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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 April 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 Pennsylvania House has passed a bill to require DNA from all convicted felons, and Illinois law enforcement is rallying support for a bill to require DNA from felony arrestees. A South Dakota parolee is challenging the state's DNA database statute. Oregon will use emergency spending to keep the crime lab operating at current levels.

Cold hits on DNA databases identified a California burglar as a suspect in 11 rapes, and a Colorado inmate in an Arizona rape. A rapist identified in New York through a cold hit has been convicted. DNA evidence assisted in prosecutions and/or investigations in Louisiana (2 rapes), Oklahoma (cattle rustlers), Texas (double homicide), and Virginia (cap linked to murder). A "DNA dragnet" for a serial rapist in Virginia has stirred some controversy, and a Louisiana court extended a restraining order protecting DNA dragnet samples collected in a search for a serial killer. In the same Louisiana serial case, the court is considering whether a search warrant for a DNA sample should have been obtained instead of a subpoena.

California investigators blame backlogs at a local lab for delays in possible DNA analysis on an old serial murder case. Iowa has established a minimum storage period for sexual assault evidence in open cases.

A motion for post conviction DNA testing is underway in New Jersey, and an Oklahoma prosecutor is using federal funds to review old cases for possible post conviction DNA testing. A federal court has dismissed a suit brought by a man erroneously jailed due to a case where DNA samples had been mistakenly switched.

In international news...An Australia state will increase DNA spending by \$8 million to overcome backlogs. A Canadian province has agreed to pay the RCMP for DNA services. England used DNA testing on fish to identify illegal fishing, and illegal trafficking of protected plants may be halted by DNA tests in South Africa. Russia will use DNA to identify miners killed in an accident.

STATE LEGISLATION

Forensic DNA

1. Louisiana HB 1 – Appropriations bill provides performance indicators for DNA testing. Reports over 100,000 arrestee samples collected.

Genetic Privacy / Research

2. New York AB 10539 – Provides for licensing of genetic counselors.

NEWS ARTICLES

Forensic DNA

1. "News from the Pennsylvania General Assembly." The Associated Press State & Local Wire, April 14, 2004.
In Pennsylvania, a package of seven DNA bills has passed the House of Representatives. Included in the package is a bill to require DNA samples from all convicted felons and to extend the statute of limitations for certain sex offenses if DNA evidence is available.
2. "Breakthrough' DNA Test Netted Illegal Fisherman." Press Association, April 14, 2004.
In England, DNA testing was used to trap a fisherman who was trying to disguise his valuable catch. A Belgian boat brought 270kg of fish in to Liverpool, which it claimed to be Sand Sole - a cheap and less valuable relative of the Dover Sole. The fish were skinned, beheaded and gutted so it was impossible to tell the difference. When the fish were sent for DNA testing - a first in the UK - the results came back proving that the fish were Dover Sole, a quota controlled species.
3. "DNA Dagnet' Makes Charlottesville Uneasy." The Washington Post, April 14, 2004.
In Virginia, 197 black men in the Charlottesville area have been asked to provide genetic samples in recent months as part of a police hunt for a serial rapist. The so-called DNA dragnet has caused racial tensions and raised questions about civil liberties in the city that is home to the University of Virginia. Police said at a recent meeting that they are sensitive to the concerns of the community but that they also want desperately to stop a rapist who has attacked at least six women. They maintain that the DNA sampling is not racial profiling, because several victims identified the rapist as a black man. Officers are not stopping black men at random. In most cases, police are responding to reports from residents about men who resemble a composite sketch of the suspect or who seem to be acting strangely. So far, the names of 690 "candidates" have surfaced in the investigation. Detectives quickly eliminated 400 because their DNA samples already were in the state database or because they were in jail when one of the attacks occurred. The rapist's most recent attack was in April 2003, and related attacks date back to 1997.
4. "Ruling in DNA-swab case extends restraining order." The Advocate (Baton Rouge, LA), April 13, 2004.
In Louisiana, a temporary restraining order preventing a task force investigating three homicides from using DNA swabs collected in the south Louisiana serial killer case may be extended by three months. The ruling gives law enforcement agencies time to identify which investigators collected each sample and determine whether they told donors the evidence would be used only to eliminate them as suspects in the serial killer investigation. At issue are 1,200 DNA swabs collected while trying to solve the deaths of a group of south Louisiana women dating back to September 2001.
5. "Murder trial delayed for DNA tests." The News & Observer (Raleigh, NC), April 13, 2004.
In North Carolina, a judge has postponed a murder trial so prosecutors can conduct additional DNA testing. The trial has been delayed indefinitely until the new round of testing is completed. The Assistant District Attorney told the judge that he had received the defense expert's report on the DNA testing results only 10 days ago, even though the testing was completed Feb. 18. One of the defense lawyers says DNA found on some evidence is not consistent with his client's DNA; they plan to argue the DNA may match his client's brother. The defense expert's conclusions conflict with the state's conclusion that the DNA on the evidence is consistent with the suspect's DNA.
6. DNA analysis helping ranchers lasso rustlers." The Daily Oklahoman, April 13, 2004.
In Oklahoma, the Woodward County Sheriff's Department used DNA to catch a suspected rustler. The cattle owner paid \$544 at a sale barn for a calf he suspected was his, and then paid \$350 for the DNA analysis to prove it. "I didn't mind doing it because I wanted to prove a point," he said. "Getting these people prosecuted is a struggle." The idea for using DNA came through shared information in a task force for agricultural theft that the District Attorney formed about a year ago. One drawback of DNA testing is the cost. But the state Agriculture Department's assistant director for legal services said he expects DNA testing to increase because ranchers will see it as a good investment.
7. "Castaneria fights DNA rule." The Associated Press State & Local Wire, April 12, 2004.
In South Dakota, a man currently on parole after serving 10 years for holding a business executive hostage has filed a grievance against the state Board of Pardons and Paroles over a requirement that he submit a DNA sample to the

