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Smith Alling Lane, P.S. provides governmental affairs services to Applied Biosystems. As part of this representation, the firm generates weekly reports on state and federal legislation and news articles. Applied Biosystems has authorized Smith Alling Lane to make these reports publicly available through this website. The information presented in these reports does not necessarily reflect the viewpoints of Applied Biosystems or Smith Alling Lane, P.S.

The June 10, 2005 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

LAW ENFORCEMENT: Investigations and prosecutions aided by DNA evidence include:

- California – DNA from a pillow case identified a murderer. Cold hits identified a murderer and linked the man to a Louisiana crime (on database for drug felony); and identified a rapist (on database for burglary).
- Florida – a cold hit solved a 1996 murder (on database for felony battery); and a cold hit tied 6 rapes to one man (on database for drug felony).
- Indiana – a cold hit helped convict a man in a child sex assault case (on database for burglary).
- New Jersey – DNA testing linked a man to two rapes.
- New York – a cold hit identified a rapist.
- North Carolina – Familial searching of the DNA database identified a murderer.
- Pennsylvania – cold hits have linked 5 rapes to the same unknown man.
- US Military – DNA evidence is aiding a prosecution of a serviceman who killed his girlfriend.
- Australia – DNA evidence linked a man to a series of car thefts.
- Canada – DNA indicates an unidentified burglar is also an unknown flasher.
- England – threatening letters to Camilla Parker Bowles have been DNA tested, and LCN testing solved a rape. A cold hit solved a rape (on database for drunken and disorderly).

POLICY AND FUNDING ISSUES: The US House of Representatives is proposing full funding (\$177 million) for state and local DNA backlog grants. A North Carolina newspaper urges more funding for the state DNA lab, and the San Francisco DA's office may receive funding to start a unit for "cold hit" DNA cases. Crime lab backlogs made the news in Montana. Familial searching has been used in a North Carolina case.

COURT DEVELOPMENTS: DNA database statutes have been upheld in courts in Florida (11th Circuit US Court of Appeals) and Tennessee (state Court of Criminal Appeals). A Nebraska prosecutor will not try a murder case due to a gap in records for key DNA evidence. Federal prosecutors will not seek a grand jury request to collect DNA from suspects in a shooting.

OTHER FORENSIC DNA ISSUES: A post conviction case moved forward in Mississippi, and Louisiana is considering a reimbursement policy for persons wrongfully convicted. Remains of a serviceman from WW II have been identified. Remains from 1963 have been identified in Texas and determined to be a homicide case. Deer DNA solved a poaching case in California. Numerous Virginia hospitals are augmenting their forensic nurse staff, and the independent review team for Virginia's lab is taking shape.

INTERNATIONAL NEWS: Japan is establishing a national DNA database system. In New Zealand, law enforcement access to newborn genetic screening samples has become an area of concern. Meanwhile the New Zealand crime lab, though facing a significant backlog, is preparing for LCN DNA testing.

