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The March 15, 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

A Senator has offered to sponsor Attorney General Ashcroft's request for a change to CODIS to allow terrorist detainee samples, and a Congressman has introduced a bill to authorize additional funding for DNA casework backlog elimination. Ohio is seeking federal assistance to eliminate a large backlog of DNA casework. Michigan is making progress in implementing its comprehensive all-felons DNA expansion law that was enacted last year.

A "Cold hit" on the DNA databases solved a crime in Colorado and the first person execution of a person to be identified through a "cold hit" is underway in Virginia. A Pennsylvania legislator intends to introduce a bill to eliminate the statute of limitations, and a local Pennsylvania prosecutor has filed charges against suspects identified only by their DNA profiles.

Progress is being made towards new crime lab facilities in California (Ventura County and the joint Los Angeles city/county project), Illinois (Northern Illinois Police), and Washington (Vancouver state lab). Also of interest, the Alabama Supreme Court has upheld the admissibility of the science of DNA testing.

In India, a government scandal involving DNA evidence that has been tampered with is making headlines. A legislator in England has suggested DNA collection from all new-borns, and the New Zealand Government has renewed its promise to propose legislation expanding law enforcement's authority to collect DNA. An article on the United Arab Emirates growing use of forensic DNA made the news.

STATE LEGISLATION

Forensic DNA

1. Missouri HB 2132 & SB 1252 – States that any DNA tests that either exclude or include a suspect are admissible as evidence. Assess a \$1 fee for felony convictions – .75 goes to offender DNA testing and .25 goes to lab accreditation and auditing expenses.
2. Tennessee SJRes 596 – Honoring and commending Mr. William J. Darby III upon the occasion of his retirement from the Tennessee Bureau of Investigation.
3. West Virginia SRes 38 -- Recognizing Marshall University's Forensic Science Academic Program and the achievements of its director, Dr. Terry W. Fenger.

Genetic Privacy / Research

4. Michigan HRes 354 -- A resolution to urging Congress to enact legislation to ban all human cloning.
5. New Jersey AB 2040 – Prohibits human cloning.
6. New York AB 10174 -- Regulates the growing of genetically engineered crops. Addresses cross contamination issues.

NEWS ARTICLES

Forensic DNA

1. No Title. FNS Daybook, March 13, 2002.
Congressman Nadler (D-NY) holds a news conference to introduce legislation, "The Rape Kit DNA Analysis Backlog Elimination Act," which would address the problem of hundreds of thousands of unprocessed rape kit in police storage units across the country.
2. "Defendant in 29-year-old homicide pleads innocent." The Associated Press State & Local Wire, March 12, 2002.
In Washington, investigators have linked a convicted rapist to a 1973 murder. The man had been a suspect in 1973, but police only recently had the DNA evidence against him retested and found the match to the crime scene.
3. "State seeks federal grant to reduce DNA testing backlog." The Associated Press State & Local Wire, March 12, 2002.
Ohio is requesting \$1.8 million in federal funding to reduce a statewide backlog of more than 3,000 untested DNA samples from crime scenes.
4. "Crime labs hope federal money will help reduce backlogs." The Associated Press State & Local Wire, March 12, 2002.
Includes a breakdown of the amount of untested samples that federal funding would assist with at the Ohio state lab and regional labs.
5. "Police iron out DNA law glitches." Detroit Free Press, March 12, 2002.
Although the Michigan all-felons legislation came into effect in January, it was not being fully implemented because law enforcement was not given adequate time to prepare for the new requirements. Local jurisdictions had not received the swab kits for collection and had not been trained to do the collection, and the crime lab was not prepared for the increase in workload. However, the state has been catching up with the new demands, and law enforcement remains upbeat about the new law -- seeing its potential benefits in solving crimes.
6. "Nothing To Conceal In DNA Sampling." The Statesman (India), March 12, 2002.
In India, the chief minister of Jammu and Kashmir said the government has nothing to conceal in the controversy over DNA samples in Pathribal killings and that if found guilty, action would be taken against the erring officials.
7. "Certify DNA Samples By Magistrate, Says Lab." The Times of India, March 12, 2002.
In India, reacting to reports that the blood samples of some of the relatives of the Panchalathan-Pathribal encounter were collected by the same people who had collected the samples earlier, scientists at the Centre for DNA Fingerprinting and Diagnostics here said they will refuse to accept the samples unless the samples are certified as collected before a magistrate.
8. "U.S. uses DNA proof to seize polar bear from traveling circus." The Miami Herald, March 12, 2002.
US federal law enforcement agents have used DNA tests to seize a polar bear -- a threatened species that could become endangered -- from a traveling Mexican circus in Puerto Rico.
9. "Cold Hit' DNA To Result In First Believed Execution." Daily Press, March 11, 2002.
Virginia, the first state to execute a criminal convicted on DNA evidence, is preparing for what is believed to be the first execution in the nation based on a "cold-hit" DNA test. At the time of the match, the man was serving a prison sentence for another rape. He has been behind bars nearly 14 years and would have been released in 2004 without the cold hit, and requested the death penalty after pleading guilty to the rape and murder.
10. "Lag In Funds Stalls Rape Inquiries, Angers Victims." Dayton Daily News, March 10, 2002.

