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The May 3, 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

New federal legislation focuses on DNA backlogs, funding, and standardization of rape kit collections, and a Newsweek column highlights the importance of DNA testing to catching criminals and eliminating suspects. DNA testing that linked a man to murders and rapes in Pennsylvania and Colorado is also eliminating him as a prime suspect for rapes in other states throughout the country.

An Indiana editorial urged more funding to address the state crime lab's backlog, and a new DNA lab has been opened in California. New "cold case" units have been formed in California (Los Angeles Sheriff's Department and Chula Vista Police Department) and in Michigan (Calhoun County).

Post conviction DNA testing exonerated people in Illinois and New York, and may lead to an exoneration in a Tennessee case. The Virginia high court has agreed to hear a post-execution DNA testing request, and a federal judge has indicated that he may declare the death penalty unconstitutional (based partly on recent DNA exonerations).

In international news, England's broad DNA collection laws are under scrutiny. A German community has been conducting mass DNA tests on local women to determine the parentage of a dead baby, and police in Ireland are running DNA tests on babies thought to have been brought into the country illegally. In Australia, a state lab is under scrutiny for a possibly contaminated DNA sample, and in another Australian state some groups are questioning a plan to allow police to forcefully obtain DNA from suspects. In Thailand, two men have admitted to planting DNA to mislead an international investigation of a murdered Welsh backpacker.

STATE LEGISLATION

Forensic DNA

1. Massachusetts HB 5100 – Appropriates \$784,746 for the purposes of a federally funded grant entitled, State Police - Boston Police Forensic DNA Lab Improvements.

Genetic Research

2. Delaware SB 344 – Prohibits human cloning.

NEWS ARTICLES

1. "Law letting police store public's DNA 'infringes liberty'." The Daily Telegraph (London), May 1, 2002. In England, a report from the Government's own Human Genetics Commission raises serious concerns about the decision to allow the police to store DNA fingerprints of innocent people indefinitely on a database. The report will recommend the introduction of new safeguards to protect the privacy of people who have never been convicted of any crime. The report will also call for a new ethics committee to be set up to control the way in which the DNA samples are stored and used, and recommend that there should be a new criminal offence of

obtaining DNA without consent.

2. "Opposition DNA Plans Under Attack." The Age (Melbourne), April 30, 2002.
In Victoria, Australia, three key law groups have called for the State Opposition to abandon its plan to allow police to forcefully obtain DNA samples from unwilling criminal suspects without a court order. The Law Institute, Criminal Bar Association and Liberty Victoria said the legal safeguards that required police to gain a court order before they could use physical force to extract DNA samples from suspects should not be tampered with.
3. "DNA tests may free prisoner after 22 years." The Associated Press State & Local Wire, April 30, 2002.
In Tennessee, a convicted rapist is seeking his freedom after 22 years behind bars on the basis of new DNA evidence that he claims shows he is innocent of the crime that sent him to prison. Prosecutors are not expected to oppose his petition. If he is released, it will be the first time in Tennessee that DNA evidence has been used to free a convicted inmate.
4. "County takes aim at 17,000 unsolved murder cases." Copley News Service, April 30, 2002.
The Los Angeles County sheriff's department will revisit 1,700 unsolved murder cases after the Board of Supervisors unanimously approved funding to hire 12 former homicide analysts to review cases. The department estimates it will take three years and \$1.5 million to review all the cases, many of which stacked up in the 1980s. The veteran investigators will look into cases that have been on the shelves for decades and most often were presumed to be unsolvable – focusing on DNA evidence and firearms analysis. The assistant director of the sheriff's crime lab has warned that the lab may have difficulty dealing with the expected onslaught of old cases. Currently, the lab has a backlog of 700 homicide cases.
5. "High Court To Hear Appeal For DNA Test." Daily Press, April 30, 2002.
The Virginia Supreme Court has agreed to hear appeals from a charity and four newspapers seeking DNA testing in the case of a man who was executed 10 years ago. A 1990 DNA test strongly suggested that Coleman was guilty, but since then changes in DNA technology mean a new test could provide more definitive results.
6. "Doubt Over DNA Evidence." The Western Mail, April 30, 2002.
Welsh police are trying to establish exactly how much progress has been made in the case of a backpacker murdered in Thailand. This follows reports by sources in Thailand that two transvestites admitted that they planted false DNA at the scene of the rape and murder of a British woman who was brutally murdered in a tourist hostel in 2000. British detectives played a key role in the discovery of the evidence, which could now prove to be worthless.
7. "Trial begins in 1973 killing." The Associated Press State & Local Wire, April 30, 2002.
In Connecticut, a trial has begun for a 1973 murder case. State prosecutors have said that DNA tests show there is one chance in 878 million that the accused is not the killer. The accused's lawyers are challenging the scientific reliability of the DNA tests, and they claim police improperly extracted statements from their client when they questioned him.
8. "'Cold-case' team starts operating." The Associated Press State & Local Wire, April 30, 2002.
In Calhoun County, Michigan, law-enforcement officials have announced that a "cold-case" team to investigate long-unsolved homicides is now in place. Eight people from three police departments and the county prosecutor's office already have started sifting through about 40 unsolved slayings dating to the early 1960s. Local governments eventually might be asked to supply money to make the unit a permanent fixture.
9. "Weapon Against Rape." The New York Times, April 29, 2002.
Senator Clinton (D-NY) has introduced legislation that would provide federal money to help pay for the analysis of DNA samples in as many as 500,000 rape kits. Representative Jerrold Nadler (D-NY) has introduced similar legislation in the House. Senator Clinton said that to ignore valuable evidence against rapists because of a lack of money is "just unacceptable." Legislation has also been introduced recently in the House by Representatives Maloney (D-NY) and Green (R-WI), and in the Senate by Senator Cantwell (D-WA), that would provide funds to train personnel throughout the U.S. in the proper collection and handling of DNA

