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The September 19, 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

Cold hits on the DNA database identified suspects in Maryland (2 rapes) and Virginia (murder). Nebraskan authorities were urged to collect DNA samples from probationers and jailed felons. Collection of DNA samples from first responders is under consideration. Failure by local law enforcement in Georgia to follow-up on a cold hit allowed a rapist to victimize another woman before being caught.

DNA evidence also aided investigations and/or prosecutions in California (5 rapes), Florida (rape), Iowa (rape/murder), Kansas (5 murders & 1 attempted murder), Maine (rape), Pennsylvania (2 murders), Texas (murder), and Utah (murder). An attempted assault in Florida was linked to a suspect wanted for at least 6 other rapes. A non-profit group has formed to assist local law enforcement with review cold cases for new investigatory leads (www.coldcases.org).

The practice of collecting discarded items for DNA evidence, or otherwise “duping” suspects into giving DNA samples, continues to grow in popularity among law enforcement. A rape victim’s family helped to extend the statute of limitations for rape in New Mexico, and is now working on additional funding for DNA analysis.

Post conviction DNA testing exonerated a man in Wisconsin and the database subsequently linked a known felon to the crime. Prosecutors in Florida will continue to consider post conviction testing requests despite the expiration of a statute requiring them to do so. A man exonerated in Maryland is calling on Congress to pass the Innocence Protection Act. Post conviction DNA testing in Oklahoma has further linked four inmates to the crimes of which they were convicted.

In international news...DNA evidence is being used in the investigation of the murder of Sweden’s Foreign Minister, and continues to grow in use criminal investigations in India. DNA samples are key evidence in central in a South Africa murder case and in a German terrorist attack. Backlogs in Australia are a growing concern for the courts. More identification of remains of missing POW’s from the Iraq invasion of Kuwait have been made.

STATE LEGISLATION

Forensic DNA

1. Alabama HB 35B – Increases a fee of \$2 (assessed in bond forfeiture proceeding cases) to \$10. The proceeds from the fee are distributed to the Alabama DNA Database Fund.

NEWS ARTICLES

Forensic DNA

1. "DNA Links Rape Suspect to 2nd Case." WXIA-TV Atlanta (News 11), September 17, 2003.
In Georgia, the state crime lab reported a hit in October 2002 to a 2001 unsolved rape. The crime lab notified the sheriff's department, but a communication failure between the sheriff's office and the local police meant that the lead was never followed-up. At the time of the database hit for the 2001 rape, the man was serving time in state prison for a drug conviction but was eventually released since he was never charged with the rape. The same man is now accused of raping another woman in May 2003, and it has only recently been revealed that the man should have been a suspect in the 2001 rape.
2. "Mom's Mission." People Magazine, September 22, 2003.
A rape victim's mother lobbied successfully this year in New Mexico to have the statute of limitations changed to allow for backlogs in the testing of DNA rape kits. Her next project in the state is to campaign for more funds to ensure that rape kits can be tested in a timely fashion.
3. "Swedish police interrogate suspect sought in murder of foreign minister." Associated Press Worldstream, September 17, 2003.
The suspected killer of Sweden's Foreign Minister was interrogated by police following his arrest in a Stockholm suburb. Police, who had issued a nationwide alert with a photo of the suspect, also sampled his DNA to compare it to specimens found at the crime scene. The suspect's DNA will be tested to see if it matches DNA recovered from a baseball cap found near the scene. Police also recovered DNA from the knife used by the attacker, but the amount was too small for immediate use and was still being processed.
4. "DNA Fingerprinting Technique Busts Crime." The Times of India, September 17, 2003.
In India, the All India Institute of Medical Sciences receives an average of three cases every week for forensic DNA testing. DNA testing is increasingly in demand from investigators to determine the identity of criminals in India.
5. "Testing patience." Townsville Bulletin/Townsville Sun (Australia), September 17, 2003.
In Australia, a barrister has suggested that innocent people could be in custody because the Queensland Government has not provided adequate funding to crime lab. In May last year, a magistrate said of a matter before him: "It is not acceptable for an alleged offender who had been refused bail to have to stay in custody for months longer than usual while police waited for DNA samples to be processed." He further indicated that understood that the police had no control over the delays.
6. "Malvo Seeks Data on DNA Tests Of Evidence." The Washington Post, September 17, 2003.
In the Washington area sniper case, defense attorneys for Lee Boyd Malvo are seeking more information about hundreds of items collected for DNA testing during last fall's sniper investigation, writing in court papers that they do not know where many of them originated or whose DNA is on them. The attorneys have asked for more information about DNA samples recovered from the Bushmaster rifle that was used in the attacks; from items collected at the scene of a shooting outside a Bowie school; and from items found with the suspects when they were arrested at a Maryland rest stop.
7. "O.C. Man Held in Park Assaults." Los Angeles Times, September 16, 2003.
In California, a father of two was arrested in connection with an 18-month string of 5 rapes and at least 12 robberies at parks in central Orange County that sparked beefed-up patrols and warnings for nighttime strollers. DNA testing has linked the man to a 1997 rape, but the suspect was apprehended through a victim's description and police stake-out of the area.
8. "A Matter Of Justice." Orlando Sentinel, September 16, 2003.
Florida editorial suggests that, "For the sake of fairness and justice, clerks of court and police agencies have an obligation not to destroy DNA evidence...It's also important to take into account that technical advances are allowing scientists to mine more information from DNA than would have been possible a few years ago. Once the evidence has been destroyed, no testing will be possible... While some authorities have complained that keeping DNA evidence causes storage problems and may encourage some inmates to file frivolous appeals, that's a small

