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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 9, 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 Illinois House passed a bill to require DNA for all felony arrests, and a California proposal would require DNA from all convicted felons (but excludes drug possession offenses). The Illinois Governor is urging more federal assistance in addressing state DNA backlogs, and a Louisiana advocacy group is credited with bringing funding to the state's DNA program. A new crime lab may be in the works for Massachusetts. Problems at crime labs across the country have some defense attorneys calling for a national licensing process.

Cold hits identified suspects in Missouri (rapist linked to a murder), Kentucky (rapist linked to three murders), and Minnesota (rapist linked to another rape). DNA was also vital to investigations and/or prosecutions in Connecticut (three murders), Georgia (murder), Pennsylvania (murder), and Louisiana (serial murders). Hundreds of elimination samples are being collected in a Kansas serial murder case. A New York article found that an increasing number of "lower-level" crimes are being solved through DNA.

An Illinois ruling allows defense lawyers to have a partial profile DNA from a murder, which does not match the suspect, compared against the state database. A Florida bill would extend the statute of limitations for certain offenses if DNA evidence is available. Post conviction DNA testing cases moved forward in California and Arkansas.

In international news...England has begun taking DNA samples at arrest, and an Australian state is expanding police authority to collect DNA samples from suspects. DNA solved a 1960 triple murder in Finland, car bombings in Ireland, and a possibly bungled autopsy in Japan. Canada is preparing a rapid DNA analysis system to respond to incidents with mass casualties, and India is using DNA to identify bodies from a mass grave. Malaysia will use a new DNA technique used with trees to stop illegal logging.

STATE LEGISLATION

Forensic DNA

1. California SB 1737 – Expands offender DNA database to include all convicted felons and all convictions requiring registration as a sex offender. Exempts non-violent drug possession offenders.
2. Florida HB 1831 – Extends the statute of limitations for certain sex offenses to allow prosecution within 1 year after the identity of the accused is established through analysis of DNA evidence.

