

DNA LEGISLATION & NEWS

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Tim Schellberg tims@smithallinglane.com and Lisa Hurst lhurst@smithallinglane.com of Smith Alling Lane, P.S. provide nationwide governmental affair services to Applied Biosystems. As part of the firm's representation weekly reports are generated which identify recent state and federal legislation and news articles. Applied Biosystems has authorized Smith Alling Lane to make these reports available to anyone that requests them through this web site.

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The October 27, 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 Applied 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

CNN ran a story on the "often-ignored" side of forensic DNA – its use in catching unknown criminals. Canada's Alliance Party has included DNA sampling upon arrest within it's campaign platform.

Three judges in Michigan have independently ruled that evidence gathered by State Police using the Applied Biosystems DNA testing kits is admissible in court.

Texas police have used DNA to link a man to an unsolved rape in Wisconsin, and New York police have linked several sexual assaults in the city's boroughs to one man. DNA "dragnetting" continues to be used extensively in England and has resulted in the conviction of a rapist in Australia.

California police believe they have the first case in the nation where an arrest has been made off of a warrant issued solely on a DNA identity – the statute of limitations on this case would have otherwise expired.

STATE LEGISLATION

No New State Legislation

NEWS ARTICLES

Forensic DNA

1. "DNA evidence absent in 1981 murder case." The Atlanta Journal and Constitution, October, 25, 2000.
Four news organizations that are seeking post execution DNA testing in a Georgia case, have thus far come up empty. New tests have concluded that DNA from the victim's assailant could not be found in the biological evidence collected from the victim's body. The victim's fingernails are being examined for DNA clues, but the forensic scientist in charge – Dr. Edward Blake of Forensic Science Associates – believes it unlikely that new evidence will be found.
2. "NRA Runs Radio Ads Supporting Tiberi." The Columbus Dispatch, October 24, 2000.
A state representative who is running for Congress in Ohio has won favor from the NRA for his pro-gun positions, but the NRA also points to his history of supporting law enforcement measures such as legislation to create the state's DNA database.

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3. "Sex Attacker Probe Flooded With Tips." The London Free Press, October 24, 2000.
Police in Ontario (England) municipalities have collected 141 voluntary DNA samples in an effort to catch a criminal who has been linked to three sexual assaults by DNA. Thus far, 8 have been cleared through tests, and 48 have been cleared through other evidence.
4. "State's Attorney Seeks Own Lobbyist." Chicago Tribune, October 24, 2000.
The DuPage County (Illinois) State's Attorney is pushing to hire a lobbyist that would look out for law enforcement interests in the state legislature. One of the reasons for such a lobbyist was noted by legislation that passed this year that requires evidence in murder cases to be saved permanently and for at least 25 years in sex cases. The Governor supported the law saying it gave defendants the chance to seek DNA testing after being convicted, but law enforcement objected to it because they believed it contained unclear language, arbitrary time limits, and the definition of "physical evidence" would place too much of a burden on police and prosecutors.
5. "Man could be first arrested with DNA warrant." The Associated Press State & Local Wire, October 24, 2000.
A Sacramento (CA) man who has been man charged with a 1994 rape might be the first person in the nation arrested using a DNA warrant. The suspect listed on the warrant was identified only by DNA, and police would otherwise have been unable to arrest the man because the 6-year statute of limitations had already elapsed. The man is suspected in numerous other attacks. California now has a new law (beginning in January) which virtually eliminates the statute of limitations in cases where DNA evidence is available.
6. "Capitol projects outlined in report." The Des Moines Register, October 23, 2000.
In a report to the Iowa Legislature, consultants describe as an "urgent need" the construction of a \$62.6 million state crime lab. The new lab would replace the current lab which "is so short of the recommended space for lab work that we have individuals who have to take turns using equipment." No direct mention of DNA technologies was made in the article.
7. "Three judges rule DNA test kits valid for trial evidence in their courtrooms." The Associated Press State & Local Wire, October 22, 2000.
Three Michigan Circuit Court judges have each separately ruled that DNA testing kits used by Michigan State Police are reliable and may be used as evidence in trial. Applied Biosystems had agreed to release propriety information about its products to the judges and to one expert witness for each side, requiring each to sign orders promising not to disclose the information.
8. "ID'ing the problem - In a dangerous world, child stats only go so far, experts assert." The Boston Herald, October 22, 2000.
At a new website called www.yourdnaid.com, parents can store and download a child's DNA for "security and peace of mind." Although keeping a "safety record" for a child was encouraged as a good measure, one expert commented, "I'm not sure how I feel personally about having a child's DNA floating around on the Internet, but that's a parent's choice."

