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The April 5, 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

The Washington all felons DNA expansion bill has been signed into law, and a similar measure in Arizona has passed the Senate. A more limited expansion bill is moving forward in New Hampshire, and a new law to collect DNA from certain indictees is being implemented in Texas. A California measure to allow forcible collection of DNA samples from specified offenders may be blocked by Senate leadership. A newly introduced federal bill would establish minimum standards for rape kit collection and provide grants for training.

Interstate cold hits on the DNA database solved crimes in Pennsylvania (Virginia felon), Tennessee (Indiana felon), and Utah (Illinois felon). Backlogs made Indiana and Colorado, and up to 4,000 unanalyzed rape kits in the Los Angeles area could be missing and/or destroyed. The Wyoming DNA lab is now in full operation, Oregon may be closing some rural labs to save money, and Arizona labs are looking for \$1 million in federal funding for no suspect casework.

Two men in Georgia are hoping for exoneration after new DNA testing. A federal appeals court has refused to consider a case regarding constitutional rights to access to post conviction testing, but made general statements in favor of such access. An appeals court in Wisconsin has overturned a malpractice verdict against an attorney who did not use DNA testing to help clear his client.

Scottish police have announced their 2000th conviction due to DNA evidence. A state in Australia is facing problems with its DNA lab accreditation, and another Australian state has announced plans to use a missing persons DNA database. DNA paternity testing in Malaysia has led to a rape conviction.

STATE LEGISLATION

Forensic DNA

1. California ACR 184 -- Proclaims the month of April 2002 to be "Sexual Assault Awareness Month." "Whereas, The Department of Justice's DNA and Forensic Identification Data Base has proven an exceptional tool in prosecuting unsolved rape cases..."

Genetic Privacy / Research

2. Delaware SB 329 – Prohibits human cloning but allows cloning technologies to be used for purposes other than human cloning.
3. New York AB 10717 – Establishes a genetics advisory council.

NEWS ARTICLES

1. "Los Angeles; Biological Crime Evidence May Be Missing." Los Angeles Times, April 3, 2002.

In Los Angeles, California, the district attorney's forensic science director contends that biological evidence in 3,000 to 4,000 sexual-assault cases in the county may have been lost or destroyed by law enforcement over the past six years. In applying about two years ago for state funds to perform DNA tests on cold cases, the LAPD and Sheriff's Department reported they had preserved the biological evidence for about 2,000 unsolved rapes and slayings involving sexual offenses. The district attorney's office estimates the agencies should have had evidence for about 6,000 cases. The police and sheriff's offices say the method used by the district attorney for estimating the amount of missing evidence is "highly dubious" and that evidence is not destroyed due to lack of storage space.

2. "DNA leads to Virginia man in 4-year-old rape case." The Associated Press State & Local Wire, April 3, 2002. Police in Pennsylvania have used DNA evidence to identify and arrest a Virginia man for a rape that occurred nearly four years ago. The arrest was made in Virginia one day after authorities in Pennsylvania learned of the "cold hit" on the national DNA database.
3. "Indiana inmate charged with raping 82-year-old woman." The Associated Press State & Local Wire, April 2, 2002.
A grand jury in Tennessee has returned an indictment against an Indiana inmate in the rape of an 82-year-old woman last year. Last month, the Tennessee Bureau of Investigation submitted the state's first DNA samples to CODIS, which included a forensic sample from the woman's rape kit. Authorities were notified of a hit a month later. The man is serving time in Indiana on aggravated burglary and theft convictions, and also had a record of juvenile crimes both in Indiana and Tennessee.
4. "Locke signs drug sentencing reform bill." The Associated Press State & Local Wire, April 2, 2002. Washington State's Governor has signed into law a bill requiring DNA samples from all convicted felons. The bill also establishes a charge of \$100 for the testing (payable by the inmates).
5. "DNA to pinpoint missing persons." The Mercury Hobart, April 1, 2002. Police in Tasmania, Australia will be establishing a missing persons DNA database. Under the plan, relatives of missing people would be able to volunteer their DNA to provide almost foolproof identification of human remains. Any Tasmanian who was worried they might go missing also could give a sample to the database. "So if they are going trekking in Nepal and are worried something might happen, they can volunteer a DNA sample and it will stay in the database until such time as they want it removed." A Tasmania Police constable said 107 people remained outstanding after being reported missing as far back as 1955.
6. "Don't block DNA tests." The San Francisco Chronicle, April 1, 2002. Editorial argues in favor of a bill pending in the California Senate that would allow law enforcement to forcibly obtain DNA samples from inmates who are required by law to submit to testing but refuse to do so. The Senate Democrat leader (who also chairs the Public Safety Committee) has been expressing concern that protesting inmates may be injured, perhaps fatally, by the forced sampling.
7. "Five Arizona DNA labs get tentative approval for \$1 million grant." The Associated Press State & Local Wire, March 31, 2002.
Arizona's five DNA laboratories received tentative approval for a \$1 million grant to solve criminal cases that have no suspects. The state Department of Public Safety teamed with police departments in Mesa, Tucson, Phoenix and Scottsdale to apply for the grant from the National Institute of Justice. The Mesa Police Department hopes to use its share of the funding to test 50 sexual assaults and 50 burglaries for which the department has no suspects, and Phoenix police intend to send some of their testing to commercial labs. The grant, which will be sent to the DPS and distributed among the five labs, will also be used to buy machines such as the thermocycler, which helps prepare the DNA sample, and the genetic analyzer, which runs the sample and profiles the DNA.
8. "Crime labs still face backlog of work despite added funds." The Associated Press State & Local Wire, March 31, 2002.
The Indiana State Police crime lab still faces several years of work to whittle away a burgeoning backlog of evidence, despite a last-minute maneuver by state lawmakers to earmark more money for the lab. The additional funding - about \$12.23 million over four years - is not expected to keep up with the number of cases referred to