NEWS ARTICLES

Forensic DNA

1. "Slaying case spins on DNA ruling." Chicago Tribune, April 6, 2004.
In Illinois, defense attorneys for a man accused of multiple slayings have successfully used a death-penalty reform to have a partial DNA profile compared against a statewide database in a hunt for other suspects in the case. A partial DNA profile generated from material found under the fingernails of the victim does not match the suspect. The lawyers argued they should be allowed to use the incomplete DNA profile as an investigative tool, comparing it with thousands of full profiles in the state's DNA database. Prosecutors fought the move but a judge determined it should be allowed under reforms passed last year by the General Assembly. The successful bid for the database review may have statewide implications, but its ultimate value for the suspect in this case could be limited. Other DNA samples collected in the murder match him. He also is charged in six more slayings, an attempted murder, two aggravated criminal sexual assaults and two attempted sexual assaults.
2. "Trial ordered for suspect in 8th grader's death." Philadelphia Inquirer, April 6, 2004.
A trial has been ordered for a suspect in the death of a girl murdered in Pennsylvania. The girl's mother and her ex-boyfriend had an argument earlier on the day of the murder regarding their failed relationship. That night, she said she returned to her house to find blood splattered in a stairway and kitchen. DNA testing later matched the blood to the girl and the ex-boyfriend.
3. "Judge rejects DNA sample request." The Times Union (Albany, NY), April 6, 2004.
In New York, a judge denied a request to force a drug dealer who is facing first-degree murder charges in the killing last year of a police informant to submit to an oral swab for DNA evidence. Prosecutors argued that the DNA sample was needed to match hairs found in a Chevrolet the suspect borrowed on the same day the victim was shot. The judge said the suspect's alleged accomplice gave a statement to police that the vehicle used to drive to the scene of the killing was a Ford Escape SUV. The judge said the prosecution could not otherwise connect the Chevrolet to the crime, so he could not force the suspect to provide the DNA sample. The District Attorney intends to refile the order.
4. "Analysis of DNA won't go quickly." Wichita Eagle, April 6, 2004.
In Kansas, it could take weeks to process the DNA evidence being collected during the search for the BTK serial killer. The scope of the Wichita police investigation was hinted at recently when one man reported being told by police he was the 600th person asked to submit a DNA sample. Police continue to decline comment on the status of their investigation. A Wichita criminal defense lawyer said he has received numerous calls from people who have been asked by police to submit DNA samples. He said these people have felt intimidated when law enforcement officers ask for swabs from their cheeks because they are suspected of being BTK.
5. "Blagojevich cites need for money for DNA tests." The Associated Press State & Local Wire, April 5, 2004.
The Illinois Governor has issued a plea for the federal government to provide money to help Illinois solve criminal cases using DNA technology. He said Illinois needs money to help eliminate the backlog of evidence involving 1,000 criminal cases waiting to be tested and to keep up with about 2,850 cases that are expected to flood its crime labs in the new fiscal year starting July 1. He cited a recent study that found that the total crime cases, nationwide, with possible biological evidence either still in the possession of local law enforcement or backlogged at forensic labs is 542,700.
6. "Commission recommends sweeping changes to revamp criminal justice." The Associated Press State & Local Wire, April 5, 2004.
In Massachusetts, a commission conducting a top-to-bottom review of the state's criminal justice system made sweeping recommendations for change and criticized many of popular crime-fighting initiatives (such as DARE). Among its recommendations is the building of a new crime laboratory, and the appointment of a statewide forensic manager to oversee the scientific gathering and processing of evidence. "We discovered that all of these forensic services in Massachusetts need better resources," said Mary Kate McGilvray, of the Massachusetts State Police Crime Lab. "They need better facilities and they need more staff."
7. "Lawyer for fired chemist says no settlement in sight." The Daily Oklahoman, April 5, 2004.
The fired Oklahoma City police chemist accused of falsely testifying and misleading a jury that sent a man to prison for a rape he was later cleared of will settle for nothing less than clearing her reputation. Joyce Gilchrist's lawyer said as much last week after an April 2005 trial date was scheduled in a federal lawsuit that the wrongfully convicted man filed against Gilchrist, a former Oklahoma County District Attorney and Oklahoma City. In

paperwork filed in the case, lawyers wrote that a settlement in the \$75 million civil rights lawsuit is “possible.” An FBI report, revealed in April 2001, accused Gilchrist of misidentifying hair or fibers and offering misleading testimony in at least six criminal cases. The next month, the wrongfully convicted man was released from prison after a DNA test of semen recovered from the victim exonerated him.

