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The January 16, 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

The 7th Circuit Court has upheld the constitutionality of Wisconsin's DNA database. On March 23, the 9th Circuit will rehear a prior ruling questioning the constitutionality of the federal DNA database.

Bills to expand state DNA databases to include all convicted felons were introduced in Kentucky and Missouri. Cold hits on DNA databases led to convictions in Missouri (murder) and Maryland in a case where post conviction testing exonerated another man, and in Missouri. Cold hits in Florida identified a murderer and exonerated the victim's husband who had been charged with the crime, and linked a burglar to a sexual battery case. Cold hits identified three rapists in one month for Chicago police. Evidence discarded by the New Orleans Police Department continues to haunt old cases.

DNA evidence also aided other investigations in Florida (double homicide), Nebraska (1979 double homicide), Unidentified remains were identified through DNA testing in Texas (abducted child), New York (infant) and by the US military (Navy pilot). An enzyme discovered in an Antarctic volcano may help with forensic DNA techniques. A Pennsylvania hopes to partially offset pay raises by ensuring that crime lab fees are collected by courts.

A Pennsylvania man exonerated by DNA evidence is being released from prison. Additional DNA evidence is being tested in a case where previous testing exonerated one man and pointed to another's guilt. A California man whose post conviction testing further confirmed guilt has appealed for clemency.

In international news...Politicians in an Australia state accused the government of failing to make full use of the DNA database system to solve crimes. In a Canada, a cold hit linked a man to two similar rapes, and Hamilton has been steadily increasing DNA collections since the database began. DNA tests on remains are underway by Belarus authorities in a plane crash incident, and by UK authorities in the Princess Diana case. Corruption is charged in an alleged rape case in India where DNA comparisons have not been conducted. DNA evidence was used by police in the Czech Republic investigating a series of bomb attacks.

STATE LEGISLATION

Forensic DNA

1. Kentucky HB 119 -- Expands the DNA database to include all convicted felons and juveniles adjudicated delinquent of felonies. Includes and persons sentenced to jail or community supervision. Retroactive to include those still serving sentences, including probation or parole.

2. Missouri SB 1000 -- Expands the DNA database to include all convicted felons and juveniles adjudicated delinquent of felonies. Includes guilty and no contest pleas, and persons sentenced to jail or community supervision. Retroactive to include previously convicted, including those still serving probation or parole.
3. New Jersey SB 1601 – Allows for post conviction DNA testing for persons convicted of murder but not sentenced to death. Identity must have been an issue at trial, and the inmate has the burden of proof establishing that the evidence to be tested has been subject to a chain of custody sufficient to establish that the evidence has not been substituted, tampered with, replaced or altered in any material aspect.
4. Rhode Island HB 7097 -- Requires the prosecution and defense in felony prosecutions to make available to the adverse party relevant DNA evidence.

Genetic Privacy / Research

5. Arizona HB 2273 -- Protects an employee's personal health information, including genetic information, from certain potential abuses.
6. Kentucky HB 171 – Prohibits human cloning.
7. Kentucky HB 234 – Prohibits genetic discrimination in employment and prohibits employers from requiring certain genetic tests.
8. New Jersey AB 160 -- Provides that an individual's genetic information is the property of the individual. Prohibits human cloning.
9. New Jersey AB 179 -- Requires licensing of genetic counselors.

Paternity

10. Arizona HB 2332 – Amends the Uniform Interstate Family Support Act. Requires child support if genetic testing proves paternity, or if genetic testing is declined.
11. Colorado HB 1083 – Genetic paternity testing results proving that a person is not the biological parent of a child is basis for termination of child support.
12. Maine HB 1217 - Birth certificates can be amended to accurately reflect the identity of the biological parents when the state registrar receives proof based on testing of DNA testing and if written consent from that biological parent is given.
13. New Jersey AB 1186 -- Expressly provide that the blood or genetic testing for paternity which may be ordered can include DNA tests.
14. New Jersey SB 190 -- Amends the "New Jersey Parentage Act" by taking into account recent advances in genetic testing and by providing the court with a set framework of guidelines to use in making determinations in paternity cases. Establishes uniform procedures to be followed with regard to blood or genetic testing.
15. Rhode Island HB 7109 – Requires genetic paternity testing for any child born to an unwed mother prior to ordering child support from an alleged father.

