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The October 25, 2002 DNA legislative and media summary 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

Federal funding will assist several crime labs in Texas with their DNA backlogs, and New York City medical examiner has received significant federal funding to help with DNA testing of World Trade Center victims. New York City police are restressing efforts on using DNA to solve burglaries.

Cold hits identified offenders in Oregon (for a murder in Nevada), California (six rapes), New Mexico (rape), Colorado (3 rapes), and exonerated a suspect in a Virginia sex crime.

Texas candidates for Attorney General are campaigning on issues of rape kits and sexual assault nurse examiners. Lack of adequate evidence storage (including DNA) in Kansas City is causing major difficulties in court. A county in California is proceeding with plans for a new crime lab, despite budget local problems.

In international news: Interpol is updating its systems, which will include a DNA exchange program. A legislative proposal in France would expand police DNA powers. DNA plays a key role in a 22 year old murder trial in Ireland, and national DNA databases in Canada and Australia were credited with making important hits. Several Australian states and the national government continue to face growing pains associated with expanded use of the DNA database, and one state is planning a forensic institute. Nigeria used DNA to settle a paternity case with three alledged mothers.

STATE LEGISLATION

Forensic DNA

1. Virginia Ballot Measure 1 -- A vote to approve this proposed amendment will make it clear that the Supreme Court may consider a claim of actual innocence without requiring the person to file the claim first in a lower court. If the voters approve the proposed amendment, it will take effect November 15, 2002.

Genetic Privacy

2. Colorado Draft 11 – Requires “written authorization” instead of “willing consent” for release of genetic testing information

NEWS ARTICLES

Forensic DNA

1. “National DNA data bank helps Calgary police make arrest in old sex assault.” Canadian Press, October 23, 2002. Police in Calgary, Canada have used a recently established national DNA data bank to lay charges in an eight-year-old rape case. This summer, a man found guilty of a serious offence was ordered to give a DNA sample. It was entered into the data bank, resulting in a match to samples gathered from the 1994 sexual assault.
2. “Cop DNA Not Found on Woman's Dress.” Newsday (New York, NY), October 23, 2002.

In New York, an FBI laboratory report has found that semen on the dress of a woman allegedly sexually abused by a suspended Suffolk County highway patrol officer does not match the accused. However, the women had always maintained that her attacker used a condom.

