

DNARESOURCE.COM

Smith Alling Lane, P.S. provides governmental affairs services to Applied Biosystems. As part of this representation, the firm generates weekly reports on state and federal legislation and news articles. Applied Biosystems has authorized Smith Alling Lane to make these reports publicly available through this website. The information presented in these reports does not necessarily reflect the viewpoints of Applied Biosystems or Smith Alling Lane, P.S.

The May 18, 2001 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

Offender DNA database expansion bills are moving forward in Oklahoma, Rhode Island and Pennsylvania.

“Cold hits” were instrumental in solving crimes in Wisconsin, New York and California. A Texas crime could have been averted if not for the state’s large backlog. In England, a man arrested for stealing tea bags was tied to the rape of two young girls after routine DNA testing.

The New Jersey Senate has introduced legislation to allow for “John Doe” indictments based on DNA profiles.

The Florida Supreme Court may still approve post conviction DNA testing rules that would supersede a bill recently enacted by the legislature. The New York Attorney General is promoting the need for federal legislation for greater access to post conviction DNA testing

The US Senate held a public hearing on the need to fully fund the National Forensic Science Improvement Act. State funding for a Michigan crime lab may be reduced, and a crime lab in San Mateo (CA) may receive funding this year. An Oklahoma measure to assess an additional fee to pay for crime lab improvements is progressing. The lack of funding for forensic work in Iowa appears to be reaching a crisis point.

England’s Parliament has enacted new DNA laws to allow police to keep DNA samples from suspects and volunteers indefinitely; and frontline police are cooperating with an elimination database in greater numbers than originally reported. Malaysia will be establishing a DNA database. Canada is beginning to have some successes from its new DNA database, but needs greater participation from certain provinces.

STATE LEGISLATION

Forensic DNA

1. New Jersey SB 2350 -- Permits use of special fictitious name ("John Doe") indictments when DNA evidence is sufficient.

NEWS ARTICLES

Forensic DNA

1. “When The Evidence Lies.” Time, May 21, 2001.
Oklahoma is giving the state’s Indigent Defense System \$ 725,000 to hire two attorneys and conduct DNA testing of any evidence analyzed by a particular crime lab employee that led to a conviction. An FBI study of eight cases found that in at least five, this employee had made outright errors or overstepped "the acceptable limits of forensic science."
2. No Title. The Associated Press State & Local Wire, May 15, 2001.

Robin Pendergraft has been appointed as the first woman to head the North Carolina State Bureau of Investigation. The SBI also runs the state's crime lab.

3. "Investigators use DNA to solve 8-year-old case." The Associated Press State & Local Wire, May 15, 2001. Wisconsin authorities now have a suspect for a murder from 1993, thanks to a "cold hit" on the state's offender DNA database. The suspect has a prior record for battery and recklessly endangering safety
4. "DNA testing used in salmon poaching case against restaurants." The Associated Press State & Local Wire, May 15, 2001. DNA testing has been used to show that salmon served at a Canadian restaurant were caught illegally in a river closed to commercial fishing. The restaurant was fined about \$5,200 and the fish were forfeited.
5. "Charge against serial killer dropped after DNA tests." The Associated Press State & Local Wire, May 15, 2001. DNA tests have shown that a Texas serial killer was not responsible for the death of a girl 23 years ago in Washington. The man had earlier confessed to this crime, plus 500 others. He died in prison earlier this year; he was serving a life sentence.
6. "Treasurer says lawmakers must cut programs to make up for revenue losses." The Associated Press State & Local Wire, May 15, 2001. The state of Michigan is said to be "hovering on a recession" and the Governor's budget has suggested reducing money now being spent to build the state's new justice building and a crime lab.
7. "Legislators say one year of life worth \$50,000." The Associated Press State & Local Wire, May 15, 2001. Alabama's legislature has voted to compensate persons wrongfully convicted by paying them \$50,000 for each year incarcerated. The first expected to be compensated under this new rule are two men who served over 10 years in prison before new DNA tests proved they were not the perpetrator. The current bill would not allow any of this money to go to attorneys.
8. "Lawmakers trying to persuade Bush to renew funding for crime labs." The Associated Press State & Local Wire, May 15, 2001. Several state crime lab directors recently appeared before the US Senate Judiciary Committee to urge funding for the Paul Coverdell National Forensic Science Improvement Act, which authorized \$512 million over six years to help state and local crime labs. The funding was not included in President Bush's proposed budget. Also testifying at the hearing was William Peterson, star of the television show Crime Scene Investigation (CSI).
9. "Crime labs plea for federal aid to attack backlog." Copley News Service, May 15, 2001. Coverage of the Senate Judiciary Committee hearing on the Paul Coverdell National Forensic Science Improvement Act (see article above), with a focus on testimony given by Michael Sheppo, the bureau chief in charge of the Illinois crime lab system. The funding could be used to help the state police build a \$42 million Forensic Sciences Institute to train new scientists for crime labs in Illinois and throughout the Midwest.
10. "Felon's DNA Evidence Leads To His Arrest in a 1999 Rape." The New York Times, May 15, 2001. A "cold hit" on New York's DNA database has helped solve a "brazen" rape in Manhattan in 1999. The man had been released from prison three years ago after serving time on a robbery conviction. His DNA sample was collected one year ago, thanks to the New York DNA database law that allows authorities to collect DNA samples even from those who have been released. Since December 1999, New York has registered the DNA of 82,000 offenders and has had "cold hits" on 53 unsolved crimes.
11. "DNA Data Bank Links 2 Sex Crimes." The Toronto Star, May 15, 2001. For the first time, Toronto authorities have successfully used Canada's DNA database to link two unsolved rapes. The Canadian database system has been operating for about one year. The database currently has 7,000 DNA profiles of known offenders and crime scenes and grows by 200 to 300 profiles a week.