NEWS ARTICLES

Forensic DNA

1. “Man on supervised prison release charged in Hillsborough slayings.” The Associated Press State & Local Wire, January 14, 2004.

In Florida, a DNA match from a blood sample taken from the steering wheel of car belonging to a slain couple has been matched to a man on supervised release from prison. The man had purchased a truck from the couple the day before the murders, but he was not immediately a suspect in the case. Only after a background check revealed a felony criminal history did homicide detectives focus their attention on him and find inconsistencies in his accounts. The man had been released from state prison in April 2003 after serving nine years of a 15-year sentence on weapons possession charges, and was meant to be on supervised release until 2008. He also had earlier convictions including forgery, arson and theft.

2. "DNA 'inaction' slammed." North Shore Times (Australia), January 14, 2004.
In New South Wales, Australia, a Member of Parliament has accused the State Government of failing to use the full power of DNA to capture known offenders. Commenting on the latest DNA conviction figures, the Opposition Justice spokesman said the number of DNA matches could be substantially improved if Government legislation allowed for broader testing of known offenders. "The NSW Coalition introduced a Bill to Parliament two weeks ago that will provide a tougher DNA testing regime of known offenders and widen the net to capture more DNA profiles. Premier (Bob) Carr's DNA testing program is a minimalist attempt at solving crime. Our legislation will test all prisoners, paroled offenders, repeat offenders, scheduled forensic patients and some offenders receiving non-custodial punishments," he said.
3. "Man sentenced to 20 years for 1982 rape." The Associated Press State & Local Wire, January 13, 2004.
In Maryland, a 37-year-old man with a history of sexual assault has been sentenced to 20 years in prison for a 1982 rape originally blamed on another man. A jury convicted Bernard Webster of Baltimore in 1983 in the case. He served 20 years of a 30-year sentence before DNA evidence freed him in 2002. Darren Powell was linked to the rape by the same DNA evidence that proved Webster's innocence. Webster's lawyer discovered the DNA on an old lab slide at Greater Baltimore Medical Center in Towson. Powell had been in prison for most of the years since the rape for another sexual assault.
4. "Medical examiner: Remains are those of missing girl." The Associated Press State & Local Wire, January 13, 2004.
The Tarrant County, Texas medical examiner said that DNA tests confirmed that part of a small skull found in woods and brush, in northwest Fort Worth is that of a girl abducted from her front lawn in 1999. A man was convicted of aggravated kidnapping in this case in 2000, three months after his first trial ended with a hung jury. He was not charged with murder, but was sentenced to the maximum penalty of life in prison because he had a 1991 conviction of indecency with a child in a nearby county.
5. "Belarus' Law Enforcement Officials Analyzing Remains Of Crashed Plane's Pilot Found In Swamps." Baltic News Service, January 13, 2003.
Belarus' law enforcement officials are trying to clarify whether the pilot of a small sport plane that crashed in swamps was a Lithuanian who went missing in the end of March. Lithuania's Consul the area said that Belarusian law enforcement officials were analyzing DNA samples that were taken in November and will help to identify the body.
6. "Inmate cleared by DNA to be released from prison." The Associated Press State & Local Wire, January 12, 2004.
In Pennsylvania, a former death row inmate who had his murder conviction overturned because DNA tests showed he was probably innocent will soon be released from prison, where he is being held on other charges. Nicholas Yarris was exonerated December 9 in the murder case, but he had also escaped in 1985 and committed several violent crimes in Florida, including false imprisonment and robbery. However, Florida officials have concluded that Yarris has already served his time and should be freed.
7. "DNA'S Double Action." Palm Beach Post, January 12, 2004.
Editorial: "Since 1975, the release of two dozen inmates from Florida's Death Row has demonstrated the ability of DNA testing to prove innocence. Recent Palm Beach County cases should remind critics of its equally valuable power to convict." Discusses the importance of expanded DNA databases and timely DNA testing, as well as the importance of post conviction DNA cases. Mentions the bill in Congress, Advancing Justice Through DNA Technology Act, that would authorize nearly \$1 billion over five years to help federal, state, county and local agencies with DNA cases.
8. "Is Evidence Safe In Police Hands?" The Times of India, January 12, 2004.