8. “Take DNA sample from anyone arrested, Blair urges police.” *The Daily Telegraph* (London), April 5, 2004.
In England, Tony Blair has urged police to use new powers to fingerprint and take DNA samples from anyone they arrest, including those over the drink-drive limit. Until now, the police have been able to fingerprint and take DNA without consent only from those who are charged or convicted of a recordable offence. Legislation which comes into effect today will enable the police to take fingerprints and DNA from people who are arrested, even if they are not then charged and do not give their consent. The Prime Minister believes that extending fingerprinting and DNA testing will result in more crimes being cleared up. Eighteen months ago a successful prosecution for the murder and sexual assault of a schoolboy 30 years ago was based on a DNA sample taken from a drunk driver.
9. “RCMP labs prepare for mass disaster.” *National Post* (Canada), April 5, 2004.
In Canada, RCMP forensic experts are developing a system to rapidly analyze the DNA of people killed in a mass disaster or terrorist attack. The force is hoping to make the gruesome task of identifying victims of crashes or explosions as quick as possible, using lab-worker robots, lessons learned from the Swissair crash and prototype Canadian software that was borrowed by World Trade Center investigators.
10. “DNA test indicates autopsy bungled.” *The Daily Yomiuri* (Japan), April 4, 2004.
In Japan, an internal organ sample identified by a forensic examiner as belonging to a man found dead in a car in July 1997 has been determined by DNA testing to have come from another person. In September 1998, the man’s family filed a suit against two responding officers. The family contended the man died because the responding officers left him unattended, and he was not confirmed as being dead until 11 hours later at a hospital. The organ sample was submitted by the examiner to the court when the family filed another lawsuit in July 2000 against the prefectural police and the examiner, demanding damages. The prosecutor’s office took possession of the sample and DNA testing at a university confirmed that the organ did not belong to the car crash victim.
11. “DNA Of Bilkis Kin Isolated, Shot Inarm For CBI Probe.” *Indian Express*, April 4, 2004.
In India, the probe into the case of a woman who was gang raped while 14 of her relatives were being killed during the Gujarat riots, received a shot in the arm when forensic experts succeeded in isolating DNA samples from the remains of five bodies of the victim’s relatives exhumed from a mass grave. With the DNA isolated, scientists will be able to establish the identity, age and sex of the dead. Officials said the case was a challenge for forensics given the fact that the remains were in a highly decomposed state and had been exhumed almost two years after the bodies were buried in a riverine pit. Water had seeped into the bones and there was rapid decomposition after the police poured 60 kg of salt into the mass grave.
12. “Four decades after triple murder, Finnish police nabs killer.” *Agency France Presse*, February 4, 2004.
In Finland, a court has charged a man with a triple murder he is accused of having committed in 1960. Faced with the evidence, the man confessed to stabbing an 18-year old youth and two 15-year old girls to death when they were camping in June 1960. Over the decades, police interviewed 4,000 people to solve what became one of Finland’s most prominent murder cases. In the end, police decided it was a young man who was found injured at the murder scene, and who later claimed not to be able to remember a thing about the incident, who actually committed the crime. Police, who had held on to the blood-soaked tent over the years, recently conducted DNA tests on the canvas and arrested the now 62-year old man on the basis of their findings.
13. “DNA found on burned body matches suspect, detective says.” *The Associated Press State & Local Wire*, April 3, 2004.
In Georgia, DNA samples taken from the body of a girl who was raped and killed two years ago have been matched to that from an 18-year-old charged in her death.
14. “DNA leads to charges in 1980 murder case.” *The Kansas City Star*, April 3, 2004.
In Missouri, DNA samples taken from skin tissue found under the fingernails of a 1980 murder victim have been linked to a paroled rapist. The case is believed to be the oldest charge in the state based on scientific evidence. The Kansas City man is a suspect in other murders under investigation. The man had been a suspect in the murders, but he denied knowing the victim or being in her apartment. He was paroled in 2002 after serving 18 years of a 25-year sentence for attacks on two other Kansas City women. The prosecutor said the case showed the need for the

Missouri General Assembly to pass a pending bill that would expand the criminal DNA database. The current Missouri DNA law applies only to killers, severe sex offenders and some other violent criminals. The bill would require all convicted felons to surrender samples.