3. "Despite economy, Santa Clara County to move ahead on capital project." San Jose Mercury News, October 23, 2002.
Santa Clara County, California supervisors voted unanimously proceed with up to a half billion dollars in building projects over the next decade, despite the economic downturn that recently forced the county to slice \$102 million from its budget. The list of projects includes a new crime lab. DNA requests critical for proving guilt or innocence, have grown by 239 percent in recent years, according to staff reports.
4. "French left denounces "war on poor" crime bill." Agence France Presse, October 22, 2002.
A new crime bill drawn up by France's government which clamps down on prostitution, organised begging and squatters has been condemned by the left as a "war on the poor." The bill -- to be presented by Interior Minister Nicolas Sarkozy at the weekly cabinet meeting -- creates a number of new offences, including "passive soliciting," "illegal group occupation of property" and "exploitation of begging." It also increases police powers to search vehicles, frisk individuals and hold records -- including DNA samples -- of suspects.
5. "Spurred by Sept. 11, Interpol climbs out of technological backwater and onto the Internet." Associated Press Worldstream, October 22, 2002.
Interpol is giving itself a "long overdue" overhaul. By the end of next year, Interpol officials hope all 181 member countries will be linked to a speedy, Internet-based system to track down criminals. The roughly 10-million euro (dollar) project took form in February and is being tested in 40 countries. It will flash digital fingerprints, pictures and even DNA profiles to anyone with a personal computer, the right software and proper authorization.
6. "Grant to help crime labs handle DNA tests." Fort Worth Star-Telegram, October 22, 2002.
The Fort Worth Police Department's crime lab has been awarded an \$836,000 grant to help clear a DNA testing backlog for criminal cases in which no suspects have been identified. The Texas Department of Public Safety, the coordinating agency, recently received word that the state was receiving \$3,379,688, the third-largest award in the country. The Fort Worth grant will be used to screen backlogged no-suspect rape cases for biological evidence. It will also allow evidence from rape and homicide cases to be outsourced to Orchid Cellmark for DNA analysis.
7. "Sexual assault discussed; Attorney general candidates in forum." Fort Worth Star-Telegram, October 22, 2002.
Candidates for Texas Attorney General recently outlined their plans to address sexual assault problems. The Democrat candidate reiterated his pledge to provide rape kits, upon request, to any victim of sexual assault. He said the increased use of the kits would help in the apprehension and prosecution of rapists. The Republican candidate said he would work to increase the number of specialized nurses who work with the victims of sexual assault. The state has about 100 of the nurses, known as sexual assault nurse examiners, but needs about 500.
8. "Murder trial told DNA sample matched accused." The Irish Times, October 22, 2002.
In Ireland, DNA taken from the body of a woman found raped and strangled over 22 years ago has matched DNA taken from a former Army sergeant on trial for her murder.
9. "Court Ruling On Legality Of Execution Is Challenged." The New York Times, October 22, 2002.
Federal prosecutors in Manhattan have asked a federal appeals court panel to reverse a judge's ruling that the death penalty is unconstitutional and "tantamount to foreseeable, state-sponsored murder of innocent human beings." In his ruling last July, the judge found that the increasing number of exonerations of death row inmates through DNA and other evidence had shown there was an "undue risk of executing innocent people" in violation of the constitutional right to due process. But the office of United States Attorney told the three-judge appeals panel that this opinion was flawed and blocked by Supreme Court precedent that has upheld the constitutionality of the death penalty.
10. "Hospital Offers DNA Program." Press Journal (Vero Beach, FL), October 22, 2002.
Beginning Nov. 1, Indian River Memorial Hospital's Women's Health Center will offer a free program that provides a DNA sample that could be made available to law enforcement for identification purposes should a child ever disappear or become involved in an accident or natural disaster. The Child Identification Program (Ch*I*P) gives parents or guardians the option of having their child's DNA sample drawn while the newborn is in the

hospital. The DNA sample will be obtained at the same time that the state-mandated PKU test sample is taken. It requires only an extra drop of blood, which is then spotted onto special paper and sealed in an envelope that the parent or guardian is given for safekeeping.

