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The November 5, 2004 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

California voters approved an initiative to expand the DNA database to include all felony convictions, and all felony arrests in five years. The Ohio Attorney General is pushing for legislation to require DNA from all convicted felons. A Massachusetts editorial urged more DNA testing for unsolved property crimes.

Ohio's investment of state funds in reducing its backlog has netted over 200 cold hits to offenders. Communities in New York and Louisiana have approved new spending for crime labs, and calls were made for more funding in North Carolina and Arkansas. Backlogs at Virginia's crime lab made headlines. New York has identified a rapist named in a John Doe warrant.

Cold hits aided investigations / prosecutions in Ohio (seven rapes), Maryland (murder), Massachusetts (rape), New Jersey (5 rapes), New York (4 rapes), and Ohio (murder; murder; 7 rapes). DNA evidence was also important to cases in Kansas (murder), Maine (rape), North Carolina (several gang rapes), and Pennsylvania (murder). San Diego County is creating a Cold Case team to review cases for DNA evidence.

Post conviction DNA tests freed an inmate in California. An Ohio court rejected an inmate's appeal for post conviction testing, and a Tennessee inmate filed a federal appeal for testing. A Washington State law requiring preservation of evidence for possible post conviction DNA testing is expiring.

In international news... Israel is considering a national DNA database, and England's automated DNA system now allows analysis of 40,000 DNA samples a month. Delays in DNA testing are a concern in Australia. DNA may identify unknown bodies in the Philippines, and the International Commission for Missing Persons has generated DNA profiles for 10,000 unidentified victims from the Balkan wars.

### NEWS ARTICLES

#### Forensic DNA

1. "Double the number of DNA profiles processed with automation." Forensic Science Service, Press Release, November 11, 2004.

The Forensic Science Service (FSS) has more than doubled the number of DNA profiles processed each month and has completed its 1 millionth criminal justice sample profiled via the world's first fully automated DNA profiling process. More than 40,000 DNA samples can be processed and loaded to the National DNA Database (NDNAD) each month using the automation system, compared to 15,000 samples previously processed manually each month. Automation allows DNA samples to be processed by machine from beginning to end without human

intervention, significantly speeding up the time it takes to get a sample onto the NDNAD. This has also enabled turnaround times to be decreased from approximately two weeks to two or three days.