price to pay to ensure that those who are in prison really are guilty.”

9. “I was wrongfully convicted, and DNA testing exonerated me.” Philadelphia Inquirer, September 16, 2003. Column from Kirk Noble Bloodsworth, who was convicted of homicide in Maryland in 1983 but was granted a full pardon in 1993. The DNA database has only recently linked the murder to another inmate. Calls for Congress to pass the Innocence Protection Act to expand access to post conviction DNA testing.
10. “Arrest made in post office killing.” The Associated Press State & Local Wire, September 14, 2003. In Virginia, authorities arrested a man in the death of a postal employee who was killed in July at a post office. A break in the case came when investigators learned that a cold hit linked DNA taken from the killing scene matched a known felon on the database.
11. “Prosecutors to continue DNA evidence testing.” The Bradenton Herald, September 14, 2003. Three of South Florida's state prosecutors (Miami-Dade, Broward, and Palm Beach) say they plan to continue testing DNA evidence for convicts who have credible innocence claims, even though a state law says they can stop looking at old cases after an Oct. 1 deadline. The prosecutors say they won't agree to test all inmates, only those who can show that the evidence could positively eliminate a convict as the offender - where identity is a key issue. Judges will continue to have ultimate authority in deciding whom to test.
12. “Quick action in Avery case may have left man free to continue crimes.” Milwaukee Journal Sentinel, September 14, 2003. In Wisconsin, DNA testing on assault evidence has exonerated a man convicted for the 1985 crime. One of 13 preserved pubic hairs contained enough of a root that the analysts were able to find that its DNA came from a man other than the one who was convicted. Instead, the hair matched another man who has committed at least two other sex crimes while the wrongfully convicted man was serving the prison sentence. At the time of the DNA match, the true perpetrator was serving a sentence for a 1995 sex assault.
13. “Gene tests reveal remains of 5 Kuwaiti, 1 Lebanese POWs in Iraq.” Xinhua General News Service, September 14, 2003. In Kuwait, DNA tests revealed that samples of human remains collected from a mass grave in southern Iraq belonged to five Kuwaiti and one Lebanese prisoners of war. The remains were tested positive by the Kuwaiti Interior Ministry's department of criminal evidence. The announcement brings the number of Kuwaiti POWs to 29 since the discovery of their remains in a mass grave site in southern Iraq. Kuwait says 605 Kuwaitis and other nationals disappeared during the occupation and believes many were held in Iraqi jails.
14. “Man charged in April killings.” Morning Call (Allentown, PA), September 13, 2003. In Pennsylvania, a man has been arrested and charged with the homicides of a disc jockey and another man five months ago. The suspect was linked to the homicides through DNA analysis of blood that was left at the scene by the person who shot the men. The shooter was wounded by gunfire during the homicides. The man became a suspect during the course of the investigation and the DNA database confirmed the DNA match.
15. “The other blood shortage.” Omaha World Herald, September 13, 2003. Editorial regarding the omission of DNA samples from the database of felons sentenced jail or probation. “But it's past time for finger-pointing among the numerous agencies involved. Time and attention should be focused instead on solving the problems: Does new legislation need to cover cost issues, or should it address testing procedures for jails and probation offices that don't have medical personnel on staff? Would information sessions targeted at judges, county jail staffs or probation officers solve the problems without further legislation?”
16. “Doyle says compensation law should be reviewed.” The Associated Press State & Local Wire, September 12, 2003. The Wisconsin Governor said he would be willing to raise the \$25,000 cap on state compensation for wrongfully convicted people, after the release of a man who spent 18 years in prison for a rape and attempted murder for which post conviction DNA testing has since exonerated him. The man's exoneration is the first under Wisconsin's DNA-testing law adopted in 2001. The law requires that biological evidence be preserved as long as anyone remains in custody and provides a right to post-conviction DNA testing.
17. “DNA results help convict man in 1981 slaying.” The Associated Press State & Local Wire, September 12, 2003.

