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The July 20 & July 27, 2001 DNA legislative and media report (combined) 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

The Michigan Governor has signed a bill to require DNA from all convicted felons. Colorado will be seeking legislation for DNA samples from parolees next year. A Missouri prosecutor urges for expansion of the state's database and elimination of the statute of limitations for rape.

Delaware has enacted legislation allowing "John Doe" indictments based on DNA profiles. In Wisconsin, prosecutors are defending an arrest and subsequent charges based on a "John Doe" warrant.

Virginia's database continues to be successful – could reach 300 "cold hits" for 2001. An end to the Illinois' backlog is in sight for 2003. Another article discusses the backlog problem in general terms, for crime labs throughout the nation.

The DC City Council is considering a post conviction measure, and the issue will be studied by the Nevada legislature over the interim.

A Connecticut court ruled on mitochondrial DNA and a Utah court ruled on STR admissibility. The New Hampshire Supreme Court may consider whether providing a DNA sample for investigation is a violation of protection from self-incrimination and the Illinois Supreme Court may consider if DNA testing delays violate the right to a speed trial.

Malaysia is poised to move forward on the creation of a DNA database, and Hong Kong is implementing its new DNA laws. An Australian territory is considering a law to require DNA samples from suspects. In Poland, DNA has identified a serial rapist, German authorities have clarified the country's DNA laws, and Dutch authorities will allow personal information taken from DNA research to assist police in the hunt for criminals. Canada's database and possible expansion was discussed, and Mexico asks the US for more help with DNA labs.

STATE LEGISLATION

No new legislation

NEWS ARTICLES

Forensic DNA

1. "Registration of Criminals Act to be amended soon." New Straits Times (Malaysia), July 25, 2001. Malaysia is planning to amend its Registration of Criminals Act to allow the police to collect and store deoxyribonucleic acid (DNA) profiles of criminals and suspects in criminal cases. Malaysia's current criminal database contains only fingerprints and mugshots.
2. "Nevada lawmakers enter research season." The Associated Press State & Local Wire, July 23, 2001. Nevada legislators will be studying death penalty issues during the interim, including the state's process for granting inmates access to post conviction DNA testing.

3. "Court OKs Use Of DNA Test." Connecticut Law Tribune, July 23, 2001.
In Connecticut, the State Supreme Court has ruled that mitochondrial DNA testing is admissible in court as evidence. The decision was made in the case of a man who had been linked to a robbery through mitochondrial DNA testing.
4. "DNA evidence leads to charge in 14-year-old rape case." The Kansas City Star, July 23, 2001.
Missouri authorities have linked an inmate to a 1987 rape case through the state's offender DNA database. The man is currently in prison for a conviction on four counts of child sodomy. Prosecutors are also using an untried legal strategy to charge the man – in 1990 an appeals court ruled that the statute of limitations for forcible rape was three years, but prosecutors are arguing that since this rape occurred three years before the ruling, there is no statute of limitations for this crime. Area prosecutors would like to see the state increase its offender DNA database to include more crimes and to eliminate the statute of limitations for rape.
5. "DNA called as good as a name." Milwaukee Journal-Sentinel, July 23, 2001.
Milwaukee (Wisconsin) Prosecutor Norm Gahn has filed a brief with the County Circuit Court urging the judge to deny a defense attorney's motion to dismiss a rape case that was launched when the suspect was identified by his genetic code. Gahn was the first prosecutor in the country to use the so-called "John Doe" warrant to avoid the expiration of the statute of limitations for cases where DNA profile of the perpetrator was on file but the person's identity had not been secured. The Wisconsin legislature appears ready to enact a bill that would extend the statute of limitations for sexual assault as well as allow greater access to post conviction DNA testing.
6. "DNA taken from 49 suspects." South China Morning Post, July 23, 2001.
In Hong Kong, police have collected 49 DNA samples from suspects involved in serious crimes since a new forensic DNA law came into effect on July 1. Officers have also collected samples from 13 crime scenes. The turn-around time for DNA testing at the Government crime lab is expected to be 22 days.
7. "Felony convictions will also mean giving some DNA under new laws." The Associated Press State & Local Wire, July 22, 2001.
The Michigan Governor has signed a law requiring all felons to submit DNA samples for the state's offender DNA database. The laws are expected to add 30,000 DNA samples each year to the state's database – the database currently contains 16,000 samples. State police authorities believe that the additional samples will speed up investigations by providing authorities with the most accurate evidence available. Implementation of the new law is expected to cost the state \$1.5 million, but the bill requires inmates to pay \$60 towards the cost of the testing. The ACLU, which considers the law an invasion of privacy, is considering challenging the law in court.
8. "Use of DNA evidence leads to rethinking some police methods." The Associated Press State & Local Wire, July 22, 2001.
Discusses the lengthy DNA backlog problems that exist at state crime labs throughout the country. Discusses funding problems as the primary reason for the backlogs. These backlogs could mean a delay of justice and the creation of more victims because police are unable to make connect suspects to crime scenes until the analysis is completed – gives a Texas case as an example. Mentions the increasing use of private labs for DNA analysis.
9. "Anti-crime funding advances in Senate." The Des Moines Register, July 21, 2001.
The US Senate Justice Appropriations contains an earmark of \$1 equip Iowa's forensic science labs and reduce a backlog of cases.
10. "State police director vows to end backlog in state crime lab." The Associated Press State & Local Wire, July 20, 2001.
The Illinois State Police Director told a legislative panel that the crime lab's backlog of DNA cases would be cleared by 2003. The state currently has a backlog of 6000 cases, and will use \$2.3 million in state funds this year to hire 80 caseworkers and evidence technicians and to pay a private lab for assistance with the analysis workload. The state hopes to stop using the private lab by 2003.