15. "Judge hears debate on Cooper case tests." Press Enterprise (Riverside, CA), April 3, 2004.
In a California post conviction DNA testing case, the inmate's attorneys want hairs found on the hands of the victim to be tested for DNA and the results entered into the nationwide FBI database to see whether any matches can be found. The attorneys said they also plan to ask the judge to order DNA samples to be taken from several people they suspect might have killed the victims. Prosecutors oppose mitochondrial DNA testing of the hairs because the results are not as precise or reliable as nuclear DNA, which cannot be done in this case because the hairs in question lack roots. A blood drop from inside the victim's house and smears on a victim's T-shirt were linked to the inmate through DNA testing in 2001.
16. "Police Get Power To Take DNA As Bracks U-turns." The Age (Melbourne), April 2, 2004.
In Victoria, Australia, the Premier told State Parliament the Government would immediately introduce changes that would give police the power to demand a DNA sample without first obtaining a court order. The amended law would apply to anyone charged with a serious crime and held in police custody, even if they were yet to be tried or convicted. The Premier had ruled out changes to DNA laws in the previous week but changed his mind, telling State Parliament he was "deeply concerned about the spate of so-called gangland killings and the potential for innocent people to be caught up in the crossfire of these events". The changes would allow police to collect "non-intimate" DNA samples from people in custody suspected of serious crimes.
17. "Justices side with inmate, order DNA retesting of hairs." The Associated Press State & Local Wire, April 2, 2004.
The Arkansas Supreme Court reversed a circuit judge's denial of a request by a death row inmate for further DNA testing of hairs introduced during his trial as evidence of his guilt. The justices unanimously sent the case back to a County Circuit Court and directed further testing, but rejected a request for further DNA testing of two other items of evidence. He was first convicted of capital murder and sentenced to death in 1994 for a 1993 murder.
18. "Real IRA Suspect 'Is Likely To Face Bomb Charge'." Belfast News Letter (Northern Ireland), April 2, 2004.
In Ireland, a suspect is likely to be charged with murdering 29 people who died in an Omagh bomb attack. He has been in custody since last September on 15 charges involving explosives and membership of the Real IRA which carried out the bombing. The prosecutor said a forensic expert in explosives had checked the timer power units and claimed he found support for his proposition that one person made all the bombs due to their construction. The suspect's DNA was found on the power unit of one of the car bombs.
19. "The DNA Way To Finger Out Forest Robbers." Bernama The Malaysian National News Agency, April 2, 2004.
In Malaysia, the Forest Research Institute Malaysia's head of Genetics Unit for Forest Plantation Division said through the technique called Random Amplified Polymorphic DNA (RAPD), it is possible to match stolen logs to tree stumps felled illegally. "Foresters previously had to depend on wood anatomy experts to link suspected timber thefts to the source trees. But this was not enough as identification could only be done on the group of the trees and not at the species level," she said. She said comparing DNA profiles of logs and the stumps from which the timber was believed to have originated, would help to provide answer as individual trees within a species have unique DNA profiles not duplicated in other individual trees.
20. "Killer Gets Three Life Terms For Brutal Murders." Hartford Courant (Connecticut), April 2, 2004.
In Connecticut, a judge has sentenced a man to three consecutive life terms for crushing the skulls of three women. State forensic investigators used blood spatters, cigarette butts and semen samples collected by detectives to tie the man's DNA to all three murders. Nationally recognized criminalist Henry Lee analyzed the evidence and concluded that the man was the killer.
21. "Look out, burglars, DNA's on the scene." The Journal News (Westchester County, NY), April 2, 2004.
DNA is being used increasingly to solve "lower-level" crimes, such as burglary. In New York, investigators captured a burglar nicknamed Spider-Man" for his penchant for scrambling up and down fire escapes to break into apartments. He also apparently liked to snack while he worked. "He was an eater," said a forensic scientist at the Westchester County Forensics Laboratory. "The police said he ate or drank something at every one of his crime scenes." At one crime, he left behind saliva on the rim of a soda bottle, which enabled lab workers to match DNA found at one crime scene with a sample of the man's DNA stored in a computer database. Faced with the

overwhelming evidence placing him in an apartment he had no legitimate reason to be in, the career criminal pleaded guilty in January to second-degree burglary.

