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The August 10, 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

The candidates for Attorney General in Virginia are both calling for DNA testing of arrestees. USA Today has recently published an article that supports arrestee DNA testing, and another that suggests a population-wide DNA database.

US Attorney General Ashcroft has announced the availability of \$30 million for grants to crime labs for DNA analysis, and has ordered a study on how to reduce DNA analysis delays around the country. Articles discussed backlogs and related funding issues at labs in South Carolina, Texas, and Mississippi.

“Cold hits” on the DNA database has linked a man in Colorado to a New York crime, and has solved two murders in Texas. Articles discussed new laws in both Arkansas and Texas to extend/eliminate the statute of limitations when DNA evidence is available.

The American Bar Association is calling for guaranteed access to post conviction DNA testing for inmates on death row. Inmates in a Florida county jail have been slow to accept offers for post conviction DNA testing.

Australian authorities are searching international databases for a DNA identification, and, separately, are encouraging participation in a missing / unidentified persons database. A “DNA dragnet” in New Zealand is expected to include hundreds of volunteered samples.

STATE LEGISLATION

Forensic DNA

1. Florida SB 80 (prefiled) -- Provides \$3.5 million to compensate the estate of a former inmate who was on death row for 14 years. Shortly after his death (of natural causes) the man was exonerated through DNA testing.

NEWS ARTICLES

Forensic DNA

1. “Police can't be trusted with forensic evidence.” AAP Newsfeed, August 7, 2001.
In New South Wales (Australia) a prison reform group said the collection of forensic evidence was open to malpractice and abuse, and that police were not beyond suspicion. The group specifically pointed out that DNA evidence could be easily tampered with.
2. “Prosecutors plan to use new anti-rape law.” The Associated Press State & Local Wire, August 7, 2001.
Discusses DNA bills passed by the Arkansas legislature this year. One extends the statute of limitations to 15 years a DNA profile is available. Another new law requires DNA evidence be retained for 25 years or more after trial. Additionally, Arkansas will begin collecting DNA from burglars soon. The Arkansas crime lab is currently receiving 700 DNA samples from police per year.

3. "DNA, blood evidence may be used, judge rules." The Baltimore Sun, August 7, 2001.
In Maryland, a county judge has ruled that DNA and blood evidence are admissible in the trial of a convicted rapist and murderer who is charged in a 1999 rape. The defense had argued that the suspect's DNA and blood tests were not conducted properly and that results were not delivered in time to build a defense.
4. "Hundreds to be asked for DNA samples." The Dominion (Wellington), August 7, 2001.
In New Zealand, police are asking hundreds of men for DNA samples in their search for a man who raped and murdered a child in 1987. DNA tests have eliminated 21 men who were formerly considered to be prime suspects. Police may ask for a DNA sample if they have reasonable grounds to believe it would confirm or rule out whether a suspect was the killer.
5. "Attorney general hopefuls favor more DNA collection." The Washington Times, August 7, 2001.
Both candidates running for the office of Attorney General for Virginia have proposed allowing police to take DNA samples from arrestees. The first volley was fired by the Republican candidate who suggested that DNA be taken from arrestees for certain violent crimes. The Democratic candidate responded by calling for DNA from all arrestees, and called the Republican's plan "soft." The ACLU is opposed to either proposal and would consider fighting it in court if it becomes law. See also article #12.
6. "DNA hope for families of missing people." AAP Newsfeed, August 6, 2001.
Police in Australia are encouraging the families of missing persons to donate DNA samples that can be compared with DNA profiles of unidentified bodies. Police in New South Wales say they have recently solved a long-term missing persons investigation through DNA testing.
7. "Lack Of Funding Plagues Crime Lab." The Commercial Appeal (Memphis, TN), August 6, 2001.
Prosecutors in Mississippi are beginning to complain loudly about the lack of funding for the state crime lab. DNA work is frequently sent out to private labs at high costs to prosecutors. They point out that the crime lab manager is doing an excellent job, but the state legislature has failed to come up with appropriate funding.
8. "Lawyers seek law over DNA test rights." The Des Moines Register, August 6, 2001.
The American Bar Association is asking Congress to pass legislation guaranteeing every person on death row the right to DNA tests that could possibly prove their innocence. The group has also asked a national moratorium on executions until problems with how the death penalty is applied are corrected.
9. "Dilemma In DNA Testing Discussed; Results May Implicate Or Exonerate Prisoners." Sun-Sentinel (Ft. Lauderdale, FL), August 5, 2001.
An offer by Broward County (Florida) officials for DNA testing for all death row inmates is receiving mixed responses from the inmates. Some inmates are requesting the tests, and others are refusing the offer. One defense attorney explained, "You would hate to be looking at a case that had a good shot on appeal for procedural reasons, and then do DNA testing that links your client to some bad evidence." Other concerns include how the evidence was stored, and which pieces will be tested.
10. "DNA databases scoured in Outback attack case." The Ottawa Citizen, August 4, 2001.
Reports that police forces around the world are scouring databases to find a match to DNA samples believed to belong to a gunman who ambushed a British couple on vacation in the Australian outback.
11. "State hopes to hasten analysis of DNA evidence." The Post and Courier (Charleston, SC), August 4, 2001.
Reports that South Carolina's DNA crime labs receive about 1,500 cases for analysis per year from police agencies, and the average turn-around times is two to six months. The lab has been using federal funding to help it handle its analysis backlog, but says that the federal funding, though helpful, is not nearly enough to fully meet the needs of the labs.
12. "Nominees Propose DNA Tests; Escalating Proposals Draw Fire From ACLU." The Richmond Times-Dispatch, August 4, 2001.
See details under article #5. One idea is that law enforcement agencies should be given the option of taking the arrestee samples because of cost considerations. The DNA profile would be kept on file even in the case of acquittal, just as with fingerprints. The candidate limiting his proposal to samples from arrestees for violent

