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The May 10, 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 Arizona legislature has approved a bill to expand the state offender DNA database to include all convicted felons. California is appealing a court ruling that protects death row inmates from being required to submit DNA samples. A federal legislator is proposing to allow local law enforcement access to the military's DNA samples for criminal searches.

“Cold hits” have linked rapes in California and Tucson, and lead to convictions in California and Florida and an arrest in New York. California's Attorney General has announced that the state has made over 100 cold hits, and Virginia's DNA database made 68 cold hits in the month of April. Police in Anchorage, Alaska have formed a cold case unit.

A man in Tennessee has been exonerated by DNA testing after serving 22 years in prison.

An Australian state is considering requiring DNA testing for all prisoners, and a New Zealand “cold hit” has solved an old crime. Canadian police are urging an expansion of the national DNA database, Toronto police have solved an old case through a DNA “cold hit”, and a Canadian court ruling has narrowly interpreted the current statute to allow appeals to be exhausted before DNA is required. Israeli police have used DNA to confirm the identity of a pedophile. US forces are testing DNA from Al-Qaida graves, and Chinese officials are using DNA to identify victims of a plane crash.

## STATE LEGISLATION

1. New York SB 7340 – creates a method for applying for an order directing the expungement of a DNA record and samples if the conviction was reversed or vacated.

## NEWS ARTICLES

1. “Afghan Graves May Hold Al-Qaida Info.” AP Online, May 7, 2002.  
Forensics experts from the U.S. Army's criminal investigation department have collected DNA samples from the corpses unearthed at gravesite in Afghanistan. A Canadian battalion commander said that DNA samples had been taken from two other bodies found on a nearby mountain ridge. He said the samples would be handed over to American experts.
2. “State Parliament The Opening.” The Advertiser, May 8, 2002.  
In her speech opening the 50<sup>th</sup> State Parliament of South Australia, the Governor said that the Government plans to introduce DNA testing for all prisoners in state jails.
3. “Sexual assault suspect alternated between San Diego and Tucson.” Copley News Service, May 8, 2002.  
DNA testing from sexual assaults committed in San Diego, California and Tucson, Arizona has led detectives to conclude that the same sexual predator is active in both cities. The link between the rapes (four in all) was made DNA samples were entered into a national DNA database. San Diego police believe that four additional sexual assaults in the area may be attributable to the same person.

4. "Killer Doc Wins DNA Battle." The Edmonton Sun, May 8, 2002.  
In Canada, a man convicted of manslaughter has won a court decision allowing him to put off submitting a DNA sample for the national DNA bank, pending his conviction appeal. Alberta's highest court ruled that a judicial stay on the DNA order pending appeal, granted by a Court of Queen's Bench Justice, was properly within the court's jurisdiction. The Crown had appealed the stay, arguing new federal legislation concerning DNA samples had taken away the court's discretionary powers, however, the three-judge appeal panel disagreed and denied the appeal. In the oral decision, the court said the wording of the recent DNA legislation is ambiguous and "doesn't meet exacting standards."
5. "Rapist Gets 55 Years for 2 Mission Viejo Attacks." Los Angeles Times, May 8, 2002.  
In California, A rapist linked by the state DNA database to separate attacks two weeks apart in Mission Viejo has been sentenced to 55 years in prison.
6. "The Forensic Challenge of a Lifetime, Regrettably." The New York Times, May 8, 2002.  
Overview of the New York City Medical Examiner's significant forensic task of identifying victims of the World Trade Center attack through DNA testing. To date, 1,018 of the 2,824 victims of the World Trade Center attack have been identified. Some victims' remains may never be recovered or identified. Even so, Dr. Shaler hopes for DNA matches on perhaps 1,000 more victims, using software that did not exist before the disaster.
7. "Inmate DNA sampling urged." Toronto Star, May 8, 2002.  
Toronto's Police Chief is calling on the federal government to enact legislation requiring all inmates in Canadian prisons for serious crimes to be forced to provide DNA samples in order to give police the opportunity to link them with unsolved crimes. When the DNA law was passed by Parliament in 1998, there was no provision to allow authorities to collect samples from convicted criminals already serving sentences. The Canadian Association of Chiefs of Police has also been lobbying the government to expand the law requiring data submission of DNA samples.
8. "Arrest In '97 Sex Assault." The Toronto Sun, May 8, 2002.  
In Toronto, police have identified and arrested a suspect in a five-year-old sex assault through the national DNA database. The city's police chief is using the case to urge the federal government to widen the net for DNA samples to include more convicted felons, potentially solving many more cold cases. The chief wants to get samples from people convicted of break-ins, drugs, child porn, domestic assault, indecent acts and prowling, as well as amend the current law to make it retroactive
9. "Urgent: Police Starting DNA Test to Identify Victims." Xinhua General News Service, May 8, 2002.  
In China, local police have started DNA tests to identify victims of an air crash that happened in Dalian, a port city in northeast China's Liaoning Province. A China Northern Airlines MD-82 plane carrying 103 passengers and 9 crew crashed into the sea after a fire broke out in the cabin. There were no survivors.
10. "Vindicated By DNA, Inmate Still In Custody." The Commercial Appeal (Memphis, TN), May 7, 2002.  
In Tennessee, post conviction DNA testing has exonerated a man who has served over 22 years for a rape and robbery conviction. The DNA testing proved he could not have committed the crime, but the man remains in federal custody due an unrelated conviction for felony possession of a firearm affecting commerce, and possession of an unregistered firearm. The sentence carried a two-year term, which defense attorneys hope will be credited as time served.
11. "A Search for Justice in Our Genes." The New York Times, May 7, 2002.  
Column argues in favor of establishing a comprehensive DNA database that would "treat all citizens equally, unlike current laws that often give authorities vast discretion to test some Americans but not others." However, the column also argues that privacy laws surrounding DNA databases also need to be strengthened significantly.
12. "State to appeal injunction barring DNA collection from death row inmates." The Orange County Register, May 7, 2002.