12. "Comment & Analysis: We should be outraged by these DNA databases." The Guardian (London), May 14, 2001.
Editorial written by the president of the Civil Liberties Trust in England. Criticizes the new law in England that will allow authorities to take DNA from virtually everyone who is arrested. Notes that Canada and France have already legislated to prevent the retention of samples from persons acquitted of crime. Brings up concerns over the security of the database.
13. "Senate Set To Vote On Open Public Files Cell-Phone Mishaps Also On Agenda." The Record (Bergen County, NJ), May 14, 2001.
Mentions that the New Jersey Senate is considering a bill to extend the statute of limitations in cases where DNA evidence is available. Lawmakers are concerned that the backlog of DNA samples is so large that, for some cases, by the time authorities match suspects to DNA evidence, the statute of limitations on the crime will have expired.
14. "Cops hope for 'hits' as database improves." San Antonio Express-News, May 14, 2001.
Texas authorities are hoping to solve more crimes as the state crime lab sorts through a backlog of 40,000 samples. The Bexar County lab has sent more than 650 DNA profiles to the state lab, more than any other local crime lab in the state, and San Antonio also is among the few labs adding DNA from old, unsolved sexual assaults dating as far back as 1995.
15. "Ontario DNA Crime Bank Leads Country." The Toronto Sun, May 14, 2001.
In Canada, two-thirds of all submissions to the national offender DNA database have come from Ontario, whereas, Quebec has submitted just 558, fewer than British Columbia and Alberta. Quebec's lagging submissions is credited to the province's "liberal" judicial system and the failure of prosecutors to request such submissions. A Quebec judge recently refused the prosecution's DNA request in the case of a man who was sentenced to seven years in prison for repeatedly sexually assaulting two young girls.
16. "DNA test bill excludes too many, some say." The Florida Times-Union (Jacksonville, FL), May 13, 2001.
A recently passed post conviction bill in Florida has been criticized because it does not apply to anyone who pleaded guilty or no contest to a crime. Experts say only about 3 percent of criminal cases in Florida go to trial; the other 97 percent would not benefit from the new law. However, the legislature's bill could be superseded by a proposed rule that the Bar has asked the state Supreme Court to adopt. The rule would give anyone convicted of breaking state law the ability to request DNA testing, regardless of whether they went to trial.
17. "State Acknowledges Flaws In Police Line-Up Procedure." Ha'aretz, May 13, 2001.
In Israel, the State Prosecutor has asked the Supreme Court to quash a robbery conviction because of uncertainties involving a police line-up of suspects. The prosecutor noted that there is a need to change police and justice system policies regarding suspect line-ups, citing recent research in the United States in which scientific evidence (including DNA testing) suggested that 28 suspects were wrongly convicted on the basis of line-up identifications.
18. "DNA tests backlogged; Funding on rise." San Antonio Express-News, May 13, 2001
Reports that the US national offender DNA database is "crippled" by the enormous backlog of unanalyzed DNA samples. A recent child abduction case in Texas could have been easily solved, and perhaps even prevented, if the perpetrator's DNA sample had not been backlogged. The man had previously abducted two other children, one for which he was convicted, and the other for which there was DNA evidence that could have lead to his arrest if it had been analyzed and matched in the DNA database. Funding is a significant obstacle to the backlog, but more federal funding may be on the way.
19. "DNA file handling worries libertarians." San Antonio Express-News, May 13, 2001.
Discusses civil libertarian concerns over DNA databases, which include "how the information will be used; who will have access to it; and will there come a day when DNA profiles are stored not merely from the time of conviction, but from the time of arrest, or even from birth?"
20. "Rolling Out the Pork Barrel." The San Francisco Chronicle, May 13, 2001.