11. "Police errors imperil homicide cases." The Associated Press State & Local Wire, October 21, 2002.
In Kansas City, an internal audit has shown that poor handling of evidence has put at least eight possible homicide prosecutions in doubt, while evidence in other cases has disappeared or been ruined in outdated storage systems. The property and evidence warehouse, which contains more than 149,000 items, has mice and a leaky roof which have damaged and destroyed some evidence. The lack of air conditioning means temperatures and humidity can rise to levels that could destroy some DNA evidence.
12. "DNA evidence leads to arrest warrant in old Reno murder." The Associated Press State & Local Wire, October 21, 2002.
In Nevada, evidence gathered 4 1/2 years ago after a murder in Reno has produced an arrest warrant for a man being held in jail in Oregon. Investigators removed DNA samples from the victim's body who was strangled in 1998 and placed them in a national DNA database of convicted offenders. In June, the jailed suspect provided a DNA sample to his probation officer in Grants Pass, Ore., where he was being held on unrelated felony charges.
13. "Enrollment doubles for WVU forensic science major." October 21, 2002.
The West Virginia University forensic science program currently has 400 students. Enrollment has doubled in just one year, with 51 students transferring from other universities over the summer. A class of 13 graduates this year.
14. "DNA Clue In Hunt For Serial Rape Monster." Birmingham Post, October, 21, 2002.
In England, detectives hunting a serial rapist who has struck nine times in a year have a DNA sample of their suspect. This has been the largest rapist investigation since the hunt for the Yorkshire Ripper in the early 1980s. Samples have now been taken from 3,000 men across the country in one of the country's biggest ever DNA swabbing exercises. More than 100 police officers from London, Surrey, Kent and Berkshire are now hunting the rapist who first targeted a ten year-old girl last year.
15. "DNA links 200." Perth Sunday Times, October 20, 2002.
In Western Australia, the Police Minister has revealed that DNA samples logged on the national database have been linked to 200 unsolved crimes. The latest figures reveal that one in every six samples of DNA taken from serving prisoners has the potential to solve a crime. So far 3200 DNA samples have been taken from prisoners serving sentences of 12 months or more, and 1200 of those have been logged in the database. Western Australia may also be opening the country's first institute of forensic science next year. A steering committee has been established with representatives from key stakeholders and if progress is made there could be a skeleton institute within nine months.
16. "Nigeria; Six Years After: Court Rules On Miracle Baby." Africa News, October 19, 2002.
In Nigeria, DNA testing has finally identified the true mother of a baby dubbed the "Miracle Baby" after three women all claimed maternity. The ruling by the judge has ended a year-long legal battle for custody.
17. "Govt hindering DNA plan." Northern Territory News, October 19, 2002.
In Australia, the Northern Territory Police Minister has accused the Federal Government is "hindering" the states and territories from setting up an effective DNA database. He said it was clear Australia did not have the cross-border protocols needed to make the most of DNA. "The Commonwealth will not allow the Territory to join a national DNA database unless we water down our DNA laws to comply with its legislation," he said. "If the Territory moved towards the Commonwealth's model, it would seriously reduce the capacity of NT police to use DNA as a crime-fighting tool."
18. "Hair Analysis Use Faulted." The Richmond Times-Dispatch, October 19, 2002.
Article charges that hair analysis is a subjective procedure that can lead to wrong conclusions. And its significance has often been overstated in courtrooms, leading to wrongful convictions. Of the first 70 inmates cleared of crimes by DNA testing, 21 were convicted in part on faulty hair analysis. However, the kind of DNA test that is most often the only kind that can be used on a hair - mitochondrial DNA - can take up to a year for the FBI to perform, or cost many thousands of dollars for a private lab to conduct.

19. "S.F. transient held in rapes of homeless women." The San Francisco Chronicle, October 19, 2002.
In California, a DNA match has led to the arrest and charging of a San Francisco transient who police say befriended and then raped as many as six homeless women in the downtown area over three years. The identification of the man was aided by hits on the state's DNA database. The man was not a registered sex offender, despite repeated arrests for rape -- one in Oakland in 1995, which was dropped for lack of evidence, and another in April 2000 in San Francisco in a case that was also dismissed for lack of evidence.
20. "Charges Of Obscene Act Dropped After DNA Test." The Virginian-Pilot (Norfolk, VA), October 19, 2002.
In Virginia, charges against a Navy officer accused of performing an obscene act against a girl at a public library were withdrawn because DNA evidence did not match a sample he volunteered. The charges were brought when a 16-year-old girl identified him as the man who approached her at the city's library. "He had been claiming all the time that it was a misidentification," said his lawyer. "That turned out to be the case. It is unfortunate that he had to go through all of this."
21. "DNA tests cast wider net." The Advertiser, October 18, 2002.
In South Australia, the DNA of people suspected of committing any of 11 summary offences, including illegal use of a motor vehicle, would be collected under an expansion of tough new laws that were recently announced. DNA reform laws before State Parliament allow senior police officers to obtain cheek swab DNA samples from all prisoners in SA jails, and those convicted, charged or suspected of serious indictable offences such as murder, rape, armed robbery and terrorism. These proposed laws will be extended to include those suspected, convicted or charged of certain summary crimes including assaulting police, gross indecency, possession of indecent material, creation of false belief and carrying an offensive weapon.
22. "Slaying Suspect Arraigned." Albuquerque Journal, October 18, 2002.
In New Mexico, a prime suspect in the slaying of a single mother was arraigned on 13 counts including attempted murder, rape, robbery and tampering with evidence in the rape and assault of another woman on May 18. According to prosecutors, he was linked to the May 18 rape through DNA evidence collected at the scene. The suspect has a lengthy police record dating back to 1999 for commercial burglary, breaking and entering, and larceny, and was required to give a DNA sample for the state database.
23. "FEMA Releases \$19.5 Million To Nyc Office Of Chief Medical Examiner." FDCH Federal Department and Agency Documents -- Regulatory Intelligence Data, October 18, 2002.
The Federal Emergency Management Agency (FEMA) obligated an additional \$19.5 million in funding today to the state of New York to help New York recover from the tragic events of Sept. 11. The combined package of seven FEMA grants, totaling \$19,551,944 million, reimburses OCME for costs associated with the: Development and installation of OCME's computer system; Testing and analysis of DNA samples by qualified contract specialists; Preservation of recovered remains in a manner best suited for DNA identification; and Emergency response activities on the part of OCME staff and a team of more than 300 forensic dentists needed to identify the recovered remains.
24. "DNA Tests Connect Inmate To Three Rapes." Rocky Mountain News (Denver, CO), October 18, 2002.
In Colorado, DNA tests have linked a convicted child molester to three unsolved rapes in Boulder and Lafayette in the 1990s. The man was convicted of sexual assault on a child in Boulder in 1995, and is still serving that sentence.
25. "Illinois governor pardons four exonerated in 1986 rape-murder by DNA evidence." The Associated Press, October 17, 2002.
Illinois Governor Ryan has pardoned four men who spent years in prison before DNA evidence exonerated them in the rape and murder of a medical student. The case had raised allegations of coerced confessions and botched evidence even before new DNA evidence from the victim's body and car led to the release of two of the men cousins last December. Three of the men had faced life in prison -- the fourth had already been released after pleading guilty in exchange for a 12-year sentence. He now says he was coerced into confessing.
26. "Cops Aim At Top Burglars." The New York Post, October 16, 2002.
In New York, the NYPD has unveiled several burglary-fighting measures they hope to implement. At the meeting, attended by precinct and squad commanders from each of the city's 76 precincts, deputy commissioner of operations Gary McCarthy announced that the importance of evidence collection at burglaries will be restressed, including the taking of fingerprints and any items that could reveal DNA. The NYPD is in the process of trying to

