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The September 10, 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

Congress may act soon on DNA legislation. A New Jersey court upheld the state DNA database statute but not an indictment for refusing to comply with the statute. A New Jersey court also admitted mitochondrial evidence for the first time. A wrongful arrest suit based on a DNA exoneration will move forward in Massachusetts. Problems at the Houston crime lab may be reviewed by an independent expert, and will be the subject of state legislative hearings. Mississippi's Attorney General is seeking help for DNA analysis at the state lab.

Cold hits aided investigations / prosecutions in Minnesota (2000 rape), Nevada (5 rapes linked to pandering prostitutes felon), New York (murder linked to weapons possession felon), Idaho (1999 murder), Louisiana (1999 murder), Pennsylvania (1995 rape; 2000 rape), Utah (13 rapes but all outside the statute of limitations), and Washington (1968 murder). DNA evidence is also important to cases in Louisiana (rape), Michigan (rape – evidence from discarded bottle), Rhode Island (1994 murder), South Carolina (rape/murder; murder), and Washington (rape). DNA evidence led to the unraveling of the Kobe Bryan rape allegations case.

Virginia's Governor is considering a proposal for a random review of cases for post conviction DNA testing. Montana's highest court will not order a review of cases handled by a now discredited analyst. A North Carolina post conviction DNA testing law has some concerned with a potential drain on resources.

In international news...DNA will aid identification of victims in the terrorist attack on a Russian school, and DNA indicates Spanish authorities misidentified over 20 corpses. Japan says DNA links a man to the murder of the National Police Agency chief. In Australia, DNA evidence against an Aboriginal has been thrown out based on population statistics problems, and legislation would establish a DNA database for mass casualty identification. DNA linked a man who has not left Spain to a murder in Scotland, and may resolve identity questions in an Olympics scandal involving a Hungarian gold medalist.

STATE LEGISLATION

Paternity

1. Pennsylvania HB 2834 – Allows for DNA testing in paternity cases. Requires court to find the presumption of paternity for children born in wedlock is overcome if DNA tests prove otherwise.

NEWS ARTICLES

Forensic DNA

1. "Senate Panel Delays Vote on DNA Testing." The New York Times, September 9, 2004.
The US Senate Judiciary Committee delayed a scheduled mark-up of legislation to provide grants for backlogged DNA samples. The committee chairman urged senators to avoid amendments, pass the bill and work out a compromise before it goes to the full Senate, where there is broad support. But he warned that more concessions may be needed or opponents could block a final Senate vote. Sen. Jeff Sessions, R-Ala., said the bill will limit the use of DNA testing and would force crime victims to endure a flood of frivolous appeals from inmates. He offered one amendment to address those concerns, and it was rejected. The committee is expected to reconsider the bill next week.
2. "Arrest made in serial rape case." Las Vegas Review-Journal, September 1, 2004.
In Nevada, police have arrested a man suspected to be the "Flamingo Road" serial rapist on the basis of DNA testing. He has been booked on 34 felonies in connection with the rapes of five women between late 1996 and early 1998, including sexual assault, robbery and battery. DNA was collected from the suspect following a 2001 conviction for pandering prostitutes while working as a local limo driver. But that DNA sample was in a backlog which was only recently analyzed through the help of a grant from US Department of Justice (NIJ). "We don't have the number of people and the space to do all of them at one time, so we do them by priority," said the Deputy Chief. The suspect's sample was not given high priority among the backlog of more than 6,000 unprocessed samples because it was not a major felony.
3. "Russia: Confusion over Beslan missing as death toll rises." BBC Monitoring Worldwide, September 7, 2004.
In the terrorist attack on a school building in Russia, many bodies were burnt beyond recognition and will need DNA testing for identification. A hospital is taking blood samples from those who have failed to find their relatives. Approximately 200 were estimated missing.
4. "Judge: 'Weedman' right, partially, about state DNA law." The Associated Press State & Local Wire, September 7, 2004.
A New Jersey judge rejected a marijuana activist's claim that a law mandating that convicts give DNA samples to the state is unconstitutional, but threw out an indictment against the man in which he was charged with refusing to comply. At the time he was ordered to submit a DNA sample, he was in a court supervision program that helped him avoid prison for drug, theft and receiving stolen property convictions. The judge held that the violation of an element of a sentence does not constitute contempt of court. "Only when a convicted person serving a sentence violates the conditions of his sentence by the commission of a new, substantive, legislatively proscribed criminal offense does he become subject to a new criminal indictment," the judge wrote. The prosecution plans to appeal.
5. "In the Carolinas." The Myrtle Beach Sun-News, September 7, 2004.
In South Carolina, DNA tests on bones found in a pile of ashes outside a home have led investigators to charge a man already in jail with murder in the death of his wife. Deputies searching for the missing woman found what appeared to be human remains in ashes from a bonfire behind her home. Neighbors told deputies they saw her husband burning something shortly after his wife disappeared. The man was arrested on unrelated charges last month. Deputies said he cut a man's throat during a carjacking Aug. 1.
6. "London police get direct hookup to Interpol crime database." Associated Press Worldstream, September 6, 2004.
Interpol said that London's police service is the first metropolitan force in Europe to get a direct hookup to its high-security database aimed at helping combat terror threats. New York City's NYPD is the only other city police force with a direct connection to the database, which gives access to Interpol's information on fingerprints, DNA, stolen travel documents and terrorist intelligence. Of Interpol's 181 member countries, 114 already have direct access to the crime database on a national level. Interpol said it was in talks with the police officials in Shanghai, China, expected to become the first to connect in Asia.
7. "Plaintiff Can Sue In Wrongful Arrest." The Boston Herald, September 6, 2004.
In Massachusetts, a Superior Court judge has found that a man wrongfully arrested six years ago in a murder case can sue the State Police. The man was ruled out as the killer through DNA evidence on Dec. 10, 1998 - four-and-a-half hours before he was led away in shackles by state and local police in front of the news media. He was released from jail on January 20, 1999. Earlier this year, a man who is serving a life sentence for a subsequent 1999 stabbing murder was identified through DNA testing as the man whose saliva was found in bite marks on the victim's breasts.