Discusses the national backlog of unanalyzed rape cases – with a focus on Ohio. Rape victims are becoming increasingly mobilized to speak out on this issue as the information comes to light. Ohio is seeking federal funding to assist with its backlog.

11. “Missing persons checks on DNA.” Courier Mail, March 10, 2002.
Police in Queensland, Australia, will be monitoring the results of Australia's first missing persons' DNA database (in New South Wales) but have no immediate plans to implement it.
12. “In Parliament Yesterday.” Press Association, March 9, 2002.
In England, the Labour party's former sports minister said that all newborn babies should have DNA samples taken so police can identify violent criminals later in life from their genetic codes. He made a series of radical suggestions for cutting Britain's "unacceptable" crime levels, including giving police military support, arming all officers, and introducing ID cards. He said creating a compulsory DNA register would also help identify victims of September 11-type disasters.
13. “Dubai Police Laboratory Eyes Region's 'Crime Market'.” Gulf News, March 8, 2002.
The crime lab in Dubai (United Arab Emirates) has begun using DNA testing (PCR) to solve crimes. The article reports “DNA testing is used as a last resort when police reach a dead end and do not have conclusive evidence.” Last year DNA testing solved three murders by testing evidence found under the fingernails of the victims.
14. “Carnahan commends Ashcroft.” Kansas City Star, March 8, 2002.
Senator Carnahan has offered to sponsor Attorney General Ashcroft's proposal to collect and database DNA samples from terrorist detainees.
15. “Wrongly Convicted Pair.” Press Association, March 8, 2002.
In South Wales, two of three men wrongly convicted of murdering a prostitute 14 years ago have been told that their DNA does not link them to the crime scene.
16. “Sheriff Seeks \$2 Million More For Green River Case Inquiry.” The Seattle Post-Intelligencer, March 7, 2002.
In the Green River Killer investigation in Washington, the King County Sheriff told officials that investigators have two new DNA profiles of unknown suspects in the deaths of two women. The Sheriff said that the two victims are not among the 49 considered victims in the Green River killings, and the DNA profiles don't match Green River suspect, not do they match profiles in the national database. The Sheriff is asking for an additional \$2 million to investigate the Green River killings.
17. “Lawmaker wants to erase limitations on child sex charges.” The Associated Press State & Local Wire, March 7, 2002.
A legislator in Pennsylvania plans to introduce legislation to make it easier to prosecute molesters identified or accused years after their attacks by lifting the state's statute of limitations on child sex abuse charges. Currently, Pennsylvania's statute forbids filing charges of sex abuse of a minor after the alleged victim's 23rd birthday - five years beyond the time the victim is no longer a minor. The legislator wants to erase the limitation entirely, but would be willing to compromise. DNA is cited as a compelling reason for loosening the current statute of limitations.
18. “DNA ties prisoner to rapes in Gables.” The Miami Herald, March 7, 2002.
Police in Florida have identified a serial rapist through a DNA match. The man is currently in prison on drug charges. The DNA database was used to match the victims to the same perpetrator, but the man's DNA sample was not in the state's database. Police broke the case after one of the victim's identified the man from a website photo. Subsequently, police secured a DNA sample from the man that matched the crime scene evidence.
19. “J&K Fudges DNA To Cover Up Deadly Deed.” The Times of India, March 7, 2002.
A recently released report in India indicates that the Jammu & Kashmir government (of India) “fudged” crucial DNA samples taken from the relatives of five alleged terrorists who were killed in a police-Army joint operation in March 2000 so as to ensure that it could not be accused of having murdered innocent civilians in a fake encounter. To make sure the tests would come out negative, officials within the administration tampered

