

Smith *Governmental*
Affairs
Alling *Attorneys at Law*
Lane

Sponsored By



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 September 12, 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

***Interpol will be hosting the Third Annual DNA User's Conference for Investigative Officers in Lyon, France (November 19-21). Topics include the implications of DNA profiling for different nations, case studies and the problems encountered, the use of DNA in post-terrorist attacks and how a DNA matching system could operate at an international level. See further details at www.interpol.int.

West Virginia is discussing an expansion of its DNA database, and Nebraska is missing offenders who should be on the database. The North Carolina Attorney General has made DNA backlogs a priority, and a New Jersey article on rape victims describes that state's plans to address the backlog.

The DNA database linked an Ohio rape to a Kansas offender (who later implicated himself in a 1977 murder). In Louisiana, a "test run" of 15 DNA rape cases from 1987 linked three offenders to four rapes. A cold hit in Maryland identified a rapist in a crime for which another man had been convicted; in Georgia linked a burglar to a rape; in Illinois linked a sex offender to a rape; and in California convicted a rapist. DNA has linked up to six rapes to the same unknown serial offender in California.

Some jurisdictions are now using John Doe warrants for burglary cases with DNA evidence. Nebraska authorities have issued their first ever John Doe warrant for a rape case. DNA evidence helped to solve crimes in Connecticut (2 murders), California (murder), Iowa (rape/murder), Kansas (murder), and Ohio (2 dog maulings; rape/robbery).

Post conviction DNA cases made headlines this week in Maine, Delaware, North Carolina and Texas. DNA analysts at the troubled Houston lab drew harsh criticism, and a former Montana lab manager has been called incompetent.

In International news...Police in Britain are calling for a DNA database of all citizens. A hair from an undetonated bomb in Ireland is being tested for DNA. An Australian state is drafting a bill to eliminate "double jeopardy" limitations.

NEWS ARTICLES

Forensic DNA

1. E-mail correspondence, September 10, 2003.
Some jurisdictions are beginning to issue "John Doe" warrants in DNA burglary cases.
2. "Forensic examiner in Spokane found incompetent." The Associated Press State & Local Wire, September 10, 2003.

The Washington State Patrol has determined that a forensic scientist in Spokane is incompetent and should be fired. The State Patrol reviewed 100 cases completed by the scientist between 1999-2002 and found that his work on drug analysis did not meet professional standards. He first came under scrutiny last year when questions arose about his work in Montana, where he was crime lab manager from 1970 to 1989. Two men who were convicted of separate rapes in Montana based largely on his research and testimony were exonerated by lawyers for the Innocence Project through DNA testing.