2. “Voters reject gambling expansion, back stem cell research.” The Associated Press State & Local Wire, November 3, 2004.  
In California, Proposition 69 has passed, which will expand the state’s DNA database to include all convicted felons, and eventually will require DNA from all felony arrests.
3. “Attorney General Jim Petro Announces Inmate DNA Samples Linked To 202 Unsolved Crimes, Including Cincinnati Serial Rapes.” State Press Release – Ohio, October 27, 2004.  
The Ohio Attorney General and the Hamilton County Coroner announced that DNA samples included in a recently processed batch collected from 19,271 Ohio prison inmates have been linked to evidence from 202 unsolved crimes, including seven Cincinnati rapes matched to an inmate currently incarcerated. Of the matches, six inmate samples have been linked to multiple cases. Four samples were linked to two crimes each, one to six crimes and another to seven crimes – the sample provided by the alleged Cincinnati East Side Rapist.
4. “Attorney General Jim Petro, State Rep. Bob Latta Call For Expanded DNA Collection.” State Press Release – Ohio, June 28, 2004.  
The Ohio Attorney General joined state Rep. Bob Latta to introduce legislation that would require the collection of DNA samples from anyone convicted of a felony in Ohio. Ohio began collecting DNA samples from the most violent convicted felons in 1996. In August 2002, House Bill 427 increased the list of qualifying offenses to 57. The legislation introduced this year would require 45,000 current Ohio prison inmates to submit their DNA. Additionally, it would increase offender DNA collections from approximately 10,000 to 30,000 per year.
5. “DNA Tests to Be Performed on Mozart Skull.” Associated Press Online, November 2, 2004.  
DNA tests could soon solve a century-old mystery - whether a skull held by the International Mozarteum Foundation is that of Wolfgang Amadeus Mozart. Archaeologists have opened a grave in Salzburg thought to contain the remains of Mozart’s father and other relatives. Experts plan to compare the remains’ genetic material with the foundation’s skull to determine if it belonged to the famed Austrian composer.
6. “Man held in 14-year-old rape charge.” The Associated Press State & Local Wire, November 2, 2004.  
A man was being held on \$100,000 cash bail after he was arrested in Florida when DNA evidence linked him to the rape of a Massachusetts woman 14 years ago. The search for the man was launched after federal and state authorities reported in March that they had found a match between his DNA and that of the man who attacked a woman on Oct. 20, 1990.
7. “Proof Positive; DNA-test success should make it a funding priority.” Columbus Dispatch, November 2, 2004.  
Ohio editorial in support of funding the state DNA program. “The state budget is stretched thin, but the unqualified success of DNA testing proves that it should be given high priority when allocating funds for law enforcement... The accuracy of DNA testing makes it the most powerful forensic tool the justice system has ever had. The evidence convinces skeptical juries, and it testifies when victims can’t. It is just as effective for proving innocence; 151 Death-Row inmates have been exonerated by DNA evidence. The state and nation can’t afford to ignore this powerful technology.”
8. “Serial Rapist Pleads Guilty To Four More.” Daily News (New York), November 2, 2004.  
In New York, a serial rapist already serving a long sentence for a series of sexual assaults in the Bronx pleaded guilty to four Queens attacks whose victims included three schoolgirls. He was convicted in August by a Bronx jury of raping nine women during a 10-year period and was connected to the Queens cases through DNA evidence.
9. “MD Legal Briefs November 2, 2004.” The Daily Record (Baltimore, MD), November 2, 2004.  
In Maryland, a man currently serving a 10-year prison sentence for robbery with a deadly weapon was sentenced in Baltimore City Circuit Court to life in prison without parole for a 1998 rape and murder. The man was linked to the crime by DNA testing conducted by city and state police in 2002, following a financial contribution by an ABC television news program.
10. “Why bioscience matters.” Saint Paul Pioneer Press (Minnesota), November 2, 2004.  
Editorial regarding “John Doe” indictments based on DNA profiles. “As advocates for allegedly innocent death row inmates have argued, DNA doesn’t lie. As long as both DNA samples are collected within the bounds of the

Fourth Amendment, we believe it's wholly appropriate for the police and prosecutors to use the latest scientific means available to help them catch and prosecute criminals, especially those who commit heinous sex crimes.”

