

DNA LEGISLATION & NEWS

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The November 3, 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

Several Louisiana papers reported on the state's lack of a DNA database (see an article from the Times-Picayune in this week's report). A Connecticut court ruled that requiring DNA samples from sex offenders does not increase punishment or violate the ex post facto clause, and a California court ruled against a defense attorney who wanted DNA evidence excluded on the grounds that the analysis equipment "had not been fully accepted by the scientific community."

Florida reports its first "hit" from a new law that allows for the collection of DNA samples from burglars. In California, the state's lack of clear authority to collect from burglars could mean that the nation's first arrest based on a warrant for a genetic profile could result in the perpetrator remaining free. Also in California, local jurisdictions are beginning to make plans for applications to the state's \$50 million grant program for DNA backlogs.

In New York, Idaho and Wisconsin police have collected DNA evidence from non-routine places – a coffee cup, Gatorade bottle, and envelope, respectively.

DNA databases are credited with falling crime rates in England, but a policy of collecting DNA samples from police officers (for exclusionary purposes) is coming under more scrutiny after some who refused the test were subsequently assigned desk jobs. The lack of funding for DNA analysis in New Zealand appears to be reaching a critical point. Both the Liberal Party and Alliance Party in Canada have plans for expanded DNA databases.

A Maryland county is offering post conviction DNA tests to certain inmates.

CNN ran a story on California's new Missing Persons' DNA Database.

STATE LEGISLATION

No New State Legislation

NEWS ARTICLES

Forensic DNA

1. "Dogged detective work, DNA crack 5-year-old Anchorage killing." The Associated Press State & Local Wire, October 31, 2000.

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Using a DNA sample, technicians at the Alaska state crime lab have recently identified a suspect in an unsolved murder case. The man now resides at a prison in North Carolina where he is doing 22 years for a murder he committed after leaving Alaska. The man had become a suspect after police noticed a similarity between the two cases – DNA tests further supported that link.

2. "Jury To Deliberate On Damages Phase Of Civil Rights Lawsuit." City News Service, October 31, 2000.
In Long Beach (CA), a jury is deciding if the City must the pay damages to a man who was jailed for four months as a serial rape and burglary suspect before DNA testing cleared him of two of nine attacks. The jury has already determined that he was wrongfully arrested.
3. "2nd trial begins in slaying, DNA link." St. Petersburg Times, October 31, 2000.
A second trial has been scheduled for a Florida man suspected of murdering a woman 11 years ago. A previous jury had deadlocked on a verdict – reportedly unable to agree on accepting the trillion to one odds on a match from a DNA test, and whether the samples had been properly labeled.
4. "Ashland holds world's only fulltime lab dedicated to wildlife crimes." The Associated Press State & Local Wire, October 30, 2000.
A lab in Ashland, Oregon is touted as the world's only "full-service wildlife crime lab." The lab is instrumental in prosecuting poachers and identifying illegal animal products. The lab is planning an \$18 million expansion by 2002 which will more than double its work space and staff.
5. "AG urges State Bar to drop death penalty proposal." The Associated Press State & Local Wire, October 30, 2000.
The Alabama Attorney General is asking the State Bar Association to dismiss a member's request for a death penalty moratorium. The AG notes that the Governor has offered to grant DNA testing for inmates, and further stated, "My office will not deny DNA testing to any inmate who presents a valid claim of innocence, if they present the claim in a timely manner, not on the eve of execution."
6. "Inmate first burglar linked to other crime by DNA requirement." The Associated Press State & Local Wire, October 30, 2000.
Using a new law that the Legislature passed this year, Florida law enforcement has matched a man currently in prison for burglary to an unsolved sexual assault on a 77 year old woman in West Virginia. This link has also resulted in the exoneration of another man in West Virginia who had previously been the primary suspect. The FDLE wanted burglary added to the list of DNA database crimes because studies have shown that more than half of the state's rapists began their criminal careers as burglars and 67 percent of burglars on file in Florida are repeat offenders.
7. "Connecticut Superior Court Reports." The Connecticut Law Tribune, October 30, 2000.
A Superior Court in Connecticut has ruled that the state's "Megan's Law" requirement for sex offender registration and blood samples do not increase the criminal's punishment or violate the Constitution's Ex Post Facto Clause. The court found that Megan's Law does not increase the period of confinement and therefore does not increase the punishment. Additionally, the Court cited several other cases that found that registration of sexual offenders and even civil commitment of sexual offenders does not constitute punishment and does not violate the ex Post facto clause.