California's Attorney General's Offices will attempt to convince the 3rd District Court of Appeal in Sacramento to overturn a 1999 court decision that protects death row inmates from having to submit DNA samples except under very limited circumstances. In 1997, eight condemned women sued the state to be excluded from the DNA databases on the grounds that the regulations governing DNA extraction had not been properly written and that their DNA is not crucial to obtain because they will never be released back into the public. Therefore, collecting their DNA would violate their privacy rights and freedom from unreasonable searches and seizures, they argued. The court agreed with the women, and its decision applies to every death row prisoner in the state, of which there are 610. Prosecutors and police believe that it is very likely that many death row prisoners committed other crimes for which they could be identified through the DNA database.

13. "Some Parents Seek Peace Of Mind Through DNA Sampling Of Children." St. Louis Post-Dispatch, May 7, 2002.  
A local genetics lab in Missouri has been offering DNA collection kits for children for \$5 a piece. The lab acknowledges that parents in a crisis can match DNA without needing a professional sample, and police often can collect a DNA sample from flakes of skin or a toy that a child has chewed on. But the lab maintains that professional samples are a sure thing because they are free of contaminants and can be kept at room temperature.
14. "DNA test kit challenged in murder case." Star Tribune (Minneapolis, MN), May 7, 2002.  
In Minnesota, State Supreme Court Justices are considering whether DNA tests and the kits used to process DNA samples meet state court standards. A state official estimated the test has been used in about 1,500 criminal cases. The defense attorneys have questioned the DNA evidence, saying prosecutors haven't proved that the kits used to test for the DNA meet reliability standards. "There has been no testing of these particular kits by the scientific community." The article further reports "the company that makes the kits has not publicly revealed its testing methods, citing trade secrets. Other states have admitted the company's testing, but Russett told Supreme Court justices that doesn't mean Minnesota should let in new science without giving it proper scrutiny."
15. "Authorities hope DNA testing will help identify dozens of unknown bodies." The Associated Press State & Local Wire, May 6, 2002.  
In New Jersey, state authorities hope DNA testing and other scientific advancements will help them identify the remains of more than 200 people, some of whom were found more than 20 years ago. The forensic anthropologist who tracks New Jersey's unidentified bodies, said DNA profiles taken from bones can be compared with those of missing persons. While she is hopeful that such testing will cut the number of unidentified bodies in half, she said it will only happen if the testing becomes a routine part of investigations.
16. "Supreme Court hears arguments on DNA." The Associated Press State & Local Wire, May 6, 2002.  
Minnesota Supreme Court case -- "Whether a DNA testing method that Minnesota authorities have used in nearly 1,500 cases since 1999 should remain in use moved into the hands of the state Supreme Court on Monday. The question is at issue because the company producing the test kits has declined to release certain data about the tests, saying it needs to keep its trade secrets confidential."
17. "Lockyer: State's DNA Data Bank Has Made More Than 100 'Cold Hits'." City News Service, May 6, 2002.  
California's Attorney General has announced that more than 100 "cold hits" have been made in unsolved cases through the state's DNA data bank. The attorney general called the DNA data bank "an invaluable crime-solving resource for local sheriffs, police and district attorneys." Four hits were made in 1999, with 11 in 2000 and 51 in 2001 -- twenty-seven were made in the first four months of this year.
18. "Richardson v. Warden-Cheshire Criminal Practice." Connecticut Law Tribune, May 6, 2002.  
In Connecticut, a motion to preclude evidence based on an insufficient chain of custody and because of the asserted unreliability of a method of DNA testing known as the "short tandem repeats," was denied. The court ruled that the forensic DNA evidence was admissible. The state met the burden of showing an appropriate chain of custody with respect to such items as a blood stained handkerchief found at the scene. The handling of the item by a variety of testers over the years did not compromise the DNA remaining on the handkerchief to the point that the testing could not be considered reliable.