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9. "Body of Evidence." CNN & TIME, October 22, 2000
Show spotlights the "often-ignored" side of the forensic DNA story – that in addition to exonerating prisoners it also finds and convicts the guilty. Discusses how DNA databases are turning "cold cases warm again." Tells the story of an old New York case that was solved through the state's database, and shows a clip of Governor Pataki calling for the New York database to be expanded to include all felons and serious misdemeanors.
10. "Courts rule DNA test reliable." The Detroit News, October 22, 2000.
Michigan judges have independently ruled that the DNA kits used by the State Police are allowable as evidence. In one of the opinions a judge noted that the tests were used in all the FBI labs, 75 percent of U.S. labs and 89 percent of forensic labs in other countries. Another judge summed up: "Nonscientist lawyers were able to present to a nonscientist judge adequate information to make a decision about whether a nonscientific jury will be given the most modern evidence available without risking the unfair and inappropriate use of the information."
11. "Body fluids found by AG may ID true Strangler." The Boston Herald, October 21, 2000.
The Massachusetts Attorney General's Office has found "numerous" samples of semen in the medical examiner's vaults from the last victim of the Boston Strangler that may be used to identify the true identity of the Strangler. Unfortunately, no one told the last victim's family before they exhumed her body in a desperate search for DNA clues.
12. "Wee Waa rapist jailed for eight years." AAP Newsfeed, October 20, 2000.
An Australian rapist whose crime set-off the country's first massive DNA screening by law enforcement has plead guilty to the crime and was sentenced to eight years in jail.
13. "DNA tools are hailed for solving crimes, but critics warn of abuses." The Dallas Morning News, October 20, 2000.
Reports on the successes of CODIS and the potential of DNA to catch criminals. 43 states have developed DNA databases, but only 24 states participate in CODIS. Discusses backlog problems and the associated need for additional funding. Mentions use of DNA in exonerations and ACLU arguments against the use of DNA databases.
14. "Nine people still to come forward over Sara killing." The Journal (Newcastle, UK), October 20, 2000.
In one of the biggest DNA "dragnetting" in Britain's history, police have collected DNA samples from over 1600 men in a bid to catch a killer. Samples are collected in "home visits" and so far over 1100 samples have been processed and come back negative, thereby eliminating the volunteer as a suspect.
15. "Some Prosecutors Willing To Review DNA Evidence." The New York Times, October 20, 2000.
Discusses the move by several prosecutors around the country to voluntarily review inmate cases that could be reviewed for accuracy using DNA testing. In San Diego, 560 "potentially problematic" convictions have been identified, 200 have been reviewed, and only 1 has emerged as eligible for new DNA testing.

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16. "Alliance to Unveil Tough Crime Policies." The Toronto Star, October 20, 2000.
The Canadian Alliance party has announced that it is augmenting its criminal justice platform – included in this platform is a call for automatic DNA sampling of crime suspects at the time of arrest.
17. "Police: Rape suspect tied to Wisconsin case." The Dallas Morning News, October 19, 2000.
Police in Texas have announced that a man whose DNA links him to more than 10 sexual assaults in Dallas has been connected through DNA to a previously unsolved 1993 rape case in Wisconsin.
18. "DNA Tests Link Sexual Attacks On Girls in Queens to One Man." The New York Times, October 19, 2000.
New York Police have linked at least 5 attacks in Queens and 1 attack in the Bronx through DNA to the same man.
19. "Funding Two Sides of Criminal Justice." The Legal Intelligencer, October 18, 2000.
Montgomery County (Pennsylvania) Council Commissioners heard from the District Attorney that \$650,000 was requested in the budget for outsourcing DNA testing to National Medical Services. This amount represents a \$80,000 increase from last year. The County is sending fewer cases to the state lab or FBI lab for DNA testing due to the time lag in results.
20. "Hope for Crime Lab Pinned on Measure B." The San Francisco Chronicle, October 18, 2000.
The San Mateo (California) crime lab is hoping that a ballot measure will pass this year for a \$13 million general obligation bond to pay for a new 24,000-square-foot crime lab. The DNA lab is reportedly in an old closet where contaminating bacteria can infest the space between aging floor tiles. There are no opponents to the ballot measure.

Genetic Privacy

21. "Putting A Price on Icelanders." The San Francisco Chronicle, October 23, 2000.
Lengthy report on Iceland's genetic database, which is being sold to a company called DeCode. Residents may opt-out of the genetic database program, but those who do not or cannot (deceased, newborns, mentally retarded) are presumed to give their consent. The information will provide genetic and genealogical links.
22. "The DNA dilemma." The News and Observer (Raleigh, NC), October 22, 2000.
Tells the story of a woman who lost her job and has since been unable to find employment since a genetic test showed she has an unusual lung condition. Discusses genetic discrimination issues.
23. "Insurance in the genetic age." The Economist, October 21, 2000.
Article argues that it was right for Britain to allow insurers access to genetic tests of clients and potential clients, but that the country must now decide how to handle the "unlucky owners of the harmful genes." Also points out that insurance will eventually have to come up with a new plan because people who are still eligible for affordable insurance will find assurance in their "healthy" status and may not be interested in insurance policies.

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24. "Testing times." The Economist, October 21, 2000.

Discusses the need for insurance to have access to genetic tests. Theorizes that a person who finds out through tests that he/she will die early will likely purchase unusually large life insurance policies which will hurt the insurance industry and increase the premiums for everyone else. "Governments thus face a choice between banning the use of test results and destroying the industry, or allowing their use and creating an underclass of people who are either uninsurable or cannot afford to insure themselves."

25. "Senate Democrats take aim at privacy issues." The Associated Press State & Local Wire, October 18, 2000.

State Senate Democrats in Iowa are planning legislation for the 2001 session that would legislation would restrict the exchange of a person's financial and medical information unless he or she authorizes it. Another measure would prohibit employers or insurers from discriminating against a person based on genetic test results or denying them health coverage.

Paternity

26. "An end to reckless conception'." The Ottawa Citizen, October 24, 2000.

At a recent meeting of fertility doctors, the doctors heard that it may soon be considered "reckless" for couples to leave conception to nature. One speaker predicted that cheap DNA tests would soon arrive on the market that would allow for genetic manipulation.

27. "IVF Test To Give Parents 'Perfect Babies'." Daily Mail (London), October 23, 2000.

A recent IVF treatment for a couple allowed doctors to use genetic screening and embryo selection to create a baby boy specifically to save his six-year-old sister. Discusses pros and cons of genetic selection.