In India, a doctor was caught taking a bribe from the brother of a man accused of rape. The bribe was to give a report denying that the victim had any sexual intercourse. Additionally, when the victim's family asked for a copy of the report, they were told that the rules require them to wait 45 days – which a women's advocacy group disputes. Moreover, police have claimed the woman is a prostitute and have thus far not taken any DNA samples from the accused for testing against a semen sample found on the victim.

9. "Probe checks possibility of other attackers in Sykes murder case." The Associated Press State & Local Wire, January 11, 2004.
In North Carolina, additional DNA testing will be done as authorities probe a 1984 rape and killing that saw one man serving a life sentence freed from prison last month and another man charged with the crime. Police are sending untested fingernail scrapings and hair samples to the state crime lab for possible DNA analysis. Investigators are working at substantiating the newly charged suspect's statements and ruling out accomplices.
10. "Man Suspected Of Bomb Attacks Dies – Police." CTK National News Wire, January 11, 2004.
In the Czech Republic, a pensioner suspected of a series of bomb attacks who police arrested in east Bohemia at the end of last year has died in hospital. Police will continue to document individual incidents and then the case will most probably be shelved. Detectives say that DNA evidence clearly proves the man's guilt in 12 cases and the remaining six are still under investigation. The DNA analysis of the evidence is focused on the bombs and the chemicals used in them.
11. "Diana: French Police Say Blood Samples Were Not Mixed Up'." Independent on Sunday (London), January 11, 2004.
As the UK reopens the files on Princess Diana's death, it is reported that there are "high-level concerns" over the potential mix-up of specimens taken from the accident scene and that French police have not carried out a DNA test which would prove the blood came from the chauffer. Scotland Yard has refused to comment. Doubts over the validity of the blood sample would threaten the credibility of the French inquiry, which concluded the chauffer, high on a cocktail of drink and drugs, lost control of the Mercedes car while speeding in the Pont de l'Alma tunnel.
12. "Evidence purge likely to haunt NOPD." Times-Picayune (New Orleans), January 11, 2004
In New Orleans, Louisiana, there is no way to determine how many future cases may be compromised by the Police Department's improper destruction of evidence, but an internal report suggests that problems are likely to crop up for years. And, the report says, missing evidence probably will go unnoticed until prosecutors try to retrieve the items for trial. Already, such a case has resulted in an inmate receiving a shorter sentence. The report lists 55 open murder cases that have been rendered virtually unsolvable because all evidence was mistakenly destroyed. An evidence room purge, which took place from 1999 until 2002, led to the "unauthorized and illegal destruction of an unknown amount of items including but not limited to narcotics, rape kits, DNA evidence and weapons submitted by investigating officers as evidence in criminal cases. The exact amount and type of evidence cannot be determined because you failed to enter all evidence into a computer database"
13. "Paroled Rapist Sentenced To Life In Murder." The Commercial Appeal, January 10, 2004.
In Missouri, a paroled Arkansas rapist was sentenced to life in prison on a first-degree murder conviction in the death of a Missouri woman three years ago. The man was initially identified as a suspect in 2001 after material found under the victim's fingernails had been matched to his DNA in a national database. The man was paroled in Arkansas after serving 13 years of a sentence for the 1984 rape in Arkansas. While he was awaiting trial in that case, someone castrated him in his Arkansas home.
14. "Pilot Shot Down In Vietnam War Buried At Last." The Daily News of Los Angeles, January 10, 2004.
Nearly 31 years to the day after his A-6 Intruder was lost over North Vietnam, the remains of a Navy pilot from North Hollywood, California were buried in Arlington National Cemetery. Between 1993 and 2002, U.S. and Vietnamese teams conducted four field investigations and one excavation that recovered some remains. During one of those visits, a witness to the crash gave researchers remains he said he recovered from the site. In May 2003, researchers in the Central Identification Laboratory used skeletal analysis and DNA to confirm the remains belonged to the pilot and another pilot.
15. "Death Row clemency bid is Schwarzenegger's first." The San Francisco Chronicle, January 10, 2004.
In California, a man facing execution February 10 for murdering two adults and two children after escaping from prison in 1983, has asked Gov. Arnold Schwarzenegger for clemency, saying his guilt remains in doubt and his life is worth saving. DNA tests long sought by the inmate were conducted in 2002 after a new state law allowed

convicted felons to request such tests. The state reported that the inmate's DNA was found in a blood spot in the victims' house, cigarettes in their car and a bloodstained T-shirt found nearby. The inmate's lawyers contended the evidence could have been mishandled or planted, but their requests for further tests were rejected.

