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The June 8, 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

All-felons DNA expansion bills have passed Michigan's House and Senate, and a Florida all-felons bill has been signed by the Governor (this bill also allows for more post conviction testing). The city of Washington, DC has enacted a legislation to allow its participation in the national offender DNA database.

A "cold hit" in Boston linked an unsolved rape to a serial rapist in Maine; Virginia's DNA database has been averaging one "cold hit" per day in 2001. An article from Ohio discusses the state's use of DNA to catch criminals. A US Senator from Texas is calling for more federal funding for crime labs and DNA backlogs, and a legislative panel may be convened to study the issue in Illinois.

A "DNA dragnet" story from Oklahoma continues to make headlines around the country. The Oregon Legislature has enacted legislation to extend the statute of limitations for certain crimes if DNA is available, and Missouri has failed to pass similar legislation. Texas prosecutors have filed a "John Doe" warrant for an unsolved rape.

Officials in Oklahoma are reviewing a number of cases for potential post conviction DNA testing. Nevada will be considering post conviction DNA issues over the interim.

Queensland (Australia) authorities have begun taking DNA samples from persons arrested for indictable offenses. Police in the Republic of Ireland are requesting an offender DNA database, British police are solving computer thefts through DNA testing, and German authorities may finally identify some unknown terrorists through new DNA tests.

STATE LEGISLATION

Forensic DNA

1. Illinois HB 3440 – Appropriates \$2.3 million for the processing of DNA cases.

Genetic Research

2. New York AB 8956 -- Imposes certain requirements regarding the use of biological samples for genetic testing for research purposes

NEWS ARTICLES

Forensic DNA

1. "Putting a dollar value on wrongful jail time." The Christian Science Monitor, June 6, 2001.
More and more states are considering what inmates are owed (if anything) for wrongful convictions. Many of the inmates seeking compensation have been exonerated largely through new DNA tests. Recently, the state

legislatures in Oklahoma, Texas, and Alabama passed laws that either allow for state reparations or raised the cap on the maximum payout.

2. "Mayoral Mansion Approved; D.C. Council Accepts Funds for Foxhall Road Home." The Washington Post, June 6, 2001.
The Washington, DC City Council has approved a bill designating which convicted felons will be covered when federally mandated DNA sampling begins this month.
3. No Title. The Associated Press State & Local Wire, June 6, 2001.
Acting on a recommendation from the FBI, the Oklahoma State Bureau of Investigation (OSBI) has researched about 1,000 cases that were connected to a lab technician who is suspected of giving faulty testimony. The OSBI has identified about 60 cases that need further review -- in which inmates are currently incarcerated under a sentence of life or life without parole -- and has mailed out a formal DNA Forensic Testing Program application to these inmates.
4. "Chase a suspect in Boston rape." The Associated Press State & Local Wire, June 5, 2001.
A serial rapist in Maine has been linked to an unsolved rape in Boston through DNA testing. The "cold hit" on the Boston rape was discovered after Boston came on-line with the national offender DNA database.
5. "Study is lone death penalty measure to survive in Nevada." The Associated Press State & Local Wire, June 5, 2001.
The Nevada Legislature, after considering several death penalty moratorium measures, finally decided on a bill that establishes an eight-member legislative interim committee to study the death penalty in Nevada. The study will include the availability and impact of DNA testing.
6. "State fights DNA test order in E. Shore killing." The Associated Press State & Local Wire, June 5, 2001.
In Virginia, the state attorney general's office is arguing against a federal judge's order for DNA testing in the case of a man sentenced to death for the slaying of a pizza delivery woman. The AG's office calls the ruling an improper "reinvestigation into the guilt of a state inmate," and warns that if "it can be done in this case, it can be done in every single case." The case is under consideration by the Circuit Court of Appeals -- it is not known when the Circuit Court will rule on this case.
7. "Judges study convergence of law and science." Chicago Daily Law Bulletin, June 5, 2001.
In Illinois, more than 70 state judges attended a convention at the University of Illinois to "study the intersection where law meets science in what has been hailed by organizers as a breakthrough in judicial education in the state." The focus of the convention was on DNA profiling and other genetic issues (such as cloning and genetic privacy). The group also held a general discussion on whether the law lagged behind scientific progress or the legal community embraced scientific development too quickly.
8. "Police start routine DNA sampling." AAP Newsfeed, June 4, 2001.
Police in Queensland, Australia will begin routine DNA sampling of prisoners this month and hope it will assist in clearing many unsolved crimes. Queensland law allows DNA samples to be collected by taking a mouth swab during the arrest process for an indictable offense.
9. "State expands database of DNA to find suspects." The Columbus Dispatch, June 4, 2001.
Ohio crime labs and the state's Attorney General's office have been busy lobbying for more funding, upgrading crime labs, and encouraging local departments to send in evidence from no-suspect cases for analysis. The state crime labs are not charging local agencies for the analysis. Ohio's offender DNA database only recently came on-line with the national system, and the AG's office estimates that it has spent nearly \$ 39 million since 1995 to build or revamp its 11 laboratories statewide and to start the DNA program. The AG's office intends to also begin encouraging "John Doe" indictments based on DNA profiles for unsolved crimes.
10. "Britain may relax ancient protection against double jeopardy." The Associated Press, June 3, 2001.
Both main parties campaigning for election in Britain are promising to change the double jeopardy rule on the basis that it hinders justice when new evidence or technology, such as DNA tests, could prove the guilt of someone already acquitted. Britain's Law Commission, a five-member public body that recommends legal

reforms, said the Court of Appeal should be allowed to overturn murder acquittals where there is compelling new evidence of guilt, and suggested that such changes to the law should be retroactive.