8. "Cope, Sanders set to go on trial." The Herald (Rock Hill, SC), September 6, 2004.
A South Carolina trial is starting in the case of a girl who was murdered and raped by her father and another man. In November 2003, police charged the man whose DNA matches semen and saliva found on the victim's body and clothes. His defense attorney is trying to keep prosecutors from using a blood sample taken in early August. A sample police took from the man after his initial arrest was improperly taken and has already been thrown out.
9. "DNA test on coin links ex-AUM member to shooting of NPA chief." Japan Economic Newswire, September 6, 2004.
In Japan, police have detected DNA of a former member of the AUM Shinrikyo cult from a coin found at the site of the 1995 shooting of the then National Police Agency chief. The former cult member submitted voluntarily to Metropolitan Police Department interrogation. He denied any involvement in the shooting and no breakthroughs are expected in the investigation into the unprecedented incident. The MPD conducted DNA testing and found DNA from sweat and grime collected from the coin matched with that of the man's nails.
10. "Attorney: no DNA match in Quincy killing." The Associated Press State & Local Wire, September 5, 2004.
In Massachusetts, a defense attorney is claiming that DNA evidence from the body of a murdered elderly woman failed to match that of three young men accused of killing her. Prosecutors alleged that one of the men, who was the woman's great-nephew and lived with her, wanted her dead so he could collect a large inheritance. The defense has requested a sample be collected from a fourth man who they believe should be considered a suspect.
11. "DNA test request may lead to chaos." The Herald-Sun (Durham, NC), September 5, 2004.
In North Carolina, prosecutors are concerned that a new state law allowing inmates greater access to post conviction DNA testing is likely to further inundate the already overworked Police Department, district attorney's office and State Bureau of Investigation laboratory. In Durham County's first such request, the inmate is seeking DNA tests on: a paper towel, a sleeper, training pants from the dead child, a wash rag, a wash cloth, bed linens, a pillowcase, sweat pants, a saliva sample, two vaginal swabs from the young victim and a hair sample. Long-term preservation of these and other evidence is also expected to be a problem for departments.
12. "Detective's Perseverance Cracks Case." Pittsburgh Post-Gazette, September 5, 2004.
In Pennsylvania, a cold hit on the DNA database linked a convicted robber and rapist to an unsolved 1995 rape. The statute of limitations for the case had lapsed, but the detective for the case contacted the parole board and told them what he had uncovered. The inmate's parole was denied, and last month he was ordered to serve the maximum sentence under the previous conviction. He will remain behind bars until 2008.
13. "Bropho slams DNA evidence." The Sunday Times (Perth, Australia), September 5, 2004.
In Australia, an Aboriginal man has been acquitted of rape charges because the judge found there was general lack of genetic research and data on Australia's Aboriginal population, which meant there was a degree of uncertainty about the accuracy of probability calculation for Aborigines. A child resulted from one of the rapes the man was accused of, but the court found that DNA probability statistics were not strong enough to conclude the man was the father, and therefore the rapist.
14. "Lawmaker to hold crime lab hearings." The Associated Press State & Local Wire, September 4, 2004.
In Texas, a state senator says he will hold hearings this fall to determine whether fundamental changes are needed in the process for creating and operating crime labs across Texas. Sen. John Whitmire said Friday that problems with crime labs operated by the Houston Police Department and state police have created a crisis of confidence. Among the changes Whitmire said he is considering is requiring the separation of crime labs from local police departments.
15. "Governor seeks random sampling of DNA crime evidence." The Associated Press State & Local Wire, September 4, 2004.
Virginia's Governor is reviewing a proposal he ordered to randomly sample DNA evidence from thousands of crime scenes following the exoneration of a man who had served 22 years in prison for two rapes he did not commit. The study, proposed by Dr. Paul Ferrara, director of the state Division of Forensic Science, would sample biological material dating back two decades.
16. "DNA may ID 1990s rapist." Deseret Morning News (Salt Lake City, UT), September 4, 2004.
In Utah, a cold hit on the DNA database identified the "Parkway Rapist" who was wanted for 13 rapes on 3 women and 10 children. The man had been in the Utah State Prison since 1994, serving a five-year-to-life sentence for

