

# Reasonable Doubt

## Someone Who's Guilty Would Never Want DNA Testing, Right?

Wrong, Some Do Submit—  
And Often End Up Having  
Their Verdicts Confirmed

Mr. Davi's O.J. Inspiration

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By LAURIE P. COHEN

Staff Reporter of THE WALL STREET JOURNAL

Scott William Davi was seven years into a life sentence when his lawyer showed up to deliver results of a DNA test that Mr. Davi claimed would offer incontrovertible evidence of his innocence.

The lawyer instead told his client that the test demonstrated that he alone raped and killed his ex-wife.

Today, Mr. Davi is confined to a small cell in a maximum-security prison in Menard, Ill. Even so, he remains adamant that he is innocent. That he took the DNA test in the first place, he says, proves it.

"I'm smart enough to know if I committed this crime, I'm not going to have DNA done to prove I'm guilty," says Mr. Davi, who is 40 years old. "That would be a real stupid move. A guilty man wouldn't take that chance."

Or would he?

You would think that guilty defendants would shun post-conviction DNA testing because it is a scientific tool that proves guilt beyond a reasonable doubt—and that prosecutors confident of their evidence would embrace it. Paradoxically, however, both sides have confounded these expectations in most of the cases where such testing has been used.

In the past decade, post-conviction DNA testing has established the innocence of at least 74 inmates, a small number of whom were on death row. No one keeps authoritative statistics on the total number of post-conviction tests that have been done since the early 1990s, when the use of DNA analysis increased because of technological improvements and the criminal-defense bar's growing realization that the tests could help their side. But the two leading forensic laboratories that do the analysis—Forensic Science Associates in Richmond, Calif., and Cellmark Diagnostics in Germantown, Md.—concur in estimating that their work has exonerated about 40% of those examined.

Using this virtually irrefutable tool, defense lawyers have pushed for changes in state laws that would require prosecutors to turn over evidence for post-conviction testing. While exonerations have made headlines across the country, and are indeed highly newsworthy, scant attention is paid to the 60% of cases where DNA confirms a prisoner's guilt.

Last month, Ricky McGinn ignited a media explosion when his execution was postponed by Texas Gov. George W. Bush, pending post-conviction DNA testing. When these results are released, as early as today, however, they will support the Texas inmate's conviction for the rape and murder of his 12-year-old stepdaughter, people in close touch with both sides of the case say. That will make Mr. McGinn the

fourth Texas death-row inmate in the past three years to receive damning results from a post-conviction DNA test that was ordered prior to an already-scheduled execution. The other three have been executed.



Scott Davi

DNA is the material in the nucleus of animal cells that records each person's genetic inheritance. With the exception of identical twins, no two individuals share the same genetic code. Lawyers and scientists agree that properly conducted DNA analysis of biological material, such as hair, blood or semen, provides convincing evidence either linking a person to the material or disproving a link. Every court in the country accepts DNA analysis as proof of guilt or innocence.

Why do so many defendants and prosecutors act in ways that seem at odds with their best interests? A close look at Mr. Davi's case sheds light on the complicated politics surrounding post-conviction DNA testing and the psychology of prisoners who seek it.

On Nov. 2, 1990, at about 5:30 p.m., Diane Lee Davi was found in her modest apartment in Sioux Falls, S.D. The 32-year-old had been raped and strangled with thick knitting yarn tied into a slip knot. A douche bottle was found inside her, apparent evidence of the attacker's effort to clean away his semen.

Scott Davi met Diane Callies on a blind date in 1984, soon after he had spent four months in prison for selling marijuana. Four years later, when Mr. Davi was again in prison—this time for selling cocaine—the two got married.

Paroled six months later, he began to manage a food-court restaurant at a local mall. Although the money he made from Pizza Pasta was a fraction of the \$60,000 a year he says he had made dealing drugs, Mr. Davi liked the work. His marriage was less stable; in February 1990, the couple divorced.

Nonetheless, they remained intimate until early October, when Mr. Davi told his ex-wife that his new girlfriend, a 19-year-old Pizza Pasta employee, was pregnant with his child. At that point, Mrs. Davi angrily severed ties to her ex-husband, according to her family and prosecutors.

Shortly after this rupture, on Oct. 22, Mrs. Davi came home and found her apartment had been burglarized. She suspected her ex-husband and got a protective order against him from a state court that same day. Nonetheless, Mr. Davi admits he continued to try to see his ex-wife. She sought a court hearing about these overtures, but she was killed three days before the hearing date.

On the morning of the murder, Mrs. Davi returned to her apartment from her job at a local film-development lab and made some phone calls until about noon, according to court testimony. Later that afternoon, Mrs. Davi's 11-year-old son, Chad, came home from school, rang the doorbell but got no response. By nightfall, Mr. Davi was a suspect. He was arrested and charged with rape and murder one week later.