set up DNA files for burglars.

Genetic Privacy

27. "Myriad Of Reasons Not To Patent Our Genes." The Edmonton Sun, October 22, 2002.
Excerpt from article: "The good news is that thanks to advances in genetic technology, tests for those genes are available. The bad news is that Myriad claims it has a monopoly not only on the genes but on any information derived from them and all methods developed to diagnose and treat hereditary breast cancer. At least, that's the reading of the Canadian Cancer Society and the National Cancer Institute of Canada that put out a joint position on the patenting of the two genes in question earlier this year."
28. "Stopping Genetic Discrimination." Mainichi Daily News, October 22, 2002.
The Japan Society of Human Genetics and three other academic organizations have issued a declaration denouncing the misuse of genetic information for purposes such as screening life insurance applicants. However, the article reports that "almost all newborn babies are screened for phenylketon uria (PKU), congenital hypothyroidism, and four other congenital diseases. While those who are found to be susceptible to PKU or hypothyroidism can lead normal lives as long as proper precautions are taken, it has been reported that some have already been denied postal life insurance and private-sector life insurance coverage."
29. "Ohio Lacking in Privacy Protections, Survey Says." States News Service, October 21, 2002.
A new study by the Privacy Journal found that Ohio has fewer and weaker privacy protections than most other states. It ranks Ohio in the third of five tiers of states. In categorizing the states, Privacy Journal gave the most weight to the areas of medical and financial privacy.
30. "Protection Of Privacy By States Is Ranked." The New York Times, October 20, 2002.
California and Minnesota protect the privacy of their citizens better than any other states, while the federal government does a poor job, a study by Privacy Journal says. The publisher of the monthly journal said the two states have much in common in the commitment to privacy rights, though he ranked California marginally ahead. "Both have a permanent office in state government looking after privacy," he said. "Both state supreme courts have reaffirmed the right to privacy." The lowest tier (fifth tier) includes Arkansas, Delaware, Idaho, Iowa, Kansas, Kentucky, Mississippi, Missouri, North Carolina, South Dakota, Texas and Wyoming. The federal government would have been ranked in the fourth tier of privacy protectors if it were a state.