3. "High court weighs arguments on DNA testing in rape case." The Associated Press State & Local Wire, September 10, 2003.
Maine's highest court is weighing arguments on whether DNA testing should be performed on evidence preserved from a 1994 rape case. The man convicted of the crime, who is serving a 15-year sentence for gross sexual assault, is seeking the new testing under a 2001 law that allows post-conviction DNA analysis if an assailant's identity is in question.
4. "Man Is Charged in 1972 Murder." Los Angeles Times, September 10, 2003.
In California, a man who police allege killed three women in the harbor area more than 30 years ago is suspected in three San Francisco slayings. Detectives arrested the suspect, now 77, after they obtained a sample of his DNA off a coffee cup. The DNA sample exactly matched fluid samples taken from a 1972 murder victim. An informant told police in 1975 that the suspect had admitted to four killings -- three in the San Pedro area and another in San Francisco. The suspect denied that account when questioned by police, but last year another witness came forward with similar allegations, leading investigators to reopen the cases.
5. "Rapist charged in 1977 slaying." Toledo Blade, September 10, 2003.
In Ohio, a man who was convicted in August of a 1992 rape has been charged with a murder in 1977. Police monitoring the man's phone conversation's learned of the his involvement in the unsolved murder while he was in jail this summer awaiting the rape trial. The rape case was solved through a cold hit on the national DNA database to an offender serving time in a Kansas prison for a 1994 rape. His criminal record includes grand theft, breaking and entering, receiving stolen property, and gross sexual imposition for fondling a 12 year old girl. He served two Ohio prison sentences and was paroled in 1985, and again in 1990. "This is almost absurd," said the local Sheriff. "Even the rape case, if it wasn't for DNA, wouldn't have been solved. ... One thing did lead to another once we got him back here."
6. "Prosecutor says science caught up with accused killer." The Associated Press State & Local Wire, September 9, 2003.
In Iowa, prosecutors have begun the trial of a man suspected of raping and killing a woman in 1981. Even though the gun has never been found, said DNA tests show a match between evidence collected at the crime scene and the suspect. The suspect is already serving a life sentence for the 1984 kidnapping and rape of a 10-year-old girl.
7. "18-Year-Old Arrested In Killings." Hartford Courant, September 9, 2003.
In Connecticut, a teenager has been arrested in connection with two homicides, including the alleged killing of a young mother late last year that could put him on death row. The teen was originally arrested on sex assault charges in an unrelated case. While investigating the rape case, witnesses told police that the suspect he had been spotted regularly in apartment building of one of the homicide victims. The detectives then took swabs of saliva from the suspect for DNA testing, which provided forensic evidence linking him to one of the murders. Upon questioning, he also admitted to the other murder.
8. "Long-term harm' if Post must reveal source." National Post (Canada), September 9, 2003.
In a freedom of press case in Canada, lawyers representing the press argued that Canadian courts need to protect the sensitive relationship between a journalist and a confidential source to ensure all reporters can act as watchdogs over issues of public interest. At question is a letter leaked to the National Post through the mail regarding questionable financial practices involving Prime Minister Chretien's family holding company. The National Post is concerned that by turning over the letter, the RCMP could identify the letter writer through DNA on the envelope, thereby revealing the source.
9. "Man May Have Fought Rapist." Sun-Sentinel (Fort Lauderdale, FL), September 9, 2003.
In Miami, a man ran to the rescue of his sister-in-law who was being attacked in the backyard. The man and the attacker struggled, and the attacker got away after biting the man. Police have reason to suspect that the escaped

attacker may be the serial rapist they have been hunting. DNA was collected from the bite mark and from the man's knuckles.

10. "Homicide probes name award for Green." Alameda Times-Star, September 8, 2003.
The International Homicide Investigators Association, at its 10th annual symposium will be giving awards Sir Alec Jeffries of Leicester University, United Kingdom, acknowledging his pioneering efforts in the development of DNA identification techniques; and also to Alameda County prosecutor Rockne Harmon, considered one of the world's experts on the use of DNA evidence.
11. "Lawmakers weigh expunging records, DNA testing." The Associated Press State & Local Wire, September 8, 2003.
Legislators in West Virginia are considering forensic DNA issues during the interim session. One measure under consideration would expand the database to include all convicted felons, which has the support of the state crime lab director. They are also considering an option to allow convicted offenders to petition the state to pay for a DNA test so they could mount a court challenge of their case.
12. "Police want DNA of every man, woman and child." The Times (London), September 8, 2003.
Senior police officers are planning to call for the DNA of everyone in Britain to be put on a national database from the moment they are born. They believe that this would be a vital weapon in the drive to curb crime and help to solve hundreds of murders. However, the proposal is expected face fierce opposition politicians and civil liberties groups alarmed at the "big brother" implications. The chairman of the Police Superintendents' Association insists that people were not as fearful of a country-wide DNA database as politicians believe. Instead, he believes that most people were more worried about how DNA might be used by insurance companies or by employers looking at the genetic risks of illness than about its use by the police.
13. "Bloodsworth's case sharpens DNA debate." The Baltimore Sun, September 7, 2003.
In Maryland, prosecutors have announced that the DNA database has linked a 1985 murder to a convicted offender. Another man had previously been convicted of this crime but eventually released from prison in 1993 after DNA exonerated him. Many questions have been raised as to why it took the state so long to retest this evidence for the database.
14. "Forensic scientists offer police help with mounting cold cases." Chattanooga Times Free Press, September 7, 2003.
A newly formed Institute for Cold Case Evaluation will provide police with free or discounted assistance in reviewing cold cases from at least two dozen of the country's top behind-the-scenes forensic scientists. The nonprofit institute was created through a business incubator program at West Virginia University. The institute will begin seeking clients this week in Las Vegas at a convention of the International Association of Homicide Investigators, eventually pairing them with experts who review cases.
15. "Victim's story reflects anguish of rape." Courier-Post (Cherry Hill, NJ), September 7, 2003.
Discussion of trauma that rape victims experience. Describes the DNA backlog of rape kits as, "not a simple case of government inefficiency. Instead, it points to the success law enforcement has had using DNA... to identify murder, burglary and sexual assault perpetrators." A new lab being built in New Jersey is expected to cut the wait time on DNA testing to just 30 days. Six people do DNA analysis now; at the new facility, 30 will. "We will be solving crimes every day of every week," said Edward LaRue, the DNA unit supervisor for the state police central laboratory.
16. "Review Of Training Shows DNA Analysts At Houston Police Lab Were Unqualified." Houston Chronicle, September 7, 2003.
Newspaper reports that none of the analysts who worked in the Houston Police Department's discredited DNA lab were qualified by education and training to do their jobs. Only one of the lab's DNA analysts had completed all the required college courses, which include statistics, genetics, biochemistry and molecular biology, mandated by the DNA Advisory Board Quality Assurance Standards. And none of the 11 employees had sufficient formal training to meet those standards, which Texas law requires all crime labs to meet by 2004.
17. "State high court overturns DNA rulings." The News Journal (Wilmington, DE), September 7, 2003.
The Delaware Supreme Court has overturned a pair of Superior Court decisions, laying the groundwork for two convicted rapists to file appeals that would allow their cases to be reopened so that old evidence could be subjected