11. "Senate panels approve COPS, research money for Mississippi." Gannett News Service, July 20, 2001. Mississippi's state Crime Lab has received an earmark for \$1 million in the US Senate Justice Department appropriations bill.
12. "Police launch DNA search for Australian gunman." Agence France Presse, July 19, 2001. Australian police are looking for a murder suspect in the death of a British tourist. Currently the in the Northern Territory (where the attack took place) police may only take voluntary samples from suspects, but legislation is under consideration that would allow police to require samples from certain suspects. So far, the territory's DNA database has not provided a match for the crime, but the national database could still provide a suspect.
13. "U.S. officials gain more trust in Mexico's fight against crime." The Associated Press, July 19, 2001. Reports on US and Mexico cooperation on law enforcement. The FBI is setting up semi-permanent training programs for Mexican law enforcement agencies, and the Mexican Attorney General "is openly asking the Americans for more technology - everything from ballistics testing to fingerprint and DNA labs."
14. "DNA test force suspected serial rapist to confess." Deutsche Presse Agentur, July 19, 2001. Thanks to DNA testing, authorities in Poland have identified a man as the serial rapist responsible for up to 40 rapes in Warsaw.
15. "State's DNA Databank Increasingly Hits Mark." The Richmond Times-Dispatch, July 18, 2001. Virginia's DNA database is the "the biggest, oldest and most successful in the nation." In 2001, the database might get 300 "cold hits" this year, which will be more than 10 times the number of hits three years ago. Operation of the DNA analysis section runs \$6 million per year, but "is more than offset by savings realized by localities in their investigations, not to mention the rapes, murders and other crimes that are prevented by catching repeat offenders." Virginia's offenders account for nearly 25% percent of all offenders in the national database system. About 2 percent of the offenders identified through hits have a prior record of murder or abduction, 6 percent have committed a sex crime, 10 percent have committed drug offenses, and 43 percent have committed burglary or robbery
16. "DNA used in poaching probes." The Denver Post, July 17, 2001. The Colorado Division of Wildlife spent \$ 18,000 with a lab at University of Wyoming in Laramie to complete tests on DNA samples taken from trophy racks and discarded carcasses in an effort to identify poachers. Last year, the Wyoming team handled about 20 Colorado cases.
17. "DNA testing upholds rapist's guilt." The Detroit News, July 17, 2001. Preliminary results of Michigan's first post conviction DNA test for an inmate show that convicted rapist is guilty after all.
18. "Gramm supports legislation to fund crime lab upgrades." The Houston Chronicle, July 17, 2001. US Senator Phil Gramm (R-TX) said he is pushing to for full funding for the Paul Coverdell National Forensic Sciences Improvement Act. The bill funds federal grants for crime labs at \$512 million over the course of several years.
19. "Aussie police assist Fiji murder inquiry." The Dominion (Wellington), July 16, 2001. Australina police are helping Fiji police investigate the murders of a Red Cross director and his New Zealand partner. DNA tests will be performed at an Australian lab.
20. "Experts To Discuss DNA Advances." The Richmond Times-Dispatch, July 16, 2001. The Virginia Institute of Forensic Science and Medicine recently sponsored a three-day conference on "DNA Evidence for the Prosecution." Virginia has been very successful at using the offender DNA database to identify and prosecute criminals.
21. "DNA Testing for D.C. Convicts Weighed." The Washington Post, July 16, 2001. The Washington, DC City Council is considering an Innocence Protection Act that would allow inmates greater access to post conviction DNA testing. The most controversial section of the bill would override criminal procedure rules to allow D.C. Superior Court judges to hear claims of innocence based on new evidence at any

time. Prosecutors worry that “defendants to seek review of evidence that had been presented at trial and found insufficient and evidence that had been voluntarily held back by defense lawyers.”