aggravated robbery. He was paroled from prison in January 2004, but was returned for violating his parole. He was scheduled for release again on July 27, but parole was rescinded when the Pardons and Parole Board learned of the rapes. Unfortunately, the four-year statute of limitations for rape has run out and the crimes (committed between 1990 and 1993) cannot be prosecuted

17. "N.O. man to get life for raping 10-year-old." Times-Picayune (New Orleans), September 4, 2004.
In Louisiana, a New Orleans man convicted of raping a 10-year-old girl and leaving her pregnant in 2003 will receive a mandatory life sentence without parole. Not only did the girl, who turned 12 last month, identify the man as her attacker in court, but DNA testing on tissue from the fetus the girl aborted showed the man was the father.
18. "Washington State Solves Oldest Cold Case." Associated Press Online, September 3, 2004.
In Washington State, a man already serving two life sentences for murder has been charged with committing what prosecutors say is Washington State's oldest unsolved crime, the 1968 fatal stabbing of a pregnant teenager. Earlier this year the DNA database matched the man to sperm found on the victim's body. When told he had left DNA at the scene, the man reportedly sighed, held up his hands and declared, "Yes, I killed her."
19. "Hammer thrower Annus asked to return gold medal, submit DNA sample." Associated Press Worldstream, September 3, 2004.
Sports authorities have called on hammer thrower Adrian Annus, who was stripped of his Olympic gold medal after refusing to take a follow-up drugs test, to return the medal. The Hungarian Olympic Committee also asked that Annus provide a DNA sample to determine whether the urine samples used by the laboratory in the drug tests were really his. The International Olympic Committee said Annus passed two doping tests - one before and one right after his event. Although both samples came back clean, the analysis "showed evidence of belonging to two different athletes, indicating possible tampering," the IOC said.
20. "Grand jury indicts man in 14-year-old murder case." The Associated Press State & Local Wire, September 3, 2004.
In Rhode Island, a man has been indicted in a murder case following a reexamination of stains from garment material from the scene, which led to a DNA match. The man had previously been indicted on the crime in 1994, but the case was thrown out. The man is currently serving a 20-year sentence on unrelated charges for felony witness intimidation and being a habitual offender. Police began looking into the case again in 2001, and credit a 2003 seminar on investigating cold cases with providing training needed to conduct the reexamination of the old evidence. The seminar was conducted by the Naval Criminal Investigative Service in Newport.
21. "Alonzo gets life without parole in 1999 slaying." The Associated Press State & Local Wire, September 3, 2004.
In Idaho, a man with a violent criminal history has been sentenced to life in prison without possibility of parole for the 1999 slaying of a first-grade teacher. He was already in prison serving a 25-year-to-life sentence for attempted rape and burglary of woman in 2000 when a cold hit on the state DNA database matched the man to the murder.
22. "Jimenez to confront more DNA evidence." Daily Record (Morristown, NJ), September 3, 2004.
For the first time in New Jersey, a judge has ruled that mitochondrial DNA testing is scientifically reliable and can be used at a trial, clearing the way for Morris County prosecutors to use the evidence at the capital trial of a landscaper charged with killing a child in Morristown in 2001. The more common nuclear DNA tests also will be used at the trial. But the mitochondrial method could link the child to hair found on a garden cultivator -- the alleged murder weapon -- which nuclear DNA testing could not establish.
23. "DNA Evidence Links Man To Rape." Seattle Post-Intelligencer, September 3, 2004.
In Washington, DNA evidence and fingerprints link a registered sex offender to an August 2004 rape. The man was convicted in 1985 of raping four women and attempting a fifth rape. He was released last year despite efforts by prosecutors to have him sent to the state's special commitment center for sexually violent predators.
24. "Spain in shock at 'macabre scandal'." The Times (London), September 3, 2004.
A Spanish medical team sent to Turkey to identify soldiers killed in a plane crash on their return from Afghanistan got every body it examined wrong, it was revealed. The Ukrainian aircraft chartered to bring Spanish peacekeepers home from Afghanistan crashed in May last year, killing all on board as it attempted to land in fog at Trabzon in Turkey. In the following months the families of the 62 dead soldiers questioned whether they had been given the correct bodies. "Leave the dead in peace," urged the then Prime Minister. But it turned out that 22 bodies had been

