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The June 1, 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

Several articles and an NPR interview broadly covered topics of DNA issues in the criminal justice system (such as database expansion and DNA dragnetting). A Florida court opinion limits law enforcement's use of the state's DNA database statute.

"Cold hits" from offender DNA databases solved crimes in Arkansas and Ohio. Illinois may create a task force to develop a long-term plan for improving and managing its DNA program. Problems with DNA backlogs in California and Tennessee were reported. The Ohio Lt. Gov. spoke in favor of better funding for DNA analysis and extending the statute of limitations for certain crimes.

In post conviction testing news, the Illinois Supreme Court has ruled in favor of more expansive right to such testing, efforts at passing federal legislation are likely to be reinvigorated with the majority party switch in the US Senate and a Louisiana measure has passed the state Senate.

Earmarked funding for local crime labs is in jeopardy in California and Washington, but plans in Iowa and Oklahoma have been approved and funded.

STATE LEGISLATION

Forensic DNA

1. Michigan SB 238 – Provides a grant of \$431,400 to supplement the City of Detroit's crime lab, and \$2.716 for the state DNA analysis program
2. Missouri SB 267 – Provides greater access to post conviction DNA testing.
3. New York AB 8864 – Appropriates \$2 million to assist local crime labs.

NEWS ARTICLES

Forensic DNA

1. "A Safe Intrusion--We could "fingerprint" everyone's DNA and still protect privacy if doctrinal obstructionists would just get out of the way." The American Lawyer, June 2001.
Argues that prosecutors who deny post conviction DNA testing are misguided, but so are defense attorneys who would balk at establishing a DNA database of the population. Post conviction testing should not be used just to establish a negative (that a person's DNA was *not* found at a crime scene), but also should establish a positive (that someone else's DNA was found and the person convicted could not have been associated with that person.)
2. "Backlog in state's convicted-felon DNA databank creates problems for detectives." Contra Costa Times, May 30, 2001.

Reports that California's backlog of DNA samples could be keeping investigators from solving crimes. California still has a backlog of approximately 90,000 unanalyzed samples, and 28,000 prisoners from whom the state has not yet collected samples. California has encountered problems in taking samples from prisoners who refuse and from prisoners on death row.

3. "Tennessee man suspected in rapes in Arkansas, Kentucky." The Associated Press State & Local Wire, May 29, 2001.
Authorities in Arkansas got a "cold hit" on two unsolved rapes when they submitted crime scene evidence to the national criminal DNA database. The evidence was linked to a similar rape in Kentucky. The suspect had been charged with the Kentucky rape but was released on bond when the other rapes occurred.
4. "Vilsack signs measure authorizing new crime lab." The Associated Press State & Local Wire, May 30, 2001.
The Iowa Governor has signed legislation that authorizes construction of a new \$50 million state crime laboratory. The state's medical examiner had threatened to quit if the new lab wasn't built. The measure calls for spending \$16.7 million a year over three years.
5. "DNA Put In Local Arsenal In 1995." Capital Times (Madison, WI), May 29, 2001.
Reports on the use of DNA analysis in Dane County (Wisconsin) and across the state. DNA has been valuable in finding "cold hits" to close unsolved crimes, as well as to exonerating innocent persons.
6. "TBI officials seeking funding to relieve backlog." The Associated Press State & Local Wire, May 28, 2001.
The Tennessee Bureau of Investigation (TBI) is seeking federal funding to help assist with the crime lab backlog. Specifically, TBI is hoping Congress will fund the Paul Coverdell National Forensic Science Improvement Act. One TBI official noted, "A lot of times the money goes into law enforcement. It's hard to get it to trickle down to us."
7. "DNA is key in drugs fight." Evening Herald (Plymouth), May 28, 2001.
New DNA testing techniques being used in England can trace batches of Cannabis to its "mother plant", thus assisting police in identifying supply chains and dealers.
8. "Troubling questions about DNA and criminal justice." Sripps Howard News Service, May 28, 2001.
Discusses the numerous criminal justice issues associated with DNA, including post conviction testing, extending the statute of limitations for crimes when DNA evidence is available, and DNA dragnetting. Concludes that even those Californians who have misgivings about using genetic profiles will sleep easier when the "East Side Rapist" and "Southern California killer" (now known to be the same persons, thanks to DNA) is caught.
9. "Focus: Revolution on Capitol Hill." The Observer, May 27, 2001.
Notes that the switch in power in the US Senate (due to Senator Jeffords' party change), will mean that Senator Leahy will chair the Judiciary Committee, and is likely to have better success in pushing the Innocence Protection Act.
10. "OSBI chemist discloses conflicting test findings." The Associated Press State & Local Wire, May 26, 2001.
A chemist at the Oklahoma Bureau of Investigation (Hett) has disclosed that one of his former colleagues came up with much different findings when she studied hair samples. Hett's testimony sent two men to prison for rape. After twelve years in prison, the men were finally released after new tests on DNA from the crime scene did not match either man.
11. "Assembly approves a budget." The Fresno Bee, May 26, 2001.
The California Assembly has approved a budget for 2002 which increases spending for various health and social service programs but does not fund proposed criminal-justice spending, such as "electric doors in prisons, crime labs and high-tech crime-fighting equipment."
12. "Justice Department Highlights DNA Evidence Information for Victim Service Providers." US Newswire, May 25, 2001.

