

DNA LEGISLATION & NEWS

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The August 25, 2000 DNA legislative and media report is listed below.

These reports are prepared by Tim Schellberg and Lisa Hurst of Smith Alling Lane (253) 627-1091, on behalf of PE Biosystems. Text of legislation can be obtained by following the appropriate state-link at this site: <http://www.ncsl.org/public/sitesleg.htm>. Please see the appropriate media website for the newspaper articles.

COMMENTS

Several states received funding (a total of \$7 million) from the Department of Justice for analysis of backlogged DNA samples. In New Zealand, police and prosecutors are beginning to complain about delays due to DNA backlogs at labs. New labs in Tennessee, Kansas and Texas should help those states sort through their samples, and the Mississippi state lab may cut off all services to counties that have not paid their bills.

South Carolina's law to collect samples from violent felons was recently signed by the Governor and one reporter investigated state's lack of success with the database thus far. Several opinion articles surfaced on the pros/cons of DNA databases, and members of the ACLU made their concerns with DNA databases known in various parts of the country.

A Massachusetts genetic privacy bill was finally enacted after legislators amended the language to protect law enforcement's authority to collect DNA samples.

STATE LEGISLATION

Forensic DNA

1. Louisiana Executive Order 28 – Establishes a “Conviction DNA Testing Advisory Commission.” The Committee is to report its findings to the Governor by March 1, 2001.

Genetic Privacy

2. Massachusetts HB 5438 – Governor veto message on genetic privacy bill (HB 5438) to the Legislature. Governor requests that the bill, as passed, inadvertently jeopardizes the state's participation in CODIS and asks that the language be amended.

NEWS ARTICLES

Forensic DNA

1. “Rapist trapped by DNA after KitKat theft.” The Daily Telegraph (London), August 23, 2000. A man arrested in Britain for “getting into a scuffle” with police after stealing a candy bar has been linked to an unsolved rape. A routine DNA sample that was taken upon his arrest for the theft linked him to the rape that occurred a two years ago in another town.

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2. "Tayside Police give crime a clobbering. Forensic science tips detection balance." Aberdeen Press and Journal, August 22, 2000.
The Tayside (Scotland) Police believe that they now have a 70% chance of obtaining a database hit for each occasion where a DNA profile is obtained from the crime scene. Police largely attribute the 9% reduction in reported crime (and 37% increase in overall detection rates) to the impact of DNA databases.
3. "Lawyer: DNA Results Came Too Late." Newsday (New York, NY), August 22, 2000.
A defense attorney in Queens (NY) has filed a motion to suppress DNA evidence on the grounds that the prosecution waited 2 years to share the tests with the defense. The judge will rule on the case next month.
4. "Race Crime Now Treated Like Murder: Police Chief." Press Association Newsfile, August 22, 2000.
Police in Greater Manchester (London) will now require DNA samples for anyone arrested of a racist crime. The expanded DNA sampling was announced as a series of measures meant to address the admitted institutionalized racism in the police department.
5. "Officials expect quicker analysis results from new TBI crime lab." The Associated Press State & Local Wire, August 21, 2000.
A new crime lab in Nashville is expected to give officers and prosecutors a quicker turn-around time on forensic evidence. The new lab cost \$27 million and will handle some DNA analysis.
6. "Rape trial delayed while high court considers DNA evidence." The Associated Press State & Local Wire, August 21, 2000.
The trial for a man accused of participating in a gang rape has been postponed while the State Supreme Court decides whether to allow DNA evidence to be heard in the case. A District judge had previously ruled that the evidence may not be allowed because statistics about DNA were not provided in a timely manner. Three other men have already been convicted to sentences of 32-40 years for the same crime.
7. "Police Launch Officer DNA Database To Boost Forensic Work." Birmingham Evening Mail, August 21, 2000.
West Mercia (UK) police have received pounds 48,000 to participate in a pilot project that establishes a separate DNA database for police officers in order to eliminate them from crime scene investigations. The department is to receive pounds 556,000 over the next two years to increase their participation in the national database.
8. "Hodgson looks into DNA test delays." The Dominion (Wellington), August 21, 2000.
New Zealand is growing concerned by DNA analysis backlogs. The workload for DNA analysis has reportedly increased by 50% in the last six months – in May and June more than 1600 samples were sent in for testing. Although staff has recently been increased by one-third, the national crimes manager said that police will need to commit more money in future budgets for analysis work.
9. "DNA Tests Can Be a Safety Valve for the Death Penalty." The Los Angeles Times, August 21, 2000.
Discusses the three forensic DNA bills pending in the California Legislature. Neither the post conviction bill nor the bill that would allow samples taken from a suspect arrested for one crime to be compared to samples from other unsolved crimes have been passed yet, but a bill extending the

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statute of limitations for rape to 10 years has been passed. However, the three bills are "joined" and none will become law unless they all become law. The Governor has not commented on the bills, but is expected to sign whatever passes.