state database. It is the latest in a series of complaints and court fights between the board and the parolee, who had his 100-year prison sentence reduced to 20 years by a former governor, making him eligible for parole. The man was released on parole in December 2002, and the state legislature passed a law in 2003 requiring DNA from all convicted felons.

8. "Sex Offender Gets 50 Years." Daily News (New York), April 12, 2004.
In New York City, a man has been sentenced to 50 years for a 1996 rape of a 13 year-old girl. He was identified through a cold hit on the DNA database after the rape kit was analyzed. The rape kit was part of the City's DNA backlog project which tested over 16,000 backlogged rape kits.
9. "Death row inmate seeks appeal using DNA, old suspect." The Associated Press State & Local Wire, April 11, 2004.
In New Jersey, a death row inmate sentenced for a 1985 murder wants new DNA evidence and an old suspect to overturn his conviction. He is the first death row inmate in New Jersey to try to use DNA testing to prove his innocence. The man's first conviction in 1986 was overturned by the state Supreme Court in 1990. DNA evidence from the victim's home was used by a jury in 1994 to again find him guilty. The defense said new DNA results may point to another man who prosecutors had questioned in the murder. He also is seeking evidence from an unsolved slaying.
10. "DNA tests needed for Tayzhina coal miners' identification." TASS April 11, 2004.
Sources in the crisis center for Russia's Kemerovo region have indicated that DNA tests will be necessary for the identification of some workers who died in the Tayzhina coalmine in Osinniki. Rescuers have found fragments of bodies, which may belong to three coal miners. If that is true, the total death rate will reach 43. So far, the official death rate is 40, and another 7 are missing. Twenty-six deceased miners have been brought to the surface and identified by their families.
11. "Tulsa County prosecutors hold old convictions up to DNA tests." The Associated Press State & Local Wire, April 10, 2004.
In Oklahoma, the Tulsa County district attorney's will be reviewing old cases for untested DNA evidence in murder, manslaughter and sexual crimes cases for Project Justice. The 1-year-old program received \$30,000 in funding from Local Law Enforcement Block Grants. Prosecutors identified more than 150 cases for review. They have made it through about three-fourths of the cases and have pinpointed several for review by senior prosecutors. The prosecutors looked for inmates convicted before 1994 - before DNA testing was available for court cases. They also wanted suspects who were still in prison, who maintained they were innocent and who were convicted in jury trials.
12. "Hunch Leads to Rape Suspect's Arrest." Los Angeles Times, April 10, 2004.
In California, a convicted burglar has been arrested on suspicion of raping 11 women in a series of attacks near the Long Beach Freeway after an El Monte police detective, acting on a hunch, obtained a sample of the man's DNA. The part-time laborer and dishwasher allegedly struck day and night and severely beat some victims. Some victims were attacked on the streets while others were stalked to their homes. The suspect was arrested in October and convicted of two burglaries. The police detective asked him for a sample of his DNA after he was arrested, and a swab with his saliva was tested and run through a state computer DNA database. A backlog delayed the results for five months. "For the detectives and the criminalist it was like they hit the lottery," said the Los Angeles County Sheriff. "This demonstrates the importance of DNA in solving some of the most horrendous of crimes."
13. "Man Guilty In Fatal Shooting." Richmond Times Dispatch, April 10, 2004.
In Virginia, DNA on the sweatband of a cap led to a guilty plea in the shooting death of a long-time employee of the Richmond Public Works Department. Seven bullets were recovered from the body, along with 10 casings from a semiautomatic pistol. A passenger in the car told authorities that the victim had pulled over after his car overheated. The man pleading guilty was among a group dealing drugs on the corner. Police found a cap in the victim's car, and DNA showed that it had his blood and sweat from the suspect on it.
14. "Police And Fire Briefs." Saturday State Times/Morning Advocate (Baton Rouge, Louisiana), April 10, 2004.
In Louisiana, DNA has led to the arrest of a man accused of raping two women in Baton Rouge and a suspect in another rape in St. Martinville. The suspect is accused of kidnapping and raping a woman in September 2002, and carjacking and raping another woman on Christmas Eve that year. He was a suspect in at least one of the rapes, and was swabbed for his DNA. The State Police Crime Lab reported a match of the DNA sample taken from the