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8. "\$50 million grant may ease crime labs' backlog." Sacramento Bee, October 30, 2000.
A \$50 million California state grant is expected to help local law enforcement clear out their backlogs of unanalyzed DNA samples. The Governor's Office of Criminal Justice Planning and the state Department of Justice will distribute the money over the next three years in an effort to analyze over 30,000 backlogged rape kits (the state estimates a total of 153,000 unanalyzed samples). Sacramento County is planning on asking for \$3 million of the grant. A new state law in California will eliminate the statute of limitations for sexual assaults if DNA evidence is analyzed within two years of the crime.
9. "State still without DNA data bank despite 1997 law." The Times-Picayune (New Orleans), October 30, 2000.
Louisiana is one of 7 states that has not yet established a DNA database system. Louisiana authority for the most expansive database in the nation (from everyone arrested, convicted or incarcerated for sex offenses and many other serious crimes), but lawmakers have not yet come up with the funding to create even a modest database. State law enforcement worries that it is missing out on federal funding opportunities and on catching criminals.
10. "Gene police bust more crooks." UK Newsquest Regional Press - This is Brighton, October 30, 2000.
In Sussex (England), police report that they have positively identified 426 suspects from 962 samples taken from crime scenes during the three months ending in September. This number is up from 200 hits on 525 samples during the same period last year and 119 from 294 samples the year before. The police chief credits a new policy to take DNA samples from everyone arrested in Sussex for any recordable offence. The force now wants to spend about GBP 600,000 on DNA tests from car crime scenes.
11. "DNA tests lead to arrest in 1996 murder." The Associated Press State & Local Wire, October 29, 2000.
DNA samples collected from a Gatorade bottle that was left behind at a crime scene in Boise, Idaho were linked to a primary suspect in a murder case. The suspect has since been convicted of the crime.
12. "Bar employees give DNA samples as police investigate cheerleader rape." The Associated Press State & Local Wire, October 28, 2000.
Police in Akron, Ohio have collected blood samples from employees of a local bar where a University of Connecticut cheerleader was raped. All of the employees who were working the night of the attack have complied with the DNA sample request. The rapist is suspected of using the "date rape drug."
13. "Police Hope DNA Database Can Solve Mysteries of Missing Children." CNN, October 28, 2000.
Discusses California's new Missing Persons' Database. Says that it will likely take a few years before the database begins to be successful and will need to be repeated by other states. Report focuses on giving closure to families of missing children.
14. "Arrest in '91 Slaying Elicits DNA -Test Flap." Omaha World-Herald, October 28, 2000.
Past and present prosecutors in Douglas County, Nebraska are arguing whether the District Attorney's Office failed to retest DNA evidence in a 1991 homicide that might have kept an accused killer incarcerated. The man is currently accused of killing a woman nine years ago, and of killing

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another woman last month. The most recent murder occurred 10 months after the man had finished a seven year jail term for an unrelated rape.

15. "Tight budget hits DNA work." The Southland Times (New Zealand), October 28, 2000.
Police in jurisdictions throughout New Zealand are suspending or cutting back on taking DNA samples from criminals due to severe budget problems.
16. "CBS pulls out of funding DNA tests in Felker case." The Associated Press State & Local Wire, October 27, 2000.
CBS News has stated that they have "no further interest in testing evidence in the Felker case." Felker convicted of murder and executed in Georgia in 1996, and four media interests (CBS, Atlanta Journal-Constitution, Boston Globe and Macon-Telegraph) were funding DNA testing of evidence that they hoped would prove Felker's guilt or innocence.
17. "Police in wrangle on DNA samples." The Guardian (London), October 27, 2000.
Three police officers in Gloucestershire (England) who refused to give voluntary DNA samples for the national database have been given desk jobs. The officers are claiming that the desk job is a punishment and a breach of their human rights. 700 Gloucestershire police have given mouth swabs, 30 have refused, and 3 have been removed from "front line duties because they could contaminate crime scenes."
18. "Judge allows DNA evidence in murder trial." The San Diego Union-Tribune, October 27, 2000.
Defense attorney's had asked a judge to prohibit the prosecution from using DNA evidence in a murder trial, arguing that DNA testing equipment "had not been fully accepted by the scientific community." However, the judge agreed with the prosecution who argued that the technique was well-understood and not controversial.
19. "Apartments' security guard accused of rape." The Tampa Tribune, October 27, 2000.
A man in Florida has been arrested for rape after DNA samples conclusively linked him to the crime. The man (a newly hired security guard for the apartment) had given a sample to the police voluntarily upon questioning, but would have been caught in any case because his profile was already on the database. The man had a criminal record that included armed robbery, arson, and aggravated battery on an officer. The DNA match was critical because the witness was not able to identify her attacker.
20. No Headline. The Timaru Herald (Timaru), October 27, 2000.
Editorial in New Zealand newspaper lamenting on the backlog of DNA samples that have not been analyzed. Explains the usefulness of DNA in fighting crime and calls for more funding and a strategic alliance between the Institute of Environmental Science and Research (national DNA crime lab) and police.
21. "Law and order about to come to the fore." The Vancouver Sun, October 27, 2000.
In a discussion of the political climate in British Columbia (Canada), the article calls the Liberal Party's crime platform "skimpy" – but mentions that it includes an initiative to create a DNA bank of samples from people convicted of serious crimes.

