

ASLME DNA Current Events

Week of August 25-31, 2005

Prepared by Sarah Black and Rebecca Mitcheson

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DNA Evidence and Crime-Solving

“Jury Deadlocks in Slaying of Three Children; Men Accused of Killing Their Relatives Will Be Retried, Baltimore Prosecutor Says,” *The Washington Post* August 31, 2005.

The judge in the murder trial of two Mexican immigrants charged with the brutal murders of their three young relatives, declared a mistrial yesterday. The case was a difficult because close genetic ties between the family members made it difficult to prove conclusive DNA matching of evidence.

“DNA match leads police to rape arrest,” *Chicago Tribune*, August 29, 2005.

A man previously convicted of three other felonies was arrested for rape based on a DNA match.

“Trial in '91 rape, slaying of Elgin woman begins; Victim's half-brother tied to case by DNA,” *Chicago Tribune*, August 28, 2005.

A Texas man is currently being prosecuted for the 1991 rape and murder of his half-sister. The case originally went cold. The DNA evidence was re-examined in 1996, but was inconclusive. However, when the case was again re-examined in 1996, further technological advances allowed police to tie the defendant to the crime scene.

“DNA for Dead Baby Sought,” *The Toronto Sun* August 26, 2005.

Police are searching for the mother of a baby who was found lifeless and abandoned in July. Investigators are asking hundreds of the neighborhood residents near where the baby was found to provide DNA samples to aid in their search for the mother.

Body found in river is Iowan *Omaha World-Herald* (Nebraska) August 27, 2005.

DNA tests of a body found on August 6, in the Missouri River, have identified the body to be that of a 25-year-old man.

“Court hears of forensic link to Omagh bomb,” *The Irish Times* August 31, 2005.

Sean Hoey has been charged with taking part in the Omagh bomb massacre which killed 29 people, based on extensive forensic testing. Hoey's DNA was found on three bombs similar to the one that killed the 29 people in the 1998 Real IRA bombing.

“2 New Cases Target Slaying Defendant,” *Los Angeles Times*, August 31, 2005.

Rodney James Alcala, 62, is facing a third retrial for the murder of a 12-year-old girl in 1979. Alcala has recently also been linked to two other cold-case murders of woman in the 1970s.

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Controversies Concerning DNA Databanks and Laboratories

“LAW & ORDER,” *The Atlanta Journal-Constitution*, August 29, 2005.

The Army is investigating allegations that a civilian forensic scientist working on military criminal cases falsified DNA results. The allegations may affect a decade of criminal cases.

“DNA clues kept in shipping container,” *The Courier Mail* (Queensland, Australia), August 27, 2005.

DNA evidence from hundreds of Australian criminal cases is being stored in a shipping container and shed in a parking lot because of the failure of a refrigeration storage unit. Despite criticism, Queensland Health officials claimed the samples had adequate security and that proper temperatures and conditions were maintained. The John Tonge forensic center has also been heavily criticized for delays in testing.

“Forensic labs cannot police themselves; Without substantive independent oversight, the forensic establishment risks an erosion of its credibility,” *Chicago Sun-Times*, August 27, 2005.

Edwin Colfax, director of the Death Penalty Education Project at the Center on Wrongful Convictions at Northwestern University School of Law, argues that peer review is an inadequate method of accreditation and evaluation of forensic labs. He further argues that independent, objective oversight is needed. He cites Bode Technologies, a Virginia lab used by various states and the U.S. Justice Department, as an example of the lack of accreditation standards. In a review of tests done by Bode Technologies, the Illinois State Police found a high number of “false negatives” in rape kit testing and incorrect results in 22% of the kits double-checked by the police. Bode Technologies is accredited by American Society of Crime Lab Directors Lab Accreditation Board, the most established crime lab accrediting association.

“Defense questions evidence procedures in '91 killing,” *The San Diego Tribune*, August 27, 2005.

Defense lawyers have argued that DNA evidence linking the defendant to the 1991 rape and murder of a 9-year-old girl was planted or tainted. The FBI crime lab’s original forensic examination in 1991 showed no biological evidence. However, a 2003 examination by the San Diego police crime lab found biological evidence on the victim’s clothing and swabs from her body. A prosecution witness testified that advances in forensic technology explain the discrepancy.

WASHINGTON IN BRIEF, *The Washington Post* August 27, 2005.

The army is investigating charges that a civilian forensic examiner at the Army’s Criminal Investigation Lab in Fort Gillem, Georgia, falsified some DNA tests. The lab is now reviewing 479

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cases that the examiner worked on since 1995, and if the claims are accurate, hundreds of criminal cases could be challenged dating back a least a decade.

DNA Database Funding and Backlog

“Officials Hail New Crime Lab,” *The Boston Globe*, August 25, 2005.