suspect to DNA collected at both rape scenes. He is also linked through DNA to another rape case under investigation.

15. "Judge worried by order." The Advocate (Baton Rouge), April 9, 2004.
In Louisiana, the state judge who signed the subpoena authorizing the gathering of DNA from a serial murder suspect at first balked at the idea and questioned whether a court hearing was necessary to make the process valid. The State District eventually signed the subpoena, but only after investigators called an assistant attorney general and told her of the judge's concerns. Defense attorneys contend the swabbing of Lee was an illegal and unconstitutional search, and the evidence gathered in the swabbing, along with all other evidence taken as a result of the swabbing, should not be allowed during trial. In court, defense attorneys asked witnesses why they did not use a search warrant, which requires a higher legal threshold, to get the DNA, instead of the subpoena.
16. "Bracks Spends \$8m To Clear Crime Lab Backlog." The Age (Melbourne, Australia), April 9, 2004.
In Victoria, Australia, delays of up to 12 months in the testing of DNA in criminal cases has forced the State Government to boost spending on crime laboratory services by \$8 million (\$2 million per year for the next four years). The funding will pay for 23 extra staff at the Victoria Forensic Science Centre, and will be included in next month's state budget. The Acting Chief Commissioner said the 23 extra forensic scientists followed a review of the police laboratories two years ago. It will take eight months to fully train the new scientists in forensic laboratory practice, but the aim is to get the backlog back to zero.
17. "Legislative Record." The News Journal (Wilmington, De), April 9, 2004.
In Delaware, the state Senate has passed a bill to permits the use of buccal (cheek) swabs as an alternative means of obtaining DNA from convicted criminals required to provide blood samples for analysis and inclusion in the state DNA database.
18. "Jury Acquits Man Of Rape." The Post and Courier (Charleston, SC), April 9, 2004.
In South Carolina, a man who has been in the county jail for nearly two years awaiting trial was acquitted of raping a woman. The charges were filed several days after a woman told Charleston police that the man attacked her May 1, 2002. Adding to the trial's delay problems in the case was an unexplained delay in having DNA samples sent to the State Law Enforcement Division for testing. Although the man's DNA was found in body fluids removed from the victim's jacket, he had refused earlier offers of plea bargains, adamant that he and the victim had consensual sex after they smoked crack cocaine.
19. "State Panels Approve Oregon Governor's Budget Bailout Plan." The Register Guard, April 9, 2004.
In Oregon, lawmakers have agreed with nearly every aspect of the Governor's plan to avoid a portion of the public safety and health care cuts triggered by the defeat of February's tax measure. Key steps include keeping the Oregon State Police crime labs and medical examiner services intact. By using \$ 3.9 million in emergency funds, the police agency would continue to staff 60 positions in labs that provide DNA identification, firearms analysis and other forensic work for state and local law enforcement agencies.
20. "DNA Tests Ordered In Riddle Of Elderly Woman's Mauling Death." Sydney Morning Herald, April 9, 2004.
In Australia, an inquest into the death of an elderly woman mauled by her family's dogs was adjourned with the hope that DNA testing may shed light on the tragedy. Several family members have told the court that the dogs were affectionate with the victim and that they believe a neighbor's dog may have been involved. The Acting State Coroner said the fact that the victim's bloodied clothing was left in a neat pile beside her was "absolutely puzzling", and requested that DNA testing be carried out on swabs taken of the dogs' saliva and blood, as well as on the clothing.
21. "Zodiac Killer Has The Last Laugh." The Toronto Sun, April 9, 2004.
In San Francisco, investigators announced that they have closed the city's notorious "Zodiac" serial murder case and placed it in the inactive file. The Zodiac killer is blamed for committing at least five brazen murders in 1968 and 1969 that terrified the Bay Area. He liked to taunt the media and police with notes -- and it was these missives that several years ago seemed to offer the best chance of unmasking the Zodiac at last. In 2002, with the emergence of DNA testing, a partial DNA profile was lifted from saliva that had sealed one of his old letters. The results seemed to clear the only suspect ever named by police. But the DNA results failed to point to any other suspect. The police admit they have other DNA evidence taken from the crime scenes, but say they lack the manpower in a backlogged forensics lab to analyze it.