Prosecution witnesses at Mr. Davi's June 1991 trial testified that he had expressed fear he would be returned to prison if his wife told a judge he had violated the protective order. In one instance, he allegedly told a friend he had purchased a crossbow to shoot her "between the eyes," and an unused crossbow turned up in a police search of his home.

Three defense lawyers hired by Mr. Davi's father tried to pin the crime on Dale Callies, Mrs. Davi's first husband. This defense seemed at least somewhat plausible.

A state serologist testified that a semen stain on Mrs. Davi's thigh could have been deposited by 20% of the male population, including Mr. Davi and Mr. Callies. Moreover, Mr. Callies, who had gone hunting alone on the day Mrs. Davi died, didn't have any alibi witnesses. The defense produced seven acquaintances of Mr. Davi's who told jurors they saw him at the mall around the time of the murder.

Nevertheless, after a weeklong trial, it took jurors 10 hours to reach the guilty verdict that left Mr. Davi and his parents stunned. "I felt strong at the trial that Callies killed her and Scott was going to walk," says Vince Davi, a bail bondsman whose office is across the street from the courthouse where his son was tried. Adds Jan Davi, Scott's mother: "Our lawyers

told us there was no way Scott would get convicted because there was just no evidence."

Mr. Davi relied on a succession of court-appointed lawyers to try to overturn his conviction. One of these attorneys found some new evidence that the defense maintained could have provided a motive for Mr. Callies to attack his ex-wife, including that she had obtained an earlier protective order against him, too. Based on this new evidence, Mr. Davi, who was facing life without parole, petitioned the court to free him. He argued that his trial lawyers hadn't effectively represented him.

In the interim, the prisoner was watching a lot of TV in the Sioux Falls penitentiary. He tuned in to the murder trial of O.J. Simpson in 1995 and was particularly impressed with two of Mr. Simpson's lawyers, Barry Scheck and Peter Neufeld, who argued that their client's DNA evidence was contaminated at the crime scene and mishandled at the laboratory.

Messrs. Scheck and Neufeld have had a hand in more post-conviction DNA cases than any other lawyers in the country. They also have played a key role in pushing for pending federal legislation that would make it easier for prisoners to gain access to evidence for DNA testing. (Only New York and Illinois now have laws requiring such testing in cases where it could determine innocence or guilt.)

After Mr. Simpson's acquittal, Mr. Davi wrote to the crusading New York lawyers, who operate through the Innocence Project, a nonprofit organization they started in 1992 to help prisoners prove their innocence with DNA analysis. The cases the organization has championed were all prosecuted before 1994, the year when pretrial DNA testing became commonplace.

The project's legal work is done free, much of it by students at New York's Cardozo School of Law, where it is located. Although it receives hundreds of letters each week from prisoners and their families, the project has the resources to accept only a few of them. All of its clients have been men serving lengthy sentences for rape or murder, or both. Rape cases lend themselves to DNA testing, says Jane Siegel Greene, the project's executive director, because semen is almost always gathered by authorities and provides a ready source of DNA.

Inmates increase their odds of being represented by the project if the prosecution relied on what Ms. Greene says is uncertain proof: eyewitnesses, jailhouse informants or circumstantial evidence.

Even if an inmate meets the Innocence Project's criteria, hurdles remain. In 70% of the cases it accepts, the project says it learns that potential biological evidence for DNA testing has been destroyed. For the remaining cases where there is evidence, most clients are asked to pay the \$5,000 that the testing typically costs; many inmates don't have the money.

Inmate psychology can further complicate the project's task of choosing suitable clients. Many convicted people, out of an instinct for self-preservation or just a tendency to lie, develop seemingly firm explanations of why evidence of their guilt should be disregarded. Daniel Martell, a forensic psychologist in Newport Beach, Calif., says that rapists and molesters, in particular, may resist the truth because they are often the targets of abuse from fellow prisoners.

Still, Mr. Davi looked like an excellent candidate for the Innocence Project:

His prosecution turned on circumstantial evidence. Plenty of biological material had been collected from the crime scene that could now be tested for DNA. And his father agreed to pay for the DNA test. Mr. Davi also was steadfast in proclaiming his innocence.

The Innocence Project saw in the Davi case a chance to set legal precedent in South Dakota, a state that had never be-

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# Tax Report

## A Special Summary and Forecast Of Federal and State Tax Developments

**A1** THE SENATE CONSIDERS overhauling or even killing 'death taxes.'

The House recently approved a bill to slash estate and gift taxes and then repeal them by the year 2010. President Clinton has promised to veto that bill. But officials say he supports a far less expensive version that includes targeted relief for family farms and small businesses. It would also remove from the tax rolls roughly half of those now subject to estate taxes. The Senate is discussing the subject this week.

