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The March 12, 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

An Illinois bill to allow collection of DNA samples from felony arrestees was approved by a policy committee. A Minnesota bill appropriates funding for staff to address the DNA backlog, and another Minnesota proposal addresses the statute of limitations in certain cases where DNA evidence is available. Gaining accreditation for Houston's crime lab is expected to cost \$1 million.

A cold hit on the DNA database linked a California inmate to a Florida rape, and nationally more than 12,000 investigations have been aided through the database. DNA evidence aided investigations and/or prosecutions in Illinois (5 serial rapes linked to a man incarcerated for identity theft), North Dakota (murder), and Wisconsin (rape). DNA identification of a military man killed in action also cleared him of AWOL charges. A Florida detective was demoted for failing to send in DNA evidence, which would have identified the offender prior to a subsequent attack.

Bills addressing post conviction DNA testing issues were introduced in Florida and Minnesota. Post conviction DNA testing exonerated a man in Massachusetts and resulted in a formal review of how cases are investigated and prosecuted. Political wrangling in Florida may doom an extension of the state's post conviction DNA testing law. Other post conviction DNA testing cases made the news in Indiana and Nebraska.

In international news...a serial rapist in England was convicted through DNA evidence, which had police calling for DNA sampling of all residents. Ireland may be moving closer to establishing a DNA database, and an Australian state is looking into expanding its DNA database. DNA databases identified a rapist in Canada, and identified two missing persons in Mexico. DNA is also playing a key role in investigations in Australia and Sweden.

STATE LEGISLATION

Forensic DNA

1. Florida SB 44 -- Extends the time limit for filing a petition for postsentencing DNA testing from two years after a sentence, or by October 2005 (instead of 2003), whichever ever comes later.
2. New York AB 9909 -- Requires New York's DNA Commission establish and conduct a mandatory course of instruction for every person engaged in the storage of forensic DNA evidence at laboratory.
3. Minnesota HB 2752 -- Enacts a model postconviction DNA analysis act.
4. Minnesota HB 2768 -- Removes the statute of limitations for sexual abuse against a minor if DNA evidence exists.