22. "Police open combined crime lab, substation." Austin American-Statesman, April 8, 2004.
In Austin, Texas, city officials opened a new forensics crime lab as part of an \$18 million center. The 70,000-square-foot facility, which includes a substation, was completed six years after voters approved its construction in a bond election. The forensics facility contains a DNA lab, a crime scene reconstruction room, a firing range for ballistics testing, drug and breath analysis labs and a forensic evidence storage room. Until now, the crime lab was in the department's basement and frequently ran short on work and storage space. The department did not do DNA samples and instead sent them to state crime labs, where officers competed with those from other agencies in getting attention for their cases.
23. "Police push bill to widen DNA bank." Chicago Tribune, April 8, 2004.
In Illinois, Chicago police and Cook County prosecutors are trying to drum up support for a proposed law that would require anyone arrested for a felony to give up a DNA sample that would be put into a database. Although the bill overwhelmingly passed the Illinois House last month, a spokeswoman for the Senate President has said the chances of it coming up for a Senate vote are not good. Still, Chicago police officials pointed to a similar measure in Virginia, which last year began taking DNA from people arrested on felony charges. The measure solved 81 crimes, including taking 21 rapists off the street. Prosecutors said retrieving DNA after arrests could rule out innocent people more quickly and make sure dangerous offenders are off the streets. But the American Civil Liberties Union and the state appellate defender's office oppose the measure. They argue that taking a DNA sample after every felony arrest is an unconstitutional invasion of privacy. They said the bill should be limited to arrests in serious violent offenses. Also, the bill should allow a judge to decide if a sample should be taken.
24. "Colorado inmate linked to 18-year-old rape case." The Associated Press State & Local Wire, April 8, 2004.
A Colorado prison inmate eligible for parole this month has been named a suspect in a sexual assault in Arizona from nearly 18 years ago. The suspect is in prison for violating probation on a firearms offense. If released, he will be brought to Arizona to face sexual assault, kidnapping and burglary charges. Last year, Mesa's crime lab found or compared DNA in 587 cases, and approximately six cold cases have been resolved since October 2002. This case would be the oldest taken to trial.
25. "Governor signs bill that preserves sexual assault evidence." The Associated Press State & Local Wire, April 8, 2004.
In Iowa, a bill was signed into law that would mandate a minimum storage period for sexual assault evidence. There previously was no amount of time the "rape kits," as they are called, had to be stored after a person who was sexually assaulted was examined. Advocates for the Iowa Coalition Against Sexual Assault and the Iowa Coalition Against Domestic Violence, have said if rape kits are not stored, victims who report sexual abuse may feel victimized yet again. "If a woman has gone through the sexual abuse examination ... that the production of that examination was discarded would be highly victimizing," said the director of the Crime Victim Assistance Division of the Iowa attorney general's office.
26. "Teen held in parents' slayings." Fort Worth Star Telegram, April 8, 2004.
In Texas, a 19-year-old man was arrested and accused of hiring two people to kill his parents in December. In January, investigators obtained grand-jury subpoenas to collect DNA samples from at least eight people. Lab test results from the Tarrant County Medical Examiner's Office showed a positive match between DNA collected from the home and a sample from one of the suspects. This suspect supplied police with information on other accomplices.
27. "1,500 Inmates Will Have DNA Tests Today." The Arizona Republic, April 7, 2004.
In Arizona, the Maricopa County Sheriff has ordered his officers to take DNA samples from more than 1,500 inmates. The sampling, the largest ever conducted in the jail system, is being done to comply with a state law that requires testing for any felon. Saliva samples will be collected from inmates and sent to the state crime laboratory for analysis. "Potentially, this information can clear numerous unsolved serious felonies," said the Sheriff. "Delaying the removal of such predators by one day or hour is unjustified."
28. "Bills signed Tuesday." The Daily Oklahoman, April 7, 2004.
Oklahoma has enacted a bill to change the name of the Oklahoma State Bureau of Investigation DNA population database to the Combined OSBI DNA Index System and authorizes the bureau to keep any sample submitted by the state Corrections Department to the database.
29. "DNA testing; PDs agree to split costs." The Halifax Daily News (Nova Scotia), April 7, 2004.