11. “Swiss Army slasher trapped by own DNA.” UK Newsquest Regional Press - This is Local London, November 2, 2004.  
In England, a drug dealer who slashed a man across his face leaving him scarred for life was tracked down by police using DNA left on his victim's jacket. A jury became convinced the suspect was the culprit after hearing the odds of the DNA not belonging to him were 81 million to one.
12. “Man convicted of slaying years after being mistakenly freed in rape case.” The Associated Press, November 1, 2004.  
In Kansas, a jury convicted a truck driver of killing and decapitating a housekeeper nearly a dozen years after he was mistakenly freed in a rape case due to mislabeled evidence. Last year, the Kansas Bureau of Investigation admitted that the man was mistakenly cleared of a 1991 rape when another person's DNA sample was accidentally labeled with his name in an agency lab. His own sample had been labeled "unknown." The mistake was discovered after his arrest for the housekeeper's death when a DNA sample matched the blood evidence from the 1991 case, as well as several other rape cases. He has been charged with seven other rapes between 1989 and 1994 in Kansas, as well as three counts of aggravated sexual assault in Illinois.
13. “3 Arrested In Series Of Gang Rapes.” Charlotte Observer (North Carolina), November 1, 2004  
In North Carolina, Charlotte-Mecklenburg police filed charges against a group of local men in connection with several gang rapes committed in the past two years. Police say they do not believe every man participated in each incident. In each case, the women did not know their attackers. Last month, police say, they used DNA evidence to connect the crimes to a group of men who had become suspects in the crimes.
14. “DNA Tests To Determine Identity Of Body Found In Tawi-Tawi.” Malaysia General News, November 1, 2004.  
Philippine officials are conducting DNA tests on a decomposed body found on Tawi-Tawi island that authorities fear may be the remains of one of the three crew members abducted from a Malaysian tugboat in April.
15. “Discarding Justice.” The Seattle Post-Intelligencer, November 1, 2004.  
Washington State editorial urging the state legislature to extend state law requiring preservation of DNA evidence for post-conviction testing. “In practical terms, there should be no deadline on the destruction of evidence that could possibly offer hope of DNA testing. The science is advancing, dramatically extending the useful life of such evidence and honing detection and identification abilities. DNA testing can help convict or exonerate suspects in some of the most serious crimes. At stake are both the fate of the accused and that of potential victims if the innocent are convicted and the guilty go free. To arbitrarily destroy potential evidence is to discard justice. It's up to the Legislature to act quickly to prevent such injustice.”
16. “DNA Clears Man Convicted of Raping Teen.” Associated Press Online, October 31, 2004.  
In California, a man who spent 10 years behind bars has been freed after a judge acknowledged new DNA evidence and overturned his conviction for raping a 13-year-old girl. The man was convicted in 1996 of rape, kidnapping and other charges based on blood evidence that prosecutors said linked him to the crime. However, DNA testing on evidence found no genetic match to the man.
17. “Challenger Makes Issue Of Ambition.” Charlotte Observer, October 31, 2004.  
In North Carolina, the incumbent candidate for Attorney General (who was re-elected) said that in a second term, Cooper said, he would continue working to expand the state's DNA crime lab.
18. “Forensic Holdup.” Daily Press (Newport News, Virginia), October 31, 2004.  
Virginia's backlog of cases, reportedly the largest in at least the past six years, is causing prosecutors to drop cases because they cannot meet the deadline for the state's speedy-trial law. Many prosecutors and police agencies said they understood the demands on the lab and the staffing shortages causing the backlog to grow. They blame the problem on several years of lean state budgets. The backlog has also been caused by improved collection of crime scene evidence. At any given time, the state crime lab has more than 11,000 drug cases in need of testing. And 2,000 more cases involving DNA samples have not been looked at, either.
19. “Indian Island man receives 18 years in sexual assault.” The Associated Press State & Local Wire, October 30, 2004.

In Maine, a man has been sentenced to 18 years in prison for sexually assaulting a teenage relative and getting her pregnant. The man was indicted in May on felony sexual assault after he abducted the girl and fled to Florida and New York. DNA evidence found that he was the father of the victim's fetus, which was aborted. He initially pleaded not guilty, but changed his plea last October.

20. "Attorney general's office says DNA tests show police did not frame Kevin Cooper." The Associated Press State & Local Wire, October 30, 2004.

In California, new DNA tests on a bloody T-shirt prove that police did not frame Death Row inmate Kevin Cooper for the 1983 murders of four people, authorities said. Special tests were conducted to find the presence of the preservative EDTA. Cooper's attorneys contend that investigators smeared Cooper's blood on a T-shirt found near the murder scene. The presence of the preservative would indicate that it came from a vial of blood that had been collected from Cooper following the quadruple murders. The state attorney general's office Friday said the results of the DNA tests show that police did not plant blood on the T-shirt. One of two scientists who tested the T-shirt also has retracted a report of his findings that found a high level of the preservative on the shirt.

21. "Panel: Budget for lab lacking Legislators ask for staff increase." Arkansas Democrat-Gazette (Little Rock), October 30, 2004.

In Arkansas, several legislators said that the state Crime Laboratory deserves more state funding and employees than the Governor has recommended. They said the lab's backlog of work is creating problems. State budget documents said the lab is not able to process evidence in a timely manner because of a backlog of cases and an increasing caseload. This is creating delays in the judicial system, the documents said. An increasing backlog and increasing caseload prompts "the drastic need" for more employees, the reports said. The agency has a backlog of 20,000 DNA samples from convicted offenders that it needs to process.

22. "Echols federal files federal appeal." The Associated Press State & Local Wire, October 29, 2004.

A death row inmate in Tennessee has asked a federal judge to review his case and set aside the death sentence he received in the deaths of three boys more than a decade ago. In the filing, the man claims, among other things, that he wasn't tried by an impartial jury and that DNA evidence not available at the time of his 1994 conviction demonstrates his innocence. With proceedings surrounding the DNA evidence still pending before the state Supreme Court, he asked that the federal court to delay consideration of the federal petition until he has exhausted all his state court claims. As an alternative, the filing asks the judge to order that the time it takes to settle the state court issue not count against the deadline for filing a federal petition.

