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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 May 7, 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

A New Jersey bill would require DNA for violent felony arrests, and a Rhode Island article studied the state's lack of an all-felons DNA database. The Massachusetts Governor is considering a "foolproof" death penalty proposal that would require evidence such as DNA for sentences. Backlogs in Mississippi and Wyoming made headlines, and two top officials at a local lab in Indiana were fired over questions surrounding DNA testing.

Cold hits on DNA databases identified offenders in Florida (murder; robbery; murderer linked to Texas inmate), New Mexico (murder), New York (3 serial rapes), Oklahoma (murder), and Vermont (burglary linked to New York offender). DNA evidence also aided investigations in Florida (rape), Idaho (elk poaching), Nebraska (double homicide), and Pennsylvania (murder). DNA evidence cleared suspects in North Carolina (1914 kidnapping case) and Texas (rape). DNA may play a role in the Michael Jackson case, and the FBI is testing hair samples in an arson investigation. Iowa investigators in a murder case are planning to collect DNA sample from all males in an apartment building.

The Florida legislature has extended the time for inmates to seek post conviction DNA testing, and a Miami prosecutor is voluntarily reviewing cases for possible post conviction testing. A Nebraska inmate's post conviction DNA testing motion was denied.

In international news...An Australian state is expanding funding for DNA testing. A cold hit in Canada solved a sex crime, and retesting of DNA cases in Canada may face hurdles due to policies on evidence retention. DNA evidence may be central prosecutions in Malaysia (murder), and South Africa (serial rapes). DNA testing in Sweden may solve the murder of a former Prime Minister. Low Copy Number testing solved a burglary in England.

STATE LEGISLATION

Forensic DNA

1. New Jersey SB 1513 -- Expands DNA database to include samples from disorderly persons and certain violent arrestees, including murder, manslaughter, kidnapping and sex offenses.

NEWS ARTICLES

Forensic DNA

1. "DNA Clears 1914 Kidnapping Conviction." Associated Press Online, May 5, 2004.

In North Carolina, a DNA test has cleared a man who was found guilty of kidnapping a boy in 1914. The new tests indicate that the child police found with him was not the missing boy. More than likely, he was the illegitimate son of the man's brother and a servant living with their parents. The man was convicted of kidnapping in a sensational trial, but the verdict was overturned on appeal. He was never retried, but the boy grew up with the identity of the kidnapped child. Recently, one of the man's grandchildren got a DNA sample from her father and had it compared to a sample given by a son of missing boy's brother.

2. "Forensics big winner in police funds boost." The Australian, May 5, 2004.
In Australia, the Victorian Government will increase the police force's budget by \$175.6 million to nearly \$1.3 billion a year. The four-year law and order boost includes \$14.3 million for 46 new forensic staff to provide more efficient DNA analysis. "DNA is now a vital crime-solving tool, with demand for forensic DNA analysis growing to the point that four out of every five suspects are currently charged based on DNA evidence," said the Police Minister.
3. "Homeless man sentenced to 12 to 28 years in rape death." The Associated Press State & Local Wire, May 5, 2004.
In Pennsylvania, a homeless man was sentenced to more than 12 years in prison for taking part in the violent rape of an unemployed woman who died two days later of her injuries. DNA evidence linked him to the attack. Authorities have also filed charges against a second man based on DNA evidence, but they have not been able to identify or locate him.
4. "Arrest made in custodian death." St. Petersburg Times, May 5, 2004.
In Tampa, Florida, police have arrested a man suspected of killing a 54-year-old school custodian last month, thanks to a DNA match. The man was a registered sex offender who was recently released from prison and living four blocks away from the victim. He had been released from state prison Feb. 10 after serving 18 years of a 25-year sentence for the sexual battery of two older women during the commission of a burglary. After the crime, police identified 100 registered sex offenders within a 3-mile radius and tracked them down for interviews. The suspect was interviewed and provided a saliva sample for DNA evidence. Meanwhile, blood left at the scene was being compared with a DNA database on convicted sex offenders. A match was made recently, and the man was arrested.
5. "Agency, bidder clash over multimillion-dollar contract." The Baltimore Sun, May 4, 2004.
The Maryland Department of General Services is urging the Board of Public Works to bypass the state's normal appeals process and award a lucrative construction contract for a state police crime lab despite protests by a disqualified bidder that says it offered to build it for \$3 million less.
6. "DAs Rap Governor's Death Penalty Plan." The Boston Globe, May 4, 2004.
In Massachusetts, several district attorneys criticized the Governor's proposal to establish what he insists would be a nearly foolproof death penalty system. The prosecutors spoke after an 11-member commission released its report on a proposed death-penalty system that uses DNA technology and other scientific methods to prove guilt in capital cases and avoid wrongful convictions. The plan calls for upgrading standards of crime laboratories, medical examiners, and other specialists who gather and analyze evidence. But the Norfolk District said it is ridiculous for the state to consider giving the medical examiner's office and crime lab the added task of analyzing scientific evidence in death penalty cases. Both offices have struggled with crushing backlogs, with delays of several months in getting scientific analyses for criminal cases.
7. "RCMP confirm hair subject to DNA review in Manitoba case destroyed." The Canadian Press, May 4, 2004.
Convicts hoping to use DNA analysis to prove their innocence may be thwarted by an RCMP policy that used to include destroying biological evidence after a certain amount of time. The long-standing policy was explained after a planned DNA review in Manitoba of a first-degree murder case ground to a sudden halt. Justice officials said a single strand of hair used to convict a 19-year-old of the crime could not be found.
8. "Senate approves increased state regulation of pharmacy networks." The Associated Press State & Local Wire, May 4, 2004.
In Rhode Island, the Senate approved by unanimous vote, allowing police to forcibly obtain DNA samples from suspects. Police would be able to obtain a search warrant for samples of a suspect's blood, saliva and other bodily fluids or hair without consent, for use in DNA testing.