In Canada, Nova Scotia police departments have struck a new deal with the RCMP crime lab to pay for DNA testing of crime scenes. A payment of \$117,051 by the province will pay for DNA tests. Halifax and Cape Breton Regional Municipality will split the cost of testing with the province.

30. "Civil rights lawsuit tossed." Las Vegas Review Journal, April 7, 2004.

A U.S. District Court judge in Las Vegas dismissed a civil rights lawsuit filed by against police by a man who was wrongly imprisoned for a year, saying the constitutional amendments the lawsuit was filed under do not apply to what happened to him. The man was being held at the North Las Vegas Detention Center on an immigration matter when a fellow inmate accused him of sexual assault. DNA taken during the investigation was found to match evidence in two unsolved rapes. He spent a year in jail awaiting trial, but one week before his trial defense attorneys discovered that his DNA sample had been switched with the other inmate's when they were entered into the police crime lab's computer – meaning the other inmate is the one who had committed the rapes. The lawsuit alleged numerous violations of the U.S. Constitution's Fifth Amendment, the Eighth Amendment, and the 14th amendment. However, the judge did point out that the lawsuit could have been filed under the Fourth Amendment, which protects citizens against unreasonable searches and seizures and illegal detentions.

31. "It's game up for cycad thieves." Sunday Times (South Africa), April 4, 2004.

In South Africa, conservationists have turned to DNA to track the illegal trade in rare cycads plants. They came up with the idea of DNA fingerprinting cycads after hearing that it was being used to protect endangered birds in the US. Developed at Kirstenbosch Botanical Gardens, research centre for Gauteng Nature Conservation, the technique will allow authorities to take maternity tests of baby cycads to tell whether they come from registered mother cycads or those nicked from the wild.

Genetic Privacy / Research

32. "Ethics seeps into genetic testing." The Bradenton Herald, April 12, 2004.

A group from Chicago is drawing up what may be the first set of ethical guidelines for biohistorical analysis. It will address, among other things, whether scientists should be allowed to test the remains of historical figures only after getting the consent of their descendants. Some of these investigations are invasive, involving digging up the dead or releasing private medical information, the group wrote in the journal Science. Some are of dubious value to science or society; a few are blatantly commercial. The Chicago group looked at the ethical codes of 23 professional organizations, representing chemistry, archaeology, sociology and other disciplines, to see how they handle questions of genetic testing, consent and privacy. It is now drawing up a draft set of guidelines for biohistory, which have not been released.

33. "Family ties: Deceased offer final gift to relatives." The Daily Oklahoman, April 10, 2004.

A growing number of Oklahoma funeral homes are offering DNA retrieval and storage services. This way, families can determine whether an ancestor carries a gene for a disease, as well as determine paternity. DNA Connections is one of several companies in the United States that stores DNA samples. The cost is about \$250 dollars, and DNA Connections will store the DNA for 25 years. Dr. Donald Capra of the Oklahoma Medical Research Foundation agrees that DNA storage could come in handy in determining genetic conditions. Capra said that as technology grows, DNA storage will be increasingly important.