22. "Evidence." Palm Beach Daily Business Review, April 2, 2004.
In Florida, an appeals court has ruled that a charge of conspiracy to commit sexual battery is not an offense included in a law requiring defendants to submit to DNA testing. The appeals court reversed the order denying the defendant's request for an injunction against having his blood drawn for a DNA test and granted a restraining order.
23. "Citing New Department of Justice (DOJ) Released Report Showing Staggering Backlog of DNA Rape Evidence Kits, the National Center for Victims of Crime, RAINN, ChoicePoint, Lifetime Television and Rape Survivor Debbie Smith Urge Senate to Pass Critical Legislation to Put Rapists Behind Bars Now." PR Newswire, April 2, 2004.
As the Department of Justice reported to Congress that there is a nationwide backlog of unanalyzed DNA from more than 221,000 open rape and murder cases, leading advocates -- the National Center for Victims of Crime, RAINN (Rape, Abuse & Incest National Network), ChoicePoint, Lifetime Television and rape survivor Debbie Smith - called on the Senate to pass legislation that would eliminate this backlog and put tens of thousands more rapists behind bars. The report, titled "National Forensic DNA Study Report," commissioned by the National Institute of Justice, U.S. Department of Justice, also highlighted specific cases in which multiple crimes, including rape, could have been prevented if DNA evidence had been more effectively utilized.
24. "CSI actor lobbies for needy crime labs." The Toronto Star, April 2, 2004.
Robert David Hall, of the popular television show CSI, was recently in Washington, DC to meet with real-life forensics experts at a technology fair, and to lobby D.C. politicians on their behalf for more money. "We'd like to see more of the high-tech stuff you see on TV spread around the country," Hall said. "Makers of all this wonderful high-tech gear make sure that we get it, but we're one thing. The real crime labs are another."
25. "Study: Untested DNA allows crime." USA Today, April 2, 2004.
A new Justice Department study says that at least 100 rapes, murders and other crimes could have been prevented if states took DNA samples from all convicted felons. The study, given to members of Congress, also found that local police and crime labs have evidence from more than 540,000 unsolved crimes -- including 52,000 homicides and 169,000 rapes -- that has not been subjected to DNA or other tests that could help identify suspects. Local agencies often do not perform tests, the study found, because of personnel and funding shortages and a lack of understanding about DNA technology.
26. "Funding enhances DNA evidence use." Daily Advertiser (Lafayette, LA), April 1, 2004.
Editorial. "Issue: Baton Rouge group successful in getting additional state money. We Suggest: The funds will allow more backlogged rape cases to be tested. . . Louisiana residents owe a debt of gratitude to a Baton Rouge group called Community Partners for Forensic Science. Largely because of the group's strong advocacy, the state House of Representatives recently approved \$650,000 to test a thousand backlogged rape kits. . . The Louisiana law demanding that all those convicted of a felony sex-offense or violent crime provide swabs of DNA evidence is supposed to apply statewide. It can be implemented, however, only when funds are available. Using the swabs in criminal investigations is also dependent on funding. The allocation secured by the Community Partners for Forensic Science, combined with federal funds now available, will greatly increase DNA testing in backlogged rape cases. We will all benefit."
27. "Release canceled for convict whose DNA is linked to '94 rape." Star Tribune (Minneapolis, MN), April 1, 2004.
In Minnesota, a man who was going to be released from prison this month for a 1997 attempted sexual assault will remain in jail because his DNA was matched to a case involving the rape of a 15-year-old girl in 1994. The evidence was originally tested using an old method, and was retested recently using an updated method that allows comparison against the offender database.
28. "Experts: Lee DNA a match." The Advocate (Baton Rouge, LA), March 31, 2004.
In Louisiana, DNA experts testified that there is only one in 3.6 quadrillion chances that blood and semen found at the crime scenes of the south Louisiana serial killer victims belongs to someone other than the suspect, Derrick Todd Lee. One of Lee's attorneys said only part of the testimony about DNA came out during the hearings. More details about testing and probabilities will come out during trial, he said.
29. "Convicted Rapist Charged in Ky. Slayings." Associated Press Online, March 31, 2004.

In Kentucky, a convicted rapist with a long criminal record has been charged with three unsolved murders from the 1980s after DNA linked him to the killings. The man, who is already serving a life sentence, was charged with murder and rape in the deaths of women in 1982, 1986 and 1989. When the slayings occurred, he was free on parole after serving more than a decade in prison for rape, manslaughter and other violent crimes. His parole was revoked in 1991 for convictions on rape, kidnapping and sodomy charges.