NEWS ARTICLES

Forensic DNA

1. "California poacher found by DNA." The Associated Press, June 8, 2005.
California authorities have used DNA from a deer to identify a poacher. The poacher was tracked by matching a killed buck's blood DNA to deer meat the man had in his freezer. Officials said the only evidence of poaching was a clump of fur and a few drops of blood where the deer was killed.
2. "Call for law to defend baby blood samples." The Dominion Post (New Zealand) June 8, 2005.
In New Zealand, the National Testing Centre has been storing blood for newborn genetic disease screening for more than 30 years. More than 1.9 million tests have been conducted, but a growing number of third parties, including courts and the police, have accessed the samples. Temporarily, the police and Centre plan to enter into a Memorandum of Understanding concerning proper circumstance for access to the database. A member of parliament has indicated that legislation may be introduced. "Here's an entire blood bank set up with all of our DNA and there is no legislation around it."
3. "Suspects get snared by a relatives DNA." USA Today, June 8, 2005.
In North Carolina, the state forensic lab has used familial searching against the state offender DNA database in their hunt for a man who raped and killed a newspaper editor. The database made a match close enough to determine that the unidentified murderer and a felon on the database had the same parents. Furthermore, this match was made on a case for which another man had spent 18 years in prison before being exonerated through post conviction DNA tests (Darryl Hunt). Once police identified the known offender's brother, they followed him and collected discarded cigarettes to confirm his connection to the crime. The man has since pleaded guilty to the crime. Familial searching is beginning to be used increasingly in the US, and has already been used extensively in the UK.
4. "Man charged in 12-year old rape and murder." The Associated Press, June 7, 2005.
In California, a man recently arrested for a 1993 murder was among the first arrested under the state's expanded offender DNA database, established by Proposition 69. The man has also now been linked to a 1995 rape in Louisiana. The man has a long record of mostly drug-related convictions in California and Louisiana. His sample was added to the DNA database this year upon his release for a drug conviction.
5. "Federal court upholds Florida sex offender." The Associated Press, June 7, 2005
In Florida, a federal appeals court upheld two Florida laws that require sex offenders to register with the state after getting out of prison and to submit DNA samples. The 11th U.S. Circuit Court of Appeals upheld the Florida laws, dismissing the offenders claim that it was a violation of their constitutional rights. The requirement is "rationally related to a legitimate government interest," Judge Stanley F. Birch, Jr. wrote for a unanimous three-judge panel. The appeals court ruling upheld a U.S. District Judge's dismissal of a lawsuit filed on behalf of sex offenders suing anonymously under the name John Doe.
6. "Man sentenced to 238 years for raping 8-year-old girl." The Associated Press June 7, 2005
In Indiana, a cold hit on the DNA database has culminated in the conviction of a man who kidnapped and sexually assaulted a child. The 8-year-old girl and her brother had been outside when the man lured the girl to his car and kidnapped her, taking her to an abandoned house he owned. After the rape, she was dropped off in her neighborhood where police were searching for her. The man was in the database for a previous burglary conviction.
7. "Appeals court approves collection of felon's blood." The Associated Press, June 7, 2005
The Tennessee Court of Criminal Appeals has upheld the practice of taking blood from felons to sample their DNA, saying a prisoner's right to privacy is outweighed by the need to solve crimes. The ruling was the first to test Tennessee's law requiring felons to submit blood for DNA testing and establishing the process by which those samples are collected, compiled, and used. "The state's interest in solving past and future crimes and exonerating individuals who have been wrongly convicted of crimes is great," wrote one of the justices. "Therefore, under the balancing test, we conclude that Tennessee's interest in the collection of blood ... outweighs a defendant's privacy interest and the minor intrusion caused by the taking of the blood sample." Saying the law passes federal and state constitutional muster, the court said, "Given this holding, the issue of the appellant's consent is irrelevant." The defense is considering an appeal.
8. "Middlesex County man charged with two rapes." The Associated Press State & Local Wire, June 7, 2005.

In New Jersey, a man in jail for burglary charges has been linked to two rapes through DNA tests. However, authorities said he could not be linked to nearly a dozen similar attacks near Rutgers University over the same period.

9. "Inmate charged." City News Service, June 7, 2005.
In California, a man in prison for burglary was linked on the DNA database to an unrelated series of sexual assaults and a home-invasion robbery in which a woman was shot. DNA and tips from the community were credited with identifying the suspect.
10. "Crime rise swamps forensic scientists." The Dominion Post (New Zealand), June 7, 2005.
In New Zealand, a sharp rise in murders and sexual assaults has swamped the country's forensic experts, who are struggling to cope with the increased workload. About 9000 different samples need testing—2000 more than last July. There are now about 53000 DNA samples on the national database and 12000 samples on the unsolved crime database. Linking the two provided a match success rate of 55 percent. The backlog was further enhanced by legislation passed in 2003 that allows DNA to be taken from burglary suspects and anyone facing at least seven years in jail.
11. "Gap in evidence halts murder case." Omaha World-Herald, June 7, 2005.
In Nebraska, a gap in the records of the DNA collected from a 1979 murder scene has led prosecutors to drop all charges against the man facing trial for the crime. The prosecutor has revealed that authorities cannot account for where vaginal swabs were stored during a 27-month period from June 1979 to September 1981. The swabs were transported from a Nebraska State Patrol lab to the Omaha Police Department at some point. Omaha police say they received the vaginal swabs on June 22, 1979. But State Patrol records indicate that the patrol didn't release the swabs until Sept. 15, 1981. The prosecutor has no evidence that any of the DNA samples were contaminated during that two-year gap – but neither can she guarantee that a contamination did not occur due to the missing records.
12. "DNA, tips lead to murder charge." The Tallahassee Democrat, June 7, 2005.
In Florida, DNA testing has helped investigators solve a 1996 murder. The case was reopened in February 2004 after someone contacted the Sheriff's Office to implicate the suspect. As investigators worked the case, DNA testing was underway at the state lab. By November 2004, the blood on a piece of clothing matched was matched to suspect who was on the DNA database for a prior conviction. His criminal history includes charges of domestic violence and felony batteries, dating back to 1977. He was convicted of first-degree homicide, burglary and sexual assault in the 1980s, and is currently in prison for felony battery charges from April 2003.
13. "House OKs bill to repay wrongly jailed." Times-Picayune (New Orleans), June 7, 2005.
In Louisiana, the House has passed a bill to allow prisoners who have been determined by a court to be "factually innocent" based on DNA or other evidence to also receive the costs of job-training skills for a year, free medical and psychological counseling for up to three years, and free tuition at state community colleges or four-year colleges. The bill applies to those who previously were proven innocent as well as future inmates proven wrongly convicted. Amounts to be awarded are capped \$15,000 a year for each year a prisoner is wrongfully jailed, with the total cap at \$150,000.
14. "Rep. Kolbe Announces Benefits For Southeastern Arizona In Science, State, Justice, Commerce Spending Bill." US Fed News, June 7, 2005.
The US House of Representatives proposal for Fiscal Year 2006 DNA funding will fully fund the Debbie Smith DNA grants which are aimed at eliminating DNA backlogs. The House proposal is for \$177 million.
15. "Motel Murder." City News Service, June 6, 2005.
In California, a transient was convicted of first-degree murder for killing a mentally disabled man trying to buy methamphetamine. The victim was choked to death, but unsure if he was dead, the perpetrators tied his feet together with a pillow case so that he couldn't follow them if he woke up. Police were able to get DNA evidence against one of the men from sweat left on the pillow-case.
16. "Forensic Nurses Add Strength To Cases, Staffs." Daily Press (Newport News, Virginia), June 6, 2005.
In Virginia, several hospitals are expanding their forensic nursing staff, and others expect to add forensic nurse teams soon. Area forensic nurses note that other emergency room nurses can take forensic samples from rape exams, but it's more likely that the evidence will be challenged. She said the area needs more forensic nurses so victims don't have to go through that during a trial.