to DNA testing. In one case, the Superior Court denied a motion to open the case, saying there was insufficient evidence that contained the true rapist's DNA. Supreme Court Justices said "doubts as to whether DNA will be found in a given sample should be resolved in favor of testing." In the other case, the court said the inmate did not qualify because when first given the opportunity to use the technology, he declined, saying the results would be incriminating.

18. "John Doe' DNA warrant is filed." Omaha World Herald, September 7, 2003.
For the first time in Nebraska, a John Doe warrant has been filed for an unknown rapist based on his DNA profile. The case involves a 19-year-old woman who was raped by an intruder while she was baby-sitting three young children in 1996.
19. "Not all offenders tapped for DNA." Omaha World Herald, September 7, 2003.
Article reports that "murders, rapes and other crimes could remain unsolved because some Nebraska agencies aren't collecting DNA from certain criminals even though it's required by law. Probation administrators, the State Patrol, judges and county sheriffs all have some hand in the lapse, and, in some cases, they blame each other. They say they intend to fix the problem, although, for the most part, they have not sorted out how and when." Offenders sentenced to probation, parole and jail are typically not collected from.
20. "Inquiry 'finds DNA link to Omagh bombing.'" Sunday Telegraph (London), September 7, 2003.
Police are investigating whether the man charged with terrorism offences in Northern Ireland made the Omagh bomb that killed 29 people five years ago. Detectives have found a hair in the wiring of one of the unexploded bombs and are investigating whether it matches the suspect's DNA.
21. "Doctor Who; Biologist Bob Shaler Hunts for Names Amid the Remains of 9/11." The Washington Post, September 7, 2003.
Lengthy article regarding the efforts by New York City Medical Examiner's Office and private partnerships to identify those missing in the World Trade Center attacks. Remains that began flooding into the ME's office piecemeal just after the terror strikes. That 2,792 people died was staggering in itself. But the fact that their remains came in 19,936 pieces was almost unfathomable. Fewer than 300 largely intact bodies were found. "Normally in forensic work, science is divorced from emotion. But that is not what happened when Shaler faced the World Trade Center's dead. The bits of tissue, the bits of bone, weren't just the remains of someone's unfortunate end. They were symbols of a grief so powerful that even Shaler -- despite his seemingly perfected detachment -- oftentimes felt overwhelmed."
22. "DNA may delay Mielke trial." Anchorage Daily News, September 5, 2003.
In Alaska, DNA findings in the case of a pastor who shot and killed two burglars have prompted the District Attorney's office to request a delay. The main development in the case centers on new reports showing DNA from both burglars on a loaded gun found in the chapel basement. Investigators with the Alaska Crime Lab recovered the DNA on the handgun, but the gun also contains "multiple sources" of DNA. A witness has stated that "neither of the deceased men had handled a handgun recently." Investigators have not yet determined whether the suspect's DNA is also on the gun.
23. "Vicious dog identified through DNA." The Associated Press State & Local Wire, September 5, 2003.
In Ohio, DNA testing has identified the dog that fatally mauled a woman. DNA collected from saliva taken from her clothing was matched to one of three Rottweilers found at a home where dog tracks ended from scene of the attack. The same dog has since been linked to a second attack that occurred only a few weeks after the first.
24. "Suspect ID'd in 1998 rape, robbery." The Atlanta Journal and Constitution, September 5, 2003.
In Georgia, a man convicted on felony burglary charges has been linked through the DNA database to a 1998 rape. Police initially suspected two other men, but they were cleared through DNA testing, and the case went cold until the recent database match. "This is like a high point in my career --- it's that big to me," said the investigator. "It was such a heinous crime."
25. "DNA leads to break in 1996 rape." Chicago Daily Herald, September 5, 2003.
In Illinois, the DuPage crime lab has linked a convicted sex offender to an unsolved rape after finding a DNA match. At the time of the 1996 rape, the woman could not identify her assailant because he covered her face with a pillow. Police did, however, get a sample of the man's DNA from saliva he left behind. The case was recently reviewed for DNA evidence and a match was made through the database to a man convicted of abusing a girl in

