45,000.] The police attribute the relatively large number of hits to meticulous detective work and to the fact that the forensics technicians spend lots of time collecting potential DNA evidence, even in cases besides rape and homicide, such as in car theft investigations. "The majority don't approach

burglaries with the same attitude that we do, because they're time consuming," he said, "But if you look at the results, it's worth it." The chief said that proof of Charlottesville's success with DNA is in the statistics. "That data, in and of itself, is compelling when a police chief looks at it and says, 'How do I want to spend the resources of this department?'" he said. "I think the forensic unit has done remarkable things."

#### Genetic Privacy / Research

40. "A Study In Ethics: A Parent's Complaint Shut Down A; Germ-Tracking Medical Experiment In Local Day-Care Centers." The Virginian-Pilot, August 3, 2003.  
In Virginia, a medical experiment designed to study the spread of germs exposed more than 200 local preschoolers to a genetically engineered substance and was shut down after one parent complained that it was done without consent. The school's officials say the solution was safe, parents were notified and no children were harmed. But a parent's complaint that she was not asked to give written consent before the study prompted the medical college to end the experiment, launch a yearlong internal review and revamp the school's oversight system for research studies.
41. "GenVault becoming a Fort Knox of DNA." The San Diego Union Tribune, July 29, 2003.  
A private company is offering researchers another option for storage of genetic samples: dry storage with an automated retrieval system. It's a technique that has attracted the interest of the Centers for Disease Control, which is testing the technology for use in an annual national health survey.

#### Paternity

42. "DNA Testing Is Allowed to Establish Paternity In Claim Over Death of Child Killed by Driver." New York Law Journal, July 24, 2003.  
Blood samples from a baby killed when he and his mother were run down by an allegedly drug-impaired driver will be tested and compared to the DNA of his alleged father, the Brooklyn surrogate has ruled. The father, as administrator of the estate of the child and his mother, has sued the driver for wrongful death. The mother of 19-year-old and grandmother of 11-month-old who were killed, challenged the alleged father's paternity claim in the kinship hearing and requested the tests to compare genetic material found in the DNA of the alleged father's and baby's cells.

#### **CONGRESSIONAL RECORD**

1. Department of Justice Appropriations bill includes \$179 million dollars for DNA backlog elimination and crime lab upgrades.