17. "Sister finally gets her chance for closure." Inland Valley Daily Bulletin (Ontario, CA), June 6, 2005.
In California, a family has recently received confirmation from the US military that the remains of a family member missing since the Battle of the Bulge have been identified through DNA tests. The remains were discovered with the help of a group of American and Belgian historians. The family will be flying to Belgium soon to bury him in the Ardennes American Cemetery and Memorial. The blood sample given by the serviceman's sister was tested for mitochondrial DNA that matched some of the bones and teeth that were discovered.
"You cry. Can you imagine someone telling you about your brother you haven't seen or heard of all these years? I was overwhelmed. I couldn't talk," she said. She said she thinks that now she will have closure.
18. "Small price for justice." The News & Observer (Raleigh, North Carolina), June 6, 2005.
North Carolina editorial details a 1993 rape that was solved through a cold hit on the DNA database, and argues for additional funding for the state lab. "Maybe if legislators had been on hand, they would have understood that the \$675,865 the SBI needs to make full use of its bursting-at-the-seams DNA database is a bargain for justice. Governor Easley has endorsed the modest request but it was not in the state Senate budget... The man police charged with raping Cynthia Morton was in prison when he was arrested. But others are not. Dangerous people who should be locked up are free to prey on future victims simply because DNA evidence sits on a shelf, waiting its turn to be analyzed. Lawmakers must act, and now.
19. "New DNA Tests A Leap For Police." The Christchurch Press, June 4, 2005.
In New Zealand, officials with the country's forensic crime lab -- the Environmental Science and Research (ESR) - - will be in Britain to begin negotiations for setting up low-copy number (LCN) DNA service in New Zealand. LCN technology is capable of lifting a DNA profile from skin cells left by a single touch, and is about 10 times more sensitive than current procedures. New Zealand police would study scene examination techniques used in Britain to ensure they were in step with the new processes introduced by ESR. Officials predicted the new technology would be the focus of robust court challenges. "But I can't see much difference between the challenges we have faced in the past, in terms of introducing new technology and techniques, and it has been used in the UK arena for the last two years."
20. "Judge Named To Lead Crime Lab Review." Daily Press (Newport News, Virginia), June 4, 2005.
Virginia Court of Appeals Judge Robert J. Humphreys will head an independent review of the state crime lab's competence in handling DNA evidence. Humphreys is recruiting a team of about six scientific experts from across the nation to review the lab's procedures and conclusions in about 150 cases involving small DNA samples, including several death row cases. Humphreys has appointed five scientists to the panel so far. They are: Arthur Eisenberg, director of the DNA Identity Center at the University of North Texas; Demris Lee, a nuclear DNA expert for the armed services, from Rockville, Md.; Stephen J. Lambert, a DNA analyst in South Carolina; Christine Tomsey, who heads a DNA lab for the Pennsylvania State Police; and Carl A. Sobieralski Jr., who supervises Indiana's DNA lab.
21. "US Marine Kills Lover Before Coming To Kuwait." Kuwait Times, June 4, 2004.
Prosecutors have told a military jury that shortly before leaving for Kuwait, a Marine Gunnery Sgt pumped 11 bullets into his girlfriend and left her to die in a park. Evidence to be presented against the accused man includes DNA. The defense is claiming a post-traumatic stress disorder from earlier overseas duties, and that the victim threatened to kill the sergeant's family.
22. "Sample of blood helps to trap house burglar." Leicester Mercury, June 4, 2005.
In England, a burglar who left DNA evidence at the scene of a house break-in has been sentenced to three years' detention. On realizing they had been spotted during a burglary, three intruders abandoned their vehicle and escaped across fields on foot. The intruders had already placed a stereo into their car and other possessions had been left outside the premises, including a speaker and a new video recorder in its box. Blood was found on the video recorder box which matched the defendant's DNA.
23. "Rapist's slow road to justice." Nottingham Evening Post, June 4, 2005.
In England, a 1994 rape has been solved through low-copy number (LCN) DNA testing. The evidence from the rape kit contained traces of semen, but the sample was too small for the technology of the time to extract a DNA profile. Despite several speculative arrests, the trail went cold. Last year, Operation Advance was funded to look into cold cases with a reasonable chance of a suspect being identified. During this review, the 1994 case was tested for LCN DNA and eventually a match was made to an offender on the database who was in prison for a 2001 attempted rape. The offender subsequently admitted to the crime.