11. "Missouri law helps rapists 'go free'; Legislators don't fix prosecution limit." The Kansas City Star, June 3, 2001.
Criticizes the Missouri legislature for not acting to extend the statute of limitations for rape (currently 3 years in Missouri). Points out that an extension is needed, particularly in light of the important role DNA is playing in solving cold cases. Prosecutors had thought that there was not statute of limitation for prosecuting forcible rape or forcible sodomy, but last year an appeals court ruled that an unclear law from 1979 imposed a 3 year limit. Prosecutors have begun to use the "John Doe" indictments more as a result.
12. "Govt to boost use of forensic science to nab criminals." Malaysia General News, June 3, 2001.
The Malaysian Government has sought the cooperation of Scotland Yard and the British Anti-Crime Enforcement Department to boost the capability of the Malaysian police in the area of forensic science. One of the areas in which the Government is interested is DNA.
13. "Senator urges funds for effort to reduce DNA sample backlog." Chicago Tribune, June 3, 2001.
At a recent law enforcement meeting in Texas, US Senator Phil Gramm said that a backlog of untested DNA samples clogging the nation's crime laboratories allows "violent predator criminals" to commit crimes while going undetected. Gramm is urging his colleagues to fund the Paul Coverdell National Forensic Sciences Improvement Act, a bill which was enacted last year but left out of appropriations legislation in 2001 and was not included in the President's 2002 budget.
14. "Judge denies bid for DNA test to verify guilt of executed man." The Boston Globe, June 2, 2001.
Ruling that there was "no benefit to society," a judge in Virginia has rejected a request for DNA testing of evidence in the case of a man executed in 1992 for rape and murder. The man always maintained his innocence. The evidence will now be returned to the Virginia Division of Forensic Science, where it can be destroyed or tested further by the Division.
15. "DNA case ends with guilty plea." Roanoke Times & World News, June 2, 2001.
Discusses a sexual assault case in Virginia which, in earlier years, might never have been solved. The state's offender DNA database solved the crime through a "cold hit" and the suspect pleaded guilty to the crime. "Score one for a state law that applied only to convicted sex offenders in 1989, its first year in existence. Virginia law extended the data bank's reach to all convicted felons the next year." The Virginia DNA database has solved nearly 400 crimes, and 104 of those have been during 2001 (a rate of approximately one "cold hit" per day). The Division of Forensic Science credits the database's growing success rate to three years of increased funding from the state.
16. "Suspect may face the death penalty." St. Petersburg Times, June 2, 2001.
Florida prosecutors may seek the death penalty for a man who was tied to a 1990 killing through DNA evidence. Police had long suspected the man was involved in the murder, but he had refused to supply a DNA sample. Eventually, detectives seized a protective screen from an electric razor and several cigarettes from the man's trash, and used DNA samples from the screen and cigarettes to link him to the crime.
17. "Cleveland County District Attorney Tim Kuykendall And Doug Parr From The Oklahoma Criminal Defense Lawyers Association Give Their Opposing Views On Use Of Dna Samples To Solve Murder Case In Oklahoma City." ABC News (Good Morning America), June 1, 2001.
Briefly discussed a murder case in Oklahoma in which police are using "DNA dragnetting" techniques to find the killer. More than 200 have been asked for a DNA sample.
18. "Payoff for DNA testing." The Courier-Journal (Louisville, KY), June 1, 2001.
Warns that DNA should not be used abusively, but lauds the impact it has had on criminal justice – both in finding guilty parties, and in exonerating the innocent.
19. "German terrorists could be trapped by their own DNA." Deutsche Presse-Agentur, June 1, 2001.

German investigators believe they may be able to solve terrorist crimes that are over 15 years old through new DNA testing on hair samples retrieved from crime scenes.