16. "As man's hope faded, his exoneration arrived." St. Petersburg Times (Florida), January 10, 2004.
In Florida, a man accused of killing his wife has been exonerated through DNA testing, after spending almost a year in jail awaiting trial. The DNA was matched to a convicted sex offender who has since been arrested and held without on a first-degree murder charge.
17. "Forget the gloves, criminals, DNA will get you." The Advertiser, January 9, 2004.
A newly discovered enzyme - EA1 Proteinase - found in an Antarctic volcano will make the collection of usable DNA evidence from items such as socks, dandruff and even latex gloves much easier, according to a team at Sydney's Macquarie University (in Australia). The enzyme is applied to a surface where a criminal's genetic profile is thought to be and, when exposed to heat, it "eats" all proteins present - except those that make up DNA.
They also believe the heat-activated chemical will speed DNA testing, reducing the wait for DNA results from a month to days. This means evidence would be ready faster for prosecutors, judges and juries to consider, leading to speedier trials. South Australia's Forensic Science Centre is testing the chemical.
18. "Prosecutor: DNA links LI mom to second baby death." The Associated Press State & Local Wire, January 9, 2004.
In New York, a Long Island woman who faces retrial for the death of her newborn son on Christmas Day 2001 has been linked by DNA to another dead baby boy found behind a restaurant that same year. The death of the full-term infant found on April 26, 2001, had remained a mystery until a witness told investigators she believed the woman had previously been pregnant. Investigators subsequently determined that the DNA of the abandoned baby matched the suspect's DNA. The revelation came during what was expected to be a routine conference in advance of her trial, which was scheduled to begin this month. That trial is now on indefinite hold.
19. "Federal appeals court upholds Wisconsin DNA data bank." The Associated Press State & Local Wire, January 11, 2004.
The 7th U.S. Circuit Court of Appeals in Chicago has ruled that collecting DNA samples from prison inmates for a statewide databank used to help solve other crimes is constitutional. The court rejected claims from four Wisconsin prison inmates who argued taking DNA samples violated their Fourth Amendment rights against unreasonable searches and seizures. The decision upheld an earlier ruling by U.S. District who dismissed the inmates' complaint. The appeals court said that although the U.S. Supreme Court has yet to address the validity of DNA collection statutes under the Fourth Amendment, state and federal courts have almost unanimously upheld similar statutes.
20. "We've got the bad guys by the DNA." Hamilton Spectator (Ontario, Canada), January 9, 2004.
In Ontario, Canada, the DNA of more than 1,000 people has been collected by Hamilton Police since it began taking samples three-and-a-half years ago. Some of that DNA has been ordered by judges from violent criminals who have been convicted. Some was from suspects who have been named in warrants. And some came from volunteers who want to prove their innocence. During the first six months, 62 samples were taken. In the year 2001, DNA from 225 people was collected. That number rose to 381 in 2001 and increased again to 419 last year. To keep up with the collections, the police swore in four new special constables yesterday who have been trained in the taking of DNA.
21. "Federal Appeals Court Must Overturn Bad DNA Ruling." News & Record, January 9, 2004.
Editorial regarding the 9th Circuit opinion regarding the federal DNA database statute: "The panel's decision barred DNA testing of thousands of convicted people and jeopardized state laws requiring DNA testing. Luckily, the full 11-member appeals court decided this week to reconsider the October ruling. When the full-member 9th Circuit agrees to revisit a case, it generally overturns it, as well it should in this instance... If left to stand, the ruling could consign most DNA testing to the dust bin and the national DNA database, known as CODIS, to the margins of the judicial system... We hope the full-member 9th Circuit interprets the law through a broader lens. A DNA database helps preserve public safety and the integrity of the judicial system."
22. "Crime scene imagination Real-life forensic investigators say TV detective shows like CSI: Miami give a false impression of what the job is like." Arkansas Democrat-Gazette, January 8, 2004.
10 sources in the forensic science community who were asked recently for their opinions of TV's forensic dramas laughed and confessed they do not watch the shows. "Last night I tried watching CSI: Miami," said one source. "The one part that I got most upset about was there was a DNA sample. The girl brought it in, and the tech says, 'I'll