5. Minnesota HB 2876 & SB 2548 – Appropriates \$800,000 for staffing to eliminate the DNA database backlog.

NEWS ARTICLES

Forensic DNA

1. “AP: FBI's DNA Database Gets Heavy Use.” Associated Press Online, March 9, 2004.
The FBI says more than 8,000 samples of genetic evidence from unsolved cases have been matched to past or current convicts in the DNA database, helping solve crimes. An additional 3,000 samples have been matched to unidentified suspects in other cases that remain unsolved, creating links between cases.
2. “Powell Freed From Prison.” The Boston Globe, March 9, 2004.
In Massachusetts, an inmate has been freed after post conviction DNA tests exonerated him. He was arrested in connection with a rape case 1991, and was eventually convicted of the crime. He became the eighth wrongly convicted man prosecuted in Suffolk County to be released from a Massachusetts prison since 1997. The DNA profile did not match either the inmate or the victim’s boyfriend, and will be submitted to the state DNA database in hopes of identifying the true rapist.
3. “Court sets deadline for information in condemned inmate's appeal.” The Associated Press State & Local Wire, March 9, 2004.
The Indiana Supreme Court has set a March 29 deadline for attorneys to submit new information before it decides whether to spare the life of a man sentenced to death for a 1986 double homicide. The inmate was just days away from his execution when the late Gov. Frank O'Bannon in July granted a stay for additional DNA testing. Defense attorneys in December said DNA test results cast doubt on Williams' guilt, but information on those tests have not been submitted to the court.
4. “Morano asks for subpoena power again.” The Associated Press State & Local Wire, March 9, 2004.
Connecticut’s Chief State's Attorney recently spoke in favor of a bill making it a felony for a convicted felon to refuse to give a DNA sample. A law passed last year expanded mandatory DNA testing from sex offenders to all convicted felons. Since January, the DNA databank has helped with 114 investigations, with 96 matches, Morano said.
5. “Man in California prison linked to 1996 kidnapping, rape.” The Associated Press State & Local Wire, March 9, 2004.
A convicted sex offender in a California jail faces new charges after the DNA database linked him to a 1996 kidnapping and rape in Florida. In 1984, the man was sentenced to 21 years in prison in California for numerous kidnapping and sexual battery charges involving young girls. He was released on parole in 1995 and was living in Ohio when he came to Florida for vacation in September 1996. He later returned to Ohio where he was charged with stalking three young girls in separate instances and pleaded guilty to a parole violation. He was sent back to prison in California, served three years and then was transferred to a maximum security treatment facility.
6. “Police drop demand for El Masri DNA.” The Daily Telegraph (Sydney, Australia), March 9, 2004.
In Australia, one member of a football team refused to give a DNA sample to authorities who are investigating a rape. A young woman claims that she was raped by up to six of the football players at a swimming pool at the team's hotel this year. Detectives had considered but ultimately decided against court action to force the player to provide a sample. Detectives have taken DNA samples from all players except this player.
7. “Accreditation for crime lab to cost \$ 1 million.” The Houston Chronicle, March 9, 2004.
Houston's crime lab hopes to be accredited by the end of the year, but estimates it will cost the city \$ 1 million to do it. The lab director would also like to hire eight more people and increase the pay of Houston Police Department criminologists. However, the city's budget shortfall of \$ 150 million will make finding the extra money difficult.
8. “DNA is focus in sexual assault case.” Milwaukee Journal Sentinel, March 9, 2004.
In Wisconsin, prosecutors say DNA evidence points to a 67 year-old pastor as the man who had intercourse with a teenage girl in the basement of his church in 1994. However, prosecutors may face some challenges in their case. The sexual assault allegedly occurred in October 1994, and evidence used for DNA testing was not tested for 4 1/2 years. In 1999, after the FBI found and tested the samples, they reported the results to the wrong jurisdiction.

Prosecutors eventually charged the suspect, only to drop the case because the alleged victim refused to cooperate. They refiled the charges last April. The FBI speculated that the evidence probably had been overlooked in a backlog of samples to be tested. Local police said they apparently never checked on the sample and could not explain why.

9. "DNA No Magic Proof For Juries." Sydney Morning Herald, March 9, 2004.

In Australia, a professor at the University of NSW who has documented wrongful evidence in criminal cases has warned against the "over belief" in scientific evidence. Her research shows juries are more likely to return guilty verdicts when DNA evidence is used. "Instead of regarding it as a precise piece of DNA evidence which places the defendant at the scene of the crime they tend to jump to a conviction instead of giving it appropriate weight," she said. "This person could have had a legitimate reason to be at the scene of the crime." A recent report by the Law Reform Commission says faults such as evidence being tampered with and the possibility of identical twins having identical DNA are areas of which to be wary. The report includes recommendations that judges develop a model direction for juries to be cautious about what weight to give DNA evidence in a trial, and that the National Institute of Forensic Science should monitor the interpretation of results coming from DNA labs.

10. "DNA testing salvages reputation soldier branded Vietnam deserter." The Associated Press State & Local Wire, March 8, 2004.

DNA tests have definitively proved that the remains of a man formerly considered a deserter in Vietnam had been confused with those of another soldier and were buried in Texas in 1973. The Army now says the man is entitled to a full military funeral, and family members are planning for a burial in May at Arlington National Cemetery in Virginia. The Army's reappraisal of the man's status as a soldier began in 1989 when the Vietnamese government shipped boxes containing the remains of 21 U.S. soldiers to the United States. With the emergence of mitochondrial DNA as a tool for identifying remains, military forensic experts were able to definitively identify one set of these remains as the man thought to be buried in Texas. This finding led to the exhumation of the Texas remains which were determined to be that of the previously suspected deserter.

