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A WEB SITE FOR ANYONE WHO SEEKS INFORMATION ON THE LATEST DEVELOPMENTS IN FORENSIC DNA POLICY

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The March 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

Rhode Island introduced a bill to include all felons on the DNA database. State DNA database statutes in California and Michigan were upheld. For the first time, all of Alabama's nine laboratories statewide have achieved accreditation.

Cold hits on DNA databases identified suspects in Florida (rape), Massachusetts (two rapes), and Wisconsin (burglary). DNA evidence also aided investigations / prosecutions in Maryland (rape by a police officer), Missouri (murder case), Oklahoma (rape case), and South Carolina (hairs linked to a murder). DNA exonerated a suspect in serial rapes in New York City, and proved the identity of an abducted child who was thought to be dead.

The US Supreme Court has refused to get involved in a 9<sup>th</sup> Circuit Court ruling allowing post conviction DNA testing for a man scheduled for execution in California. The Innocence Project has suggested a chapter at West Virginia University.

In international news...Mexico, Thailand and Jamaica are building forensic DNA databases, and India is forming a commission to oversee the use of forensic DNA evidence. A Canadian article suggests requiring DNA from criminals through statute, rather than leaving it to the discretion of judges. DNA evidence links a suspected terrorist to a bombing in Hungary, and DNA confirmed the remains of Macedonia's president. London police have begun taking DNA samples from beggars for the database, and DNA identified suspects in England in a drug case (DNA from a heroin wrapper) and a murder case (DNA from a coffee mug). A Chief Magistrate in Australia is concerned that DNA delays are leading to justice delays.

### STATE LEGISLATION

#### Forensic DNA

1. Idaho HB 796 – Expands offender DNA database to include statutory rape.
2. Rhode Island SB 2921 -- Expands offender DNA database to include all convicted felons.

#### Genetic Research / Privacy

3. Connecticut HB 5536 – Permits stem cell research and bans human cloning.

#### Paternity

4. Missouri SB 1330 – Provides for paternity DNA testing for “suspected” fathers.
5. New Jersey AB 2389 & SB 1232 – Amends the "New Jersey Parentage Act" to take into account recent advances in genetic testing and to provide a framework of guidelines which the court may use when making determinations in paternity cases.