page you when it's done.' And she says, 'I'll just wait.'" In real life she would wait, all right - as long as six months. It also bothers scientists that the shows create the illusion that investigators have unlimited, expensive resources and can focus on one or two cases at a time. In the real world in Arkansas, the Crime Laboratory's 98 employees juggle cases that come at them simultaneously from "75 county sheriffs, 800 or 900 police departments, the state police," he says, and "we do work for the criminal investigation division at the Game and Fish Commission and we do work for the fraud investigation division of the Medicare program out of the attorney general's office. The FBI comes over here for assistance on some cases; DEA comes in sometimes."

The Crime Laboratory's medical examiner unit does every autopsy conducted in the state, between 1,100 and 1,300 a year.

23. "Bucks commissioners give nonunion workers 3% raise." Morning Call (Allentown, PA), January 8, 2004.
In Bucks County, Pennsylvania, Commissioners approved 3 percent raises to about 400 workers after department heads found about \$500,000 in savings in their budgets. About \$50,000 in savings may be generated by the district attorney's office, which said it would assign staff members specifically to ensure crime lab fees are collected from criminal defendants. The District Attorney said crime lab fees have not been routinely collected because the lab report is not often made available to the judge during the defendant's sentencing. Occasionally, she said, a judge will order the crime lab's fees included with other court costs assessed on the defendant. But if the report is not included with court papers from the clerk of courts office, which collects court costs, the judge does not know how much to charge.
24. "DNA leads to arrest in 1979 slayings." Omaha World Herald, January 8, 2004.
Police from Omaha, Nebraska have arrested a murder suspect in Aurora, Colorado after DNA testing linked him to a 1979 double homicide. Homicide detectives thought they had a suspect early on, but not enough evidence to make an arrest. The DNA tests were completed through a federal grant of nearly \$ 200,000, which allowed investigators to reanalyze old evidence and plug the results into the FBI's national DNA database. Omaha police planned to use the grant to pay for analysis of about 90 biological specimens from 20 homicides and about 400 from 80 sexual assaults.
25. "Police: Burglary convict's DNA links him to unsolved Delray rape." The Associated Press State & Local Wire, January 7, 2004.
In Florida, a man scheduled to be released from prison in May has been linked through a DNA database to the 2000 rape of 31-year-old woman. The suspect, who is incarcerated on a burglary conviction, had his genetic samples entered into Florida's Combined DNA Index System, and they matched samples found in the woman's house. With only a one-in-400-million chance that the DNA belongs to someone else, the inmate will be charged with sexual battery with great force and armed burglary, police said.
26. "Database of DNA aids in arrests; Chicago cops nab 3rd rape suspect." Chicago Tribune, January 7, 2004.
While Chicago struggles to enter a backlog of DNA evidence into the database, police say they are solving a growing number of old sexual assaults with DNA. In one month, Chicago police have solved three unrelated rape cases through hits on the DNA database. Last month, the Illinois Governor promised to find \$3 million in the state budget to clear a backlog of untested DNA evidence collected from about 1,500 rape victims. He planned to earmark the money to pay for hiring and training more scientists at the State Police Crime Lab. The governor's announcement came after a group of women started the non-profit Women's DNA Initiative to pay to have the three-year backlog analyzed. Women's DNA Initiative has raised about \$130,000 to help pay the estimated \$1 million cost of eliminating the backlog of rape kits.
27. "DNA Links Attacks." The Toronto Sun, January 7, 2004.
In Canada, the DNA database has allegedly linked a 2001 sex assault to a man convicted of an almost identical attack in 1998. Police are currently reviewing other unsolved crimes to see if the man may have committed other assaults.

Genetic Privacy

28. "D.C. Council Agenda." The Washington Post, January 8, 2004.
The Washington, DC Council's Human Rights, Latino Affairs and Property Management subcommittee hearing has held a hearing on the "Human Rights Genetic Information Amendment Act of 2003," Bill 15-52.