

Smith *Governmental Affairs*
Alling *Attorneys at Law*
Lane

Sponsored By



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 July 29, 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:

- Alabama – DNA from a knife identified a murderer (2002 crime)
- Arkansas – DNA has linked an Arkansas murder and a California murder to the same Montana murder convict.
- California – a cold hit identified a rapist (1998 crime)
- Colorado – the DNA database has linked an unknown man to 5 rapes
- Maryland – quick DNA tests helped to arrest a rapist
- Massachusetts – DNA convicted a man of child rape (1992 crime)
- Minnesota – DNA from a beer can identified an arsonist
- Missouri – DNA brings charges to a man in connection with 11 attacks (1980s crimes)
- Nevada – a cold hit identified a rapist (on database for a rape)
- New Jersey – DNA from a suspect's handgun held a battery victim's DNA. A cold hit identified a murderer
- New Mexico – a cold hit identified a murderer (on database for burglary)
- New York – a cold hit identified a man who murdered 2 and raped 1 (2000 crimes, on database for robbing a taxi); and identified a rapist (1999 crime)
- Pennsylvania – DNA from urine convicted a man of abuse of a corpse, but did not gain him a murder conviction
- Texas – a cold hit identified a child killer (1986 crime)
- Federal – DNA helped to convict a serial rapist in DC
- Australia – DNA from a victim was found in a suspect's pants
- Canada – DNA testing unveils an incest case
- England – DNA from a lighter identified a burglar; and dog DNA convicted a dog-fighting ring leader

POLICY AND FUNDING ISSUES: New York's Governor is calling for an expansion of the DNA database to include all convicted felons. Nevada failed to pass a measure to better fund its crime labs and to require DNA from all convicted felons. An editorial supports a proposal to fund private DNA testing in all child murder cases.

LEGAL DEVELOPMENTS: Maryland's highest court ruled expert testimony is no longer needed for DNA match statistics; and a lower court has allowed DNA evidence collected with a new device. A "John Doe" indictment has been used in a Colorado serial rape case.

OTHER FORENSIC DNA ISSUES: New trials have been granted in post conviction DNA cases in North Carolina and Louisiana. Voluntary samples have assisted police in eliminating suspects in an Illinois murder investigation.

INTERNATIONAL NEWS: Japan received its first DNA database match. Puerto Rico wants a full forensic DNA database and analysis program. Vietnam may build a lab for identification of soldier remains from the war. Egypt used DNA to identify a suicide bomber. The Italian Government has formally proposed DNA sample collection from terror suspects. Thailand is using DNA in a murder investigation.