evidence, and standardize the evidence kits in sexual assault cases, making it easier to enter the information into state and national databases.

10. "DNA Test Funds Sought." The Daily News of Los Angeles, April 28, 2002.
In Los Angeles County, county administrators and sheriff's officials are looking for \$2.5 million in unallocated drug forfeiture funds or state or federal grants to hire five more crime laboratory criminalists and pay a private laboratory to analyze DNA samples and try to match them to suspects or DNA databases. Detectives' success at cracking old cases with new DNA tests has prompted cash-strapped Los Angeles County officials to seek more money in hopes of solving 700 murders dating back decades.
11. "Police team is hot on trail of cold cases." The San Diego Union-Tribune, April 28, 2002.
In Chula Vista, California, the police department has lured several former criminalists out of retirement this year to form its first "cold-case" squad. They spend 20 hours a week combing through 42 unsolved slayings dating back to the 1970s, combining the latest technology with old-fashioned detective work. The article reports "All cold-case investigators lean heavily on CODIS -- the Combined DNA Index System -- which lets local, state and federal crime labs compare one another's DNA samples taken from inmates and crime scenes nationwide."
12. "DNA is the best witness." The Sunday Gazette Mail, April 28, 2002.
Editorial highlighting the importance of forensic DNA in criminal investigations – both to identify the guilty and exonerate wrongly accused. Reports that approximately one in four of the samples run through a federal databank exonerates a suspect, even when all other evidence suggests he is guilty. "Making this technology as available as possible is as much a personal policy issue as water and sewers or public schools. Just imagine that there is a serial rapist out there. His DNA profile is hidden away in a series of unprocessed rape kits in jurisdictions that are way behind on their backlogs. The profile is also in an offender databank because he has been previously jailed and tested. Someday the crime-scene material will be processed, and uploaded, and there will be a hit, and the man will be arrested. But not yet. And while the kits wait and the man walks, he rapes you. Or your daughter. That's a pretty personal issue, isn't it? And it would have been so easy to stop him."
13. "DNA test clears Waukegan man of rape conviction." Chicago Daily Herald, April 27, 2002.
In Illinois, a Lake County judge has thrown out the 1989 rape conviction of a 28 year-old man. DNA testing of evidence in the case proved conclusively he did not commit the crime. An Assistant State's Attorney said the laboratory did tests of clothing the victim put on after she was attacked showed that the convicted man could not have raped her, and those results were confirmed by the Northern Illinois Crime Laboratory.
14. "German police conduct first mass DNA test on women." Deutsche Presse-Agentur, April 27, 2002.
Police in the southern German state of Bavaria have been conducting the first-ever large-scale forensic DNA testing on women in Germany in a bid to find the mother of dead discarded baby. Local residents have been very cooperative and there had been a large turnout. About half of the women asked to take the saliva test had done so by midday on the first day. About 1,300 young women are expected to do the test over the weekend.
15. "DNA evidence is boon to police." The Indianapolis Star, April 27, 2002.
Editorial from an Indiana newspaper: "Backlogs in DNA labs must be reduced if the justice system is to operate efficiently." In the last session of the General Assembly, one measure would have added a new \$15 fine to traffic tickets. The increased revenue would fund a second shift at the state's four crime labs, but the Senate Finance Committee did not pass the bill. "Noting the pressures on the crime labs, Indiana State Police Superintendent Melvin Carraway said, "We're a victim of our own success." There are other victims as well: the people for whom justice will be delayed or denied until the criminal justice system learns to cope with the miracle in its midst."
16. "Government defends state's forensic facility." AAP Newsfeed, April 26, 2002.
The Queensland, Australia government has defended Brisbane's John Tonge Centre after a forensic bungle forced an extortion case to be dropped today. The charges with four counts of extortion were brought after the accused's DNA was found by the John Tonge Centre on two stamps attached to a demand letter sent to the offices of a solicitor. But the Department of Prosecutions has dismissed the charges five years after the alleged extortion bid, after a second mystery person's DNA was discovered on the stamp. A Criminal Justice