The California Legislature is preparing the annual budget, which will include numerous special projects throughout the state, which some would classify as “pork barrel spending.” One such project is \$10 million for a new San Mateo County crime lab.

21. “Prisoners launch an appeal against DNA testing.” AAP Newsfeed, May 11, 2001.
In Queensland, Australia, several prisoners have appealed a recent court decision upholding an order for the inmates to submit DNA samples for the national offender DNA database. A judgment will be released before the end of May.
22. “Judge grants new trial for convicted rapist on DNA evidence.” The Associated Press State & Local Wire, May 11, 2001.
A Suffolk (Massachusetts) Superior Court justice has granted an inmate a new trial based on DNA evidence that shows semen on a bed sheet and robe found in the victims' apartment did not belong to the inmate. Prosecutors maintain that the jury was told that the semen did not match the suspect at the time of trial.
23. “DNA Plan 'On Target'; Police Sign Up For Database.” Birmingham Evening Mail, May 11, 2001.
In England, the West Midlands Police says it is well on its way to signing up frontline staff for the national DNA database - despite union claims that officers were refusing to give samples. The police say they have gotten the samples of nearly 75% of its frontline staff so far.
24. “DNA evidence falls short in Newfoundland murder case.” The Lawyers Weekly, May 11, 2001.
A Newfoundland (Canada) jury's acquittal of an accused killer is the first Canadian case in which DNA evidence was successfully challenged. Traces of the victim's DNA were found on the ring worn by the accused, but it was mixed with the DNA of three other people. Experts testified that the mixture of more than two DNAs makes statistical results unreliable, and that the DNA sample had been contaminated in the laboratory.
25. “Junk Science, Junk Evidence.” The New York Times, May 11, 2001.
Article written by Barry Scheck and Peter Neufeld. Points to the problems with conventional hair analysis, which has led to several faulty convictions (proven through recent DNA analysis). Says that forensic labs are often “run by law enforcement officers in lab coats.” Discusses several instances in which lab technicians withheld information or provided false testimony in cases that resulted in convictions. “If we care about justice, money has to be found to do such [DNA] tests everywhere.”
26. “New Wide-Ranging Police Powers Come Into Force.” Press Association Newsfile, May 11, 2001.
In England, Parliament has passed the Criminal Justice and Police Act, which will allow DNA samples collected by police to be held indefinitely – including those collected from suspects who are exonerated, and from members of the public who volunteer for mass DNA tests for elimination purposes. Police hope to increase the national DNA database from its current one million samples to 3.5 million in the next three years.
27. “Bid to track 200 in murder probe.” South Wales Evening Post, May 11, 2001.
In an attempt to solve a double murder in 1973, police in the UK are expanding their inquiries into Romania, Germany, Australia and New Zealand as well as all over Britain. So far, more than 50 men have been cleared in the investigation. Police have collected a total of 100 samples, and want to collect an additional 200 from persons of interest to the investigation.
28. “Theft arrest leads to rape charge.” Derby Evening Telegraph, May 10, 2001.
A man who was arrested in England for stealing tea bags from a grocery store has been linked to the unsolved rape of two young girls in 1988.
29. “Proposed DNA databank to trace criminals.” New Straits Times (Malaysia), May 10, 2001.
Malaysia's Science, Technology and Environment Minister has announced that the country will establish a DNA database to be run by the Department of Chemistry. The databank has been agreed to in principle, but the department is still waiting for the official sanction from the police. Malaysia will also begin using mitochondrial DNA testing soon.
30. “Assault attempt linked to felon by DNA data.” The San Francisco Chronicle, May 10, 2001.