23. "Dangerous Teen Gets Life For Killing Young Dancer." Birmingham Post, October 29, 2004.

In England, a teenager branded a danger to young girls after he smothered a ten-year-old ballet dancer to death at a Christmas party has been jailed for life. At one point in the evening he was seen on a landing with the victim, chasing her after she grabbed a can of Guinness from his hand. Within minutes, they had both disappeared and it was not until the suspect was leaving the party that the little girl was discovered face-down on a bed. A can of Guinness with traces of DNA from both the suspect and the victim was later found at the bedside.

24. "Delayed DNA Analysis Turns Up Match For '99 Killing." Columbus Dispatch, October 29, 2004.

In an Ohio case that was featured on America's Most Wanted, authorities had a grainy photo showing a man buying a can of gasoline that police think was used to ignite a the apartment of a victim who had been shot in the head. The photo was of such poor quality that the man was never identified. But a match between DNA taken from an Ohio inmate and DNA found in the apartment gave police a suspect. The man's DNA sample was collected in 2003, but was only recently analyzed due to a backlog at the state crime lab that was awaiting federal funds. In August, the Attorney General used state funds to have the backlog eliminated. "It's a call I'd been waiting for 5 1/2 years," said the victim's father. "I feel so satisfied that something is going to happen. It's quite an emotional thing."

25. "DNA Helps Police Make Arrest In 1987 Killing." Columbus Dispatch, October 29, 2004.

In Ohio, Columbus police think DNA testing on old evidence has solved a 1987 slaying that had been among the cold-case files. At the time of the murder, police were not able to find a motive or suspect. Then as part of regular paperwork a few months ago, a homicide detective came across a property slip saying some untested physical evidence was in the file. A state lab processed the DNA, and Columbus police said they were able to match it to a known felon on the DNA database. The man had been incarcerated from September 1987 until December 2001 on counts of burglary, breaking and entering, gross sexual imposition, kidnapping, felony assault and attempting to commit an offense.