Commission (CJC) report last year raised procedural concerns about the security and handling of human specimens at the John Tonge Centre.

17. "Judge Leans Toward Declaring Death Penalty Unconstitutional." Los Angeles Times, April 26, 2002.
A federal judge in New York said that he was on the verge of declaring the federal death penalty law unconstitutional because too many condemned inmates have turned out to be innocent. Innocent people are being sent to death row "with a frequency far greater than previously supposed," the judge said, citing the fact that 12 men sentenced to death have been exonerated by DNA testing since 1984. DNA testing and other innovative measures "may enable us not only to prevent future mistakes but also to rectify past ones by releasing wrongfully convicted persons--but only if such persons are still alive to be released."
18. "'Missing Body' Murder Trials Are on the Rise." Los Angeles Times, April 26, 2002.
Once considered rare and risky, murder trials in cases in which the bodies are missing are becoming increasingly common. Since the first "no body" conviction in the nation based solely on circumstantial evidence in 1957, prosecutors have successfully tried defendants in a number of such cases where victims were believed to be dropped from airplanes, pushed into the ocean or buried next to freeways. Prosecutors have been aided by advances in crime lab and DNA technology that can link a suspect to a crime scene without a body.
19. "Police Chemist's Suit Says Firing Was Retaliatory." The New York Times, April 26, 2002.
A fired police chemist whose work in hundreds of cases is being reviewed has filed a federal defamation lawsuit accusing city and police officials of retaliating because she reported sexual misconduct. The chemist, Joyce Gilchrist, who had worked for the Oklahoma City police department since 1980, was fired in September, accused of performing shoddy work and giving false or misleading testimony in cases, including some in which she helped send men to death row. Ms. Gilchrist's testimony helped put Robert Lee Miller Jr. in prison for 11 years for a murder he did not commit. In 1998, he was released from death row based on DNA tests. Ms. Gilchrist, whose suit seeks \$20.1 million, is also the subject of state and federal criminal investigations.
20. "DNA Shows Airman Not Rapist In 11 S.C. Cases." Rocky Mountain News (Denver, CO), April 26, 2002.
DNA that linked a senior airman to 12 sexual assaults and a homicide in two cities (Philadelphia, PA and Fort Collins, CO) has saved him from possible prosecution in 11 unsolved attacks in South Carolina, investigators said. Most investigators believe it is unlikely that a sexual predator who attacked six women, killing one, in Philadelphia in 1998 and 1999 and then resurfaced in Colorado in May 2001 would have stopped the behavior in the intervening years. Police from around the country have been reviewing old cases to see if a DNA profile will match the man.
21. "DNA frees man who spent six years in jail on murder conviction." The Associated Press, April 25, 2002.
In New York, a man who spent six years in prison for murder has been freed after DNA testing helped exonerate him in a brutal 1995 gang slaying. When the man was arrested, authorities found a half-dozen bloodstains on his pants - key evidence in the prosecution case. But DNA testing of the blood showed it was not from the victim; it was from two other people injured in the brawl.
22. "Man hopes DNA testing of 36-year-old evidence will lead to mother's killer." The Associated Press State & Local Wire, April 25, 2002
In Ohio, a man who was 18 months old when his mother was raped and murdered 36 years ago is hoping that DNA tests on evidence from the crime may lead to her killer. Last year, local authorities agreed to begin DNA tests on the old evidence. So far, police have been able to do little more than eliminate one potential suspect who died in 1978. The local police say it is difficult to devote the necessary manpower to old cases when there are current ones to handle. "If you're taking time on this one, then you also have to justify to the community, to the other family members, why aren't you looking into their son's case."
23. "Attorney general christens DNA crime lab." Contra Costa Times, April 25, 2002.
In California, a new DNA crime lab has recently been christened by state Attorney General Bill Lockyer. The \$18 million lab will help law enforcement officials in 46 counties throughout the state identify suspects in crimes previously thought unsolvable by using DNA. The attorney general and Gov. Gray Davis have made funding for the lab a top priority in the state's budget during the past three years and consider the facility one of the

world's most sophisticated. The new space houses the Cal DNA Data Bank, the Cold Hit program and the Missing Persons DNA programs.