NEWS ARTICLES

1. "Vietnamese Newspaper Highlights." Asia Pulse, July 27, 2005
In Vietnam, the Biological Technology Institute, under the National Natural Sciences and Technologies Institute, has suggested building a central lab where DNA can be used to identify remains of Vietnamese soldiers killed in the war. It is estimated that the project will cost VND50 billion (US\$3.16 million) to build. Since 2003, the Biological Technology Institute has successfully used DNA to identify the remains of 36 Vietnamese soldiers. All expenditures of the tests have been funded by the BTI.
2. "Egypt Identifies Body of Possible Bomber." Associated Press Online, July 27, 2005.
In Egypt, investigators identified an Egyptian as a possible suicide bomber in the terror attacks at a Red Sea resort and were searching for his suspected Islamic militant. Police had been studying two bodies as possible bombers because the remains were dismembered. DNA tests identified one of the bodies as that of Moussa Badran, an Egyptian resident of Sinai who police said has links to Islamic militants. Hours after the blast, police took DNA samples from Badran's father and siblings and from other families with relatives who have gone into hiding since the Taba attacks.
3. "DNA evidence helped give assault victim peace of mind" Associated Press, July 27, 2005.
In Nevada, a woman who had been beaten and groped was unable to give a viable description of her attacker to investigators; however, she thought to preserve the DNA evidence until a forensic examination could occur. The evidence was eventually matched on the DNA database to a man who was convicted of raping a woman three weeks after her attack. The 46-year-old woman said she believes DNA is critical in serving justice to crime victims. "It won't help you put your life back together, but it will give you closure," she said. "When you don't know who did it, you can never feel safe. DNA really helps get these criminals off the street and lets them know they can't get away with it anymore."
4. "Man denies raping 16-year-old boy" Hobart Mercury, July 27, 2005.
In Australia, a 60-year-old man appeared in court accused of raping a 16-year-old boy. The man had allegedly removed the boy's underpants while he slept, then proceeding to molest him. The boy told his father who promptly contacted the police. Clothing and bed sheets were confiscated from the accused's house, DNA found inside the man's underwear matched the boy's DNA profile. The accused man's lawyer says that semen does not prove that sexual intercourse took place.
5. "DNA tests back charges of incest against couple" Windsor Ontario, July 27, 2005.
In Ontario, Canada, a man and woman on trial are likely mother and son. The investigation began when one of the couple's children died. A scientist from the Centre for Forensic Sciences in Toronto testified that DNA established the relationship between the 24-year-old man and 41-year-old woman to be mother and son. The couple have pleaded not guilty to a number of forgery and incest related charges. DNA was taken from both defendants and one of their three children. The investigation started when another child died.
6. "North Carolina's Top News Stories" Associated Press, July 26, 2005.
In North Carolina, an inmate has won a new trial in a kidnapping, rape and murder case for which he was sentenced to death 11 years ago. New DNA testing has cast doubt on blood found on the murder knife presented at his original trial. The knife introduced into evidence at trial only shows the blood of the accused, and not the victim's blood as was at the first trial. The judge who granted the new trial indicated he believes the state still has a strong case against the man, but felt he had no choice but to order a new trial.
7. "Victim's mother testifies in trial of men accused of killing children." The Baltimore Sun, July 26, 2005.
In Maryland, a DNA collection technique was at issue in the trial of two men accused of killing three young boys. Defense attorneys argued unsuccessfully that DNA found on the inside of two pairs of blue jeans should not be allowed at trial because the lab collection instrument has not yet been accepted as scientifically reliable. The instrument in question was invented by Salvatore Bianca, who at the time was a Baltimore police crime lab technician. The vacuum-like device sucks in trace evidence, such as skin cells, and collects it on a swab that can then be submitted for DNA testing. There is a patent pending on the device. The judge denied the defense motion but said jurors have a right to hear more about Bianca's invention during his cross-examination.
8. "Old cases yielding to new technology." The Kansas City Star, July 26, 2005.
In Missouri, Kansas City police increasingly have turned to DNA evidence to solve old cases. In Jackson County,

prosecutors have filed new charges in 50 old cases: 23 rapes, 18 murders, seven rape-murders, one assault and a burglary. So far, prosecutors have gained 15 guilty pleas or verdicts. One assistant prosecutor has declared: "DNA has become the long arm of the law."

9. "Tests Lead To Charges In 11 Westport Rape' Cases." July 26, 2005
In Missouri, Jackson County prosecutors charged a 49-year-old man already imprisoned for one rape in 11 previously unsolved sexual attacks. DNA tests have linked the man to 10 of the crimes; the victim identified him in the 11th. Police had long suspected the man as the serial rapist, but at the time of the attacks in the 1980's they did not have enough evidence to charge him with the crimes. The case also marks the 50th time since 1997 that authorities have broken old Jackson County cases through new DNA tests. Kansas City investigators expect those numbers to rise as crime lab technicians continue to sift through hundreds of old rape cases. Police and prosecutors have taken their time in bringing charges as the man is currently behind bars for other crimes, but he could be released on probation as early as next year.
10. "Man At Centre Of Illegal Dog Fighting Ring Is Jailed." Liverpool Daily Echo, July 26, 2005.
In England, local police say they have stopped the area's worst dogfighting ring after a man was convicted of allowing illegal dog-fighting bouts at his home. Among other evidence, the court heard that boards used to construct a pit for fighting at the man's home had blood on them that was linked through DNA tests to a dog whose owner had been convicted for dog fighting.
11. "Modesto Bee, July 26, 2005.
A killer serving a life sentence in Montana for the death of a homeless man has been linked by DNA to murder cases in California and Arkansas, and he is also a suspect in another California murder case. In 2002 investigators discovered that DNA evidence from the California crime scenes matched DNA gathered at a Arkansas murder scene. Despite the match, investigators did not immediately turn up a name. However, Arkansas detectives recently announced that DNA evidence had linked the man to the murder.
12. "Officials Waited To Warn Of Rapist." Rocky Mountain News (Denver, CO), July 26, 2005.
In Colorado, DNA tests have linked a rapist, who is still at large, to five assaults from November through January, and one July 8. Three occurred in Denver, two were in Aurora and one was in Arapahoe County. In March, Denver District Attorney Mitch Morrissey filed charges against "John Doe," an unusual step because only the suspect's DNA had been identified. One investigator noted, "It seems to me that we're actually identifying these serial rapists faster than we used to, 10 years ago, because of DNA technology."
13. "The Times Union (Albany, NY), July 26, 2005.
In New York, a case that was cracked with DNA evidence resulted in a young convict being formally charged with murdering two people and raping an elderly woman during a violent crime spree that police say began in early 2000. DNA has connects the man to all three crimes. His name had never surfaced in the investigations, but he emerged as a suspect several months ago after entering state prison to serve a five-year term for robbing a cab driver last summer. Because his conviction was for a violent felony, he was required to submit a DNA sample for the database. The director of the state Division of Criminal Justice Services, attended a news conference on the man's arrest. He used the event to lobby for efforts to expand the law so that anyone convicted of a crime would give a DNA sample, not just violent felons.
14. "County's DNA lab credited in quick arrest." The Capital (Annapolis, MD), July 25, 2005.
In Maryland, the Anne Arundel county DNA lab is credited with the quick arrest of a man suspected of rape. Tips led police to question the man, but they did not have enough evidence to hold him until the DNA tests were conducted. Within 33 hours, two forensic chemists at the Crime Lab were able to provide "definitive evidence" through DNA linking the man to the rape. "It is the greatest asset we can have . . ." said one detective. The Chief said he would like to add another chemist to the DNA unit, but wants him or her to focus on cold cases.
15. "Trying To Stem The Tide." Hartford Courant (Connecticut), July 25, 2005.
In Puerto Rico, the superintendent of the Police Department wants to bring criminal databases and DNA analysis fully online in the country. The Governor said he is ready to invest in new technology. "This is something amazing." In Puerto Rico, we still don't have a DNA lab fully working. ... We're among the few jurisdictions in the United States where the fingerprints are not digitalized as part of the FBI system. ... The information system of the priors of every criminal and every criminal action in Puerto Rico, well, that system has never been updated."

