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The October 4, 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

Forbes magazine asks why all 50 states are not yet collecting DNA from all convicted felons. The California Attorney General and a District Attorney are calling for a "DNA Bill of Rights for sexual assault victims.

Cold hits were instrumental to cases in New Mexico (a rape / attempted murder), Missouri (a murder), and Ohio (a murder). Backlogs made the news in Illinois, and a Virginia backlog (or delay in submitting the evidence) had the unfortunate consequence delaying the arrest of a rapist who subsequently committed two more rapes before being identified in the first attack. A New Mexico gubernatorial candidate is calling for expanded crime labs.

Post conviction DNA testing has freed inmates in Montana and Texas, and a Virginia man who was exonerated through DNA testing is suing the local government for his wrongful conviction.

In international news...law enforcement officials in an Australian state are openly criticizing the Attorney General for taking a restrictive view of police authority to collect DNA. Police in England continue to make use of DNA in solving burglaries and significantly lowering property crime rates, but discontinued government funding for some testing could seriously restrict its use.

## NEWS ARTICLES

### Forensic DNA

1. "Steve Forbes on bad banking in Japan, Spain's Gibraltar goof and dumb DNA policies at home." Forbes, October 14, 2002.  
From the "Facts and Comments" section: "There is no evidence that any state of the 23 that obtain DNA samples from all felons has ever misused those samples. What are the other 27 states and the District of Columbia waiting for? What public good is served by allowing the hidden crimes of felons to go unpunished?"
2. "Police banned from blanket DNA testing." The Advertiser, October 2, 2002.  
South Australia's Attorney General said blanket testing of offenders would not be introduced in South Australia. New DNA testing procedures would be confined to convicted prisoners and their profiles would be stored on a database for police use. The SA Police Association president said this decision is "an absolute disgrace". "I find it extraordinary the Government can mislead the community about its strong stance on law and order issues and then deliver the weakest type of DNA legislation in the country," he said. "It is disappointing this technology will not be used to its fullest extent for the benefit of the community and victims of crime."
3. "DNA testing and guilt or innocence." The Advertiser, October 2, 2002.  
Editorial on South Australia Attorney General's announcement that widespread testing of offenders would not be pursued. "Caution is commendable when introducing any legislation but it is difficult to understand the objection to people charged with offences being DNA tested... unless serious scientific objections are raised, this seems to be a logical extension of technology no more alarming than, say, the computerization of driving licenses and vehicle registration."
4. "Police breakthrough in Australian murder of British tourist." Agence France Presse, October 2, 2002.  
In Australia, police investigating the presumed murder of British tourist won a major breakthrough with a court order allowing access to DNA material from their key suspect. The South Australian Supreme Court dismissed a

bid by lawyers acting for the suspect to prevent Northern Territory police accessing DNA taken by South Australian police investigating an unrelated case. The defense lawyers plan an immediate appeal of the decision.