1999. "This is just the tip of the iceberg," said the prosecutor. "DNA technology is such a powerful piece of evidence, it's almost like having a videotape of the crime."

26. "DNA leads to charges in 2 old murders." Florida Times-Union (Jacksonville), September 5, 2003.
In Florida, a Duval County grand jury has returned two first-degree murder indictments in old cases recently revived by DNA testing. A suspected serial killer, previously indicted in the killing of five women in Jacksonville and one in Georgia, was indicted on charges of a seventh murder after DNA linked him to a 1999 slaying. In the second case, a man was indicted in a 1985 rape and strangulation. The case recently was revived by the Jacksonville Sheriff's Office cold case squad with DNA evidence. The attacker has been in prison since 1986 on unrelated rape and kidnapping charges and remains a suspect in two other homicides.
27. "Rape kit backlog getting attention." The Herald Sun (Durham, NC), September 5, 2003.
The North Carolina State Attorney General has pledged to clear a backlog of untested rape kits at police and sheriff's departments across the state. The push also is tied to the state's new program to expand a DNA database to include all convicted felons. Local police departments have been told to send in the 10 or 15 most-pressing rape kits, those where a suspect already has been identified or perhaps one involving a crime that appears to be a part of a serial pattern and could be matched to others.
28. "Decapitation case brings not-guilty plea." The Wichita Eagle, September 5, 2003.
In Kansas, a man is standing trial in a 2002 decapitation case to which he was linked through DNA evidence. The man became a suspect after his phone number was found in the victim's possession, but the break in the case came months later, after the suspect's arrest on a pharmacy robbery yielded his DNA which was matched to a spot of blood obtained the murder scene. The suspect's DNA has since been found elsewhere in the victim's apartment. The suspect, a former truck driver, has also been connected through his DNA to decades-old evidence in a series of rapes along I-70 from Kansas to Illinois.
29. "Arrest made in motel assault." Akron Beacon Journal, September 4, 2003.
In Ohio, a man has been charged with the January rape and robbery of a motel worker. The attacker had his face hidden, but the victim recognized his voice and provided sheriff's detectives with his name. The detectives then sought a court order to get a DNA sample which linked him to the attack. The man has an extensive criminal record, including convictions for burglary, cocaine possession and receiving stolen property.
30. "Convicted serial rapist gets 65 years to life in prison." Alameda Times-Star, September 4, 2003.
In California, a convicted rapist brought to justice by a DNA "cold hit" nearly five years after raping a 19-year-old woman he abducted from a bus stop has been sentenced to 65 years to life in prison.
31. "SBI finds no DNA to test in cigarette butt at Hunt murder scene." The Associated Press State & Local Wire, September 4, 2003.
In North Carolina, forensic scientists were unable to recover DNA from a cigarette butt found at the scene of one of two killings in 1984 for which a man is facing execution next week. The inmate had hoped the DNA testing would prove that someone else was at the crime scene. Defense attorneys are contacting outside DNA experts to advise whether to seek another test from a lab able to use different techniques.
32. "Independent tests can't find death row inmate's DNA on mask." The Associated Press State & Local Wire, September 4, 2003.
A Texas death row inmate's DNA could not be located on a portion of a blue ski mask submitted for retesting by an independent lab, though prosecutors say the evidence wasn't integral to the conviction. The Houston Police Department DNA lab initially tested the mask and found the inmate's DNA on it. That finding could not be duplicated by a private Houston lab the city has contracted with. The lab will be asked to look at extracted DNA taken from the mask back when the Houston police department did its original testing.
33. "Draft double jeopardy bill released." AAP Newsfeed, September 3, 2003.
In New South Wales, Australia, the Premier has released a draft bill allowing a person acquitted of a serious crime to be retried if fresh and compelling evidence of guilt (such as DNA) came to light. The bill would overturn the 800-year-old legal concept known as double jeopardy, and would only apply to serious crimes such as murder or violent sexual assault.