While all this may be mere election-year posturing by both parties, some financial advisers see a possible compromise that would repeal death taxes for all but the super-rich. Two key reasons: bulging budget surpluses and political polls. Death taxes are "very unpopular," says Phil Wiesner of KPMG in Washington. Democrats may seek agreement to remove the subject as a campaign issue this fall, and GOP leaders might compromise to blunt Democratic attacks on a "do-nothing" Congress. "This issue has gotten legs," says Hank Gutman of KPMG and a former chief of staff of Congress's Joint Committee on Taxation.

*If any tax legislation is approved, "there's a 50-50 chance death-tax relief could be part of that package," Mr. Gutman says.*

**ARCHER AIMS to expand contribution limits for IRAs.**

House Ways and Means Committee Chairman Bill Archer and many other lawmakers want to increase the contribution limit for individual retirement accounts to \$5,000 a year. The limit has been \$2,000 since the early 1980s, a committee spokesman says. This change is part of a bill the committee is expected to consider tomorrow.

The bill will include other changes, such as increasing contribution limits for 401(k) plans and allowing more workers to take their pension plans with them from job to job, says Archer aide Trent Duffy. The House may vote on the package as early as next week, Mr. Duffy says. "We should be helping more Americans save for their retirement," says Chairman Archer, a Texas Republican.

**NONPROFIT GROUPS expand their for-profit activities, a new IRS report says.**

Tax-exempt organizations are allowed, within certain limits, to generate income from activities that aren't related to their tax-exempt purpose. But they also generally have to pay taxes on income from activities that are "regularly carried on" and that aren't "substantially related" to their mission. A new IRS report shows continued rapid growth in such profits and "unrelated business income taxes."

Taxable profits from unrelated business activities for 1996 surged 31% to \$1.2 billion, says an article by IRS statistician Margaret Riley in the new issue of the IRS's Statistics of Income Bulletin. Total unrelated business income taxes jumped 35% to \$372.3 million.

*These sharp increases came on top of even larger percentage gains the previous year.*

**REMINDER:** Aug. 15 is the filing deadline for millions of people who received automatic four-month extensions from the mid-April deadline. Those who need even more time can get an additional two months, but it's not automatic. You need a reason the IRS finds acceptable, such as missing records or a health problem.

**SEX AND TAXES:** A man deducted cash payments to Nevada prostitutes as research for a book he was writing. The Tax Court said no, calling the deductions "so personal in nature as to preclude their deductibility." A federal appeals court recently affirmed the Tax Court's decision.

**TAX ON TALKING:** A 3% telephone excise tax that many lawmakers vow to repeal raised a record \$5.2 billion in 1999, up from \$4.7 billion in 1998, the IRS says. "Originally designed as a luxury tax imposed on the few fortunate enough to own telephones," the IRS says, it was enacted in 1898 and helped provide funding for the Spanish-American War effort. It has been in effect for most years since then.

**MANY SMALL GIFTS by financial institutions are tax-free, the IRS says.**

Banks and other institutions often hand out inexpensive gifts, such as flashlights, tote bags or mouse pads, to attract new deposits or induce customers to add to their existing accounts. Under a recent IRS "revenue procedure," a noncash gift is a "de minimis premium," and thus tax-free, if it doesn't have a value of more than \$10 for a deposit of less than \$5,000, or \$20 for a deposit of \$5,000 or more. The value is based on the cost to the financial institution of the premium.

The IRS also says it won't require a financial institution that hands out such a gift to treat it as interest for information-reporting purposes. These decisions are effective for premiums provided since the end of last year. "This is welcome guidance in an area that's been confusing and difficult to administer for years," says Mark R. Baran, senior tax counsel at the American Bankers Association in Washington.

*These rules are laid out in IRS revenue procedure 2000-30, dubbed by IRS insiders as the "teddy bear rule."*

**BRIEFS:** Elizabeth Paris joins the Senate Finance Committee as tax counsel, replacing Thomas J. Roesser, now Microsoft's director of tax affairs. ... Pamela Olson of Skadden Arps takes over next week as head of the American Bar Association tax section, the first woman to hold this post. She will succeed Paul Sax of Orrick Herrington in San Francisco.

-TOM HERMAN

sewage pit in the back yard and pay for a gate in the fence that soldiers erected during the intifada.

Officially, his children go to an Israeli school, but the teachers and the curriculum are Palestinian. The school books are printed by Arafat's Palestinian Authority, though the city places stickers over the pages to cover that up.

Young couples get married in the Muslim religious court, which is not recognized by Israel. They only register the deed with Israeli authorities so their children can someday apply for social security benefits too.

The extent to which East Jerusalem is managed by the Palestinians is best seen in an office building not far away in Abu Dis, where Jamil Nasser looks after Arab interests as the "first governor of Jerusalem" appointed by Arafat in 1996.

From his desk, where a Palestinian flag snaps in the breeze of a fan, Nasser says his main job is to combat Israel's efforts to deplete the Arab presence in the city. He has a staff of 300, including plainclothes police, some armed, who regularly detain and interrogate people.

A steady stream of Jerusalemites bangs on his door. He sorts out disputes over water bills, organizes funds to help Arabs build homes or helps them pay fines when the Israelis stop them.