crimes only says that the additional testing would add only hundreds to the state evidence file, and suggests continuing the current appropriation of \$7 million to \$8 million to eliminate the current DNA backlog.

13. "Peyton Man Linked To '89 Crimes." Rocky Mountain News (Denver, CO), August 4, 2001.
A Colorado man has been linked to a New York rape through a "cold hit" in the national DNA database. The man had been suspected of raping a woman last August and his DNA was collected and matched on the database to the unsolved crime in New York.
14. "DNA tracks 1994 slayings; Jailed suspect linked to 2 cousins' deaths." San Antonio Express-News, August 4, 2001.
The DNA database in Texas has linked a man who has been indicted on murder charges to the unsolved murder of two children in 1994. The man had not previously been a suspect in the murder of the children. The Bexar County database, where the DNA sample was entered, enjoys a relatively small backlog. Briefly discusses the possibility that several "cold hits" are being missed because samples are sitting in crime labs awaiting analysis.
15. "Ashcroft tells conservative legislators of plan to help states clear DNA backlogs." The Associated Press State & Local Wire, August 3, 2001.
Ashcroft announces grant program to give \$30 million to crime labs to assist with DNA backlogs. Ashcroft said, "Backlogs of unanalyzed DNA samples and unacceptable delays in analysis of crime scene DNA evidence are preventing states from fully utilizing this revolutionary law enforcement tool." Ashcroft also said that the Justice Department was undertaking the task of overhauling the national DNA database.
16. "U.S. targets DNA backlog; Agency to spend \$30 million to aid state crime labs." Chicago Tribune, August 2, 2001.
More information on the \$30 million federal grant program for DNA backlogs. Ashcroft is directing the FBI to improve its national DNA identification system and ordered a study on how to reduce long delays by crime labs in analyzing DNA evidence. NIJ estimates that the study will take two years to complete. Ashcroft noted, "Disturbingly, it has been reported that in many instances, police do not even submit rape kits (containing DNA samples from sperm or blood) to crime labs when they have no suspect, because they believe the evidence will never get analyzed." \$16 million of the grant money will be for backlog reductions at state labs, and another \$15 million will be earmarked for no-suspect cases.
17. "Ashcroft Pledges to Speed Up DNA Analysis." Los Angeles Times, August 2, 2001.
See articles #15 & #16. Points out that Bush did not fund the "bricks and mortar" program for general crime lab improvements. Ashcroft said, "'We'll monitor . . . how these funds are used and their effectiveness, and then we'll collaborate with the Congress to see what else might be needed.'" Articles reports that "Some critics said the plan may represent too little, too late in the battle to harness the full potential of DNA to fight crime."
18. "Press Conference With U.S. Attorney General John Ashcroft; Senator Orrin Hatch (R-UT); And Senator Charles Schumer (D-NY), Federal News Service, August 1, 2001.
Full text of press conference on federal funding for the DNA Backlog Elimination Act (see articles 15, 16, 17).
19. "Bode Technology Group Reduces DNA Crime Evidence Backlog." PR Newswire, August 1, 2001.
Bode supports nine state-mandated felon offender DNA databases including North Carolina's and Virginia's, where the company has reduced the state's backlog by 75 percent. "In the last three years there have been approximately 400 DNA matches that are attributable, in part, to outsourcing to Bode Technology," said Paul Ferrara, director of Virginia's Division of Forensic Science. "Before working with Bode Technology we had an average of five cold hits a year. With their help on the convicted felon database, internally we are able to concentrate on processing crime scene evidence."
20. "Demand for DNA testing strains state resources." The Dallas Morning News, July 31, 2001.
Texas crime labs are struggling to keep up with requirements for inmate DNA testing. Most inmates do not object to the DNA testing -- they see it as protection against them being falsely accused of a crime in the future.
21. "DNA alters thinking on swift justice; deadlines extended in sex cases." The Dallas Morning News, July 31, 2001.