16. "Top court updates standard on DNA testimony." Kansas City Daily Record (Kansas City, MO), July 25, 2005.
In Maryland, the state's highest court has held that current DNA science is so accurate that experts no longer have to testify about the statistics that prove two samples match; when the science is valid, experts may simply state that there is a match. The Court of Appeals' decision was unanimous. In agreeing with the state, the court cited two reports on the topic by the National Research Council, one in 1992 and one in 1996. While the 1992 report advocated testimony about statistical foundation, the 1996 report concluded that it is "scientifically justifiable to testify to a match without accompanying statistics," according to the opinion. The court noted that the updated report led the Washington Supreme Court to reverse one of its earlier opinions, which had held that experts could not testify to the uniqueness of a DNA profile.
17. "Southern Violence: Teacher sought in student's slaying." The Nation (Thailand), July 25, 2005.
In Thailand, police were hunting for an Islamic religious teacher in connection with the fatal shooting of a vocational student in an early morning attack. Police said they would wait for results of DNA tests of the injured gunman's blood and a check of fingerprints found on the mobile phone before an arrest warrant is issued.
18. "Gov. Pataki: DNA Evidence Solves Crimes In Albany County." US Fed News, July 25, 2005.
In New York, Gov. George E. Pataki once again called on state legislators to pass his proposed legislation that would expand the use of the State's DNA databank and re-establish New York's status as a national leader in the use of DNA technology. He announced that, "In the last 12 months, since the databank was last expanded, the Databank has had 447 hits linking evidence to a suspect, 82 of which were results of the new DNA qualifying offenses added last year." More than half of the individuals who are convicted of felony offenses in New York State are not required under current law to provide a DNA sample for the State DNA Databank.
19. "Italian Government Approves Revamped Anti-Terror Measures." World Market Analysis, July 25, 2005.
In Italy, the government has proposed giving authorities the power to demand DNA samples from terrorism suspects, in addition to creating a supreme prosecutor in charge of anti-terror investigations. The measures will now be signed by the president and ratified by parliament. Given the general cross-party consensus, there is expected to be no opposition to the measures.
20. "Legislature failed to pass measure funding crime labs." Reno Gazette-Journal, July 24, 2005.
In Nevada, a bill in the state Legislature to provide \$1 million in permanent funding split between the Clark and Washoe counties' crime labs died this year in a legislative committee. The bill also would've required all convicted Nevada felons, including juveniles, to submit DNA into a national database. Nevada is one of seven states that doesn't require all adult felons to submit their DNA. Locally, funding shortages have led to high case loads and too few DNA analysts, prompting a back log of about 120 Washoe County cases that haven't been tested for DNA and another 2,700 convicted-offender profiles that haven't been entered into state and national DNA databases.
21. "Woman's killing remains a mystery." St. Louis Post-Dispatch (Missouri), July 24, 2005.
In Illinois, investigators still do not know who killed a woman in 2003, but they have been able to eliminate 30 potential suspects through voluntary DNA tests. So far, court orders have not been necessary to get people to give DNA samples, but he said that if the need arises, investigators won't hesitate to seek such an order.
22. "DA Will Seek Death Penalty." Albuquerque Journal, July 23, 2005.
In New Mexico, prosecutors will seek the death penalty against a man in the slaying of a woman in her home earlier this year. The suspect, a chronic burglar who has spent a good part of his life in prison, has been a suspect in 45 break-ins in two states, according to court records in New Mexico and Missouri. A DNA database hit identified him as the suspect about a week after the slaying. His DNA sample had been taken for a conviction on prior burglary charges stemming from 1992.
23. "Woman charged in Alabama in 2002 stabbing death." The Associated Press State & Local Wire, July 23, 2005.
In Alabama, a woman being released from a Georgia prison has been charged in a 2002 murder. A man died from a stab wound in March 2002 while he was on the telephone calling for help. Blood found on the handle of a knife at the scene was matched by DNA analysis to the woman. When questioned, the suspect was near the end of a three-year sentence for credit card theft and forgery.
During an interview, she admitted stabbing the man, but said she did not know he had died. The motive apparently was an argument over money owed for drugs.
24. "DNA Cited In '99 Rape Case." Daily News (New York), July 23, 2005.