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22. "Some Inmates To Get DNA Tests In Pr. George's." The Washington Post, October 27, 2000.
Prince George's County (Maryland) has announced that it intends to provide DNA testing for inmates who insist on their innocence in murder or sexual assault cases. Tests may be requested when "relevant biological evidence would demonstrate innocence." A Montgomery County State's Attorney lauded the decision and said he would like to offer the same tests but first needs to find the money.
23. "Attorney of Man Charged with Rape through DNA Evidence Disputes Case." CNN, October 26, 2000.
The attorney for the California man who is believed to be the first person arrested using a "John Doe" warrant based on a DNA profile is arguing that his client's arrest violates the statute of limitations and that the sample was collected inappropriately. Apparently, the man's DNA was put into the state's DNA database after he was convicted of burglary, which is not a qualifying offense in California. An initial hearing is scheduled for December 8.
24. "Funds vital for DNA success." The Dominion (Wellington), October 26, 2000.
In a response to an announcement by a police chief that DNA sampling would be suspended due to budget problems, the general manager of forensics at the Institute for Environmental Science and Research (New Zealand DNA crime lab) replied, "I am not in a position to cast judgment on the police and how they allocate funds but the question should be asked by the public that if we want to see an effective DNA database like they have in the UK then we must invest the funds." In New Zealand, local police departments are wholly responsible for funding DNA analysis – including development and maintenance of a proposed new state-of-the-art facility.
25. "DNA Is Beating The Burglars." The Evening Standard (London), October 26, 2000.
In the last six months, burglary has gone down eight per cent across London (England), with decreases of 30 percent in some boroughs. Scotland Yard credits its stepped-up use of DNA in solving crimes for the decrease in burglary. This year the Yard expects to match over 8,000 DNA samples to known criminals -- last year the Yard matched 3,300 samples.
26. "Make bases rehab units – Alliance." The Gazette (Montreal), October 26, 2000.
The Alliance Party in Canada is developing a law-and-order agenda which will include a call for the listing of all federal inmates on a DNA data base. Details should be released in early November.
27. "Use of DNA evidence expands." Milwaukee Journal-Sentinel, October 26, 2000.
Explains that DNA tests, once used only for sex offenses and murder cases, are now being used for "routine" investigations into various crimes. A local police department recently sent to the crime lab an envelope that was used in a bomb threat. The lab hopes that saliva was used to seal the envelope and that DNA can be extracted. Discusses the use of DNA in solving crimes for which there is otherwise no suspect.
28. "Jury Told Man Killed Three Of 6 He Raped." The Daily News (New York), October 25, 2000.
DNA from six rape victims matches a suspect whose sample was taken from a coffee cup he drank from while being held at a police station on a petty larceny charge.

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29. "DNA is helping the battle against crime, say police." UK Newsquest Regional Press - This is Local London, October 19, 2000.

The Sutton Borough police chief in London (England) are championing the increased use of DNA profiling as a vital tool in law enforcement. Under new policies, DNA samples from all persons arrested, cautioned or convicted are included in the national database. The borough made 47 arrests based on DNA hits from April to July.

Genetic Privacy

30. "Life insurers may have legitimate claim on genetic profiles." United Press International, October 30, 2000.

Francis Collins, Director of the National Human Genome Research Institute, has said that life insurers should be given access to genetic information, but health insurers should not. Collins suggested that life insurers should offer everyone a basic policy of \$100,000 with "no questions asked" but anything over would be subject to possible genetic information disclosure requirements.

31. "Job Testing May Create A Genetic Underclass." The Independent (London), October 29, 2000.

Worries over the potential for creating an unemployable "genetic underclass" in the UK. Quotes an unidentified US senator who said, "We simply cannot afford to take one step forward in science, while taking two steps backwards in civil rights."

32. "Protect genetic information." Business Insurance, October 23, 2000.

Discusses the "dangerous precedent" in the UK's decision to allow life insurance access to genetic information. "If insurers deny coverage or charge exorbitant premiums based on information about Huntington's disease, they expose themselves to charges of discrimination. That, in turn, will mean litigation, possible regulatory or legislative intervention and a hit to their reputation and image. If the intention is to identify people not at risk of developing the disease, in order to offer them better rates on their life insurance, we question whether that savings is significant enough to offset the downsides we have presented."

Paternity

33. "Legislators concerned at DNA test amendment for abode seekers." BBC Summary of World Broadcasts, November 1, 2000.

Legislators in Hong Kong are concerned with a new proposal that would require immigration officials to give a DNA test to any "abode seeker" who wishes to reside with his/her parents in Hong Kong.

34. "Ohio lets men who can disprove paternity end child support." The Associated Press, October 27, 2000.

A new state law has taken effect in Ohio that will allow men who can disprove paternity to end child support payments. Only Colorado, Iowa and Louisiana have passed similar paternity laws. Most states have policies like one in California to forbid "inquiries into the child's paternity that would be destructive of family integrity and privacy."

35. "DNA tests for dubious dads." The Canberra Times, October 27, 2000.

Reports on the rapidly expanding business of DNA testing for paternity cases. Spotlights Identigene and Relia Gene labs.