with the relatives' DNA samples. "Their identity cards show they are females, (but) DNA results show that they are from human males," the report says. The cover-up strongly suggests the switching of DNA samples was an attempt to disprove the claims of the relatives that the slain men were their relatives and had nothing to do with the massacre.

20. "Ventura County; County Crime lab to Expand." Los Angeles Times, March 6, 2002.
Ventura County (California) leaders approved a \$5.2-million expansion of the sheriff's crime lab, a much-needed project that should help it win a key national accreditation. Most of the funding for the expansion will come from a \$3-million state grant that Ventura County supervisors accepted Tuesday, about \$500,000 of which must be used for lab equipment. The remainder will come from a \$1.3-million, tax-free loan and money seized from narcotics busts, Morris said.
21. "Design pact OKd for police building." Chicago Tribune, March 6, 2002.
In Illinois, the Highland Park City Council has given preliminary approval for an \$8 million building to house its police headquarters, the Northern Illinois Police Crime lab and a regional communications center. The council has approved a \$64,000 contract for preliminary architectural design services, and construction would begin in summer 2003. In addition to the new police headquarters, the Highland Park Justice Center would house the Northern Illinois Police Crime lab to give the 42 member agencies, including Highland Park, access to forensic laboratory testing through an independent local crime lab instead of the state police lab.
22. "County files arrest warrants on suspects' DNA." Lancaster New Era, March 5, 2002.
Police in Lancaster County, Pennsylvania have used a new prosecutorial technique of filing arrest warrants for unknown suspects based on the DNA of assailants. The warrants are for a man who assaulted two children in 1997, and for a man who raped a woman in 1999. In Pennsylvania, the statute of limitations on rape and sexual assault charges is five years.
23. "Joint Crime Lab For City, County Moves Forward." The Daily News of Los Angeles, March 5, 2002.
Los Angeles city and county officials offered assurances that plans for a new joint crime lab were moving ahead on schedule after months of delay on a scaled-down facility. The building for the four-story, \$96 million facility at California State University, Los Angeles, is scheduled to be completed within the next two months, a project coordinator has been hired and the facility is now scheduled to open in 2005.
24. "Senate Includes \$235,000 In Budget For Southwest Washington Crimelab." The Oregonian, March 5, 2002.
The Washington State Senate's capital budget proposal, which passed last week, includes \$235,000 that would complete the lab's pre-design work. The House capital budget committee considers the proposal next. If the money stays in the final budget, construction could begin in July 2003 and be completed by fall 2004. The lab would include DNA testing capabilities.
25. "Criminal law & procedure - DNA evidence." Chicago Daily Law Bulletin, March 5, 2002.
The Illinois Appellate Court has ruled that the trial court erred in denying motion to vacate defendant's convictions for aggravated criminal sexual assault and armed robbery after DNA evidence showed that victim might have misidentified defendant. The court said the "centerpiece" of the victim's identification of the defendant was an act in which DNA was left behind. "The DNA evidence excluding the defendant does not merely impeach the victim but is probative of a factual situation indicating that the victim misidentified the defendant."
26. "DNA bill to come in 'before election.'" The Dominion (Wellington), March 4, 2002.
In New Zealand, the Justice Minister has said that legislation promised a year ago to widen the use of DNA testing of criminals will be introduced by the Government before the election. Last February, the Minister announced that the Government would introduce the bill to allow police to DNA-test burglary suspects and use the data in court if it matched a sample in the police's DNA databank. It would also enable DNA samples to be taken using mouth swabs.
27. "DNA Leads To Sex Assault Arrest." Rocky Mountain News, March 2, 2002.
A suspect in a Denver, Colorado sexual assault case from last October has been identified through his DNA and arrested. The identification came from a "cold hit" on the offender DNA database.