9. "Holdup suspect's DNA leads to arrest." The Miami Herald, May 4, 2004.
In Florida, a man suspected of shooting a store clerk in a robbery that netted about \$50 left a bloody trail of evidence behind after shooting himself in the hand. The blood was matched through the DNA database to a 1996 conviction for robbery, aggravated battery and burglary. Prior to the DNA evidence, detectives had pinpointed the man as the suspect, thanks to witness accounts and a tipster.
10. "DNAPrint upgrades genetics test." Sarasota Herald-Tribune, May 4, 2004.
DNAPrint Genomics Inc. is phasing out its original genetics test in favor of a more powerful version that recently gave Scotland Yard a fresh lead in its 12-year hunt for a serial sex offender. The upgraded ANCESTRYbyDNA 2.5, called DNA Witness when marketed to forensic experts, has helped British authorities narrow their search for a man who has assaulted more than 80 women -- most of them elderly -- in the London area since 1992.
11. "DNA Brings Sex Charge." The Toronto Sun, May 4, 2004.
In Canada, DNA linked to a sex crime that occurred 13 years ago to a Toronto man. A DNA sample -- obtained following an alleged sexual assault of a woman on June 15, 1991 -- was recently uploaded onto the National Offender Data Bank. The sample allegedly matched the DNA of a man currently serving a prison sentence.
12. "Jacko's undies grabbed." The Vancouver Province, May 4, 2004.
Underwear worn by Michael Jackson and handwritten notes were among Jackson items belonging to a businessman that were turned over to prosecutors in the singer's child-sex case. Authorities plan to use the underwear for DNA comparison.
13. "Indianapolis mayor fires two crime lab managers." The Associated Press State & Local Wire, May 2, 2004.
In Indiana, the Indianapolis mayor has fired two top officials at Marion County's crime lab, citing alleged mismanagement and questions raised about the validity of DNA tests. Forensic Services Agency Director Jim Hamby and Assistant Director John Mann, who received dismissal letters, had both served with the agency since it opened in 1985 to analyze evidence in criminal cases. In a sworn statement in December, the technical manager of the lab's DNA section accused Hamby of covering for a DNA analyst who allegedly had been tampering with a co-worker's tests and skipping steps in his own lab work. That worker resigned in August 2002, but prosecutors say Hamby waited too long to fully disclose the extent of the problem. In dozens of cases, defense lawyers have cited problems in the crime lab in their efforts to win new trials for people convicted of rape, murder or other crimes on the basis of DNA evidence. There has not been a successful challenge.
14. "Man fails to win reprieve under DNA law." The Associated Press State & Local Wire, May 3, 2004.
In Nebraska, an inmate whose case that prompted the passage of a new DNA-testing law has failed to get his conviction set aside under the measure. In 2001 the state Legislature passed a law requiring the state to pay for DNA testing. That law came after the state Supreme Court ruled against the inmate, who had argued that the state should pay for DNA tests to see if the results could prove his innocence. Such testing did not exist when he was convicted. However, a judge recently turned down the man's petition for DNA testing because he ruled a jury would not have returned a different verdict had they known about the hair.
15. "DNA, video help convict Idaho man of poaching." The Bellingham Herald, May 2, 2004.
In Idaho, DNA testing has led to the conviction of a man for "trophy poaching" an elk in 2001. A conservation officer who found the carcass of the elk preserved a tissue sample which was eventually compared to DNA from the antler rack found in the custody of a man suspected in the crime. Video tapes led to the man's identification as a suspect, and the DNA testing confirmed that the headless carcass found in 2001 matched the antlers in the suspect's possession. The man was given a \$1,000 criminal fine and a \$5,000 civil penalty (loss of animal's value to the resource and citizens of Idaho).
16. "State struggling to expand use of DNA databank." The Associated Press State & Local Wire, May 2, 2004.
In Rhode Island, legislative efforts to expand state's DNA database have stalled in recent years due to a host of concerns, including privacy issues, cost and the state's ability to handle increased sampling. The lab director said an all-felons DNA database could cost \$200,000 annually to collect DNA from all convicted felons, based on estimates of up to 3,000 felony convictions each year. Using buccal swabs, rather than blood samples, could reduce the potential cost.
17. "Briefly; Pressure Cooker Across Southland." The Daily News of Los Angeles, May 2, 2004.

