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The July 12, 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

Bills to expand the DNA database in New Jersey have been introduced. A bill to allow “reasonable force” when collected DNA for the database faces a funding hurdle, and federal legislation to address DNA analysis issues was considered in a field hearing. Cold hits identified attackers in New York, and linked crimes between California and Arizona, and Colorado and Texas.

New post conviction DNA testing bills have been introduced in Colorado and Delaware. A Pennsylvania bill has passed the legislature is expected to be signed by the Governor, but similar measures in Congress still face an uphill battle. New Jersey’s post conviction testing program has had low response rates from eligibly inmates. DNA exonerations made the news in Georgia (post conviction), California (pre-conviction) and Massachusetts (pre-conviction). A federal judge has ruled that the death penalty is unconstitutional, based in part on recent DNA exonerations.

In international news...For its term holding the Presidency of the EU, Denmark proposes to encourage more sharing of DNA databases. Australian states are expanding their DNA databases and investing in the accompanying analysis. A “DNA dragnet” continues in Ireland’s hunt for the murderer of an infant, and DNA testing of serious traffic offenders is producing results in England. Canada used DNA to link three rapes to one offender. DNA testing figures prominently in a rape and murder case in Malaysia.

STATE LEGISLATION

1. Colorado HB 1012C -- Establishes a procedure for persons sentenced to death to obtain an order for DNA testing. Requires that the application may be made as soon as possible but no later than 30 days after discovery that evidence may exist.
2. Delaware SB 444 -- Allows one more year for DNA testing motions for those whose judgment of conviction was final prior to September 1, 2000.
3. New Jersey AB 2617 – Expands the offender DNA database to include all convicted felons.
4. New Jersey SB 1741 -- Permits a county prosecutor to have a DNA sample taken from an inmate or anyone under community supervision on probation, parole, or other community corrections programs based on a reasonable suspicion the person has committed a serious crime. These crimes include, murder, aggravated manslaughter, vehicular homicide, aggravated assault, disarming a law enforcement officer, kidnapping, and certain other crimes relating to sexual assault, robbery, car jacking, aggravated arson, burglary, and extortion.

NEWS ARTICLES

[Forensic DNA](#)

1. “\$3m lift to DNA profiling.” The Advertiser, July 10, 2002.
In the state of South Australia, a \$3.1 million boost to DNA profiling to help police track down and prosecute criminals will be included in the new State Budget. \$72,000 would be spent each year over the next four years to DNA test about 3000 convicted criminals in the state's jails. In addition, \$1.25 million over four years would pay for the increased demand for DNA testing in criminal work, including two new staff and the latest technology for analysis. The article cites one case in which the DNA system had matched 452 crimes with one offender. In another, an offender in two sexual assaults, dating from 1995 and 1997, had been identified through a DNA match with evidence found at a recent break-in.
2. “DNA evidence links Tucson, San Diego rapes.” Copley News Service, July 10, 2002.
DNA evidence indicates that a sexual predator attacking women in San Diego and Tucson, Ariz., over the past year struck again in Tucson in May. The man is responsible for at least eight other assaults.
3. “DNA request rejected.” Herald Sun, July 10, 2002.
In Melbourne, Australia, a magistrate has refused to approve an application for a DNA sample from a man accused of a brutal home intrusion murder. After getting results from an initial sample, homicide squad detectives were forced to reapply for a new sample from the suspect after a Supreme Court judge had ordered the first test and its records be destroyed. The magistrate ruled that the man was a relevant suspect but there were not reasonable grounds to believe he had committed the murder.
4. “Defying the boss on DNA.” The Mercury, Hobart, July 10, 2002.
In Tasmania, Australia, a call from the Police Commissioner for voluntary DNA samples from members of the police force has netted only 100 samples thus far (out of more than 1100). The samples are needed for elimination purposes. Most of the volunteers are administrative and forensic officers. Legislation is being drafted to address privacy concerns, and the Commissioner has signed a nine-point guarantee that, among other things, includes that officers' DNA will only be matched against crime scene samples. The guarantee also says the database cannot be used for internal investigations or to highlight in the future any officer's predisposition to genetic disease. To top it off, a legal opinion from the Solicitor General says, apparently, that Commissioner's assurance binds any future commissioner. But most officers are still holding out.
5. “Serial rapist jailed for 3 attacks.” Toronto Star, July 10, 2002.
In Toronto, Canada, a 22-year-old man who beat and raped three women has been sentenced to an indeterminate jail term as a dangerous offender. DNA samples gathered by police from all three victims matched the man's DNA profile. Semen samples taken from two stolen vans also matched his DNA.
6. “DNA sampling raises rights fears.” The Australian, July 9, 2002.
In Western Australia, a large operation to collect DNA samples from the state's 2500 prison inmates has begun. While the law allows authorities to forcibly take samples, the Attorney-General said it was hoped this would not be necessary. The testing program -- for which the state Government has committed \$22 million -- brings Western Australia into line with the other states, which have already established DNA databases. One civil rights group has indicated its concern that Aboriginal prisoners might face a higher risk of a false-positive DNA result linking them to a crime.
7. “DNA aces its test.” The Philadelphia Inquirer, July 8, 2002.
The Pennsylvania General Assembly has passed a bill allowing inmates being held for rape, murder or kidnapping to petition for post-conviction DNA testing that could set them free. The Governor is expected to sign the bill, making Pennsylvania the 27th state, including New Jersey, to allow such appeals.
8. “Bill is key to unlocking prison secrets.” Scripps Howard News Service, July 8, 2002.
In California, legislation to allow the use of “reasonable force” to collect DNA samples from certain convicted felons who refuse to voluntarily give a sample has been stalled in an Appropriations Committee. The roadblock is the Board of Corrections - which sets guidelines for county jails. It wants \$60,000 to develop a model on how to take the specimens. This is bad timing, considering the state's dire fiscal straits. The article notes that Department of Corrections officials have developed such a protocol and could share it with their local counterparts.