## NEWS ARTICLES

### Forensic DNA

1. “Woman used lock of hair to prove kidnapped daughter's identity.” The Associated Press State & Local Wire, March 3, 2004.  
DNA testing has confirmed the identity of a little girl who was thought to have died in a fire. The girl was apparently abducted during the fire and authorities believe she was burned to death. After seeing the girl at party, the true mother collected strands of the girl’s hair for DNA analysis, which proved maternity.
2. “Macedonian President's Funeral To Take Place 5 March.” BBC Monitoring International Reports, March 2, 2004.  
DNA testing was used to identify the remains of the Macedonian President who was killed in a plane crash.
3. “Scheck urges WVU to launch Innocence Commission.” The Associated Press State & Local Wire, March 2, 2004.  
Barry Scheck has suggested that West Virginia University would be an ideal location to launch an Innocence Commission, given its nationally recognized programs in biometrics and forensics. In 11 years, the project has used DNA testing to clear 142 people who were found to be wrongly convicted, and the real criminal was identified in 44 cases.
4. “Pensioner 'Murdered For Her Wedding Ring.'” Press Association, March 2, 2004.  
In England, a man has been charged with murdering a retired woman for her wedding ring, based partly on DNA evidence taken from the rim of a used blue mug found in the victim’s flat which matched the suspect.
5. “Burglar Trapped By DNA.” UK Newsquest Regional Press - This is Hampshire, March 2, 2004.  
In England, a “one-man crimewave” who preyed on the sick and elderly was caught because he stopped to smoke during burglaries. The man left his DNA on cigarette butts and his blood on broken windows at properties he raided, which eventually linked him back to the crimes. For 16 months the persistent burglar targeted secluded homes unoccupied after their owners had either moved out or died.
6. “New DNA tests question Romanov remains.” United Press International, March 2, 2004.  
Researchers at Stanford University using DNA tests have found new evidence questioning the identity of bones believed to be those of the Romanovs, Russia's last royal family. The Russian government in 1998 declared nine skeletons unearthed in central Russia had belonged to the family, all of whom were executed in 1918. In the new DNA analysis, the preserved finger of the sister of Tsarina Alexandra, one of the victims, failed to match the tsarina's own DNA. The Stanford team also pointed out molecular and forensic inconsistencies in the original genetic tests.
7. “Convicted German terrorist faces new trial for 1991 Hungary bombing.” Associated Press Worldstream, March 1, 2004.  
In Germany, a suspected former Red Army Faction terrorist will go on trial next month on charges of helping plan and carry out a 1991 bomb attack on a busload of Soviet Jews in Hungary. The woman is accused of carrying out the bombing for a Palestinian group "Movement for the Freedom of Jerusalem” that injured two Hungarian police officers and four passengers on a bus who were headed for a flight to Israel. Investigators found DNA evidence in 2001 linking her to a Budapest apartment at the time of the attack.
8. “U.S. Supreme Court refuses to intervene in Kevin Cooper case.” The Associated Press State & Local Wire, March 1, 2004.  
The U.S. Supreme Court refused to block a decision by the 9th U.S. Circuit Court of Appeals that put the California execution of convicted murderer Kevin Cooper on hold. The man was found guilty in the 1983 murders of three family members and a friend. But just hours before his execution was to have taken place earlier this month, the 9th Circuit stayed the order to allow DNA testing of key pieces of evidence. Attorney General Bill Lockyer filed

an application last week in a bid to reinstate the death sentence, but the Supreme Court turned it down without commenting.

9. Courts should order collections of DNA.” The Gazette (Montreal, Quebec), March 1, 2003.  
Article questions why, “are Canadian judges not ordering DNA samples from convicted criminals, as they are entitled by law to do?... Why the reluctance? The procedure, a simple matter of a mouth swab, is neither traumatic nor invasive. Cases collected by two Toronto lawyers who are frustrated by the inertia suggest the problem is a typically Canadian but sadly exaggerated preoccupation with the rights of the accused. One judge presiding over a multiple-murder conviction reasoned that no sample was necessary because it was not a repeat offence. Another noted that the assault case being tried involved a fight between two people. Why collect a sample from only the accused? And so on... We could plead with the judges to get with the program - probably in vain. A more effective route would be to pass legislation that makes DNA sample collection routine and mandatory not only after a criminal is convicted but when a suspect is charged...DNA evidence is here to stay. Far from a futuristic assault on individual rights, it is a new safeguard in the exact administration of justice. It is fingerprinting for the 21st century. We should use it accordingly.”
10. “Police Still Compiling DNA Database.” The Gleaner, February 29, 2004.  
Police in Jamaica are in the process of building a forensic DNA database that will be used to compare suspects to crime scene samples.
11. “Family seeks closure to long-unsolved slaying.” The State (Columbia, SC), February 29, 2004.  
In South Carolina, a murder suspect has turned himself in to authorities for a 1991 murder. The man had been arrested as a suspect in 1996, but prosecutors did not have enough evidence to charge him with the crime. However, DNA testing conducted by the FBI on hairs found in the victim’s vehicle was found to match the suspect. “The DNA certainly made a breakthrough. It’s a tool we didn’t have” earlier, said the local Sheriff.
12. “Man pretends to be missing boy: police not fooled.” Agence France Presse, February 28, 2004.  
In France, an adult man who tried to pass himself off as a missing adolescent was arrested after DNA tests revealed him to be a 30-year-old imposter who has a career in the United States and Europe of pretending to be a missing child. The man went to police with a tale of supposed kidnapping. He said he was actually a boy who disappeared eight years ago while on a trip to the French Alps. If still alive, the boy would now be 14, according to a list of missing persons distributed by police.
13. “DNA match ties murderer to two rapes.” The Boston Herald, February 28, 2004.  
In Massachusetts, a man convicted of raping and murdering a 22-year-old woman nine years ago has been linked to two more rapes through a DNA database. The two unsolved rapes date back to 1990 and 1989.
14. “Bulldogs Scandal.” Daily Telegraph (Sydney, Australia), February 28, 2004.  
In Australia, a Police Strike Force has begun interviewing and DNA-testing rugby players of on a professional team over the alleged sexual assault of a woman. Players have indicated they intend to willingly provide DNA samples. If they refuse police can obtain a court order.
15. News roundup: Homeless: DNA taken in begging crackdown.” The Guardian (London), February 28, 2004.  
In London, police have begun implementing a policy of taking the DNA and fingerprints of beggars in Westminster. Westminster is thought to have about 300 beggars. A leading homeless charity has branded the crackdown as “totally inappropriate.”
16. “The DNA detectives.” The Mercury (Australia), February 28, 2004.  
In Australia, a 1990 abduction and sexual assault of a child had stumped investigators until a search last year on Tasmania’s DNA database matched DNA from the crime scene with that belonging to a convicted rapist. The man has since pleaded guilty to the crime.
17. “Court delays “unacceptable.” AAP Newsfeed, February 27, 2004.  
In Victoria, Australia, the state’s Chief Magistrate said that an increase in violent crime and growing use of DNA evidence were leading to unacceptable delays in Victoria’s justice system. He said that said cases were being held over for as long as 12 months as laboratories struggled to process forensic evidence, and many defendants were now using the delays as a basis for being granted parole. He said it was up to the government to make sure forensic