"The most important thing is that people recognize our sovereignty in Jerusalem, despite all the taxes they pay to the Israelis," Nasser said. "We can resolve on the phone what the Israelis can't resolve with all their authority and police."

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### Pressure is on for Camp David peace deal by Wednesday

By Nomi Morris

Knight Ridder Newspapers

THURMONT, Md. With two days left before President Clinton's scheduled trip to Japan, American mediators in the cabins of Camp David are stepping up pressure on Israeli and Palestinian negotiators to strike a final peace deal.

"Everyone understands the calendar," said White House spokesman Joe Lockhart on Sunday. "So I think they understand that an intense effort is needed." Clinton is scheduled to leave Wednesday morning for four days on a state visit to Tokyo and to participate in an economic summit of industrialized nations in Okinawa.

The White House is hoping that by the time Clinton leaves, he will know whether agreement is possible on Jerusalem and other key areas of dispute even if that means the parties would stay an additional week in order to hammer it out.

Since July 11, Clinton has been engaged in an intense, high-stakes effort to break an impasse between the two sides on "core" issues that have torn the Middle East for 52 years. Analysts say a failure will lead to renewed bloodshed.

The key issues are: borders and security arrangements between Israel and a future Palestinian state, the future of Palestinian refugees around the world, the fate of Jewish settlers on the occupied West Bank of the Jordan River, and the status of Jerusalem, which both peoples claim as their capital.

As Clinton emerged from Sunday services at the Evergreen Chapel at Camp David, nearly 150,000 Israelis were gathering in Tel Aviv to oppose to making further concessions to the Palestinians.

With violence rising in Israel and the occupied territories, 1,500 security personnel were dispatched to the massive demonstration, held in the square where former Israeli peacemaker Yitzhak Rabin was assassinated by a Jewish extremist in 1995.

This time the crowd was orderly with religious settlers and other nationalists holding signs that read "The state must not be lost," and "Cry beloved country."

"Barak's peace is a mistaken peace, a bad peace, a momentary peace. There has to be talk of what Arafat will concede," opposition Likud leader Ariel Sharon told the crowd.

Meanwhile, despite a scrupulously observed news blackout, Israel Radio was reporting that inside Camp David agreement is near on borders and security but that the gaps are still wide on refugees and Jerusalem.

Over the weekend rumors surfaced that Palestinian leader Yasser Arafat was threatening to walk out when he felt that American ideas on Jerusalem were too close to Israeli proposals. But by Sunday there were conflicting reports on how "pessimistic"

or "optimistic" the sides were. The reports were dismissed as disinformation designed to keep journalists occupied while the real work gets done in private.

"There's lots of people talking and a lot of them don't know what they're talking about. Only time will tell." Lockhart said, calling the supposed leaks "entertaining." But he confirmed the atmosphere has been "tense" in a number of discussions.

Camp delegates are reportedly poring over maps that include a plan for Israel to trade land inside the country, reportedly in the Negev desert, in exchange for keeping certain West Bank areas, occupied since 1967, which now house tens of thousands of Jewish settlers.

On Jerusalem, Israeli prime minister Ehud Barak is offering to hand the East Jerusalem neighborhoods of Shuafat and Beit Hanina to a future Palestinian state, in exchange for adding the Jewish settlements of Ma'aleh Adumim and Pisgat Ze'ev to the city.

He also proposes a form of administrative autonomy for Muslim holy sites and for Arab-populated East Jerusalem, but insists on Israel retaining sovereignty over the city. That solution does not go far enough for the Palestinians, but goes too far for many Israelis.

"No way. No concessions on Jerusalem. Municipal autonomy is an outright division of the city," said Jerusalem's Mayor Ehud Olmert, a member of the opposition Likud party. "For 33 years Israel has said there will never be a compromise on Jerusalem. Do you think we were joking?"

Olmert was holding an opposition forum on Jerusalem in his office on Sunday in advance of a no confidence vote about the city's fate that another rightist party plans to bring for a vote in parliament later this month.

But Palestinians maintain that when it comes to municipal autonomy and a corridor from Palestinian villages outside Jerusalem to the holy Temple Mount, the Israelis are negotiating with nobody but themselves.

"The question is whether Palestinians will have sovereignty (in East Jerusalem). Without sovereignty I don't think there will be a deal," said noted pollster Khalil Shikaki, director of the Nablus-based Center for Palestinian Research and Studies. "There has to be an Israeli acknowledgement of Palestinian sovereignty over the holy places and Palestinian neighborhoods in East Jerusalem. Without it I can't think of Arafat accepting a compromise or a partial agreement."

Haim Ramon, the Israeli cabinet minister responsible for Jerusalem, on Sunday repeated his pitch for the emotionally charged issue of Jerusalem to be left out of a Camp David agreement, in order to be solved at a later date.