In New York, a man was charged with a 1999 rape after investigators matched his DNA to evidence taken from the crime scene. The man avoided capture until he was arrested for another rape in 2003. In that case, he posed as a federal immigration agent and coerced an immigrant to have sex with him. He avoided jail for the 2003 attack after pleading guilty to misdemeanor criminal impersonation. But he gave prosecutors a DNA sample before he was released. Last month, that sample was run through a DNA database and matched to the cold case from 1999. "The case underscores yet again the crucial importance of DNA evidence," said the Queens District Attorney.

25. "In Brief." Fresno Bee, July 23, 2005.
In California, a man was arrested as a suspect in an unsolved 1998 rape after his DNA in a database matched the evidence gathered at the crime scene.
26. "Arsonist's sentence puts Northeast at ease." Star Tribune (Minneapolis, MN), July 23, 2005.
In Minnesota, an arsonist in the Hennepin County who set fire to a vacant duplex has been sentenced to 10 years with no time off for good behavior. Investigators spotted the man standing in a nearby yard watching the fire. When police tackled the man, a can of beer fell from his jacket. Another can was found on the steps of the duplex, and DNA from the beer cans matched the man's. The man pleaded guilty to setting the fire which caused \$100,000 in damage.
27. "New trial ordered." Times-Picayune (New Orleans, LA), July 23, 2005.
In Louisiana, a man who has been serving a 40 year sentence since 1989 for robbery and sexual assault has been granted a new trial based on DNA evidence. During a hearing, a technician with the Jefferson Parish Sheriff's Office testified that DNA found on the woman's pantyhose came from the man's brother, who has all along state he had consensual sex with the woman on the night she was murdered. The woman, who testified at the hearing, stoutly maintained that the inmate is the one who raped her after dragging her into his car.
28. "Crime: Burglar Caught Out By His Lighter." Peterborough Evening Telegraph, July 22, 2005.
In England, a teenager who robbed a home thought he had gotten away with his crime, but carelessly left a vital clue at the scene - a lighter smeared with his DNA. He left the tell-tale clue lying in the bedroom of the house, and when the owner told police she did not smoke, it was the give-away that was to lead the man to court. He has several prior burglary convictions dating back to 1999 and has already served an 18-month sentence at a young offenders' institution. He was reportedly stealing to support a drug habit.
29. "Stepfather Of Rape Suspect." Pittsburgh Post-Gazette, July 22, 2005.
In Pennsylvania, the stepfather of a rape suspect accused of assaulting a woman from India has himself been charged in the attack after police said his DNA was found on the victim. The stepson was still in jail, and it was not clear if detectives suspect the two acted in concert. In both 1991 and 1992, the stepfather was charged with rape and unlawful restraint, but charges in those cases were dismissed. The victim barely spoke English and had been in the United States for only six days to visit her daughter.
30. "Man admits to abducting, raping girl, 9." Telegram and Gazette, July 22, 2005.M
In Massachusetts, a Rhode Island man was sentenced to prison after admitting in court that he abducted and raped a 9-year-old girl in 1992. The prosecutor said the man became a suspect early in the police investigation and a blood sample was taken from him. But it was not until late 2002, after advances had been made in DNA technology, that investigators were able to conclusively link him to the crime through DNA testing.
31. "DNA database links suspect to rape case." The Daily Yomiuri, July 21, 2005
In Japan, a DNA database compiled by the National Police Agency and brought online in December enabled the Osaka prefectural police to learn that a man indicted on suspicion of sexually assaulting a woman was involved in another rape. It was the first time that the database had helped police identify a suspect, the NPA said. Suspecting that the man might have been involved in other crimes, the police obtained a DNA sample after his arrest for a sexual assault. The DNA sample was matched to a crime scene where a 18-year-old woman had been raped in Nara Prefecture late July last year. When presented with the evidence by the police, the man admitted his involvement in the crime. At a later date, he also admitted committing other sexual assaults in Osaka Prefecture.
32. "Jury Deadlocks In Case Of Slain 16-Year-Old." Pittsburgh Post-Gazette, July 21, 2005.
In Pennsylvania, a jury deadlocked in the homicide trial of a man charged with killing a 16-year-old girl four years ago, but found him guilty of abuse of a corpse. Investigators determined that someone had urinated on the body. A closer examination of the urine detected a trace of semen, from which a DNA profile was extracted and eventually