26. "DNA as a Sex-Crime Solver." The New York Times, October 29, 2004.  
Column regarding the use of John Doe indictments to toll the statute of limitations in rape cases until a DNA profile can be matched to an offender. Reports that filing the indictment is only half the battle. "The rest depends not on technology but on old-fashioned detective work, its difficulties compounded by the passage of time, the dispersal of victims and witnesses, and -- most challenging -- the need to ask people to revisit searing traumas long since passed." Of rape cases not filed for John Doe warrants in Brooklyn, fifty percent were not eligible because the victim knew the defendant, a circumstance that shortens the statute of limitations to five years under state law. In 20 percent, the police paperwork was not available (many of the rapes, she explained, took place in housing projects, which were policed by a separate agency until 1995). In another 20 percent, the victims would not cooperate. And in 10 percent, the victim could not be found or had died.
27. "Innocent left behind bars." Northern Territory News (Australia), October 29, 2004.  
The North Australian Aboriginal Legal Aid Service reports that innocent Territorians are being kept behind bars for months because the police forensics department takes so long to carry out DNA analysis. One man accused of sexual assault was held in custody for three months before he was put on trial and acquitted. She said the forensics department was underfunded. Forensic science director said it was unfair to blame his department for court delays. "Sometimes it's because a witness can't be found," he said.
28. "Painesville man won't get DNA test." Plain Dealer (Cleveland), October 29, 2004.  
In Ohio, a Lake County Common Pleas Judge has rejected an inmate's request for post conviction DNA testing. The inmate was among more than 140 inmates seeking DNA tests under an Ohio law enacted last year. The law allows inmates to have DNA tests done at the state's expense under certain conditions. He claimed a DNA test could prove he was not at the crime scene. Blood drops found near victim's body were not his, he claimed. The judge rejected the test, ruling that blood found on carpet at the crime scene was contaminated from improper storage. Even with good DNA, he said, tests might have proved only that he did not bleed at the scene — not that he was innocent. Prosecutors said the man was convicted based on his confession and not on blood evidence.
29. "DNA Links Brampton Sex Cases: Cops." The Toronto Sun, October 29, 2004.  
In Canada, DNA evidence has linked a recent sex assault to three earlier indecent exposure cases. In January, September and October of 2001, a man masturbated in front of a woman, leaving DNA evidence behind. Investigators believe the culprit is linked to a crime on July 12, in which a woman waiting for a bus was threatened with a weapon and sexually assaulted in nearby bushes.
30. "Animal DNA evidence stands up in court." Tribune-Review (Greensburg, PA), October 29, 2004.  
In Pennsylvania, state police in Fayette County arrested a man on charges stemming from a homicide seven years ago, building the case on animal DNA evidence found at the crime scene and in the freezer of the accused. Prosecutors will be using the DNA samples taken from deer meat in an effort to convict a suspect in the Dec. 16, 1997, killing of a man who was hunting. Police say the venison they seized from the suspect's freezer matched deer entrails found near victim's body.
31. "DNA testing expansion warranted." University Wire, October 29, 2004.  
Editorial in a University of Massachusetts newspaper regarding the use of DNA in solving nonviolent crimes. "With the recent riots going on at UMass and throughout the area as a result of the Boston Red Sox victories, property damage has undoubtedly accumulated. DNA testing would be a much more useful tool in finding the suspects of the destruction rather than weeks and weeks of examining surveillance footage, if available at all... There is no prioritizing crime when people are victimized. DNA technology exists and should be used to assist in all crime investigations, regardless of the severity of the offense."
32. "Public safety." The Cincinnati Enquirer, October 29, 2004.  
In Ohio, a convicted bank robber has been linked to seven Cincinnati rapes dating to 1995 through the DNA database.
33. "Justice Ministry to consider national DNA database." Globes [online] - Israel's Business Arena, October 28, 2004.  
Israel's Ministry of Justice was asked to prepare an opinion on the possibility of establishing a national DNA database of the entire population. The Knesset Constitution, Law and Justice Committee chairman made the request. He stated the basic conditions for preserving individual rights. He asked for the opinion during a discussion on a government bill to determine the police's authority for the handling of DNA samples taken from people suspected, accused of, or convicted of criminal offenses. He said a national DNA database would serve

individuals and the community in other areas, such as identifying missing persons in natural disasters and for future medical needs. An advocate for the Association for Civil Rights opposed establishing a national DNA database. She recommended adopting the Canadian model for a database, which includes samples only of people convicted of serious crimes.

34. "Coroner makes push for DNA lab." Times Picayune (New Orleans), October 28, 2004.  
In Louisiana, the St. Tammany Parish Coroner was seeking voter approval of a \$4 million property tax on the election ballot that would generate \$2.8 million annually for the coroner's office to build, staff and equip a DNA testing lab. The tax would also fund a crisis intervention unit to help victims of rape and combat the parish's high rates of suicide and drug-overdose deaths. The owner of a \$100,000 home covered by the homestead exemption would pay \$10 annually under the 20-year millage. The tax for a \$200,000 home would be \$50. DNA evidence in most St. Tammany criminal cases is sent to the State Police crime lab in Baton Rouge, where a backlog can delay the results for a year or longer, according to the Coroner. (The measure was approved by voters.)
35. "Man convicted of five rapes near Rutgers University." The Associated Press, October 27, 2004.  
In New Jersey, a man was convicted of raping four women and a 14-year-old girl - the daughter of one of the victims - in attacks near Rutgers University. Police used DNA evidence to link him to the five rapes from September 2001 to June 2003. The man is an illegal immigrant from Honduras, and still faces trial on charges of attacking four other women, one of whom was raped in her home
36. "Forensics experts generate DNA profiles for 10,000 missing persons." Associated Press Worldstream, October 27, 2004.  
Forensics experts with the Commission for Missing Persons have generated DNA profiles from bone samples for more than 10,000 bodies unearthed from mass graves across the former Yugoslavia. The profiles represent a third of all those still missing after the Balkan wars of the 1990s. The samples are ready to be matched with the 64,000 DNA samples taken from relatives of the missing.
37. "Appeals Court Turns State Down." Richmond Times Dispatch, October 27, 2004.  
In Virginia, a the 4th U.S. Circuit Court of Appeals has rejected the state's request for an en banc hearing on ruling that allows the release of certain documents concerning the investigation of a rape and murder for which an apparently innocent man was nearly executed. The state's only recourse now is an appeal to the US Supreme Court. At this point the state has not decided whether it will appeal.
38. "Cold case team will revisit the evidence of the crimes." The San Diego Union-Tribune, October 27, 2004.  
In San Diego, the Sheriff's Department is taking the lead in creating a multiagency Cold Case Forensic Team that will result in at least two temporary assistants working in the department's crime lab on DNA comparisons. County supervisors authorized the use of \$838,434 in federal and state grants for the effort. The county has about 350 unsolved homicides. In some cases, evidence has never been examined in a forensic laboratory; in others, not with the latest DNA technology. The grants approved make it possible for the county lab to purchase equipment and hire two temporary assistants.
39. "White Plains." The Journal News, October 26, 2004.  
In New York, Westchester legislators approved an \$8.9 million expansion of the county crime lab after the county's top scientist warned that cramped conditions and poor quality controls could cause the FBI to cut its ties with the facility. The commissioner of the county Department of Labs and Research told the legislators that the FBI is so concerned about conditions at the lab that it has threatened to stop accepting the county analysis of its DNA samples. DNA samples at the lab are tested in converted janitorial closets and carried through unsecured hallways, exposing them to contamination. Losing the FBI affiliation would cut the county out the national DNA database. The vote followed two weeks of debate in the legislature's Budget Committee, which focused on whether private labs could do the county's DNA work more cheaply. The county spends an average of \$577 on each test, about a quarter of what a private lab would charge.