20. "DNA database leads to verdict." The Richmond Times-Dispatch, June 1, 2001.
A "cold hit" from Virginia's DNA database has resulted in a murder and burglary conviction.
21. "Judge Must Consider DNA Evidence." AP Online, May 31, 2001
The Texas Court of Criminal Appeals has ruled that a judge must consider new DNA evidence in the case of a death row inmate convicted of killing of a 7-year-old girl. New DNA tests on key evidence (hair) used to link the man to the crime during his original trial show that the hair does not belong to him. Prosecutors intend to retry the case if the 1994 conviction is overturned.
22. "Prosecutors charge suspect using his genetic code." The Associated Press State & Local Wire, May 31, 2001.
Prosecutors in Lubbock, Texas have filed rape charges against an unknown man based on his DNA profile. Prosecutors decided to file the so-called "John Doe" warrant after the state's database of unsolved crimes connected the Lubbock rape to another unsolved rape in Amarillo, Texas. The statute of limitations for rape in Texas is five years.
23. "House approves its own DNA database bills." The Associated Press State & Local Wire, May 31, 2001.
In a nearly unanimous vote, the Michigan House passed legislation that would expand the state offender DNA database to include adult felons, juveniles convicted of a felony as an adult and people convicted of misdemeanor sex crimes. The Senate has already passed its version of this bill, and now the two chambers will have to work out some minor differences.
24. "Bush signs bills on DNA, jail abuse." The Associated Press State & Local Wire, May 31, 2001.
Florida Governor Jeb Bush has recently signed into law a bill that will allow inmates greater access to post conviction DNA testing, as well as expand the state's offender DNA database to include all felons.
25. "Increase DNA funds." Chicago Sun-Times, May 31, 2001.
Editorial laments the inadequate funding for DNA analysis in Illinois and the corresponding slow turn-around time at state crime labs. Mentions that a State Representative (Tom Dart) is planning to hold hearings over the summer to discuss Illinois DNA issues – "not only on resources but the whole range of questions surrounding DNA testing."
26. "New DNA Tests Help Police Nail Computer Thieves." The Evening Standard (London), May 31, 2001.
British police claim they are having success in identifying computer thieves by using "low copy number" (LCN) testing of DNA. LCN testing can be done with only one DNA cell – such cells can be lost from a person who simply brushes up against a surface at a crime scene.
27. "Man cleared by DNA tests gets \$ 90,000 payment." The News and Observer (Raleigh, NC), May 31, 2001.
A man who was released from prison after DNA exonerated him from committing the crime, the state legislature has awarded the man \$90,000 in compensation. He was released after serving approximately 10 years on a life sentence.
28. "Bill Extending Time To Charge Rape Suspects Clears Senate." The Oregonian, May 31, 2001.
The Oregon Senate unanimously approved a bill that extends the statute of limitations for prosecution of first- or second-degree rape or sodomy to twelve years if DNA evidence is available. The current limitation is 6 years. The bill has already passed the House and is on its way to the Governor.
29. "DNA used to convict elk poacher." The San Diego Union-Tribune, May 31, 2001.
Through DNA comparisons, two elk heads found in a national park have been linked to two carcasses found hanging on a man's property. The man has been convicted of poaching the elk and faces a prison sentence of up to one year and a maximum fine of \$100,000. He was also charged with being a felon in possession of a firearm.
30. "Oklahoma Police Launch DNA Dragnet." AP Online, May 30, 2001.

More than 200 men have been asked for a DNA sample in the hunt for a murderer in Oklahoma. The “DNA dragnet” raises issues of public safety versus personal privacy. This article was carried in several newspapers around the nation and has been an item on television as well (see Good Morning America interview at # 17)

31. “Wis. DOC collects inmate DNA.” Corrections Professional, May 30, 2001.
The Wisconsin Department of Corrections announced the completion of a DNA sweep of a majority of felony offenders in state institutions in late April. Between March 19 and April 3, the department took samples from almost 10,000 inmates. County sheriffs' offices have also been taking samples from felons on probation or held in county jails since the new statute went into effect Jan. 1, 2000.
32. “Felon Convicted Before Law Must Provide DNA Sample.” New York Law Journal, May 21, 2001.
A Manhattan Supreme Court Justice has ruled that the law requiring felony offenders to provide blood samples for the offender DNA data bank is constitutional, and applies to persons who committed crimes and were convicted before the statute's effective date. The court ruled that implementation of the statute posed no concerns relating to ex post facto, double jeopardy or unreasonable search.
33. “DNA register 'will boost crime fight'.” The Sun, May 18, 2001.
Police in Ireland are calling on the Government to establish national DNA database to help trap criminals.

Genetic Privacy

34. “Gene patenting threatening research, MEPs told.” The Irish Times, June 5, 2001.
A European Parliament select committee on human genetics has been told that commercial patents on genes are threatening research which could have major health benefits. The panel was told that genes should not be patented, especially since the human genome project had established that only about 30,000 individual genes existed.
35. “Judge denies Attorney General's motion to dismiss plaintiffs in DNA bank suit.” The Associated Press State & Local Wire, June 4, 2001.
A Texas district judge has ruled to allow a case involving DNA research samples at Texas Tech to proceed, despite objections from the AG's office. The lawsuit seeks to prevent Texas Tech from destroying several hundred disease-related tissue samples and medical records.
36. “Prime Minister determined to achieve national ban on human cloning.” AP Worldstream, June 1, 2001.
Australia's Prime Minister wants a national ban on human cloning and has listed the issue for discussion at a meeting with the leaders of state legislatures. He would like to have legislation enacted by mid-2002.