Discusses a new Texas law that eliminates the statute of limitations if DNA evidence is available. However, some offices in Texas may continue to use “John Doe” indictments as “insurance.” Also reports on “cold hit” successes of the state’s offender DNA database.

22. “DNA data from everyone would combat crime, racism.” USA Today, July 26, 2001.
Editorial. Argues that an entire-population DNA database would help solve criminal justice problems, such as racial profiling, because crimes could be conclusively linked to the true culprit. Acknowledges the privacy concerns involved, but believes the benefits would outweigh the risks. Also argues that the privacy concerns can be adequately addressed. Urges the Bush Administration to get the debate on this issue started.
23. “Crime Scene Investigation: Las Vegas has real ‘CSI.’” The View (Las Vegas, NV), July 25, 2001.
General article on the Las Vegas crime lab. Notes the differences between real-life crime lab work and that seen on television’s “CSI.”
24. “Let the police take DNA samples.” USA Today, June 19, 2001.
Endorses the International Association of Chiefs of Police’s advocacy for taking DNA samples from persons arrested for violent crimes. Questions why the ACLU does not support this proposal that would “would increase the chances that police might make a positive identification of violent criminals — and reduce the possibility of an innocent person being tried, convicted and imprisoned for years.”

Genetic Privacy

25. “Fighting genetic discrimination in the workplace.” Scripps Howard News Service, August 7, 2001.
Twenty-eight states specifically limit use of genetic information in the workplace and insurance, and 48 states have disabilities protections that may also apply. However, these state laws do not cover the 55 million Americans who work for large employers that self-insure and whose health care is subject only to federal regulation.

Paternity

26. “Paternity blood test fails a chain-of-custody test.” The National Law Journal, August 6, 2001.
A final judgment establishing paternity and child support was reversed by a Florida District Court of Appeal because the state Department of Revenue, which had filed a paternity petition on behalf of the mother, did not lay a proper predicate for the admission of DNA test results. The court said the department failed to establish a reliable chain of custody and also failed to authenticate a blood sample attributed to the husband. The husband had been tested in one lab and the results then sent to another to be analyzed. Although the analyzing lab testified to receiving the sample in a sealed container, nothing in the record identified the husband as the sample’s donor or established that the sample was collected under the conditions stipulated to.
27. “Nebraska hospitals pushing fathers to claim children.” The Associated Press State & Local Wire, August 1, 2001.
In an effort to reduce the amount of money that Nebraska spends on paternity cases and court ordered paternity tests, the state is offering to pay hospitals \$20 for each paternity form signed by an unmarried father. The state has spent as much as \$430,000 on genetic tests in one year.