11. "DA, police announce working group to review practices." The Associated Press State & Local Wire, March 8, 2004.

In Massachusetts, Suffolk County prosecutors and Boston police will review how they investigate and prosecute crimes after the release of a man wrongfully convicted of rape and a decision to drop charges against a man accused of murdering his own brother. The rape case relied on DNA for the exoneration. The working group, led by the First Assistant District Attorney and the Boston Police Superintendent, will start work immediately. It will make recommendations within a month. The Boston Police Commissioner said that she has asked a national certification group to review her department's identification and ballistics units. The police crime lab is already accredited, but she said there is room for improvement.

12. "Inmate DNA testing at issue." The Tallahassee Democrat, March 8, 2004.

In Florida, a power-struggle between the legislature and the court system could result in the elimination of access to post conviction DNA testing. The statutory deadline for inmates to file post conviction DNA requests was Oct. 1, 2003. The Florida Supreme Court indefinitely suspended the deadline until it decides whether to extend it under its authority to make court rules. That irritated some Republican lawmakers in the House, who complained the court was overstepping its bounds. The House Committee on Public Safety and Crime Prevention recently passed a measure giving the Legislature exclusive control over the state courts' procedural rules. If approved, the door could close on any more DNA-testing requests. The director of the Florida Innocence Initiative says that there are still about 300 cases waiting for a look in her offices.

13. "More funding directed to DNA crime fighting." USA Today, March 8, 2004.

The Bush administration has begun spending hundreds of millions of dollars to perform DNA analysis in unsolved rapes and other old cases and to make improvements in the nation's computerized DNA crime-fighting system. The infusion could top \$ 800 million during the next five years. The administration proposes spending nearly \$ 177 million for the fiscal year beginning Oct. 1. If Bush is re-elected this fall, the administration plans to spend equal or greater amounts each year through 2008, said the deputy director of the National Institute of Justice.

14. "N.J. Man Sentenced in Strangulation Death." The Associated Press, March 7, 2004.

In Washington, a New Jersey man has been convicted and sentenced to 10 years for a 1982 murder based on a DNA sample he unknowingly gave to police. Police long considered the man a prime suspect but were not able to file charges until technology allowed a full analysis of DNA from semen found on the victim. Officers got the

suspect to provide a DNA sample by sending a letter from a fictitious local law firm that invited him to participate in a nonexistent class-action lawsuit. He returned the form last spring, and DNA from the envelope flap he licked was a match to that found on the victim. The man's lawyer is appealing the second-degree murder conviction on grounds that the DNA evidence should not have been admitted.