19. "Southern pedophile' captured." The Jerusalem Post, May 6, 2002.  
In Israel, Beersheba police have announced the capture of a man they suspect is the notorious "southern pedophile," responsible for the rapes of four young girls over the past 14 months. Two of the victims provided biological evidence that reportedly confirms DNA samples from the suspect. He has denied perpetrating one of the rapes.
20. "DNA databank growing." The Southland Times (New Zealand), May 6, 2002.  
In New Zealand, a growing databank of DNA profiles led to the identification and subsequent conviction in 1998 sexual assault, burglary and robbery of an 81-year-old woman five years earlier. The "cold hit" was made on the national database after the man was required to submit a sample due to a burglary conviction. In the past six years, more than 1600 unsolved crimes were linked to individuals on the databank. For every 100 unsolved crime profiles entered on to the database, about 38 could be linked to individuals.
21. "Cold cases brought to front burner." Anchorage Daily News, May 5, 2002.  
The Anchorage, Alaska Police Department has reconstituted its Homicide Unit, and the six assigned detectives are tearing apart cold case files, looking for new evidence in old murders. So far they've made arrests in a 1998 case and a 1999 case, and the captain overseeing the unit says things are looking good for a break in one of five unsolved murders of minority women. The unit started work in August, after a new chief took over the department, bringing with him a preference for specialized detective units. DNA is playing a central role in the reinvestigations.
22. "Victim assails Army for not matching DNA sooner." The Houston Chronicle, May 5, 2002.  
A Fort Hood infantryman is jailed awaiting military trial on murder and other charges, including the alleged rape of a Houston-area soldier who claims the Army should have used DNA evidence from her assault to quickly catch her attacker and perhaps avert other violent crimes. The Army insists it's not allowed to use stored DNA samples from all troops to randomly search for criminals among its ranks. But events have prompted U.S. Rep. John Culberson, R-Houston, to draft legislation that would widen investigators' access to military DNA samples when probing military or civilian crimes.
23. "Lawyers question DNA tests." The Associated Press State & Local Wire, May 4, 2002.  
Article covering the Minnesota Supreme Court appeal on the admissibility of DNA testing methods.
24. "UC Davis lab analyzes animal DNA to help fight crime." The Associated Press State & Local Wire, May 4, 2002.  
The Veterinary Genetics Laboratory at UC Davis and its extensive database of animal DNA has been used many times by law enforcement to crack crimes. The lab's criminal cases now fall into three categories: animals that kill or hurt people or animals, animal abuse cases, and animals that can tie a suspect to the crime scene. The lab gets one or two criminal cases a week, in addition to requests for parentage testing.
25. "DNA Match Trips Rape Suspect." Sun Sentinel (Fort Lauderdale, FL), May 4, 2002.  
In Florida, a man who was forced to submit a DNA sample after being convicted of battering two police officers has been linked through the state's DNA database to the rape and robbery of two women three years ago. The man has a lengthy criminal record with convictions for robbery, grand theft, burglary and resisting an officer with violence.
26. "DNA Data Key In Charging Two In Slaying." The Columbus Dispatch, May 3, 2002.  
In Ohio, a DNA test on the mother of a missing son has allowed police to identify blood spatters found at a crime scene as that of the son's. Although no body has been found, the police are charging two men with murder.
27. "DNA Sample Nets Suspect In '97 Rape." Daily News (New York), May 3, 2002.  
In New York, detectives have arrested a Staten Island auto mechanic after DNA linked him to the Christmas Eve rape of a Brooklyn woman four years ago. Several months ago, the man gave authorities a DNA sample as a condition of his probation after serving time for a 1999 burglary. The man's profile was then linked through the DNA database to the 1997 rape.