24. "Ireland To Get 200 More Border Police." The Mirror, April 25, 2002.
In Ireland, the Gardai are reportedly carrying out DNA tests on foreign babies they believe are brought into Ireland illegally.
25. "Court says inmate must give DNA." The San Francisco Chronicle, April 25, 2002.
Orange County, California authorities have obtained a court order to draw DNA samples from notorious inmate Paul "Cornfed" Schneider, who has been considered a suspect in the 20-year-old "Original Night Stalker" murders. However, new DNA evidence suggests that it is unlikely that he is the serial killer and rapist. That's because DNA evidence last year linked the Original Night Stalker crimes, in which 10 people were slain between 1979 and 1986, to the "East Area Rapist" who terrorized Sacramento and Contra Costa counties between 1976 and 1978. Schneider would have been 14 at the time of the 1976 rapes, which were said to be particularly brutal.

Genetic Privacy / Research

26. "Genetics key to medical progress: But advances carry dangerous risks, ethical dilemmas." Edmonton Journal, May 1, 2002.
In its recent report, the World Health Organization (WHO) said nations need to appropriately harness the benefits of genetic technology. The document notes that while it may only be three to five years before scientists have a near-complete understanding of the human genetic structure, it may be much longer before the benefits can be applied to the prevention and treatment of diseases such as malaria, tuberculosis, AIDS, heart disease, diabetes and cancer.
27. "The Senate Should Ban Human Cloning, But Permit Promising Medical Research To Continue".
Congressional Press Releases, April 30, 2002.
Senators Arlen Specter (R-PA), Dianne Feinstein (D-CA), Orrin Hatch (R-UT) and Edward Kennedy (D-MA) introduced bipartisan legislation today to ban human reproductive cloning, but allow promising medical research that offers hope to millions of Americans.
28. "Hatch backs cloning for research." The Deseret News (Salt Lake City, UT), April 30, 2002.
Sen. Orrin Hatch (R-UT) has publicly embraced human cloning for research -- bucking pro-life groups, the rest of the Utah congressional delegation and President Bush. Hatch said cloning could lead to cures for diseases from Alzheimer's to diabetes and cancer. But pro-life groups and Bush say such advances would come at the cost of killing cloned human embryos and could lead to "human embryo farms."
29. "Britain Establishes "Gene Bank" to Study Diseases." Xinhua General News Service, April 30, 2002.
The genetic information of 500,000 people will be stored in a British "gene bank" to help find out relations among genes, environment and health. The Wellcome Trust, the Medical Research Council and the Department of Health of Britain are providing an initial 45 million pounds for the UK Biobank project. Using genetic information from DNA samples and the medical records of 500,000 volunteers, aged 45-69, the study will capitalize on the knowledge from the Human Genome Project.
30. "Utah lawmakers approve law banning insurance companies from DNA-based coverage denial." Genomics and Genetics Weekly, April 19, 2002.
The Utah Legislature has approved a law that bans insurance companies from denying coverage based on the result of a genetic test. It also will keep insurance companies from charging higher premiums based on the genetic tests. The Senate unanimously signed off on the issue. It had already been approved by the House. It now goes to the governor to sign into law.

Paternity

31. "Want to find out who is mum and dad? Don't wait till they die." AAP Newsfeed, April 24, 2002.
In New South Wales, Australia, the state Supreme Court has ruled it could not order DNA testing on a corpse in a decision labeled a test of the 1996 Status of Children Act. In the case, a mother wanted to amend the birth certificate of her 25-year-old daughter to include the name of her father. The child was born after their relationship had broken down. When the mother learned in notices of her former partner's death last month, she successfully sought court orders for genetic material to be taken from his body, including eyebrow hairs, so DNA tests could be carried out prior to his cremation. However, the court has found that it does not have jurisdiction to make an order in relation to human remains under the Status of Children Act.

CONGRESSIONAL RECORD

1. HOUSE OF REPRESENTATIVES, April 17, 2002. Introduction of HR 4480 (Representative Weiner) – a bill to make local governments eligible to apply for and receive grants under the DNA Analysis Backlog Elimination Act of 2000.
2. SENATE, April 11, 2002. Senator Torricelli's statement of introduction for S. 2090 -- a bill to eliminate any limitation on indictment for sexual offenses and make awards to States to reduce their DNA casework backlogs
3. SENATE, April 10, 2002. Senator Feingold's floor statement on the 100th death row inmate exoneration (in support of the National Death Penalty Moratorium Act.)