15. "Preliminary hearing yields new information." Grand Forks Herald, March 6, 2004.
In North Dakota, a preliminary hearing has revealed that blood, apparently in trace amounts, was found on the black folding knife seized from a kidnapping and murder suspect's car. The knife was found in the trunk of the car, and was said to match a sheath found on the ground near the victim's car in the mall parking lot. DNA testing to more specifically identify the blood will use up the entire small sample, so it has been delayed until a defense expert can observe the procedure.
16. "Not enough garda patrols on streets, warns O'Dea." The Irish Times, March 6, 2004.
In Ireland, following the publication of a report from the Law Reform Commission, the Government may be enabled to set up a database of DNA samples from criminals. However, the Minister of State said the Constitution posed difficulties for setting up such a database.
17. "DNA tests not enough for new trial." Omaha World Herald, March 6, 2004.
The Nebraska Supreme Court rejected an inmate's bid to have his murder conviction set aside or be granted a new trial, based on new DNA testing. It was the second time in four months that the state's highest court ruled against an inmate seeking to be set free or given a new trial based on evidence now available through DNA testing. In the ruling, the court said the inmate had to show that the DNA tests either exonerated him or would have substantially changed the outcome of the earlier trial. The court rejected the request after concluding that the testing "does not serve to falsify or even undermine any of the evidence upon which Buckman's convictions were based."
18. "DNA Hit Leads To Sex Bust." The Toronto Sun, March 6, 2004.
In Canada (Toronto), DNA evidence has led to the arrest of a man in the brutal sex assault on a teen last year. The female was attacked by several men over three days last May before managing to escape. Forensic evidence collected at the scene was sent to the Centre of Forensic Sciences and a match was made to an offender in the national DNA databank. The sex crimes unit was notified of the DNA hit and soon after a man turned himself in.
19. "Lab director to leave post, lead institute." Arkansas Democrat-Gazette, March 5, 2004.
Arkansas' State Crime Laboratory Director, Jim Clark, is leaving his the laboratory to head the Criminal Justice Institute of the University of Arkansas System.
20. "Imiela Rape Trial: Top Policeman Wants Register Of Everyone's DNA Taken At Birth." Birmingham Post, March 5, 2004.
In England, one of the senior police officers who worked on the investigation of a serial rapist has called for a record to be kept of every individual's genetic 'fingerprint'. DNA proved vital in securing the rapist's conviction, but his profile was not held on the National DNA Database. The officer said that if it had been, the railway worker would have been caught immediately because a sample of the rapist's DNA was recovered following his first attack on a ten-year-old girl in 2001. A Home Office minister confirmed that there were no Government plans to introduce a database containing DNA profiles of the entire population. Last year, 21,000 crimes were detected using DNA evidence - a 132 per cent increase on the year 2000. England allows investigators to require DNA samples as soon as a person is arrested and detained at a police station.
21. "Prison inmate charged in 5 South Side rapes." Chicago Tribune, March 5, 2004.
In Illinois, a man in prison for identity theft was charged with five violent sexual assaults after DNA evidence linking all of the South Side assaults to one unknown rapist prompted detectives to start their investigation from scratch. Detectives were notified last fall that DNA evidence from five unsolved rapes indicated the same person had committed all of the attacks. The DNA did not match the profile of any known offender, so detectives went back to the unsolved cases and began investigating them as a pattern. After identifying a new suspect, police found the man in a state prison and secured a warrant for his DNA sample, which matched all five rapes. The man is currently serving time for identity theft. He also had another pending identity-theft case before a Cook County Circuit Court.
22. Violent sexual predator gets seven life terms for ruthless rape campaign." The Guardian (London), March 5, 2004.

In England, a man was convicted and jailed for life for raping and assaulting at least eight children and women. Two other attacks linked to the man were not prosecuted due to evidence reasons and victim traumatization. Experts had told the court there was a billion to one chance that DNA material from the first victim belonged to anyone unrelated to the suspect. DNA and other evidence linked him to the other, strikingly similar, attacks. Police took DNA from hundreds of suspects, one of which matched the unknown rapist.