22. “Enforcers Bank On DNA.” The Ottawa Sun, July 15, 2001.
Discusses Canada’s offender DNA database, which has been operating for one year. Law enforcement officials would like to see the laws expanded to allow for samples from a wider variety of offenders. To date, the database has made 38 offender-to-crime scene matches across the country, and authorities are confident that the database’s value will far exceed the \$3 million annual operating cost.
23. “Colorado lawmakers seeking to expand DNA database for criminals.” The Associated Press State & Local Wire, July 14, 2001.
This year Colorado passed a law to remove the statute of limitations for sex crimes when DNA evidence is available, and also expanded its DNA database to include all convicted felons. Next year, State Representative Grossman plans to introduce bill that would require felons on parole to submit a DNA sample for the database. “That has been our goal all along, that anyone convicted of a felony should be in the DNA database. We just have not had the money to do it all at once,”
24. “Personal Data From DNA May Be Used.” De Volkskrant, July 14, 2001.
The Dutch cabinet has voted in favor of a bill that allows personal data, taken from DNA research, to be used in the future for tracking down unknown criminal offenders. “Up to now, it has only been possible to determine the sex of the offender from DNA samples, while sometimes the ethnic group he or she belongs to can be forecast. In future, other characteristics could be added, including the colour of hair and eyes.”
25. “Man charged in 1998 murder after DNA test.” The Associated Press State & Local Wire, July 13, 2001.
In Alabama, DNA testing on a man in prison for burglary has linked him to a 1998 stabbing death of a woman.
26. “DNA Evidence.” The Seattle Post-Intelligencer, July 12, 2001.
Authorities in Washington have linked an inmate to the 1981 rape and murder of an elderly Seattle woman. The man was scheduled to be released from prison next month. He is currently finishing an eight year sentence for child molestation.
27. “Law allows indictments of unidentified suspects based on DNA profiles.” The Associated Press State & Local Wire, July 12, 2001.
The Delaware Governor has signed a law that will allow prosecutors to file indictments against persons identified only through their DNA profiles (called “John Doe” or fictitious name indictments). Sen. Dallas Winslow R-Talley Hill, said he decided to introduce the bill after reading accounts about similar judicial measures in other states. Sen. Winslow was also the sponsor of a bill passed last year that allows inmates greater access to post conviction DNA testing.
28. “New Bill On Storage Of DNA Analysis.” Frankfurter Allgemeine Zeitung, July 12, 2001.
The German government has “decided upon a draft clause in the law on criminal procedures to clarify the fact that a DNA examination of material can take place only by order of a judge. To date, courts of law have had varying concepts of procedures to be taken with traces of material which cannot be traced to known suspects. Through the new bill, the government aims to clarify the fact that DNA analyses of unknown criminals can be stored at the federal criminal office.”
29. “DNA Test in Rape Case Reliable.” The Salt Lake Tribune, July 12, 2001.
The Utah Supreme Court has affirmed that the STR method of DNA analysis is acceptable in court. The justices unanimously found the method scientifically correct and reliable, a decision that makes Utah the fourth state in which STR testing has passed an appellate review.
30. “Judge grants appeal request on DNA samples.” The Associated Press State & Local Wire, July 11, 2001.
A New Hampshire County Superior Court Judge has granted a defendant’s request for appeal to the state Supreme Court on a question of whether the defendant must submit hair and blood samples for DNA analysis which would aid the prosecution’s investigation. The defendant claims that the state’s constitution says a

defendant can not be made to "furnish evidence" that could be used against him. The state Supreme Court will have to make a decision on whether to hear this case..

31. "DNA-test exception to speedy-trial law is challenged." Chicago Daily Law Bulletin, July 11, 2001.
A prisoner facing a 75-year sentence wants the Illinois Supreme Court to determine whether the state took too long to go to trial while waiting for DNA evidence in his case. A County Circuit judge and the Appellate Court have previously issued rulings against the prisoner in this case.
32. "DNA test backlog could swell again." Chicago Sun-Times, July 3, 2001.
Legislators in Illinois worry that increasing the state's database to include all convicted felons could result in larger backlogs.

Genetic Privacy

33. "Utah lawmakers catching up with DNA discrimination." The Associated Press State & Local Wire, July 23, 2001.
The Utah Legislature's Health and Human Service Interim Committee has asked a staff attorney to draft recommendations for a proposed state law on genetic discrimination. According to the general counsel with the Office of Legislative Research, Utah is one of only nine states that has not created genetic privacy laws. State Farm insurance has indicated that it wants access to genetic tests that are included in medical records
34. "Police DNA Inquiry Sparks Research Fears." Evening News (Edinburgh), July 16, 2001.
Scientists said plans for a national research database of DNA samples of at least 500,000 people could be at risk because of worries that police could confiscate the records. The fears arose after the case of a man who was convicted of knowingly infecting his partner with AIDS. The police used codes from patient medical records to seize the research data which established the genetic similarities between the AIDS viruses infecting the pair.
35. "Congress Inclined To Bar Gene Testing." Insurance Chronicle, July 16, 2001.
A recent congressional hearing on the potential for discrimination in health insurance based on predictive genetic tests showed that the federal government has a strong predisposition for intervening on genetic information privacy. The health insurance industry argued that the problem is virtually non-existent and is already covered under current laws.
36. "Genetic Discrimination: Venter, Industry Face Off On Bill." American Health Line, July 12, 2001.
Craig Venter and the health insurance industry gave opposing testimony on HR 602 – a federal bill to prohibit companies from denying insurance to people based on their genetic characteristics. Venter spoke in favor of the bill, and the insurance industry spoke against the bill. Testimony can be found at <http://energycommerce.house.gov/107/hearings/07112001Hearing322/hearing>