At a national conference for professionals who work with sexual assault victims, the US Justice Department released two new publications to help victim service providers better understand DNA evidence and its significance. The publications are available at <http://www.ojp.usdoj.gov>.

13. "Defense attorneys hail court decision on DNA testing." The Associated Press State & Local Wire, May 25, 2001.
The Illinois Supreme Court has ruled that judges can grant DNA tests on evidence in old cases even if defendants cannot prove the tests alone would exonerate them. In its decision, the court said that the inmate in question did not deserve DNA tests on a pair of blood-stained trousers because the trousers were not central to the prosecution's case. However, the justices rejected the prosecution's argument that defendants can seek DNA tests only when the tests would completely vindicate them. Prosecutors worry that this ruling could lead to frivolous demands for DNA testing.
14. "Police Fail To Join DNA Test." Bristol Evening Post, May 25, 2001.
Approximately 70 percent of police in the Avon and Somerset Constabulary have agreed to voluntary DNA testing, which leaves about 500 officers who have not yet been tested. The initiative to sample police officers was introduced to avoid jeopardizing investigations by unwittingly contaminating crime scenes with police DNA. Some officers have been reluctant to volunteer their samples because they are concerned that the profiles will be used for some purpose other than the elimination database.
15. "The Use Of DNA In Fighting Crime And Controversy Over DNA Samples Being Stored In Databases Across The Country." National Public Radio (Talk Of The Nation/Science Friday), May 25, 2001.
Thorough discussion of DNA database issues with Chief Bruce Glasscock (Plano, Texas PD, and IACP President), Terry Fenger (West Virginia CODIS director) and Nadine Strossen (ACLU). Discussion centered on what it done with DNA samples and whether the sample should be kept, especially for those persons arrested but found innocent or otherwise not charged with a crime. Panelists seemed to agree that state legislatures need to play a strong role in setting privacy and security parameters around how the DNA sample can be used.
16. "Prisoner charged with second murder." The Associated Press State & Local Wire, May 24, 2001.
In Pennsylvania, an inmate in prison for third-degree murder has been charged with another murder committed 20 years ago, based on new testing of DNA evidence.
17. "Legislative Briefs." Copley News Service, May 24, 2001.
An Illinois State Representative has introduced a resolution that would require the state to review its use of DNA testing and develop a plan to maximize federal dollars set aside for that purpose. The article notes that federal funding requires some outsourcing of samples, and that the Chicago lab currently outsources half of its samples.
18. "House panel OKs DNA test extension." The Times-Picayune (New Orleans), May 24, 2001.
A Louisiana State House Committee has approved a measure that would allow inmates up to four years to apply for DNA tests that could exonerate them. However, the bill's sponsor is opposed to the four year term and will try to have the bill amended to its previous version which limited applications to two years (death row inmates would have no time limits). The bill's sponsor believes that four years could "create havoc in the criminal justice system," with frivolous requests
19. "Sedgwick County regional forensic center wins accreditation." The Associated Press State & Local Wire, May 23, 2001.
In Kansas, Sedgwick County's Regional Forensic Science Center has received accreditation from the National Association of Medical Examiners. The lab's responsibilities include some DNA testing.
20. "Jamie Lee Curtis Works To Reduce Number Of Missing Children." CNN, May 23, 2001.
Jamie Lee Curtis is working with the Center for Missing and Exploited Children and Ford dealerships to on a new nationwide child identification program. When asked about the use of fingerprints for finding/identifying children she notes that "I'm surprised that there's not an opportunity for a DNA link because ultimately what you're trying to do is that the first 24 hours, as you know, is crucial."