23. "Officer demoted for handling of abuse case." The News-Press (Fort Myers, FL), March 5, 2004.
In Florida, a detective has been demoted for failing to send clothing for testing in sex assault case. Authorities say that the kidnapping and sexual assault of a young boy might have been prevented if the detective had submitted DNA evidence for testing sooner in a similar case. The first kidnapping occurred December 16, 2002, but the detective did not follow standard agency policy for submitting evidence from a rape exam to the state crime lab. The detective believed that any DNA evidence was probably destroyed because the boy said the man had washed him and his clothes with water. After a second boy was similarly assaulted in April, the evidence was immediately sent to the crime lab where it was found to match a known sex offender. He was still serving five years' probation on a trafficking in stolen property charge.
24. "Plan To Take DNA From Theft Suspects." The Age (Melbourne, Australia), March 4, 2004.
In Australia, Victoria's Law Reform Committee will allow police to seek a court order forcing a robbery suspect to provide a DNA sample. Police now can only compel a suspect to provide DNA in more serious cases such as rape, murder and aggravated assault. The proposals also call for mandatory DNA testing of anyone convicted and imprisoned of an offence that carries a maximum penalty of more than five years. The Law Reform Committee yesterday proposed relaxing a rule which requires an independent doctor to be present when a DNA sample is taken; requiring police DNA to rule out contaminants from a crime scene; and making Victoria's Forensic Science Centre an independent body separate from police.
25. "House committee OKs new parole conditions for sex offenders." The Associated Press State & Local Wire, March 4, 2004.
An Illinois House of Representatives committee has approved a bill that would allow police to collect a DNA sample from anybody arrested for a felony, instead of just people who are convicted.
26. "Czech To Be Charged With Murder Of Czech Student In Sweden." Czech News Agency, March 3, 2004.
A Czech suspected of murdering a female Czech student in Sweden last year will be charged with the crime. The Czech suspect came under suspicion shortly after the murder and the investigation of the case was lengthened because the suspect escaped to the Netherlands and tried to keep himself from being extradited. Investigators have considerable evidence indicating the man's guilt, "The most serious is the DNA of the suspect found under the nails of the victim," said a Swedish state attorney.
27. "Questions Raised Over The Backlog Of Forensic Testing." The Lloydminster Meridian Booster (Alberta, Canada), March 3, 2004.
In Canada, a 40-year veteran of the RCMP and former manager of the Regina forensics lab, has suggested that an independent lab should handle DNA and forensics for the RCMP, similar to the Toronto Police's Centre for Forensic Sciences. He estimates the biology division alone will need as much as a \$5-million cash injection to ease the backlog of cases. The RCMP currently a 93-day turn around time for routine cases and 55 days for urgent cases, but the goal within the organization is to have routine cases completed in 30 days and urgent ones done in 15 days. The National Police Service, a division of the RCMP that handles DNA and forensics, said critics of the four-month turnaround time for producing results need to do their homework before commenting.
28. "DNA database helps identify 2 slain women." El Paso Times, March 2, 2004.
In Mexico, the DNA database created by the Mexican attorney general's office to identify some of the murdered women of Juarez has already identified two victims. Officials did not disclose the names of the victims. About 20 percent of the 90 or so women who have been kidnapped, raped, killed and left in the Juarez desert since 1993 have not been identified. Officials said they compared bone samples from the remains of 13 women with saliva, blood and hair donated by 26 relatives of disappeared women. Samples were compared in a Mexico City laboratory.

Genetic Privacy / Research

29. "On the track of the running gene." The Herald (Glasgow), March 8, 2004.

Tests on East African Olympic athletes showed that a significant proportion had inherited the same type of gene from their ancestors. Researchers took saliva samples from 114 members of the Ethiopian national athletics team, along with two control groups, both of a similar size. The DNA tests revealed that 14% of the marathon runners tested by the scientists shared the same type of Y chromosome - the genes we inherit from our fathers. This compared to 4% of the control group selected to represent the Ethiopian population. The results could open the way for countries to use DNA screening to decide which athletes are more likely to be successful.

30. "Swedish government moves to allow cloning of human embryos." Associated Press Worldstream, March 6, 2004. The Swedish government will propose new legislation to allow cloning of human embryos, but only for medical purposes. The new law regulating stem cell research would ban reproductive cloning of humans. If Parliament approves the proposal, Sweden would become the second European Union country after Britain to permit therapeutic cloning.
31. "Patent law bar to gene research." Herald Sun (Melbourne, Australia), March 5, 2004. Australia's Law Reform Commission inquiry found that patent laws should be overhauled to encourage life-saving genetic research into diseases such as diabetes, Alzheimer's and cystic fibrosis. Some scientists told the Commission that they could not do important medical research for fear of breaching patents on DNA they were investigating.

Paternity

32. "Sweden may DNA test refugees seeking to bring kids into country." Agence France Presse, March 9, 2004. Refugees living in Sweden who want to bring children into the country may have to undergo a DNA test to establish that they really are related to them, the Swedish foreign ministry said. It is unclear what would happen in cases where parents refuse to take the test. Recently, authorities discovered that a couple who brought seven children into Sweden six years ago were not in fact their parents.