matched to an offender on the DNA database. The man had provided his DNA sample in an unrelated sex assault case. The jury was prohibited from knowing about two previous cases in which the man had pleaded guilty to sexual assault.

33. "Loret gets maximum for killing prostitute." Rochester Democrat and Chronicle, July 21, 2005.
In New York, a man has been sentenced to for 25 years to life for a 2004 murder. 8 days after the crime, the man was arrested for possessing an illegal weapon and was sent to prison for four years. His DNA sample was collected for the database and a match was made to skin found under victim's fingernails. Technicians also tested the man's knife, which was still in police custody, and found the victim's DNA on it. The man's criminal record goes back 20 years and includes convictions and prison sentences for criminal possession of a weapon, burglary and criminal possession of stolen property.
34. "Serial Rapist Sentenced To 51 Years In Prison For Kidnapping And Sexually Assaulting Multiple Women At Gunpoint." State News Service, July 21, 2005.
The United States Attorney announced that a Washington, D.C. man was sentenced in D.C. Superior Court to 51 years in prison to be followed by five years of supervised release. Earlier in 2005, the man pled guilty to multiple offenses in connection with a series of armed sexual assaults that he committed in the D.C. area in December of 2003 and January of 2004. The defendant's DNA was found on three of the four victims.
35. "Fort Worth & Area Briefs." Fort Worth Star Telegram, July 19, 2005.
In Texas, a 42-year-old man accused of raping and strangling an 11-year-old girl almost 19 years ago has been indicted. He is now awaiting trial on a capital murder charge in the 1986, death of the young girl. Police have said that she was killed inside her Fort Worth home while her mother, brother and baby sister were away on an errand. Earlier this year, evidence provided by a DNA database linked the man -- a former friend of the family's who investigators say attended the girl's wake -- to the murder.
36. "Let's not compound the tragedy." Chicago Sun Times, July 19, 2005.
Editorial excerpt: "Plans to create a \$100,000 statewide pool to fund private DNA testing of evidence recovered in child murders might have some folks wondering: What about heinous sexual assault crimes and other horrible killings? But there are good reasons for making sure law enforcement officials have all the information they need before charging a suspect with killing a child. Besides the fear a child murder inflicts on a community, a family is torn asunder when a parent or relative is accused in the crime...Unfortunately, high volume means it can take months to get results from the state's own crime lab. With the technology available elsewhere, there's no excuse for letting an innocent person sit in jail. This special DNA pool, proposed by Cook County State's Attorney Dick Devine and defense attorney Kathleen Zellner, deserves support from legislators this fall.
37. "Man charged in robbery at store in Green Brook." Courier News (Bridgewater, New Jersey), June 19, 2005.
In New Jersey, a man was charged with the 2004 armed robbery of a store where \$7,000 was taken after employees were assaulted with a handgun and pepper spray. After developing leads, detectives executed a search warrant of the man's home and seized a silver handgun, which was DNA tested. A DNA match was found between blood on the weapon and the victim who'd been pistol whipped.