30. "House OKs taking DNA upon arrest." Chicago Tribune, March 31, 2004.
In Illinois, the state House of Representatives has overwhelmingly approved legislation to allow police to collect DNA samples from anyone arrested in connection with a serious crime. Critics questioned the constitutionality of the bill, comparing its proposed expansion of police powers to authoritarian tactics and pledging to kill it upon arrival in the Senate. Supporters argued the bill proposes only a minor change to the process by which police collect evidence from suspects in custody. "It's no different than collecting a fingerprint from someone," said Rep. Susana Mendoza (D-Chicago), the bill's sponsor. "DNA is just the fingerprint of the 21st Century."
31. "DNA-testing probe at lab ignites debate." National Law Journal, March 29, 2004.
Controversy over test procedures at a Texas DNA crime lab has critics calling for national review standards for forensic facilities. Defense attorneys say the lack of a national licensing process and poor oversight of testing facilities reveal deep problems in DNA testing labs across the nation. Of the country's largest 455 crime labs, about half are accredited by the American Society of Crime Laboratory Directors, according to the group. Some states, such as New York and Oklahoma, have begun requiring accreditation.

Genetic Privacy / Research

32. "Use Of DNA Tests In Early Detection To Be Discussed." Gulf News, April 5, 2004.
The feasibility of using DNA technology for the early detection of AIDS and other viral diseases will be studied by the health authorities in the United Arab Emirates this month. "The study is aimed at evaluating the implementation of diagnostic methods by using DNA technology to help early detection of AIDS, Hepatitis B and C," said Dr Amin Al Amiri, director of the Department for Blood Transfusion Services (BTS) at the Ministry of Health, who chaired the meeting.
33. "DNA grizzly count riles conservationists." Calgary Herald (Alberta, Canada), April 2, 2004.
Parks Canada is planning to launch a DNA study of grizzly bears in Banff and adjoining mountain parks after two young bears were killed by scientists trying to place radio collars on them two years ago. In a move to reduce harassment of bears, the genetic study -- which collects hair shed by the animals -- is also seen as a cheaper way of monitoring the bears' activities in the parks.
34. "Keeping Snoops Out of Your Genes." Business Week Online, April 1, 2004.
A US Senate bill, the Genetic Information Nondiscrimination Act, passed 95 to 0 last October. And President Bush has indicated that if it passes in the House, he'll sign the bill into law. Yet even with 237 congressional reps as co-sponsors, the powerful Energy & Commerce Committee still hasn't slated the bill for a vote. Includes a Q&A session with the chairman of Boston University's Health Law, Bioethics & Human Rights Department.

Paternity

35. "Prove my secret link with royals." UK Newsquest Regional Press - This is Hampshire, April 5, 2004.
In England, a man has asked the Church of England's Court of Arches for permission to exhume his grandfather and to remove part of his relative's skeleton for DNA testing. According to a family legend, the grandfather is the secret love child of Queen Victoria's sixth daughter, Princess Louise, and the DNA taken from his bones could help to prove it.
36. "Judge refuses to rule on exhumation of Billy the Kid's mother." The Associated Press State & Local Wire, April 2, 2004.
In New Mexico, a district judge has ruled that investigators who want to exhume the body of Billy the Kid's mother must first get permission to exhume remains of the Kid himself. "Due to substantial uncertainty surrounding the recovery of the Kid's remains, only if the petitioners are successful in locating the Kid's burial site and collecting his DNA, may they again petition this court for a review of Catherine Antrim's matter," said the judge's order. Law

enforcement officers want to exhume Antrim's remains so her DNA can be tested and eventually compared with DNA taken from the body buried under the Kid's gravestone in Fort Sumner. They also want to compare the DNA to that of a man from Hico, Texas, who claimed to be Billy the Kid until his death in 1950; and possibly the DNA of the Kid's brother, Joseph Antrim, who died in 1930 - if his remains can be located.