24. "Request to collect DNA is dropped." Star Tribune (Minneapolis, MN), June 4, 2005.
Federal prosecutors investigating the school shootings on the Red Lake Indian Reservation have backed off from a grand jury request to collect DNA from three juveniles. The attacks, in which 16-year-old Jeff Weise killed nine people before taking his own life, were one of the deadliest school shootings in U.S. history. The judge's issued an order allowing fingerprints and photographs to be collected, but his order did not address the legality of asking for DNA evidence because prosecutors waived that request before he could consider it. Some defense attorneys had questioned the DNA request, saying it could be considered invasive and should require a search warrant showing why investigators need them.
25. "DNA traps rapists." The Times (London), June 4, 2005.
In England, two brothers who raped a girl, 17, in 1995 were jailed for 10 years after a DNA sample convicted them. The brothers were found out when one of them was required to submit a sample after being arrested in 2003 for being drunk and disorderly.
26. "NPA Plans Database On DNA Of Suspects." The Asahi Shimbun, June 3, 2005.
Japan's National Police Agency will create its first database of DNA samples collected directly from suspects to give investigators easy access to irrefutable evidence on a nationwide basis. The database will be in operation as early as August and will initially hold DNA information taken from about 2,000 suspects. Japanese police in December last year started storing DNA information, but the data has been based on samples taken from crime scenes only. Suspect samples are only collected violent crimes. Moreover, the current system is based out of prefectural police departments that do not share the information. The NPA's new database will allow all prefectural police departments share DNA information, and will not set limits on the types of crimes requiring DNA samples from suspects.
27. "Police: Man linked to multiple rapes by DNA strikes again." The Associated Press State & Local Wire, June 3, 2005.
Police in Pennsylvania believe a serial rapist has struck again, after DNA testing linked a recent rape to four others since 2004. The rapes have been spread across four counties, thus far. As yet, an offender has not been identified, but the man may be responsible for as many as 13 rapes, sexual assaults or other incidents since 2002, although DNA is not available in every case.
28. "Jeshma: Man Held; Arrest Is Made In Latvia After Tip-Off From British Detectives." The Mirror, June 3, 2005.
Detectives hunting the killer of British teenager Jeshma Raithatha arrested a man in Latvia. Jeshma was raped and stabbed to death after being snatched as she made her way home from school on May 16. Her body was not discovered until eight days later. After identifying a possible suspect, police learned the man had bought a ticket at a London bus station for a service operating through the Channel tunnel to the former Soviet state of Latvia. It is also understood police found a jacket of the man's which had DNA material identical to that found on Jeshma's body.
29. "Miss. man hopes DNA sets him free." Times-Picayune (New Orleans), June 3, 2005.
In Mississippi, a man who has served 16 years of a 40 year sentence for murder is hoping that post conviction DNA tests will prove that he did not commit the crime. A judge is now considering the man's request for a new trial. At the time of his first trial, the man was aware that it was actually his younger brother who had committed the crime, and he decided to cover for his brother with the assumption that he would never be convicted for a crime he did not commit. Using a 2002 state law that created a fund that some indigent defendants can use for DNA testing, the man won a small legal victory in June 2003 when a state judge ordered testing. The DNA tests now exonerate the man and implicate his brother.
30. "Cops Close In After 8-Year Hunt For Pervert." The Toronto Sun, June 3, 2005.
In Canada, the case of a flasher may be coming to a climax now that police have DNA linking three separate incidents over eight years. For years, the area has been plagued by reports of a man exposing himself in public and masturbating. The break in the case came in March when two 14-year-old girls were accosted by a man as they walked through a wooded area near a school. Since then, police have linked evidence at that scene to DNA found after two separate break-ins. No one saw a suspect in the break-ins, but the girls have been able to describe the man who accosted them.
31. "DNA sample links Kelly to unsolved crimes." Daily Telegraph (Sydney, Australia), June 2, 2005.