In California, a California Institute of Technology graduate student accused of torching 125 sport utility vehicles in an arson spree has submitted to a judge's order to provide a DNA sample. The FBI intends to compare the hair to the DNA to that of hair fibers found in a hat last August at a crime scene.

18. "Problems at Crime Lab hurt victims." Hattiesburg American, May 2, 2004.
Editorial on Mississippi crime labs expresses concern over backlogs and the failure of the legislature to supply additional funding. "State budget writers have proposed an appropriation of \$5.5 million for the Crime Lab for the next fiscal year - the same amount of money the lab received last year. It's one thing for the state of Mississippi - which overwhelmingly approved a Crime Victims' Bill of Rights in 1998 - to enumerate the rights of crime victims. It's another thing entirely for the state to guarantee those rights by ensuring crime scene evidence is processed in a timely manner."
19. "Doomsday For Rapists." Sunday Express, May 2, 2004.
In New Mexico, recently analyzed DNA evidence in a 1989 Santa Fe murder case has helped to indict a suspect. The suspect is serving two life sentences for the 1999 kidnapping and rape of a 24-year-old woman, and was connected to the case through a cold hit on the DNA database. The victim's stepfather was initially arrested in late May 1989 and charged with the homicide after a forensic expert concluded that bite marks on the victim's throat were likely made by him. The stepfather later sued the expert, an Albuquerque dentist, alleging that he misidentified the marks. In October 1989, the state dismissed the case against the stepfather because of new information and genetic testing that was called "incomplete" at the time by the District Attorney.
20. "Police seek DNA samples in murder." The Associated Press State & Local Wire, May 1, 2004.
In Iowa, police want male residents of an apartment building to submit DNA samples as they try to solve the death of a woman found dumped outside a bowling alley. The men live in the same building where the victim lived before she died. It was less than two blocks from the bowling alley where her body was found. The DNA samples will help police eliminate potential suspects, officials said.
21. "Measures that passed during Florida's 2004 legislative session." The Associated Press State & Local Wire, May 1, 2004.
Florida passed legislation to allow convicts to pursue innocence claims through DNA testing for up to four years after sentencing instead of two.
22. "Noritta murder accused refused DNA profile report." New Strait Times (Malaysia), May 1, 2004.
In Malaysia, a murder defendant's hope of getting a DNA profile report from the prosecution was dashed when the High Court today rejected his application. The judge said he agreed with the prosecution that it was not the prosecution's obligation to supply the report which was part of the evidence. He said the report, together with other exhibits, would be produced by the prosecution in court when the time came and they would be subjected to cross-examination by the defense. He also said that at this stage even the prosecution did not know what was in the DNA profile report and from which sources they were taken.
23. "Man Charged With Raping Mentally Disabled Teen." Palm Beach Post, May 1, 2004.
In Florida, police arrested a West Palm Beach man on charges of raping a 17-year-old mentally handicapped girl as she was walking to a corner store to buy milk. When the girl returned home she told her mother, who called police. Based on her recollection of what happened, investigators tracked down the suspect and confronted him. He denied having sex with the girl but agreed to give police a sample of his DNA. In late April, the sheriff's office's DNA lab confirmed his DNA matched that of the girl's rapist. The suspect has been arrested 17 previous times on various charges in Florida.
24. "5 deaths linked to suspect Bryan." Saturday State Times/Morning Advocate (Baton Rouge, Louisiana), May 1, 2004.
In Louisiana, a man already accused of three killings has confessed to two more long-unsolved and seemingly disparate cases. At least three of the cases have been linked to the man through DNA.
25. "Swedish police hope DNA will solve 1986 PM murder: report." Agence France Presse, April 30, 2004.
In Sweden, police hope traces of DNA found on the overcoat worn by Sweden's prime minister Olof Palme on the night he was shot dead in 1986 will help resolve the murder that has haunted Swedes for nearly two decades. The newspaper said police hoped that new DNA techniques would link Christer Pettersson, a 57-year-old self-professed alcoholic, drug addict and petty criminal who was convicted then acquitted of the murder in 1989, to the crime.