5. "Hyde wants DNA tests for all charged." The Advertiser, October 1, 2002.  
South Australia's Police Commissioner wants the power to DNA test people charged with offences in South Australia. He said that current laws are "difficult and complex" to use and were hampering police in solving crime. "We are disappointed the legislation in SA has not been as effective as could be expected. Because of limitations in the procedures that need to be followed and constraints on the establishment of a database of convicted offenders, the potential for this has not been realized. He also said the existing range of offences covered by legislation in which DNA could be taken needed changing. "We should seriously look at taking DNA profiles from drug offenders if we are serious about handling crimes such as breakings and robberies."
6. "Judge releases man after 15 years in prison because DNA tests prove his innocence." The Associated Press, October 1, 2002.  
In Montana, a man who spent 15 years in prison for allegedly raping an 8-year-old girl was freed at the urging of prosecutors who said DNA evidence proves his innocence. The district judge approved the request by the county attorney and Montana Attorney General who had asked the judge to vacate the man's convictions based on the results of DNA testing that wasn't widely used at the time of his trial.
7. "Illinois Spotlight." Copley News Service, October 1, 2002.  
Illinois is an estimated 8,000 cases behind in complying with the mandates of a new state law that requires all newly convicted felons to submit blood samples to the state's DNA database. The new law received overwhelming support from the General Assembly and Gov. George Ryan as way of solving crimes and making sure innocent people aren't prosecuted. But because lawmakers included no money in the state budget to help pay for the 1,500 percent increase in testing, few, if any new samples have been put into the computerized database. And there's no solution in sight for months.
8. "DNA odds at issue in assault trial." Omaha World-Herald, October 1, 2002.  
In a Nebraska court case regarding the sexual assault of a child, the prosecutor said DNA testing indicates the probability that another African-American committed the crime is one in 30.3 sextillion. The attorney for suspect said, however, that the picture isn't so clear. She points out that the suspect is Nigerian, not African-American, and a defense scientist has estimated that that could change the odds by a multiplier of 10.
9. "Man wrongfully convicted files civil suit." The Associated Press State & Local Wire, September 30, 2002.  
In Virginia, a civil suit was filed in federal court accusing law enforcement officials and prosecutors of conspiring to convict a man of a murder and rape for which he was later pardoned. The lawsuit was filed on behalf of Earl Washington Jr., who spent 9 1/2 years on death row before DNA evidence cast doubt on his conviction for a 1982 rape and murder. In part, the suit alleges that investigators initially instructed the state crime lab not to test a key piece of physical evidence linking him to the crime scene.
10. "New Police Techniques Targeting Burglaries." Birmingham Post, September 30, 2002.  
Use of DNA evidence has been instrumental in helping police in a community in England bring burglary offenses down to a 20 year low. "If there has been a spate of break-ins which have been by someone smashing their way in through a rear window we can compare all of them. In one there may have been some DNA left at the scene which helps us identify the person who may have carried out the others."
11. "Fraudster Caught By DNA." Press Association, September 30, 2002.  
In New Zealand, a social security fraudster was caught by his DNA on the back of a postage stamp on an envelope containing forged Giro cheques. The man was jailed for a year after admitting six charges of forgery, fraud and deception involving more than £7,000. He had denied he had anything to with the envelope, but a saliva sample taken from the back of the stamp matched his DNA.
12. "Powerful Tool Helps Convict Rapist In '92 Beach Case." The Virginian Pilot (Norfolk, VA), September 30, 2002.  
In Virginia, a jury has convicted a man of sexually assaulting a child in 1992. The man was originally identified through a "cold hit" on the state's DNA database. "The only regret is that the DNA sample wasn't matched years earlier, when it may have prevented Lane (the perpetrator) from striking again. He has since been indicted in the rapes of two other people in 1995 in Virginia Beach. His DNA matches evidence taken from those victims."

13. "DNA evidence links man to dead woman." Belleville News-Democrat, September 29, 2002.  
In Missouri, a cold hit on the state DNA database has led police to a suspect in a murder investigation. DNA evidence that matches the man was found on the body of a woman who was murdered and then submerged in snow and ice for a month before being discovered. The man has a previous conviction for unlawful restraint in 1996 for forcing another woman into a motel room at knifepoint and tying her up with shoelaces. In 1990, he also was convicted of illegal possession of hypodermic needles.
14. "Taos Murder Suspect Indicted in Rape Case Tests Link DNA To Earlier Crime." Albuquerque Journal, September 28, 2002.  
In New Mexico, the DNA database has linked a convicted felon to the rape, robbery, and attempted murder of a woman in May. The man has a lengthy police record dating back to 1999 for commercial burglary, breaking and entering and larceny and was paroled from state prison in March.
15. "DNA tests clear man of rape." The Associated Press State & Local Wire, September 28, 2002.  
A North Texas man was released from jail after DNA tests proved he did not rape a pregnant woman on her way to a bus stop nearly 16 years ago. The man has served 15 years in prison on a 40 year sentence. Ten years after an appeals court upheld his conviction, the 46-year-old roofer asked the trial court for a DNA comparison to clear his name in 2000.
16. "NM: Richardson, Sanchez Unveil Crime Plans." The Bulletin's Frontrunner, September 27, 2002.  
The Democratic candidate for Governor in New Mexico wants to be known as a crime- fighting governor, and is calling for the construction of a new crime lab in Las Cruces and the expansion of the existing labs in Santa Fe and Albuquerque.
17. "Cooley, Lockyer Urge DNA 'Bill of Rights' for Victims." City News Service, September 27, 2002.  
California Attorney General Bill Lockyer and District Attorney Steve Cooley teamed today to urge local officials to increase their spending on DNA testing and analysis for sexual assault cases. Cooley and Lockyer pushed for legislation supporting a "DNA Bill of Rights" for sexual assault victims, which would require rape kits to be stored until the statute of limitations expires and allow victims to know when their evidence is analyzed, destroyed or when a match is found. Timely analysis of the evidence would also be mandated.
18. "Investigators collect DNA samples from November 17 suspects." Associated Press Worldstream, September 26, 2002.  
In Greece, investigators began collecting DNA samples from November 17 terrorist suspects in an attempt to build a solid case that would deal the group its final blow. Judicial investigators and police hope DNA tests can shed light on what was once Greece's most elusive terrorist group. The suspects were arrested following a bungled bomb attack near Athens on June 29. A court approved the DNA tests earlier this month. Although most of the suspects have confessed, police hope to build a more solid case against them by matching DNA samples with more than 150 items - including socks, hairbrushes, glasses, towels and gloves - found in November 17 hide-outs.
19. "Police: DNA from exhumed body linked to murder suspect." The Associated Press State & Local Wire, September 26, 2002.  
In Florida, DNA taken from a leg bone of a woman's exhumed body has linked a man already convicted of two unrelated murders to the woman's 1981 slaying. Investigators said in January, when the victim's body was exhumed, that they needed a sample of her DNA to distinguish it from other DNA material found at her home. The evidence has been in storage for more than two decades.
20. "Funds blow for police." Bristol Evening Post, September 26, 2002.  
In England, the way the government funds the police is set to hit the Gloucestershire force hard, the county's police authority has warned. Up to 3.3 million could be wiped off its budget, the equivalent of 178 bobbies on the beat. Government cash to set up a DNA register also runs out next year, leaving the authority the choice of cutting the service or finding the money from its own resources.
21. "Crime Lab Directors Get A Crash Course In Business Management At Wu." St. Louis Post-Dispatch, September 26, 2002.  
Washington University's Charles F. Knight Executive Education Center, under the auspices of the Olin School of Business and the FBI, provided the nation's crime lab directors with an MBA-style crash course on management techniques, such as mentoring, negotiation and conflict resolution. One common complaint is a lack of resources