handed to the wrong families. Some of those bodies were cremated. Now DNA tests have found that the Spanish medical team incorrectly identified 30 bodies. The Turkish authorities accurately identified 32 corpses.

25. "W-B man to see trial on rape charge." Wilkes Barre Times Leader, September 3, 2004.
In Pennsylvania, a man charged in a 2000 rape is heading to trial. In March 2004, a cold hit on the DNA database linked the man to DNA found on a piece of the woman's clothing. The inmate's sample was on the database due to a June 30, 2002, conviction for grabbing a woman's breast.
26. "Kobe case doomed from the beginning." Charleston Daily Mail, September 2, 2004.
The Kobe Bryant rape case has ended, with charges being dismissed by prosecutors. Among factors leading to the dismissed charges, was the testimony from a DNA expert that another man's semen was found in the rape kit. It was noted that a physical exam of Bryant after the incident produced no indication of a second man's DNA, leading the expert to say she believed the accuser had sex with the other man in the hours after she was with Bryant. This development became all the more damaging to prosecutors when the court reporter inadvertently e-mailed transcripts of the DNA expert's testimony to reporters in late June.
27. "Kenya police investigate hospital for babies theft." Chattanooga Times Free Press, September 2, 2004.
Investigators are focusing on Kenya's main maternity hospital following allegations that some parents were told their newborns had died but the babies really were stolen by an international child trafficking ring. Since the five suspects were detained last month, many couples have come forward seeking to claim the 20 children found with the suspects, saying their children disappeared from the hospital. DNA tests found that at least 17 of the children were not related to the adults arrested.
28. "Divided court denies request for investigation." The Associated Press State & Local Wire, September 2, 2004.
Montana's Supreme Court will not order a more thorough investigation into the work of a former director of the Montana State Crime Lab, saying the court lacks authority or jurisdiction to do so. A divided court issued the order in response to a petition by a group that included several former state Supreme Court justices. The former director, who left the lab in 1989, came under fire in 2002, when an inmate was released after 15 years in prison when DNA analysis showed he did not rape an 8-year-old girl. His prior testimony on hair analysis was instrumental in convicting the man.
29. "Rape suspect found via DNA match." Saint Paul Pioneer Press, September 2, 2004.
In Minnesota, a cold hit on the DNA database has linked a South Dakota inmate to an unsolved rape from December 2000. The man is serving time for a 2003 damage to property conviction, and also has a 2001 burglary conviction.
30. "Suspect in rape, attack appears on charges." Green Bay Press-Gazette, September 1, 2004.
In Michigan, a man is accused abducting, repeatedly raping and trying to kill a Green Bay woman. After seeing police sketches, and suspecting that two employees might be involved, the manager of a dairy contacted authorities and confiscated two soda bottles that one of the employees drank out of. The state crime lab found DNA markers on the soda bottle that matched DNA samples taken from a rape evidence kit collected from the alleged victim.
31. "Independent Review Sought For HPD Lab." The Houston Chronicle, September 1, 2004.
In Texas, the discovery of even more criminal cases in which DNA evidence may need retesting prompted the Houston Police Chief to suspend an internal investigation and call for a probe by an independent expert. He said the outside investigator - whom he and the Harris County District Attorney will choose - will have "complete autonomy" in working to resolve a mass of questions about the work of the Houston Police Department's discredited crime laboratory. The investigation will focus on cases dating from 1991, when the department began DNA testing, to December 2002, when the crime lab's DNA section was shut down.
32. "DNA From Spain At Scots Murder." The News of the World, August 29, 2004.
A Scot who lives 1,000 miles away in Spain has been linked to an unsolved murder in Glasgow. Yet sources say the man, who worked in the security industry, has not been away from home all year. Last night one pal said: "Jimmy is baffled by suggestions that DNA from the murder scene is the same as his. The police have been in touch but he can't help them. He's as mystified as anyone."
33. "DNA links felon to city slaying." Rochester Democrat and Chronicle, August 27, 2004.