10. "Databases ripe for abuse." USA Today, August 21, 2000.
Compares CODIS to a runaway train and suggests that soon the "feds" will want DNA samples from everyone. Cites samples when federal authorities have abused power in the past. Written by Cato Institute's director of Project on Criminal Justice.
11. "DNA key to fighting crime." USA Today, August 21, 2000.
DNA databases of all convicted felons is not something to fear – it "combines strong protection for the public with greater assurance that only the guilty will end up behind bars." Sets forward a series of arguments for why DNA samples should be collected from felons more routinely. Points to successes in putting criminals in jail and in freeing the innocent.
12. "S.C. doesn't use **DNA** databank." The Associated Press State & Local Wire, August 20, 2000.
States that South Carolina released 675 sex offenders from prison in the past five years without taking DNA samples despite a 1994 law that requires such samples. The state's database has yet to make a "cold hit." The state database was not implemented for four years after authorization for reasons ranging from lack of funds to "petty politics." The state's newly enacted law to collect from all violent criminals also contained a requirement for offenders to pay \$250 for the testing costs – a provision which is currently being challenged by inmates in court.
13. "KBI's new crime lab opens in Kansas City, Kan." The Associated Press State & Local Wire, August 20, 2000.
The Kansas Bureau of Investigation is opening a new crime lab in Kansas City that is expected to help alleviate backlog problems at headquarters. The new lab's staff includes two DNA scientists. The cost to open the lab was estimated at \$963,000.
14. "City plans to augment its police force, gear." Austin American-Statesman, August 20, 2000.
The Austin PD is getting a "modern" crime lab next year. Among budgeted items in the \$10.3 million department-wide spending program is DNA analyzing equipment for the department's new crime lab.
15. "Forensics put under the Microscope; New DNA findings don't sway jurors." The Dallas Morning News, August 20, 2000.
Jurors who convicted a man for murder several years ago are not swayed by new mitochondrial DNA testing which now indicates that two pieces of hair found in the man's car that were believed to have belonged to the victim, in fact could not have been the victim's. Juror's say other evidence, including hair found on the victim's body that is believed to belong to the convicted (although never tested), convinces them that the appropriate person is in jail.
16. "Inmate Relents, Will Undergo DNA Testing." The Buffalo News, August 19, 2000.
A man imprisoned for two murders in New York was recently told by a judge that if he did not acquiesce to the prosecution's request for a blood sample, a sample would be taken by force. The sample is wanted for testing in two additional murder cases in which the inmate is a suspect. A provision of New York's new DNA database law allows for collection from inmates while still in prison, rather than upon probation or parole.

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17. "Gov. Hodges signs legislation to begin DNA database." The Associated Press State & Local Wire, August 18, 2000.
South Carolina's Governor has recently signed legislation that will permit DNA samples to be collected from all violent criminals. The new collection is supported by \$4 million in federal funding and \$378,000 in state funds. The state's ACLU director calls the database a "violation of privacy," and says that laws should required that samples should be destroyed after testing, DNA should be collected only from people convicted of serious violent offenses, and DNA samples and their results be available to suspects for use in their defense.
18. "ACLU chief fears central DNA registry." The Advocate (Baton Rouge, LA), August 18, 2000.
The League of Women Voters convened a panel to discuss the impact of DNA on criminal justice and society. The Louisiana ACLU director called a national DNA database "a recipe for suppression and oppression." Said that he is not against DNA testing, but opposes proposals to take DNA samples upon arrest. The panel also discussed post conviction testing issues – when and how it should be allowed. Local prosecutors and public defenders also participated.
19. "Judge urges everyone to join DNA blood list." Calgary Herald, August 18, 2000.
A judge in Alberta city (Canada) recently said that all citizens should voluntarily submit blood samples to the DNA databank as "a weapon in the fight against crime." The statement was given as part of a ruling in which the judge ordered a man convicted of armed robbery to submit a blood sample to the police.
20. "Testing suspects to prevent tragedies." New York Post, August 18, 2000.
Cites a case in New York where if DNA samples were taken upon arrest, a man who was nabbed for trespassing would have been linked to four previous murders and would have been prevented from committing two additional murders that occurred subsequent to the arrest. Urges the legislature to give police the full power to use DNA to solve crimes – including for exonerating the innocent.
21. "Crime lab hopes grant will help eliminate DNA backlog." Star Tribune (Minneapolis, MN), August 18, 2000.
Minnesota was awarded \$200,000 by the US Department of Justice to assist in clearing the state's DNA backlog. When all samples are analyzed, Minnesota expects to have a database of 9,000 by the end of this year.
22. "DNA privacy bill approved." Telegram and Gazette, August 18, 2000.
The Massachusetts Governor recently vetoed a bill that gave residents greater genetic privacy on the grounds that the language in the bill needed to be strengthened to specifically authorize the taking of DNA from inmates and convicted criminals. The Legislature rewrote the bill and unanimously passed it. It is hoped that the governor will now sign the bill.
23. "DNA Testing." The Fort Worth Star-Telegram, August 17, 2000.
In Texas, post conviction DNA testing has recently lead to one exoneration of one convict and has sealed the fate of another. Roy Criner has been pardoned by Gov. Bush after serving 10 years for a rape he did not commit. Ricky McGinn's execution date has been rescheduled after new DNA tests conclusively point to him as the killer (McGinn was granted a reprieve by Bush in order to have the testing completed).