labs were well resourced and evidence was processed in a timely manner.

18. "City officer indicted in abduction, sex assault." The Baltimore Sun, February 27, 2004.  
In Maryland, a Baltimore police officer charged with handcuffing and sexually assaulting a woman in a vacant building last month has been ordered held on \$250,000 bail. Police say they charged the officer after the woman recalled the license tag of his unmarked car and picked him out of a photo lineup. DNA tests also linked him to evidence recovered from the woman and her clothing.
19. "Heroin Dealer Is Sent To Jail." Bath Chronicle, February 27, 2004.  
In England, DNA from a wrap of heroin was matched to a suspect drug dealer who claimed he had nothing to do with the drugs found in his possession.
20. "Authorities say they find belated DNA match in cold." The Associated Press State & Local Wire, February 27, 2004.  
In Wisconsin, cigarette butts found on the floor of an office that was burglarized 1 1/2 years ago have been matched on the DNA database to a man convicted recently of burglarizing the same business in July 2003. "Without the DNA, we wouldn't have gotten this one solved," said the local police. "Cigarette butts are excellent DNA holders."
21. "Inmate DNA sample before parole release requirement survives challenge." Corrections Professional, February 27, 2004.  
The 6<sup>th</sup> Circuit Court of Appeals has upheld a challenge to Michigan's DNA database statute (Ziegler v. Michigan, et al., No. 03-1773). The inmate alleged that forcing him to give a DNA sample to officials before he could be released on parole violated his First Amendment rights, among other charges. He also sought a temporary restraining order to prevent officials from forcefully obtaining a DNA sample. The 6th U.S. Circuit Court of Appeals said prison authorities were entitled to judgment as a matter of law because the courts almost unanimously have upheld mandatory inmate DNA testing before parole release. The ruling upheld the District court's decision.
22. "Suspended crime lab workers blast tactics." The Houston Chronicle, February 27, 2004.  
In Texas, employees suspended from the Houston Police Department's troubled crime lab have accused internal investigators of intimidating low-level employees for problems that are the result of bad management. To date, the department has recommended discipline against at least 11 crime lab employees, including three who officials said should be fired. Two of those people retired to avoid being terminated. A successfully fought her termination and was reinstated last month.
23. "Official Says DNA and Alibis Clear Suspect in Sex Attacks." The New York Times, February 27, 2004.  
In New York, a man picked out of police lineups by four victims in a seven-day rampage of sexual assaults and robberies that terrorized the Upper East Side last month has been cleared by DNA evidence in one case and by substantiated alibis in the other three cases. The man has 25 criminal convictions since 1990, all but one for misdemeanors.
24. "Metropolitan Area Digest." St. Louis Post Dispatch, February 27, 2004.  
In Missouri, police said a tip and DNA evidence have led to an arrest in the 2-year-old murder. Police said a tip led detectives to the suspect, who provided a DNA sample that matched evidence found at the scene. The man later confessed to beating and shooting the victim in an argument over money he owed her.
25. "Database of Juarez murders to help ID victims." El Paso Times, February 26, 2004.  
The Mexican attorney general's office will create and manage a DNA database for the murdered women of Juarez, according to the new federal prosecutor in charge of the cases. Among the more than 90 women who have been kidnapped, raped, killed and dumped in desert lots in and around Juarez since 1993, 20 skeletons and 11 bodies have not been identified, according to a 2003 study by the Chihuahua Women's Institute.
26. "New Crime Library: Prisoner DNA to go on file." The Nation (Thailand), February 26, 2004.  
Thailand is preparing a DNA database to hold the profiles of all prisoners and juvenile offenders completing their sentences. Anticipating a public outcry over human rights violations, the Justice Ministry has quickly defended the plan, saying the information would be secure and direct access would be strictly limited to ministry officials and not the police. The nation's forensic institute will start collecting the fingerprints and DNA of 20,000 prisoners who are to be given a Royal pardon on Her Majesty the Queen's 72nd birthday.