In Iowa, a man long considered the lead suspect in the rape and killing of a woman 22 years ago was convicted of first-degree murder. DNA from the crime scene has linked the man to the murder. Prosecutors and criminologists said the likelihood of another person having the suspect's DNA profile was about one in 100 billion.

18. "Trial's start is hanging by a sock." Deseret News (Salt Lake City, UT), September 12, 2003.
In Utah, prosecutors claim a sock collected as evidence in a murder investigation contains specks of blood that match the DNA of the victim. The sock belongs to the victim's estranged husband, who is also the primary suspect. The newly found DNA evidence may delay the start of the trial.
19. "John Paul Jones discusses the newly formed group, the Institute for Cold Case Evaluation, that would provide forensic experts to local law enforcement free of charge." National Public Radio (Talk of the Nation/Science Friday), September 12, 2003.
The Institute for Cold Case Evaluation will begin analyzing cold cases for new investigatory leads using a team of forensic scientists and other experts. The Institute's website is www.coldcases.org, and hopes to fund the review of a single case for about \$1,500.
20. "Prosecutor Will Retry Man Freed by DNA in L.I. Rape-Murder." The New York Times, September 12, 2003.
In New York, the Nassau County district attorney has decided to retry a man who was freed in a rape-murder case because of new DNA evidence. Last June the convictions of three men in the case were vacated, and they were released after 18 years in prison. That action, ordered by a judge, was based on new testing of a semen sample taken from the victim showing that it is from an unidentified man who is not one of the three defendants.
21. "South Africa; Keg Witness 'Stood Out Like a Sore Thumb'." Africa News, September 11, 2003.
In a South African murder investigation, forensics experts have linked DNA found in the vehicle belonging to one of the suspects to DNA in blood found on a curtain at the crime scene. The two victims were in the witness protection program and were expected to testify in an attempted bombing case against the brother of the two murder suspects.
22. "Four inmates linked to crimes by DNA in DA's justice project." The Associated Press State & Local Wire, September 11, 2003.
In Oklahoma, more than a year after Oklahoma County began reviewing old rape and murder cases, DNA tests have been performed for just four of the 45 inmates who requested them. All four - who are convicted rapists - were linked to their crimes through stored biological evidence. Officials still are reviewing 21 of the cases for possible DNA testing and have ruled out DNA testing in 20 cases either because biological evidence was not preserved or the case didn't fit the criteria.
23. "Inmate linked by DNA to deaths of 2 women." The Baltimore Sun, September 11, 2003.
In Maryland, a 33-year-old prison inmate has been charged yesterday with sexually assaulting and killing two Baltimore women in 2001 while on parole after DNA tests linked him to the crime. The suspect is being held in state prison on a parole violation stemming from a second-degree murder conviction in 1989. The DNA database alerted detectives to the potential match about 10 weeks ago, and further testing confirmed those initial results. In both murders, detectives had few clues because no witnesses reported seeing the killings. Both women were sexually assaulted and stabbed to death.
24. "Monson man cleared of sex assault charge." Bangor Daily News, September 11, 2003.
In Maine, a Piscataquis County Superior Court jury has acquitted a man charged with gross sexual assault involving the 16-year-old baby sitter of his children. DNA from the semen taken from the victim and a blood sample taken from the suspect were a match. But with the DNA evidence, the defense became based on consensual sex.
25. "Blood matched to Alexandra." El Paso Times, September 11, 2003.
In Texas, a forensic expert has testified that the blood of 5-year-old girl was found in a van belonging to the man accused of murdering her in 2001. The defense unsuccessfully challenged the admission of testimony from an FBI forensic DNA examiner, calling into question the scientific value of DNA tests. He argued that science has yet to prove DNA matches are "infallible." The analyst's testimony was allowed after she told the judge DNA testing was an accepted practice in the scientific community.
26. "Trial delayed in KCK killing spree." Kansas City Star, September 11, 2003.