The suspect said he was not concerned about being linked to the crime again, saying police would not be able to compare the DNA on Palme's coat to his own unless they managed to convince the Supreme Court to reopen the case and make him a suspect. "They've never taken a DNA sample from me. I'm not worried. I've got the Supreme Court on my side."

26. "Prosecutor embraces DNA tests." Broward Daily Business Review, April 30, 2004.
In Florida, the Miami-Dade state attorney's office has launched a program to review all felony cases predating 1995 for DNA evidence that could exonerate defendants who are serving prison terms for rape, murder and robbery. The office will review more than 500 cases in the next two years to make sure its prosecutors have put the right people behind bars. The state attorney's office also plans to step up its efforts to collect DNA swabs from Miami-Dade felons to enter into Florida's Combined DNA Index System.
27. "Legendary arrow misses the mark." National Post (Canada), April 30, 2004.
DNA testing on a Hawaiian arrow with a shaft carved that was believed to be from the leg bone of British explorer Captain James Cook has proven the story to be fiction. DNA testing of the artifact showed it was not made from the explorer's bone and was probably not even human.
28. "Suspect held without bail in 1979 Omaha slayings." Omaha World Herald, April 30, 2004.
In Nebraska, DNA evidence collected in 1979 double homicide was finally tested last year and found to match the DNA of a man first identified as a suspect at the time of the crime.
29. "DNA database IDs suspect." The Tallahassee Democrat, April 30, 2004.
In Florida, a Tallahassee murderer in 2001 has been identified through a cold hit on the DNA database. The murder evidence was matched to a 19 year old who is in a Texas jail. The database administrator for Florida reported that, "In 2004, we've gotten 90 to 100 matches a month, and 15 to 20 percent of the matches are out of state."
30. "DNA match found in 12-year-old murder." The Associated Press State & Local Wire, April 29, 2004.
In Oklahoma, a first-degree murder charge has been filed against a prison inmate after his DNA was found to match blood left in a motel room where a man was killed 12 years ago. DNA testing was not available the time of the murder but the blood evidence was kept until last year. A profile was recently generated from the evidence and matched through the database to the suspect. When confronted with the DNA evidence, the suspect admitted that he went to the victim's motel room to collect money and he fought with him, but he denies killing him.
31. "A package of news briefs from the Caribbean." The Associated Press State & Local Wire, April 29, 2004.
In St. Kitts, the High Court sentenced a man to hang after he was convicted of the 2000 murder of British millionaire. The prosecution's argument of a bungled robbery centered around forensic evidence, including DNA.
32. "DNA bank leads police to fatal accident suspect." The Associated Press State & Local Wire, April 29, 2004.
Vermont's DNA databank has recorded its first match, linking a suspect in a fatal hit-and-run in New York to a burglary in Vermont. Vermont State Police officials said the blood of the suspect was found along with skis, televisions and snowboards that were stolen from the Dover resort. Police claim the suspect stole a car from a Dover bar and fled to New York. The suspect was arrested in March and is now in a New York prison, awaiting trial for manslaughter, assault and leaving the scene of an accident.
33. "DNA clears man accused of assaulting 13-year-old." Fort Worth Star-Telegram, April 29, 2004.
In Texas, a man who spent more than eight months in jail awaiting trial was cleared of an aggravated sexual assault charge and released because DNA testing revealed the baby was not his. The man had been accused of impregnating a 12 year old girl. The man would have faced up to 99 years or life in prison for the first-degree felony.
34. "Police search for other rape victims." The Times Union (Albany, NY), April 29, 2004.
In New York, police believe a suspect is responsible for three attacks in which women were sexually assaulted inside suburban residences, and are now looking for the possibility of more victims. The three cases were linked by DNA to a single suspect and a test of the man's DNA matched evidence found at the crime scenes. The man's criminal history dates to at least 1995, when he was arrested several times as a teenager on charges ranging from car theft to burglary, and he spent more than a year in the jail when he was 18 years old. The break in the investigation came when a prostitute gave investigators a license plate for a dark-colored Jaguar driven by a man who was soliciting sex. An older-model Jaguar was seen by two witnesses in the neighborhood where one of the