27. "Man sentenced to 40 years in Parkville rape." The Baltimore Sun, February 25, 2004.  
In Maryland, a former Baltimore County man was sentenced to 40 years in prison for raping a woman during a home invasion 3 1/2 years ago. He was connected to the crime in October 2002, when Baltimore County police matched him to DNA evidence from the scene. At the time, the Baltimore County police said it was the first time they had found a suspect using the DNA database. The man entered into a plea agreement in which he retained his ability to challenge the constitutionality of CODIS. The man was convicted in 1991 for armed robbery and related charges, according to court records, and had returned to prison in January 2002 for a parole violation.
28. "DNA allegedly links man to 1995 assault." Chicago Tribune, February 25, 2004.  
In Illinois, an insurance adjuster from Oklahoma with a criminal past has been charged in a 1995 sexual assault after DNA evidence allegedly linked him to the crime. The man has been jailed in criminal cases in Oklahoma at least twice since the attack but was not connected to a 1995 Cook County arrest warrant until he was charged in a third case last year. He was charged with theft in 1999, lewd acts with a child in 2000--a crime for which he served 9 months --and theft again last year. Cook County prosecutors traveled to Oklahoma to take DNA from him after learning he was in custody, and the tests were positive, they alleged.
29. "Selected recent California newspaper editorials." The Associated Press State & Local Wire, February 25, 2004.  
Editorial from the Sacramento Bee. Excerpts include: "California's district attorneys and the Legislature are wrestling over measures to build a database of felons' DNA. The prosecutors, who've prepared a ballot initiative, want everyone arrested for a felony to give a sample, while a legislative bill would cover only convicted felons. (A similar bill was introduced last year but, strangely, died.)...Now, let's be clear. When you're convicted of a crime, they can take your freedom, your money, and your right to vote and own a firearm. Defense lawyers are worried about DNA? When they take your DNA, you don't become a plastic shell of a human being, soullessly awaiting a new gene implant. You don't lose your ability to reproduce. You don't lose your identity. You have just as much DNA as you ever did, which cannot be said for the money, innocence and lives that criminals take from their victims. Genetic evidence has led to amazing breakthroughs. "Cold hits" from California's small existing database of serious felons have cracked long-dormant cases, while DNA has cleared people unjustly accused of horrible crimes, even freeing innocent men from Death Row. To stall in the building of a database of felons' DNA for California is simply a crime.
30. "DNA database leads to arrest of Duval man in 2001 rape." Florida Times-Union (Jacksonville), February 25, 2004.  
In Florida, the state DNA database has matched man with evidence taken from a woman raped three years ago. The man's DNA was in the database because he was convicted of sexual battery in Orange County in 1985. After the DNA match, the victim then identified the man from a photo lineup prepared by police. This man's arrest is the latest in a series facilitated by the state-run database, which contains almost 200,000 DNA profiles from Florida felons convicted of violent crimes.
31. "DNA Profiling Advisory Board On The Anvil." India Business Insight, February 24, 2004.  
In India, a DNA Profiling Advisory Board is likely to be formed to monitor and enforce the proposed norms pertaining to DNA profiling, testing, DNA data bank and crime investigation. The DNA Profiling Advisory Committee will discuss and debate issues relating to quality control, creation of DNA data bank of convicts and enactment of appropriate legislation to govern various activities with respect to DNA finger printing. The committee was set up recently under the Department of Biotechnology. Its mandate includes assessment of infrastructure for DNA profiling facility in view of the crime situation in the society and need to create additional facilities and upgrading existing laboratories and recommending governmental assistance to DNA profiling related work and activities.
32. "C.A. Upholds Compulsory Taking of DNA Samples From Prisoners." Metropolitan News Enterprise (Los Angeles, California), January 28, 2004.  
In California, the Sixth District Court of Appeal ruled that a state prisoner who has been convicted of a serious crime may be compelled to give a DNA sample for inclusion in a criminal justice database, even if there is no suspicion the person committed another crime (People v. Adams, 04 S.O.S. 392.). The ruling affirms the conviction of Michael Adams, sentenced in Monterey Superior Court to life imprisonment without parole. Adams was charged in 2001 with the 20-year-old murder of a Monterey woman after a state criminalist ran the DNA profile taken from a vaginal swab against the database and made a "cold hit" to Adams' DNA profile. "Deterrence and prevention of future criminality and accurate prosecution of past crimes are purposes served by DNA testing and courts have upheld DNA acts for the law enforcement purpose of solving crimes," the justice noted. The legislation authorizing