"It's impossible to reach agreement on Jerusalem because any agreement on Jerusalem depends on our giving up sovereignty or on the Palestinians giving up their demands for sovereignty," he said.

But American mediators are pushing hard on the issue, knowing that putting off Jerusalem will mean Palestinians will not sign a document declaring a historic "end" to the conflict.

"That would be just another interim or partial agreement," said Shikaki.

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### Flood of DNA evidence in Florida has fans, foes

By David Green

Knight Ridder Newspapers

MIAMI When police used DNA last week to link a suspected Broward County rapist to the sexual assaults of two women in the Bahamas, everyone cheered.

"We're absolutely thrilled," said a Pompano Beach, Fla., man whose wife was reportedly a recent victim of the same suspect.

Proponents of genetic technology were thrilled, too. It was the first time DNA connected an American suspect to a foreign crime, and it underscored DNA's mushrooming role in law enforcement. Detectives are now able to assemble a suspect's genetic profile in seconds from stray skin cells on a door handle. Or saliva on a postage stamp.

But the rapidly expanding universe of forensic DNA testing driven by the Human Genome Project and other scientific breakthroughs has others worried.

It might lead to a brave new world, critics fear, in which

Crime -  
DNA

## Fencing Jerusalem like to start war before peace

By Hugh Dellios

Chicago Tribune

JERUSALEM From behind the fence at the edge of their land, built to keep Palestinian boys from throwing rocks at Israelis, the Atrash family knows exactly where Jerusalem is divided.

The unofficial barrier is right in front of their house on Moshe Barazani Street, where the city sewage lines end at the Jewish neighborhood of Armon Hanatziv, stopping just short of their Arab neighborhood of Jabel Mukaber.

The barrier is where the Jews wait in the shade for a municipal bus at the plexiglas bus stop, while the Arabs try to hail the white van taxis, many unlicensed, that race up and down the hill.

It is where disputes are not solved by the Israeli police, like across the street, but by tribal elders or the agents of Jamil Nasser, the "governor" who runs something of a shadow municipality in the neighborhood for Palestinian President Yasser Arafat.

"We don't feel that the Jews are our neighbors," said Khalil Atrash, 87, the family patriarch, who has lived in Jerusalem six years longer than Israel has existed but never mingles with Israelis.

Heralded as the eternal, undivided capital of Israel, Jerusalem is actually a city rent deeply and bitterly between Jew and Arab, on the ground as well as in the heart, mind and prayer book.

At the Camp David summit, many are hoping that formal recognition of that practical divide will lead to a resolution of the claims and counterclaims on the Holy City, undoubtedly the most vexing issue in the Israeli-Palestinian conflict.

In meetings between Arafat, President Clinton and Israeli Prime Minister Ehud Barak, one idea on the table is an exchange in which Israel would cede to the Palestinians limited autonomy over Arab sections of East Jerusalem, in exchange for Israel's annexation of Jewish settlements on the occupied West Bank.

The proposal falls short of the Palestinians' demand for all of East Jerusalem as the capital of their future state. If he embraces it, Barak could be accused of dividing Jerusalem, the third-rail issue of Israeli politics and something he has vowed never to do.

But the idea reflects the reality on the streets of East Jerusalem, which was separated from the west side after Israel was created in 1948 and then occupied by the Israelis after they captured it from Jordan in the 1967 Six-Day War.

Since then, while the Israeli government speaks of unifying the city under its control, few Israelis venture beyond the Old City in East Jerusalem to pray at the Western Wall. City services are badly neglected by the Israelis: garbage piles up and roads deteriorate as Arab officials have taken effective control over schools and health facilities.

While Israeli Arabs picnic in the west side's parks, and some Jews shop in the east side's souks, each says they fear being stranded on the other side, especially since the intifada uprising of the late 1980s.

Jewish taxi drivers sometimes balk at driving into East Jerusalem. The Palestinians' Taybeh beer can hardly be found in West Jerusalem stores.

"The two sides function as separate to a large extent," said Rami Friedman, director of the Jerusalem Institute for Israel Studies, which has studied the Holy City dilemma in depth.

"To me, what is important is the fact that many functions that should be performed by the municipality or the state of Israel are performed by Palestinian organizations on the east side," he said. The proposal for Israel to relinquish some municipal control over East Jerusalem has been promoted by think tanks and pro-peace organizations. In recent weeks, the Israeli media has been filled with reports that Barak plans to offer a version to Arafat.

In some reports, Israel would offer the Palestinians Beit Hanina, Shaufat and other Arab villages on the city's outskirts. In exchange, the Israelis would seek the expansion of Jewish Jerusalem with the annexation of two large settlements, Maale Adumim and Givat Zeev.

The acquisitions would fit within broader proposals for a final peace treaty that suggest expanding the city's limits and creatively reworking the concept of sovereignty.

While Israel would maintain overall sovereignty in the city, two sub-municipalities would be created, one encompassing Jewish neighborhoods and the other Palestinian areas. The latter

would become the capital of the future state of Palestine, called Al Quds, the Arabic name for Jerusalem.