the lab. The number of backlogged cases at the state's four crime labs was 5,287 on Jan. 1. By March 1, it swelled to 5,649. DNA analysis of blood and other bodily substances accounted for 729 backlogged cases as of March 1.

9. "Hair-matching flawed as a forensic science." The Dallas Morning News, March 31, 2002.
Hair-matching analysis is coming under increasing criticism – especially since DNA testing has resulted in many exonerations of cases in which the initial conviction was largely based on a hair match. Of the 104 DNA exonerations nationwide, more than a quarter of the wrongful convictions were based in part on hair evidence that mistakenly implicated defendants whose hairs had the same microscopic characteristics as those recovered at crime scenes.
10. "Editorial: CBI labs need a boost." The Denver Post, March 31, 2002.
Editorial reports that the demand for the forensic science services provided by the Colorado Bureau of Investigation has created a "worrisome" backlog. "Gov. Bill Owens and the legislature should make increased CBI funding a priority so this crime-fighting organization can expand its inadequate staffing and facilities. That would be money well-spent and send an unmistakable message to the bad guys."
11. "Police fighting Bush's plans to gut popular federal law enforcement programs." Gannett News Service, March 31, 2002.
Bush's proposed budget targets some very popular Justice Department programs for reduction and elimination, but creates a new \$ 800 million Justice Assistant Grant instead. The current federal programs have put more than 110,000 new police officers on the street, helped create dozens of crime labs and police task forces, purchased computers and other high-tech crime-fighting equipment for cash-strapped police departments and upgraded aging fleets of squad cars. Last year, Alabama used some of its Byrne grant money to create a DNA testing lab for the Alabama Department of Forensic Science in Montgomery.
12. "DNA evidence challenges 1986 rape convictions." The Associated Press State & Local Wire, March 30, 2002.
Two Georgia men convicted of rape in 1986 have DNA testing results which they say exonerate them of the crime. They are requesting new trials. Prosecutors maintain that the conviction was based on other corroborating evidence, including victim identification.
13. "Plan to close labs worries rural police." The Associated Press State & Local Wire, March 30, 2002.
The Oregon Governor's plan to close four rural Oregon State Police crime laboratories has law enforcement officials in eastern Oregon concerned. The proposal would trim \$676,630 from the 2001-2003 biennial budget, but rural law enforcement believes the move would be "devastating to law enforcement in Eastern Oregon."
14. "Problems at forensic laboratory." Courier Mail, March 30, 2002.
In Queensland, Australia, a report has highlighted problems in a key forensic laboratory, raising further questions over its ability to provide crucial DNA evidence for criminal trials. An investigation of the John Tonge Centre by Australia's top scientific testing body found five areas of most serious concern which needed fixing before accreditation could be granted. The areas included the control of records, methods and method validation, handling of exhibits and reporting of results.
15. "Court Won't Revisit DNA Testing Issue Opinions Favorable To Inmates' Tests." Daily Press, March 30, 2002.
The 4th U.S. Circuit Court of Appeals has refused to revisit the question of whether inmates have a constitutional right to DNA testing to try to prove their innocence, but two judges on the appeals court wrote concurring opinions that were generally favorable to the idea that inmates should be allowed to seek such tests. Earlier this year, a three-judge panel on the court reversed a lower court judge who had ruled that an inmate convicted in a 1989 sexual assault case in Fairfax County, Virginia had a constitutional right to seek DNA tests that he claimed would bolster his claim of innocence. The court declined to review the decision, citing the fact that the state judge had already granted the tests.
16. "DNA sampling of sex-crime suspects is off to slow start." Austin American Statesman, March 29, 2002.
DNA sampling of certain indicted offenders in Texas has gotten off to a slow start, due partly to the fact that the burden of ordering the DNA samples was put on the courts and on each county, so that each jurisdiction would have local control over how it takes the samples. This scenario requires more paperwork, which is difficult for