An attempted sexual assault on a young girl has been solved through a “cold hit” on the California DNA database. The man was chased away from the girl’s home, and left behind his shoes and underwear, which was tested for DNA samples. The samples matched an offender who had previously been convicted of sexual assault, and the incident occurred just one month after the man had been released from prison.

31. “Forensic Science Improvement Act passes.” The Associated Press State & Local Wire, May 9, 2001.
The Oklahoma Senate has unanimously approved a bill that would assess an additional \$5 fee to any moving traffic violation or criminal offense that produces a fine exceeding \$10. The fee is expected to generate \$3.7 million next year and \$44 million over the next 10 years and will allow the state to build a new lab in Oklahoma City, upgrade its Tahlequah facility and hire needed technicians. The bill also expands the offender DNA database to include additional crimes.
32. “Lawmakers Create Justice Fiasco.” Omaha World-Herald, May 9, 2001.
The Iowa Medical Examiner may resign as a result of the state legislature’s inadequate funding of her office. In Iowa, the medical examiner’s office handles much of the forensic work, including DNA testing. The Iowa Association of County Medical Examiners will ask the group’s 65 members to protest by resigning if the Medical Examiner goes. They agree with her complaints, saying, “If this state is not willing to support this system, then there’s no reason we should keep trying to hold this thing together.”
33. “Family Urges Passage Of ‘Penny’s Law’.” The Buffalo News, May 8, 2001.
The family of a New York murder victim (Penny Brown) is urging the passage of “Penny’s Law,” which would toughen penalties for serious crimes committed by juveniles. The Penny’s Law proposals are included in a larger anti-crime package sponsored by Republicans, which includes an expansion of the state’s offender DNA database to include everyone convicted of a felony or an attempt to commit a felony.
34. “Senate passes bill requiring DNA samples.” The Providence Journal-Bulletin, May 8, 2001.
In Rhode Island, a bill to expand the state’s offender DNA database to include all persons convicted of violent crimes has passed the Senate and been forwarded to the House. The bill’s sponsors believe the measure will strengthen the state’s crime-fighting abilities and at the same time prevent mistakes that result in people being wrongfully convicted
35. “Capital Report.” Pennsylvania Law Weekly, May 7, 2001.
The Pennsylvania House has approved a bill to expand the state’s offender DNA database to include burglary.
36. “DNA On Cig End Trapped Raider.” Daily Record, May 5, 2001.
In Britain, a group of burglars who smashed through the doors of a sports store in a stolen car have been caught after DNA analysis on a discarded cigarette butt was matched to a suspect.
37. “Internet, DNA Testing Most Important.” New York Law Journal, May 1, 2001.
Article by the New York State Attorney General. Notes that as the emergence of DNA analysis has “raised fundamental questions about the functioning of our criminal justice system.” Argues in favor of imposing a nationwide statutory right to post-conviction DNA testing.

Paternity

38. “As DNA tests rule out paternity, men sue to stop support payments.” The Atlanta Journal and Constitution, May 16, 2001.
A Georgia State Rep. sponsored a bill this year that would have allowed men to stop child support payments if DNA tests disproved their paternity. The bill was modeled on an Ohio law that took effect last year. The bill was approved by the Georgia House 163-0 but never made it out of a Senate committee. The Senate committee chairman was concerned that the bill was too broad.
39. “Women accused of altering DNA in attempt to show paternity.” The Associated Press State & Local Wire, May 12, 2001.

Two women in Kentucky have been charged with second-degree forgery, second-degree criminal possession of a forged instrument and attempted theft by deception for altering a document that they claimed was the DNA results of a paternity test.

40. "Legislators should fix outrageous paternity ruling." The Denver Post, May 9, 2001.
Urges the Colorado Legislature to enact a bill that would allow a man to stop child support payments if he learns he is not the genetic father of a child.