For Arafat, accepting the right only to make arrests, collect the garbage and deliver the mail would be a serious compromise on his vow to secure ultimate sovereignty over all of East Jerusalem as his people's capital.

But the idea's proponents say it could be promoted as an interim step that would allow the two sides to sign a treaty while continuing to deal with the issue in the future. One key Arafat adviser said he would be willing to consider it as a starting point.

"No Palestinian can accept Israeli sovereignty over East Jerusalem," said Ziad Abu Zayyad, the Palestinian minister for Jerusalem affairs.

"If they are talking about Palestinian sovereignty over East Jerusalem that is just municipal, that is only a step. As part of a plan leading to a final solution, we will consider it. But even as a step, it should be limited by time and guaranteed by the @1/8international community@3/8," Zayyad said.

Breaking his vow not to divide Jerusalem could be politically lethal for Barak. But the idea could be sold as part of his plan to separate Jews and Arabs, concentrate the percentage of Jews in Israeli Jerusalem and even save the nation money.

A top Barak aide, Deputy Defense Minister Efraim Sneh, has floated the notion of "sharing united Jerusalem." Last week, he said Israeli negotiators would display "flexibility" on the issue.

A Jerusalem solution also would have to include an arrangement for who controls the sites in the Old City that are sacred to Muslims, Jews and Christians most notably, the Al Aqsa mosque, Western Wall and Holy Sepulchre Church.

According to the Israeli reports, Barak might offer to allow the Palestinian flag to fly over Al Aqsa, a safe corridor for Muslims to get there from East Jerusalem and joint Israeli-Palestinian police patrols on the Temple Mount, though Israel again would retain overall sovereignty.

Among the severest critics of the ideas is Jerusalem's mayor, Ehud Olmert. Speaking for Israel's right wing, he insists the Palestinians' have no historic claim to Jerusalem and that giving up municipal control of Arab sectors could leave more than 80,000 Jews vulnerable in isolated neighborhoods.

"Such an arrangement would be a prescription for endless confrontation," Olmert said. "@1/8Any treaty@3/8 must reflect the historical realities of Jerusalem, not the artificial realities that Arafat wants to create."

The inevitable objections lead many people, including Haim Ramon, Barak's minister for Jerusalem, to recommend taking the explosive issue off the table until a time when Jews and Arabs learn to live with each other in the city and don't fear being domineered by the other.

"You can't solve it with a piece of paper today. First, you have to establish a new way of life in the city," said Friedman, the think-tank director.

Today, Jerusalem's 625,000 residents are about two-thirds Jewish and a third Arab. Many of the Palestinians hold special identity cards that makes them "Jerusalemites" and entitles them to Israeli national insurance and social security, which their brethren in the West Bank don't have.

Thirty years of aggressive building has created a hodge-podge of overlapping Arab/Jewish neighborhoods, so that it is difficult to draw even a jagged line between them today. The Israelis are accused of trying to dilute the Arab population by denying building permits and confiscating identity cards.

While the "Green Line" of 1967 still separates West and East along some parts of Highway 1, in other places the dividing line has moved east because of the building, to places like Moshe Barazani Street in southeast Jerusalem.

The Jews from one side and the Arabs from the other cross paths only at an Arab bakery or local car wash, which advertises in Hebrew, or when an Arab comes to clean or garden for the Jews. Patrolling the street all day are two Israeli border police with assault rifles.

The Atrash family claims the Israelis have tried numerous times to evict them. They are still paying off a stiff fine for a 1997 violation for adding two bedrooms so the family of six didn't have to sleep in one room; though the house is more than 50 years old, the Israelis designated the land as a nature area.

"There are services but we don't benefit from them," said Fuad Atrash, 30, a bulldozer operator, who had to dig his own

everyone's DNA one day will be on file. Your most private physiological secrets would be instantly accessible to everyone from Big Brother to big business.

"When they find the gene responsible for aggression, do you think law enforcement is going to be interested in finding out who has it?" asks Barry Steinhardt, associate director for the American Civil Liberties Union in New York.

"Of course they are."

The issue is particularly relevant in Florida one of the nation's leaders in forensic DNA technology. The state was the first to link up to the FBI's national DNA database. Known as CODIS (Combined DNA Index System), the database contains hundreds of thousands of DNA samples taken from those convicted of mostly violent crimes.

More than 20 states are now hooked up to it.

Florida also leads the country in the number of times its scientists have matched DNA lifted from a crime scene to one stored in CODIS more than 200 during the past decade, according to the Florida Department of Law Enforcement.

One reason for Florida's success: Funding is lush. A recent state bill pumped more than \$2 million into DNA testing of those convicted of certain crimes to be taken from blood samples or a scraping of their inner cheek.

Because of this legislative support, Florida has almost no backlog. States such as New York have processed fewer than 20 percent of the DNA samples they have taken from convicted criminals; all of Florida's roughly 65,000 profiles have been entered into the FBI database.