In Australia, a DNA sample taken after an arrest in March has linked a man to a series of car thefts. He was also charged with robbery armed with an offensive weapon relating to an alleged holdup of a news agency where \$130 was taken.

32. "Man's body found 42 years ago is identified." Fort Worth Star-Telegram, June 2, 2005.
In Texas, more than four decades after skeletal remains were found in Tarrant County, police say DNA tests have identified the bones as that of a man who disappeared in Fort Worth in August 1963. The man is considered to be a homicide victim. The remains were initially thought by authorities to be those of a woman, and investigators even released a sketch of the woman's probable features and received tips. Crime lab employees recently came across the remains, and determined through tests that they belonged to a man. A new facial reconstruction and tips led to a possible victim, and a DNA comparison to a cousin of the man's confirmed his identity.
33. "DNA check in Troy leads to charges in 2003 rape." The Times Union (Albany, NY), June 2, 2005.
In New York, a man was charged with rape after a DNA check in the state system connected him to a March 2003 sexual assault. The man was being held in jail on unrelated charges, and now faces new charges of first-degree rape and assault.
34. "Rapists hard to find and easy to overlook." Miami Herald, June 1, 2005.
Article regarding the difficulties involved with identifying sex offenders and the assistance that the DNA database has played in bringing offenders to justice. Catalogs numerous DNA database hits made in the Miami, Florida area. One such hit involved 6 rapes that have recently been linked to a man who is on the database due to a felony drug conviction – he was never a suspect prior to the database match.
35. "Newsom budgets more for city lawyers." The Recorder, June 1, 2005.
The San Francisco district attorney, public defender and city attorney would all get more money to spend in the coming fiscal year if the budget proposal released by Mayor Gavin Newsom is ultimately approved. With money coming to the DA's office, the DA would create three new units - for "cold hit" DNA cases, human trafficking and environmental violations.
36. "DNA Can Prevent Future Crimes." Winnipeg Sun, June 1, 2005.
Editorial argues that Canada's DNA system should strive to be more like England's. Reports that in England, "Even the Royals get into the act. Since her engagement and subsequent marriage to Prince Charles, Camilla Parker-Bowles has received about 1,000 nasty letters. They have been submitted for DNA testing... Canada needs to prevent the ordinary Canadian from becoming the future victim. We need to use the tools that science has provided. Government needs to shred its trendy, unrealistic views of crime and get down to business. Until then there will be no shortage of victims in need of Mr. Cadman's [MP] help."
37. "Real Life CSI." Great Falls Tribune, May 31, 2005.
Overview of Montana's crime lab. Reports that the state lab "has great equipment but is short on funds, forensic scientists." The majority of the 260 cases with DNA evidence are sexual assault crimes, but the majority of scientists' time is consumed by homicides. The backlog on processing DNA evidence can be as long as nine months. Scientists will prioritize murder cases, but in addition to testing they also travel the state to testify in trials and at hearings.

Paternity

38. "Victims Of The Child Traders." Daily Mail (London), June 4, 2005.
Discussion of the problem of child traffickers. Includes the story of a West African woman in England who was found looking after six children for whom she claimed housing and other benefits as if they were her own. DNA tests proved that none of the children was related to her or her husband. Social workers suspect that the children, now in government care, had been bought 'off the shelf' by the couple in Africa precisely to obtain benefits here fraudulently.