most large cities that have more than one judge who handles criminal cases. There has also been a delay in getting the needed supplies and equipment into the local jurisdictions. Some of the counties are now ready to begin taking the samples, and many others are still preparing.

17. "Malaysian man jailed 36 years for raping daughters." Deutsche Presse-Agentur, March 29, 2002.
In Malaysia, a 45-year-old man was sentenced to 36 years in jail and eight strokes of the cane for raping his two teenage daughters. The rape allegations first came to light when one of the daughters became pregnant. Subsequent paternity testing determined the girl's father was also the child's father.
18. "Court overturns malpractice verdict." Milwaukee Journal Sentinel, March 29, 2002.
In Wisconsin, the state Court of Appeals has overturned a jury verdict ordering the attorney of a man wrongly convicted of rape to pay his client more than \$2.6 million because the lawyer did not see crucial DNA tests that might have exonerated the man. The 4th District appeals court panel ruled that the attorney deserves a new trial at which wrongly convicted man must convince five out of six jurors that he was not guilty in order to prevail on the malpractice claim.
19. "Bill would allow state to take DNA samples from more prisoners." The Associated Press State & Local Wire, March 28, 2002.
The New Hampshire Senate Judiciary Committee was recently told that conducting DNA testing for more types of criminals would help solve crimes. The Judiciary Committee is considering a bill that would expand testing to those imprisoned for violent crimes, including murder, assault, kidnapping and robbery. Juveniles would also be included. The executive director of the New Hampshire Civil Liberties Union is staunchly opposed to the measure, which has already passed the House.
20. "State crime unit launches DNA lab." The Associated Press State & Local Wire, March 28, 2002.
The Wyoming state DNA lab is now fully operational. The state spent \$450,000 on the new equipment and over the past few years has been providing employees with DNA analysis training. The lab is now ready to process evidence. The lab was set up with help from Bode Technology Group
21. "DNA Linked to Utah Rape." The Salt Lake Tribune, March 28, 2002.
A Utah "John Doe" warrant based on a genetic profile of a rapist has been served on a man who was identified by Illinois police. The man has been charged in Illinois with four unrelated felony counts of rape, aggravated rape and unlawful restraint and was identified after police ran his profile through CODIS. In March 2000, when the four-year statute of limitations was set to expire for the attack on a 23-year-old University of Utah student, prosecutors filed three felony charges against "an unknown male" with a specific DNA profile.
22. "Senate votes to require DNA testing of all felons." The Associated Press State & Local Wire, March 27, 2002.
The Arizona Senate has passed a bill to require DNA testing of all felons. The bill (SB1396) would gradually phase in testing of all felony offenders by 2004. It also levies a 3 percent surcharge on criminal fines, traffic penalties and certain game and fish violations to pay for the testing.
23. "DNA 'Hit' No 2000." Daily Record, March 27, 2002.
In Strathclyde, Scotland, DNA testing has led to 2000 criminal convictions by the police. Now, the force is merging its database of DNA profiles with one in Dundee to form a national information bank.
24. "Panel could kill bill on forced DNA tests for violent inmates." The San Francisco Chronicle, March 27, 2002.
In California, legislative sources are saying that a bill authorizing the state Department of Corrections to use force to take DNA samples from violent convicted felons will die in a key state Senate committee because of opposition from a powerful Democratic lawmaker. Senate President Pro Tem John Burton, D-San Francisco, sources say, will kill the bill in the Public Safety Committee, where he and three Democratic colleagues outnumber Republicans 4 to 2. State law requires that murderers, rapists and other dangerous criminals give blood and saliva samples that could be analyzed and matched to unsolved crimes -- but nearly 1,000 convicts have refused to comply. The new bill would give prison officials the authority to forcibly take the samples from any resistant inmate. Crime victims are said to be outraged and are considering a ballot measure for the issue.