34. "Orchid Sees Several Million Dollars in Annual Revenue from U.K. Police Deal." *Midnight Trader*, September 3, 2003.
Orchid BioSciences' European Cellmark business was selected by London's Metropolitan Police Service to provide scene-of-crime forensic DNA testing services. The three- year contract, extendable for an additional two years, was awarded through Orchid's strategic partner Forensic Alliance and is expected to generate the equivalent of several million dollars U.S. annually in revenue for Orchid. The Metropolitan Police Service, headquartered at New Scotland Yard, London, is the U.K.'s largest police force and is responsible for approximately 20% of all forensic testing in England and Wales.
35. "DNA links up to six rapes in county, city." *Sacramento Bee*, September 3, 2003.
In California, Sacramento detectives are investigating new DNA results that have linked up to six rape cases that have occurred since 1998 to the same unknown man. Descriptions of the rapist and his method have varied, making a connection difficult. The most recent Sacramento rape in the series occurred in March 2003, and the first dates back to 1998.
36. "DNA tests net big results." *The Advertiser*, August 23, 2003.
Over the course of one week, the Acadiana crime lab learned that 15 unsolved sexual assault cases in 1987 that were analyzed and compared to the DNA of convicts were matched to three suspects in four unsolved rape cases. The analysis of the 15 cases was done as a test run to see what would happen. A local sheriff launched a pilot program of collecting DNA samples from people arrested last fall, and now every sheriff's office in the state will be collecting DNA from arrestees by the end of the year. The Acadiana crime lab has 400 cold cases. The lab has a backlog of 150 cases with DNA evidence. About 60 percent of those cases are sexual assaults, while the others involve homicides or some other crime, he said.

Genetic Privacy / Research

37. "The race factor." *Los Angeles Times*, September 8, 2003.
This summer, Howard University Medical School announced it will begin building a first-of-its-kind gene bank. Although other gene banks would be larger -- such as Iceland's DeCode project or the United Kingdom's proposal to bank the DNA of about 500,000 Britons -- Howard University's initiative is unique. It proposes to collect and store the DNA only of those who identify themselves as African American.
38. "Giving With A Little DNA." *Newsday (New York)*, September 7, 2003.
A store called DNA Stuff has opened near the Cold Springs Harbor Laboratory. Using the DNA shape in jewelry and on jeans, denim jackets and hats, the owner hopes she can raise awareness and money for genetics research at Cold Spring Harbor Laboratory. www.dnastuff.com.

Paternity

39. "In Brief: Chiang Mai: DNA tests proposed to settle citizenship row." *The Nation (Thailand)*, September 10, 2003.
In Thailand, the Justice Ministry has proposed that 1,243 residents of Mae Ai district in Chiang Mai have their citizenship rights temporarily restored pending the results of DNA tests. The proposal is meant to ease residents' complaints that the Local Administration Department unfairly revoked their rights last year. Residents claim they have blood relatives who remain Thai citizens and say they are willing to undergo DNA tests to prove their family ties.