#### Paternity

40. "DNA tests to decide verdict in Ahmad Fishawi's case." Al-Bawaba, November 3, 2004.  
In Egypt, the case against young actor who is accused of secretly marrying a woman under civil law has finally reached its final stages as the woman prepares to deliver the child she claims is the actor's. The woman has

announced that she is waiting for the family court to make its verdict depending on the DNA test that will be made to prove the fatherhood of her child.

41. "Sisters Linked in the Lab." Los Angeles Times, November 2, 2004.  
There is a growing use of DNA testing in foreign adoption cases to determine linkages between siblings. In a recent case, two families who adopted Chinese girls have discovered that the girls are sisters. The practice is stirring up a commotion in adoption circles. Some adoption specialists and bioethicists say they fear that unscrupulous labs will exploit parents eager to fill in the missing pieces of their children's lives. Another worry is that adopted children could find the sudden discovery of a sibling profoundly unsettling. However, there is a growing network of adoptive parents interested in establishing such links.

## CONGRESSIONAL RECORD

1. US House of Representatives. Extension of Remarks on the introduction of "Preventing Sexual Assaults In The Military Act Of 2004". Includes provisions to ensure DNA evidence is tested.
2. US Senate. Floor statement from Senator Biden commending the passage of the Justice For All Act (HR 5107) authorizing over \$1 billion in federal funds for DNA grants and victims services.
3. US Senate. Consideration and floor debate on the Justice for All Act (HR 5107). Sen. Hatch, Sen. Kyl, Sen. Cornyn, Sen. Sessions, Sen. Leahy, Sen. Biden.
4. US Senate. Floor statement from Senator Hatch regarding upcoming discussion of the Justice For All Act (HR 5107).
5. US Senate. Floor statement from Senator Sessions commending the passage of the Justice For All Act (HR 5107).
6. US Senate. Floor statement from Senator DeWine commending the passage of the Justice For All Act (HR 5107).
7. US Senate. Floor statement from Senator Hatch and Senator Leahy regarding upcoming discussion of the Justice For All Act (HR 5107).
8. US House of Representatives. Consideration and floor debate on the Justice for All Act (HR 5107). Rep. Myrick, Rep. Hastings, Rep. LaHood, Rep. Jackson-Lee.
9. US House of Representatives. Consideration and floor debate on the Justice for All Act (HR 5107). Rep. Sensenbrenner, Rep. Delahunt, Rep. LaHood, Rep. Schiff, Rep. Chabot, Rep. Weiner, Rep. Green, Rep. Nadler, Rep. Maloney, Rep. Flake, Rep. Rush, Rep. Jackson-Lee, Rep. Royce.