In January, the FDLE bought a new DNA analyzing machine for \$300,000.

Developed originally for the Human Genome Project, the sophisticated 3700 Genetic Analyzer processes 88 DNA samples in two and a half hours a warp-speed acceleration from the two days it used to require for that sample size.

The machine's speed will help accommodate the crush of new samples triggered by a recent bill. The legislation adds burglary to the list of convictions requiring a person to supply a DNA sample. Under the new law, which took effect July 1, Florida's annual DNA caseload is expected to triple.

Before its passage, Florida gathered samples from only those convicted of mainly violent and sexual offenses murder, assault, carjacking, robbery, sexual battery, lewd and lascivious behavior.

Just who has to supply a DNA sample is at ground-zero of the debate.

Most states are like Florida they collect samples for all violent crimes and burglary. But seven states collect for every felony.

Their reasoning: People who commit violent crimes often start with less serious felonies. A study of convicted rapists and murderers in Florida showed that about four out of five had a record of theft, robbery, drug offenses or illegal possession of a firearm. The sooner these criminals are entered into the database, advocates argue, the sooner their upward spiral can be halted.

But others want to go even further. The International Association of Chiefs of Police recently issued a resolution calling for the mandatory testing of everyone arrested for any offense not just those convicted.

The move triggered outrage.

"A large number of people who are arrested didn't do it," said David Baugh, a lawyer in Richmond, Va., and the co-chairman of the National Organization for Criminal Defense Lawyers DNA Task Force.

When someone raped and strangled Brenda Carter 20 years ago, police were baffled.

At the time, detectives questioned the 21-year-old Carter's friends, neighbors, family. But they never made an arrest.

This May, a detective freshly assigned to the case went back and pored over crime scene photos. He noticed a rumpled washcloth beside Carter's body.

Wondering whether the rapist had used it to wipe himself off after the crime, Detective John Curcio sent it the crime lab. Although the washcloth had spent the last two decades moldering in an evidence locker, the lab was able to extract DNA.

It matched the genetic profile to Samuel Lee Roberts a

42-year-old career criminal who was promptly charged with Carter's death. He is awaiting trial.

The same technology allowed Miami-Dade detectives to pin a murder on Charles Henry Williams after they unearthed semen and saliva samples lost several years before.

The samples, misplaced in the late 1980s, eventually pointed to Williams as the killer of a young working mother named Patricia Johnson.

Cases such as these bring police and civil libertarians together on one point: DNA plays a tremendous role in catching criminals. And in freeing people wrongly convicted of crimes.

During the past decade, about 70 inmates have been released from U.S. prisons after their convictions were challenged by DNA tests, according to the Innocence Project, a New York-based prisoner's rights group.

Attests David Coffman, the FDLE's DNA database supervisor and a nationally recognized authority on the subject: "In law enforcement, it's the biggest advance we've had in the modern era."

But mention the term "universal DNA database" and watch those on both sides of the debate shudder. Yet some experts predict that is precisely where genetics is headed.

Under such a scenario, they say, the FBI's DNA database will be combined with databases currently being assembled in science and medicine. This streamlined system would be accessible to police and doctors.

And, civil libertarians warn, by those guided by financial motives insurance companies, employers, drug manufacturers.

"Do you want people like insurance companies knowing that, for example, there's a 50-50 chance of you coming down with a certain type of cancer?" asked Baugh, the co-chairman of the lawyers DNA task force. "You're giving up your deepest, darkest secrets."

Law enforcement officials and the government insist they are not pushing for a universal database. President Clinton recently came out in favor of pending legislation prohibiting insurance companies from discriminating against people on the basis of their genetic makeup.

But to some degree our "deepest, darkest secrets" may already be out there. When you have blood taken for medical purposes, most labs keep the sample. They regularly map your DNA, enter it into a database and legally sell it to scientists for research.

"If you've ever had a blood test," said Chris Asplen, executive director of the government-run National Commission on the Future of DNA Evidence, "the chances are that someone is out there using your DNA for research purposes right now."

Iceland recently sold access to the genetic database of nearly its entire population to a private company for \$200 million.

For some, however, the debate is overshadowed by more pressing concerns.

"I wish they'd put this guy into the DNA database sooner," said the Pompano Beach man whose wife was a victim of the suspected serial rapist now linked to attacks in Florida and the Bahamas.

"Maybe they could've stopped him before he did this to us."

## **Bush, Gore dish out dueling themes on Sunday news talkies**

**By G. Robert Hillman**

**The Dallas Morning News**

WASHINGTON Vice President Al Gore and Gov. George W. Bush, appearing separately Sunday in national television interviews, previewed dueling political themes for this summer's national conventions and the fall campaign beyond.

In Gore's eyes, there are "two very stark and clear alternatives" for voters this fall.

"I'm for prosperity and progress, fighting for the people, not the powerful," he said on NBC's Meet the Press.