In New York, police investigators at a murder scene in Rochester took the “unusual step” of calling technicians from the Monroe County Public Safety Laboratory to the crime scene. Pointing out evidence that potentially could identify the DNA of the killer, investigators asked the advice of the technicians as the evidence was collected. DNA evidence that was collected from the crime scene was linked through the DNA database to a man who had a prior conviction for carrying an illegal weapon. It's the fifth time that Monroe County authorities have scored a "cold hit" between evidence collected in a crime and a convicted felon whose DNA was in the databank.

34. “Hood puts focus on Crime Lab.” Hattiesburg American, August 17, 2004.
The Mississippi Attorney General has prioritized securing DNA funding as a legislative goal for 2005. He believes that increased funding for the Crime Lab would speed up prosecutions and save money. He also wants to develop a forensic science/DNA testing degree and fund a DNA lab at the University of Southern Mississippi.
35. “New laws allow DNA tests of victims.” Lawyers Weekly Magazine, August 13, 2004.
In Australia, federal legislation has been introduced to authorize a DNA database system for victim identification in the event of mass casualties.
36. “National DNA database cracks local cold case.” The Times (Shreveport, LA), July 31, 2004.
In Louisiana, a hit in the national DNA database has led Shreveport police to the arrest of a suspect in a 5-year-old homicide case. The suspect has 30 prior arrests and 11 convictions. Police believe the man’s DNA probably was collected about the time he was released March 1 from a Detention Center, where he had been serving time for violating parole.

Paternity

37. “Putnam County inheritance battle centers on baby's \$70,000 estate.” The Associated Press State & Local Wire, September 7, 2004.
In Illinois, a Putnam County case that has been to the Illinois Supreme Court and back centers on who should inherit the \$70,000 estate of a baby who was stillborn after a traffic accident that killed her mother six years ago. Poole thinks DNA evidence will settle the dispute and has asked a judge to exhume the bodies of Christina Clausen and her infant daughter, Madison. The two were buried together in 1998 after a Caesarean procedure failed to save the baby.
38. “Italian IVF blunder fuels fertility law row.” The Guardian (London), September 7, 2004.
A white Italian couple are demanding compensation after the woman gave birth to twins with dark skin following fertility treatment. Recent DNA tests have confirmed that the biological father of the twins, born about four years ago, is a north African man. The public hospital in Modena where three couples received treatment on the day in question has opened an internal inquiry to determine whether the fertilized eggs of two couples were switched before being implanted, or whether the Italian woman's eggs were fertilized with the wrong sperm.
39. “National Activist Calls for Mandatory DNA Testing at Birth.” US Newswire, September 7, 2004.
Carnell Smith, a victim of paternity fraud and founder of 4TRUTH Identity's DNA Center and U.S. Citizens Against Paternity Fraud, calls for DNA testing at birth, for every child born in the United States.
40. “South Africa; No Pity for Deadbeat Civil Servant Dads.” Africa News, September 5, 2004.
In South Africa, the Natal Premier is threatening to force accused maintenance defaulters who work for the state to take DNA tests to make them pay. He told a newspaper that his government would soon also be issuing compulsory garnishee orders to deduct maintenance payments from defaulting employees' salaries.
41. “Mom fights for paternity proof.” Florida Today (Brevard County, FL), August 20, 2004.
A Florida woman wants to prove the paternity of her child through a DNA paternity test. The alleged father killed himself in 2003, but his DNA is on file with the county because he was a registered sex offender. The man’s mother will not allow the testing to occur. Without paternity proof, the woman is unable to claim Social Security benefits for the child.