28. "State Proved DNA Test Kits Reliable, Says Ala. Supreme Court." AIDS Litigation Reporter, February 11, 2002.

The Alabama Supreme Court has rejected a murderer's claim that prosecutors failed to produce evidence showing the reliability of the DNA test kits that helped convict him. The state supreme court held that although the trial court judge erred in his decision to take judicial notice of the reliability of the test kits, the state had otherwise met its responsibility of proving the kits were effective and used in a manner that produced trustworthy results.

Genetic Privacy / Research

29. "House passes bill to ban human cloning." The Associated Press State & Local Wire, March 12, 2002.
The Florida House has passed a bill to ban human cloning. Gov. Jeb Bush said he wants to sort out "deep moral implications" in legislation banning human cloning before deciding whether he would sign such a bill. The bill has not yet passed the Senate.
30. "Public 'misled by gene test hype'." The Guardian (London), March 12, 2002.
In England, scientists have warned that a government-backed firm which sells genetic tests direct to consumers through the Body Shop chain is misleading the public by "irresponsibly" exaggerating the strength of research about the relationship between genes, diet and health, and downplaying the potentially serious consequences of gene testing.
31. "Proposed cloning ban assailed at hearing." The San Francisco Chronicle, March 9, 2002.
A wide variety of citizenry turned out at a recent hearing in the California legislature to urge the passage of a resolution warning federal lawmakers not to pass a human cloning ban that might stunt research.
32. "Senate Bill Seeks To Stop Genetic Discrimination By Insurers." BestWire, March 7, 2002.
A bill designed to protect against potential genetic discrimination by insurers and employers has been introduced in the U.S. Senate by Senator Olympia Snowe, R-Maine. The legislation, introduced in the past three Congresses to prevent discrimination by health insurers and protect consumer confidentiality, for the first time also will provide privacy assurances and protections against discrimination by employers as well.
33. "House approves Senate privacy bill, clarifying blood sample law." The Associated Press State & Local Wire, March 7, 2002.
The South Carolina House gave the Senate's "Family Privacy Protection Act" approval after amending the bill to allow parents to have their child's blood sample stored indefinitely or destroyed by the state Department of Health and Environmental Control after two years.

Paternity

34. "Law: In The Names Of The Fathers." The Independent (London), March 12, 2002.
"Advances in DNA-testing techniques to establish paternity, and easier access for the general public to such tests, are fast producing a number of new legal situations. There have been several recent significant changes in legislation affecting the family, including the European Convention on Human Rights and the UN Convention on the Rights of the Child (which states that a child, where possible, has a right to know his or her parents), producing a potentially explosive cocktail."
35. "In Child-Support Cases, DNA and Paternity Don't Go Hand in Hand." New Jersey Law Journal, March 4, 2002.
Current case law largely prevents men from obtaining court-ordered DNA tests. The courts presume as a matter of law that where a child is born to a married couple, or where a man acknowledges paternity at birth and acts as a father, paternity attaches.