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24. "Govt sets up DNA panel." AAP Newsfeed, August 16, 2000.
New South Wales (Australia) has established a new panel to consider cases of post conviction DNA testing requests. The panel (to be established by July of next year) will consider cases where DNA evidence from a crime was unable to be analyzed or unavailable at the time of trial; DNA evidence from an accused was not considered; and scenarios in which DNA evidence may point to another person.
25. "State among 7 to share federal grant for DNA database." The Dallas Morning News, August 16, 2000.
Texas will receive \$1.7 million in federal funding from the US Department of Justice to clear nearly 35,000 samples from a backlog of 43,000 cases. Texas receives 3,000 new DNA samples each month and estimates that 10 cases have been solved by cold hits on CODIS.
26. "State Gets Grant to Reduce DNA Backlog." The San Francisco Chronicle, August 16, 2000.
California is receiving \$1.5 million in federal funding from the US Department of Justice to clear nearly 30,000 samples. California's database currently holds 60,000 profiles, but has a backlog of 115,000 samples. The federal funding requires that the samples be sent out to private labs for analysis – something which California has never done before.
27. "DNA ties man to 1999 murder." The Associated Press State & Local Wire, August 15, 2000.
A man serving time in an Oklahoma prison for burglary has been linked by DNA to a 1999 murder. The man made statements regarding the murder which raised suspicions, so police obtained a sample to compare against crime scene evidence. [Oklahoma does not require persons convicted of burglary to submit DNA samples for their database.]
28. "Grants to Eliminate DNA Sample Backlogs Announced." PR Newswire, August 15, 2000.
The US Department of Justice announced \$7 million in grants that were awarded to seven states for DNA backlogs. The funding pays for the analysis of 145,000 samples that are backlogged in state systems. The total backlog for the nation is 750,000. States receiving funding are: California, Pennsylvania, Texas, New York, Minnesota, Florida and Washington. The remaining funds (approximately \$8 million) will be distributed later this year.
29. "State Crime lab owed \$300K in delinquent fees from counties." The Associated Press State & Local Wire, August 14, 2000.
The Mississippi State Crime Lab is threatening to cut off services to counties that do not pay their outstanding bills owed to the crime lab. Currently, the lab estimates that it is owed over \$300,000.
30. "Police, interest groups discuss DNA use in law enforcement at Austin forum." University Wire, August 14, 2000.
A forum called "Texas 2000: The Future of DNA in Texas," was recently hosted by the Austin Police and Travis County DA. Police argued in support of expanded DNA uses and funding, while ACLU representatives countered with privacy concerns and government abuse.
31. "Richmond, Va., Lab's DNA Work Vital." Contra Costa Times, August 13, 2000.
Article on post conviction testing lab work by private labs such as Forensic Science Associates and Cellmark

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32. "Barry Scheck; Director Innocence Project, Cardozo School Of Law."

Interview with Barry Scheck. Discussion centers primarily on post conviction testing issues. Scheck is questioned on the idea of taking samples from all arrestees and replies that doing so would swamp the labs that already face significant backlogs, and could lead to people being arrested "on pretexts just to get their DNA when you really should get a warrant for probable cause."

Genetic Privacy

33. "Mass. genetic privacy bill signed into law." United Press International, August 22, 2000.

The Massachusetts Governor has signed a law establishing strict prohibitions against genetic discrimination in banking, health insurance and employment. The bill is considered one of the strongest genetic privacy bills in the country.

34. "Bosses, insurers discriminate with genetic tests: expert." AAP Newsfeed, August 14, 2000.

Australian researchers claim they are uncovering scores of cases of genetic discrimination and residents "can't afford to wait a year while the Senate inquires into genetic testing."

Paternity

35. Covers the "exploding" industry of DNA testing for paternity cases.