25. "Fiscal Year 2003 Budget Request." Federal Document Clearing House Congressional Testimony, March 21, 2002.
Congressional testimony of the Director Public Defender Service for the District of Columbia. Requesting funding for 2 FTE and \$427,000 to hire experts and staff to assist with the science of DNA, population genetics and other technical and scientific areas. The funding is needed in light of recent laws passed by the DC City Council that created collection requirements for the offender DNA database and expanded access to post conviction DNA testing. "The combined effect of these two new laws is an increase in prosecutions based largely or exclusively on DNA evidence. In order to provide the constitutionally-mandated legal representation in this growing number of DNA-based criminal cases" the additional funding is needed.

Genetic Privacy / Research

26. "Human Cloning Project Claims Progress." Gulf News, April 3, 2002.
A woman taking part in a controversial human cloning program for infertile couples is now eight weeks pregnant, revealed Dr Severino Antinori, the well known Italian doctor involved in the cloning project banned in his home country and the USA.
27. "Out-of-court deal in genome case." Toronto Star, April 2, 2002.
The high profile suite over who owns a world-renowned genome database at the Hospital for Sick Children has finally been settled. The hospital will hold in trust the name of a Web site used to access the database for Maryland's Johns Hopkins University for as long as the database is housed at the hospital. Although Sick Kids sued researchers over rights to the Web site, the two institutions reached the agreement out of court.
28. "DNA bill has legislative, governor's support." The Associated Press State & Local Wire, March 30, 2002.
A South Carolina bill giving parents a choice to destroy their newborn's blood sample after genetic testing appears to have the Legislature's and Governor's support. The bill would allow the state to store DNA samples for up to two years and then give parents a choice to destroy the genetic samples after the anonymous testing. The legislation came about after news broke that the state Department of Health and Environmental Control had stored the samples in a deep freeze indefinitely.
29. "NCD seeks federal legislation addressing genetic discrimination." Disability Compliance Bulletin, March 27, 2002.
The National Council on Disability has issued a position paper that recommends new federal legislation to bar genetic discrimination by employers and insurers. Although the Equal Employment Opportunity Commission has interpreted the ADA to prohibit some forms of genetic discrimination, the disabilities act "is a highly problematic vehicle for addressing genetic discrimination."

Paternity

30. "Hospital in baby boy mix-up." The Australian, April 3, 2002.
Authorities in north-eastern China are investigating a mix-up at a local hospital in which up to seven baby boys appear to have been sent home with the wrong families more than 20 years ago. So far, three men born on October 21, 1981, have been found with the wrong parents after being born at the same hospital. The saga began in March 2001 after a test showed that one of the boys could not possibly be the biological child of his parents. The hospital's records of births in October 1981 were destroyed in a flood in 1998, but the mother remembered the name of a woman who gave birth on the same day and subsequent DNA testing confirmed the mix-up.
31. "Illegitimate Spanish "princess" demands DNA test." Agence France Presse, April 2, 2002.
In France, a Frenchwoman who says she is the illegitimate daughter of King Juan Carlos of Spain is demanding that a DNA test be conducted to prove her claim. The Spanish government has always said that the woman's claim would be formally denied if taken up by the courts.

32. "DNA test confirms woman is war-displaced niece of Iwate woman." Japan Economic Newswire, March 28, 2002.

In Japan, a DNA test has confirmed that a woman who recently visited Japan from China to search for kin is the war-displaced niece of a woman from a Japanese prefecture.

CONGRESSIONAL RECORD

1. US Senator Cantwell (D-WA) introduces S. 2055, "The Debbie Smith Act," to make grants to train sexual assault nurse examiners, law enforcement personnel, and first responders in the handling of sexual assault cases, to establish minimum standards for forensic evidence collection kits, and to carry out DNA analyses of samples from crime scenes.

FEDERAL REGISTER

1. Department of Health and Human Services, Secretary's Advisory Committee on Genetic Testing. Request for public comment on a draft information brochure on genetic tests for the general public.