Massachusetts opened a new addition to the State Police crime lab that will free space in the main lab and hopefully cut down on the current testing backlog. The state is also planning to construct an additional facility in early 2007 and the governor has proposed a bond for yet another facility to be completed in 2012. The goal is a 30 day turnaround for testing. The current average is nine months.

Expanding the DNA Databank

“DNA cleans up crime records,” *Herald Sun* (Melbourne, Australia), August 26, 2005.

Australia expects a 63% increase from 2004 to 2005 in DNA matches to crime scenes. Police expect this trend to continue, leading to an “unprecedented crime crackdown” according to a police official. Possible reasons for the increase in DNA matches includes more laboratory processing capacity, an program linking DNA and fingerprints of offenders, and a growing DNA database of convicted persons.

“DNA clears a path to old violent crimes,” *The Atlanta Journal-Constitution*, August 26, 2005.

The Fulton County Cold Case Squad announced six major breakthroughs on unsolved cases, which occurred from 1988 to 1997, based on DNA testing. These breakthroughs include indicting a man, already serving a life sentence for two other murders, for a 1997 murder. The Squad also announced receipt of a \$714,150 grant from the U.S. Department of Justice to support laboratory processing of DNA evidence.

DNA-based Post Conviction Challenges

“DNA Test Frees N.J. Convict,” *Daily News*, August 28, 2005.

A 16-year-old guilty verdict for rape and murder was vacated based on DNA evidence. It was the first time in New Jersey that an inmate had his case overturned based on DNA evidence. Despite the guilty verdict being vacated, prosecutors still believe the man to be guilty and plan to retry him.

“DNA Testing Leaves Man Free on Bail After 17 Years,” *The New York Times*, August 28, 2005.

A New Jersey man was released from prison after serving 17 years and 11 months for rape and murder when his conviction was overturned based on DNA evidence. Specifically, new DNA tests ordered by an appeals court showed that semen and fingernail scrapings from the victim did not match the convicted man and that a hair previously microscopically matched to the convicted man actually belonged to the victim. The man was represented by an Innocence Project lawyer in his

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appeal. Despite the new forensic findings, prosecutors intend to retry the case based on witness' statements that the convicted man had told them that he committed the murder.

"Illogic in Hayes case," *Time-Picayune*, August 27, 2005.

A man sentenced to life in prison as an accomplice to a 1997 murder is attempting to have his conviction overturned. The man originally convicted of being the actual murderer was freed in 2004 based on DNA evidence. Despite the exoneration of the alleged principal and lack of any other solid evidence, the District Attorney's office continues to fight against the accomplice's release.

DNA Evidence and Sentencing

"Deliberations to start in 1991 slaying trial: Otay Mesa girl was abducted, molested," *The San Diego Union-Tribune*, August 31, 2005.

Jurors are set to begin deliberating to determine whether a defendant kidnapped, molested, and murdered a young girl in 1991. DNA evidence was a foundation of the prosecution's case. However, the defense argued that the evidence must have been planted because the original forensic examinations of the victim turned up no DNA evidence while a 2003 re-examination found DNA evidence in multiple sites on the victim. The prosecution argued that advances in DNA technology explained any discrepancy.

"Missouri pays man imprisoned for rape he didn't commit," *St. Louis Post-Dispatch* (Missouri), August 27, 2005.

A Missouri man who spent 18 years in prison for forcible rape, armed criminal action, and felonious restraint before being exonerated by DNA testing was awarded \$328,500 from a state fund for the wrongfully imprisoned. The amount represented \$50 for each day he spent in state prison, but did not include time served in a local jail. The fund is only available to those exonerated after August 25, 2003. Thus, other Missouri residents previously exonerated by DNA testing were not eligible for payment out of the fund.

"Inmate gets life term for murder of publisher in '87," *The San Diego Union-Tribune* August 25, 2005.

Staley Ray Clayton, 39, was sentenced to life in prison without parole yesterday for the murder of a well known newspaper editor in 1987. Investigators uploaded DNA evidence from the cold case into the state database in 2003, and matched it to Clayton's DNA which was already on file for previous felonies.

DNA Science and Technology

"Prosecutors to Retry Twin in Case Marked by DNA Limits," *The Boston Globe*, August 26, 2005.

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Prosecutors are planning to retry a man accused of rape despite two previous mistrials. DNA evidence was available in the case. However, jurors were unable to reach a verdict because the defendant is an identical twin and the prosecution was unable to prove that the DNA evidence did not come from the defendant's twin. Although identical twins have the same DNA, a new study has found that genetic material may undergo minute changes or mutations with age, thus allowing the DNA of identical twins to be distinguished. Despite the chance that future technology may be able to differentiate identical twins' DNA, such technology is likely too far in the future and too time consuming to play a part in the rape retrial.