"George W. Bush represents the old guard, the corporate special interest campaign trying to take us back to the huge tax-cut-for-the-wealthy approach that wrecked the economy before."

Bush, on the other hand, said he intended to offer voters a "fresh face after this season of cynicism."

"Mark my words," he said on ABC's This Week, "people don't want to elect somebody who's going to tear somebody down."

Bush, whose Republican Party has its convention first in Philadelphia, beginning July 31 said he was determined to pick a running mate of "added value" who would help him "set a clear and positive vision for the country."

"Attack-dog politics will not play in the year 2000," he said, dismissing one of the traditional roles of a running mate.

Bush said he had not yet settled on a candidate to share the top of the ticket with him, nor had he decided when to make the announcement. But an adviser, who spoke on the condition of anonymity, has suggested that the governor would announce his running mate several days before the convention.

Gore could announce his choice before the Democratic National Convention begins Aug. 14 in Los Angeles, aides said, perhaps directly on the heels of the GOP convention in order to steal some of Bush's post-convention bounce. But the aides emphasized that the vice president had not yet decided.

In their appearances Sunday in something of a disjointed, long-distance debate on competing television networks, Gore and Bush answered a barrage of questions on issues from the death penalty to abortion, to Social Security and a new national missile defense system. But they also emphasized the campaign themes they have been honing for their conventions and the fall campaign.

Gore talked about the "prosperity and progress" that he has promised to foster as president. And Bush touted the elements of his "compassionate conservative" platform, vowing to "lead the Congress," not quarrel with it.

Calling himself a "uniter, not a divider," Bush said, "I've got a solid record of setting goals and leading people to achieve those goals."

And he dismissed renewed criticism by Gore that he has been a poor governor.

"He'll try to tear down my record in Texas," Bush said. "But the amazing thing is that if it were so bad, why have the people of Texas re-elected me to become the governor?"

Gore began blistering Bush's record in Texas several months ago but largely abandoned the attacks when he slipped in the public opinion polls. In the last week, however, the vice president has seized on new reports of a projected state budget shortfall and unused federal funds for summer children's nutrition programs.

Responding Sunday, the governor said the state had a surplus, despite a projected \$610 million budget shortfall. "This is fiscal management," Bush said. "I love for him @1/8 to be @3/8 talking about the issue." Bush was interviewed by ABC's Sam Donaldson and Cokie Roberts in the Governor's Mansion in Austin, and Gore by NBC's Tim Russert in the library of the Naval Observatory in Washington, part of the same federal compound that includes the vice president's residence.

Separately, consumer advocate Ralph Nader, the Green Party presidential candidate, and Pat Buchanan, the would-be Reform Party nominee, appeared back-to-back on CBS' Face the Nation.

Nader, responding to a question, said he did not view himself as a "spoiler" candidate who might cut into Gore's strength.

"Nobody is entitled to votes," Nader said. "We all have to earn our votes."

Buchanan expressed similar sentiments, dismissing Republicans and Democrats as "Xerox copies of each other."

"That's why I'm running," he said. "To give the American people an authentic choice."

Their other rivals notwithstanding, both Gore and Bush predicted a grueling, hard-fought race that would go down to the wire on Election Day.

"I don't take a single vote for granted," Gore said. And Bush played down the latest polls that give him an early, sometimes solid, lead.

"It's going to be a close race," he said. "I'm running against a formidable candidate who is a tough campaigner."

Looking ahead to the GOP convention in just two weeks, Bush, who has pledged that the event would be four days of positive, upbeat politicking, said, "It's an opportunity to talk about what I want to do for the country."

He said it would also provide him a forum to discuss a wide range of issues and to introduce his wife, Laura, and his running mate.

On Sunday, Bush reiterated that he was mindful of concerns of some fellow Republicans that he might fill the ticket with a candidate who does not share his opposition to abortion rights, but he said that there were other considerations as well.

"This is a pick that is based upon two very important criterion," he said. "Can the person be president? And secondly, would there be compatibility?"

He said again that he had been unable to persuade retired Gen. Colin Powell to consider the vice presidency, but was pleased of his expressed interest in a Cabinet post, perhaps secretary of state.

"The fact that he would even be willing to hint, or suggest, that he would be willing to serve with me is a great honor," Bush said.

In his interview on NBC, Gore again defended his role in raising money for the 1996 campaign and answered questions about his relationship with President Clinton, who will speak on the first night of the Democratic convention, then make way for Gore to accept the presidential nomination.

Describing his role as vice president as a "partner trying to help someone out and carry the load," Gore said he has "enjoyed serving." But he explained that being president would be "fundamentally different" because he would be "speaking in my own voice spontaneously from my heart."

Should voters consider a Gore presidency as the equivalent of a third Clinton-Gore term? Russert asked.

"No," Gore replied, "I'm a different person, and I have been a part of shaping the policies that have helped unleash the potential of the new economy."

END