28. "Man charged in hit-and-run fatality because of DNA link." The Associated Press State & Local Wire, May 2, 2002.  
In Wisconsin, a man has been charged in a fatal hit-and-run traffic accident after authorities said DNA testing matched biological material found on his vehicle to the victim.
29. "House OKs expansion of DNA testing to all convicted felons." The Associated Press State & Local Wire, May 2, 2002.  
In Arizona, the House has approved a bill require DNA testing of all convicted felons, a step which supporters say should help solve crimes without known suspects. Arizona now tests only those convicted of certain crimes, including homicide, sexual offenses and home burglary. The 39-14 approval by the House came one day after the chamber refused to exempt lower-level felonies. The estimated \$2 million cost of the expanded testing would come increasing an existing surcharge on criminal fines and traffic violations.
30. "Man Convicted In Assaults Also Accused In Bahamas." Sun Sentinel (Fort Lauderdale, FL), May 1, 2002.  
In a Florida case that marked the first time the Broward Sheriff's Office crime technicians used DNA evidence to match one of its cases with genetic samples taken in a criminal investigation in another country, a man who has been linked by DNA to assaults in Broward County and the Bahamas, was found guilty of eight criminal charges. The Bahamas native who was living in Pompano Beach was convicted of sexual battery with force, attempted sexual battery, armed burglary and aggravated battery.

#### Genetic Privacy / Research

31. "Gregg Wants Kennedy To Tackle Genetic Discrimination After Recess." National Journal CongressDaily, May 3, 2002.  
The US Senate Health, Education, Labor and Pensions ranking member Judd Gregg (R-NH), is calling on Chairman Ted Kennedy (D-NY) to follow "regular order" and schedule a markup just after the Memorial Day recess of a bill to prevent genetic discrimination. Gregg is concerned Democrats will move their version of the bill straight to the floor, although Democratic aides said no decisions have been made yet.
32. "Ethics Of Biobank Challenged By Group." The Times Higher Education Supplement, May 3, 2002.  
The decision to fund the UK Biobank - the world's largest study of the interaction of genes, environment and health - has been dismissed as premature by a research pressure group. The Wellcome Trust, Medical Research Council and Department of Health are providing an initial Pounds 45 million for the project, which will explore the complex nature-nurture debate. The study will use DNA samples and medical records from 500,000 volunteers aged between 45 and 69 and is expected to become a powerful tool in utilizing the data recovered by the Human Genome Project. But Human Genetics Alert insists that the ethical foundations of the study have not yet been finalized. The HGA coordinator said there had been no public consultation or parliamentary debate on the project.

#### Paternity

33. Courts: Man Must Support Child Despite DNA Results." Fulton County Daily Report, May 6, 2002.  
The Georgia Legislature has passed a bill to set a procedure to allow a man to use conclusive scientific evidence to challenge a legal finding of paternity. The bill directs the courts to grant petitioners relief "if genetic testing conclusively shows that the alleged father is not the biological father of the child and certain other conditions are met." Those conditions include ensuring that the alleged father hasn't adopted the child, married the child's mother, or assumed responsibility for the child with the knowledge that he is not the child's biological father. The bill passed the House 163-0, and the Senate 45-5. The governor has taken no action on the bill, and his spokeswoman wouldn't say if the governor will sign it.