In Kansas, a Wyandotte County judge postponed the trial of a defendant charged in one of the worst killing sprees in Kansas City, Kansas so that the defendant's attorneys could conduct independent DNA tests on blood samples. The defendant and another man stand accused of shooting rampage that left five persons dead and another wounded.

27. "Blood Sample Database Of First Responders Urged." Pittsburgh Post-Gazette, September 11, 2003.
Some New York firefighters are exploring the idea of collecting and storing DNA samples of all their colleagues. Independently, Children's Hospital of Pittsburgh staffers have proposed a similar idea in the hospital's Emergency Personnel Identification Program, which would be offered not only to firefighters but also to police, paramedics and other medical personnel who are the first responders to crises like the World Trade Center attacks. The idea is under discussion with federal officials.
28. "Attack Attempt Linked To Serial Rapist." Sun-Sentinel, September 11, 2003.
In Miami, Florida, police announced that DNA evidence ties a serial rapist to an attempted rape in Little Havana. The attack was thwarted when the intended victim's family heard her screams and came to the rescue. The attacker struggled with the victim's brother-in-law and left a bite mark on the man's arm before he fled. Saliva from that bite was used for DNA tests that confirmed that the attacker was the same person who police think has raped seven women and attempted to rape three. Police have matching DNA in six of the rapes and two of the attempts
29. "Police dupe suspects into giving up DNA." USA Today, September 11, 2003.
Discusses the growing tendency of law enforcement to collect trash for DNA evidence, or to otherwise "dupe" suspects into giving DNA samples. Police often use this method of evidence gathering when they lack the evidence to get a warrant for a sample. "Such police efforts have led to at least two dozen arrests and eight convictions across the nation. Police who use such tactics base their actions on two well-established premises: cops are allowed to mislead and even lie to suspects, and a person gives up his privacy rights -- in these cases, the right to withhold his saliva -- when he mails an envelope or discards trash."
30. "Attorney: DNA of recovered buck matches sample from stolen buck." The Associated Press State & Local Wire, September 10, 2003.
In Pennsylvania, DNA testing on a massive buck, believed by a deer breeder to have been stolen from his farm nearly four years ago and worth perhaps hundreds of thousands of dollars, matches a sample taken before the deer disappeared. Members of the Pennsylvania Deer Farmers Association located the buck on a farm about 50 miles away from the original owner's farm.
31. "Suspected former Red Army Faction terrorist indicted in 1991 bombing attack on bus." Associated Press Worldstream, September 10, 2003.
In Germany, a suspected former Red Army Faction terrorist has been charged with helping plan and carry out a 1991 bomb attack on a busload of Soviet Jews in Hungary. Investigators found DNA evidence in 2001 linking her to a Budapest apartment at the time of the attack. The female suspect faces a possible life in prison on 33 counts of attempted murder and setting off a bomb. She is already serving a nine-year sentence in Germany for helping plan the failed 1988 bombing of a Spanish disco frequented by U.S. seamen.
32. "Suspect In Rape Of J.D.S. Arrested." Orlando Sentinel, September 10, 2003.
In Florida, Orlando police have arrested the 75-year-old husband of a group-home caretaker on charges that he raped a severely retarded woman whose case sparked a national debate on fetal rights. Investigators said they made the arrest the same day DNA tests confirmed that the man is the father of the woman's baby, delivered by Caesarean section Aug. 30. Police also arrested the suspect's 73 year-old wife who operated the group home where the couple and the victim lived.