the taking of the samples, he noted, takes convicts' privacy interests into account by barring public access to the database and requiring the state to take measures to protect against public disclosure of the contents.

#### Genetic Research / Privacy

33. "Researchers eye alternative to amniocentesis: study." Agence France Presse, March 2, 2004.  
US researchers say they have made a quantitative leap forward in developing a procedure that could one day enable doctors to diagnose fetal abnormalities such as Down syndrome by means of a simple blood test. The current prenatal tests for birth defects are highly reliable, but are invasive and carry a risk of miscarriage, causing many women to shun them. Now researchers with a Maryland biotech company have developed a process that makes it easier to extract more of the fetal DNA from a mother's blood plasma.

#### Paternity

34. "Utah project to link DNA, genealogy." Deseret Morning News (Salt Lake City), February 29, 2004.  
In a move they believe will forever alter the way family history research is done, geneticists in Utah are opening a free DNA-based genealogy database to the public. The Sorenson Molecular Genealogy Foundation is expected to announce that it has established a Web site -- [www.smgf.org](http://www.smgf.org) -- that allows anyone who has had a simple DNA test to input information that may link them to their ancestors, both known and unknown.

#### **FEDERAL REGISTER**

1. The Defense Science Board Task Force on Identification Technologies will meet in closed session on March 15-16, 2004. The Task Force will assess current technologies and operational concepts to identify and track individuals and materiel, including DNA matching.