21. "State Law Should Adapt To Technology, DNA Panelists Say." The Columbus Dispatch, May 23, 2001.
At a statewide DNA conference for law-enforcement officials in Ohio, the Ohio Lt. Gov. advocated that the state should extend the statute of limitations in rape cases in order to accommodate new DNA testing. She also said that state spending on DNA testing, about \$ 2.2 million a year, "is not good enough" and should be increased. Chris Asplen, executive director of the National Commission on the Future of DNA Evidence, also spoke at the conference.
22. "DNA sample on cigarette leads police to suspect." The Plain Dealer, May 23, 2001.
In Ohio, a "cold hit" from the state's offender DNA database linked a kidnapping and attempted rape to a man who had previously been convicted of aggravated burglary. The DNA sample used to tie the man to the crime was taken from a cigarette butt left at the crime scene.
23. "Keating adds three laws to books College tuition, DNA testing, school disruptions topics of bills." The Daily Oklahoman, May 22, 2001.
The Oklahoma Governor has signed Senate Bill 753, which authorizes a \$ 5 fee on criminal cases to raise \$ 2.9 million a year to keep crime lab equipment up to date and hire more personnel. The new funding is expected to help the agency with a 6,000-case backlog.
24. "Trial on hold after evidence ruled out." The Florida Times-Union (Jacksonville, FL), May 22, 2001.
A Florida judge has taken a conservative interpretation of the state's DNA database statute, and consequently ruled that DNA evidence central to the prosecution's case should be suppressed because it was not legally obtained. The man had a prior sexual battery conviction (which requires a DNA sample for the database), but at the time that the DNA sample was drawn, he was incarcerated for an unrelated crime (which does not require a DNA sample). The judge ruled that because he was not incarcerated for sexual battery at the time his DNA sample was drawn, the sample was taken illegally. The judge also noted that police could have asked for a court order for the sample, but did not. The prosecution is appealing.
25. "Budget Detains Washington Lawmakers." The Oregonian, May 21, 2001.
Currently design funding for crime lab in Vancouver is not in the Washington Legislature's budget. However, since Clark County has made property available some legislators are interested in placing it in the budget. The lab would cost about \$6 million.

Genetic Privacy

26. "After Learning their kids were congenitally ill, a Massachusetts couple became unlikely powerbrokers on the frontiers of intellectual property: They claim they own their own bodies." The American Lawyer, June 2001.
Lengthy article discussing who owns a person's genes. The parents of children with a severe congenital illness have devised a way to give patients control over the intellectual property at the center of disease research. Their answer is to patent yourself. The parents were upset with researchers who seemed interested only in getting their children's blood, not with sharing any information they discovered about the disease.
27. "Senate votes to forbid genetic discrimination in employment." The Associated Press State & Local Wire, May 29, 2001.
The Louisiana Senate has approved a bill that will prohibit employment discrimination based on the results of genetic testing. There was no debate on the bill.
28. "Hike in fees for adoptees seeking birth parents removed from budget." The Associated Press State & Local Wire, May 29, 2001.
Under current Wisconsin law, a person requesting access to medical and genetic information about birth parents must pay a fee based on ability to pay, not exceeding \$150. A budget provision to eliminate this cap was recently defeated.