Genetic Privacy / Research

33. "Allen gives \$100 million to start private brain research effort." The Associated Press State & Local Wire, September 16, 2003.
Microsoft Corp. co-founder Paul Allen has given \$100 million to start a private organization devoted to research into the links between genetics and brain functions. The "Allen Brain Atlas" project will be run through the nonprofit Allen Institute for Brain Science.

34. "Genetic Engineering News' Poll Highlights Fear of Genetic Discrimination." Business Wire, September 15, 2003. Many people remain concerned that they might be denied a job or insurance because of their DNA, according to a recent Genetic Engineering News Website poll. Six-hundred-and-sixty-two readers answered the poll. The readers responded to the question: "How worried are you that the deciphering of the human genome may eventually supply information that will lead to genetic discrimination against individuals by such entities as insurers and corporate employers?" The results: 318 (48%) said they were very worried; 139 (21%) reported they are somewhat worried; and 205 (31%) were not concerned at all.

Paternity

35. "Paternity - DNA testing." Chicago Daily Law Bulletin, September 16, 2003. An Illinois appellate court ruling allows that a respondent who initially acknowledged he was biological father of child should have been allowed by trial court to bring action to declare 'non-existence' of parent-child relationship on basis of allegation that DNA testing excluded him as biological father. The court's ruling found that a state statute which came into effect in 1998 provides that an action to declare the "non-existence" of the parent-child relationship may be brought if, as a result of DNA testing, it is discovered that the man adjudicated to be the father is not the natural father.
36. "Guatemala delays foreign adoptions." Chicago Tribune, September 14, 2003. Problems with baby stealing in Guatemala have prompted reform in foreign adoption laws in that country. Under new rules, adoptions are overseen by the attorney general's office, where all DNA testing is supposed to be done. However, lawmakers envision funding the law with only \$600,000, which critics say is far too little to build quality orphanages, construct a DNA lab and add enough family courtrooms. At least \$2.5 million is needed, advocates of the new law say.
37. "Family law – paternity." Chicago Daily Law Bulletin, September 9, 2003. An Illinois appellate court ruled that in case in which a mother gave birth to child as result of extramarital affair with another, the trial court erred in holding best-interests hearing on petition for DNA testing to determine existence of parent-child relationship and erred in dismissing petition. The court said the statute provides that the trial court "may" order testing on its own authority but that it "must" order testing at the request of a party. It does not give the court the authority to order a best-interests hearing prior to a DNA test. The trial judge therefore erred in dismissing the plaintiff's petition, the appeals court said.