and personnel. Organizers devoted several sessions to recruiting and retaining employees; other workshops taught how to lobby for more funding and cope with a limited budget.

22. "DNA match leads to indictment in 1992 slaying." The Associated Press State & Local Wire, September 25, 2002. In Ohio, a DNA match on the offender DNA database has resulted in the indictment of a Tennessee jail inmate in connection with a woman's slaying 10 years ago. The man, who is serving a 20-year jail term for aggravated kidnapping and attempted aggravated sexual battery in an unrelated case, is accused of killing a woman in 1992.
23. "Trial date to be set in series of gang rapes." Sacramento Bee, September 25, 2002. In California, seven men accused of kidnapping and gang-raping females will return to court to have a trial date set in the 2000-2001 attacks. Launching a trial has been complicated somewhat by the number of defendants each needing his own attorney and other assorted experts. All the attorneys and defendants are scheduled to return to court to figure out how many additional attorneys who specialize in DNA evidence will be needed during the trial. There are only six attorneys in the Sacramento area who have DNA training - one fewer than the seven defendants, according to the region's DNA defense expert.

#### Genetic Privacy

24. "Study: Creating DNA registry not a good idea for DCF." The Associated Press State & Local Wire, October 1, 2002. In Florida, scientists have discouraged the state child welfare agency from collecting DNA samples from the 45,000 children in state custody, saying taking tissue cells could spark opposition from civil rights and child advocates. A University of Miami bioethics team last month released a study suggesting that "tissue banking" would not be the best tracking method for the Department of Children & Families.
25. "China to develop genetic identification card." Xinhua Economic News Service. China's Genetic Institute of the Henan Provincial People's Hospital in Zhengzhou has developed the technology on trial to produce bar-coded identification cards containing the cardholder's genetic information. The card carries 18 unique digital genetic codes selected from the DNA molecule chain of the holder. The card is still in trial stages and has yet to be recognized by the Chinese police in charge of issuing identification cards.

#### Paternity

26. "Paternity-fraud measure is vetoed." Sacramento Bee, September 28, 2002. The California Governor has vetoed AB 2240 -- meant to assist men who did not initially contest paying child support but learned years later through DNA tests that they could not have fathered the baby. In his veto message, Davis said he recognized that "paternity fraud is a serious issue and has the potential of damaging an individual's livelihood." But the procedures proposed in AB 2240 are flawed. Davis directed the state Department of Child Support Services to work with legislators and advocates on both sides of the issue to develop other recommendations for addressing paternity fraud.