women was attacked. At one time, police were following the wrong man, who had borrowed the car from the suspect. Investigators collected a tossed cigarette butt which tested negative for DNA. But a discarded a cup that the suspect drank gave the match police were hoping for.

35. "DCI backlog hindered murder case blood tests." The Associated Press State & Local Wire, April 28, 2004.
A Wyoming State Crime Lab official testified at a murder trial that a backlog made it impossible to test blood from the crime scene to determine whose it was. The blood tests were requested by Casper police, but the District Attorney was later told that the lab would not have enough time for DNA analysis. The lab has just one DNA technician and is backlogged by some 300 cases. Bloody jeans were found in a garbage bag in the basement of the home belonging to the suspect and a gun recovered from the house "had a considerable amount of blood on it" when it was confiscated.
36. "Met Cops Tested In Rape Hunt." The Mirror, April 28, 2004.
In London, the Metropolitan Police is to take samples from 200 black officers - none of whom are suspects - in the hunt for a rapist who preys on old women. DNA tests indicate the rapist is likely to be from the Caribbean and police hope the testing of their force will help whittle down a list of 100 suspects with similar DNA and pinpoint the island of origin for the ancestry.
37. "Man Admits Guilt On Three Rape Charges." SAPA (South African Press Association), April 28, 2004.
In South Africa, a Portuguese man alleged to have kidnapped and raped at least 20 children admitted guilt in on charges relating to three of the incidents. He pleaded guilty to ten charges -- four of rape, four of kidnapping, one of attempted rape and one of indecent assault -- but denied guilt on 38 further charges of kidnapping, assault, rape and robbery. The court heard that the suspect had been linked to 13 different incidents through identity parades and to four of them through DNA evidence.
38. "OAP leaves home of 50 years after robbery." UK Newsquest Regional Press - This is Local London, April 28, 2004.
In England, police were so touched by the plight of an elderly woman who abandoned her home of 50 years after a street robbery left her too fearful to return, that they used a special DNA technique normally reserved for the most serious crimes to track down her assailant. Normal DNA testing proved inconclusive. However police were so keen to get justice for the pensioner they submitted the fee for Low Copy Number testing which is able to trace DNA at minute levels. The police subsequently arrested a man who has been sentenced to three-and-a-half years' detention in a Young Offenders' Institution.
39. "Latest DOJ Report Estimates 169,000 Rape Cases With Untested DNA Evidence." States News Service, April 1, 2004.
The Department of Justice (DOJ) released a report estimating that there are approximately 169,000 rape cases nationwide with possible DNA evidence that remains untested. The Advancing Justice Through DNA Technology Act (HR 3214) - which contains provisions of the Debbie Smith Act that would expedite testing of the rape evidence kits - has bipartisan support and passed the House easily late last year is currently stalled in the Senate. Carolyn Maloney (D-NY), a long time supporter and original sponsor of the Debbie Smith Act, and Rep. Mark Green (R-WI), who introduced the Debbie Smith Act in the 108th Congress, pleaded with their colleagues in the Senate after the release of DOJ's numbers.

Genetic Privacy / Research

40. "Genetic tests find new risk: insurance." Contra Costa Times, April 20, 2004.
Discusses a new book from the MIT Press scheduled for publication in early May called "Genetics and Life Insurance." The book is a collection of essays on the financial and moral implications of the rapidly expanding world of genetic testing. It asks whether it makes sense to bar life insurance companies from forcing individuals to undergo genetic tests or to provide the results of genetic testing they obtain on their own.