9. "Serial rapist linked to 14 cases." The Denver Post, July 7, 2002.
In Colorado, investigators have tied two more sexual assaults to an unidentified serial rapist who may have attacked as many as 14 women in Boulder and elsewhere around the country. The attacks include one 1995 in Austin, Texas; two in Boulder (Colorado), in 1994 and 1998; and one in Lakewood (Colorado) in 1994. Additionally, detectives have linked the unidentified man to another eight rapes in Boulder or the Denver metropolitan area between 1993 and 1998 – but do not have DNA evidence in these cases.
10. "Scientists test claims arrow made from Capt. Cook's thigh bone." Ottawa Citizen, July 7, 2002.
Descendants of Capt. James Cook may undergo DNA tests to determine whether a 200-year-old arrow housed in an Australian museum is fashioned from the thighbone of the explorer.
11. "Few N.J. inmates accept offer for free DNA testing to challenge convictions." The Associated Press, July 6, 2002.
In New Jersey, fewer than a dozen inmates have responded to the state's year-old offer of free DNA testing to help challenge their convictions, and not one has been cleared. As a result, New Jersey has largely abandoned the "Truth Project" in favor of a stricter program, to begin next week, that will charge prisoners for testing. Most of the prisoners who did apply for the Truth Project were rejected because they had admitted guilt. One man who was approved died before definitive findings could be obtained.
12. "Hunt goes on to solve baby Carrie's murder." Belfast Telegraph, July 6, 2002.
In a town in Ireland, police hope to have collected 750 DNA samples by the end of the month as part of their investigation into the murder of an infant. The child had suffered multiple stab wounds and head injuries. A post-mortem examination showed that the infant was born prematurely but was healthy before she was killed. 95% of women asked to give a sample had done so and to date around 500 samples had been collected. Police have assured all women that DNA samples which do not relate to the child's DNA profile will be destroyed. The Police Ombudsman is overseeing the destruction of the DNA samples. Each individual will be notified in writing when his or her sample has been destroyed.
13. "Justice And Home Affairs: Danish Presidency Unveils Twelve New Crime-Busting Initiatives." European Report, July 6, 2002.
For its six-month Presidency of the EU Council of Ministers, Denmark is putting twelve new initiatives on the table aimed at bolstering police and judicial co-operation in criminal matters. The draft Danish proposals include "Decision on electronic exchange of information between law enforcement authorities. This seeks to encourage more sharing of criminal records, fingerprints and DNA profiles from national databases. Member States would be asked to respond to each other's requests for information within 24 hours. In the long term, the Presidency feels it will be necessary to establish an EU data base, although it admits this is not currently legally possible."
14. "Popular DNA-testing bill awaits vote." The Washington Times, July 6, 2002.
A majority of US House lawmakers now support a bill to provide DNA testing for federal death-row inmates, but Republican leaders are giving no indication they will allow a vote on the measure. The vast majority of House Republicans - 161 - do not support the legislation. They include all four of the Republican leaders. Fifty-one of the 234 co-sponsors in the House are Republicans. Some conservatives argue that the legislation would impose federal guidelines on states.
15. "Upstate New York man pleads guilty to killing 15-year-old boy 10 years ago." The Associated Press, July 5, 2002.
In New York, a 34-year-old man has pled to second-degree murder for sodomizing and strangling a teenager whose body was pulled from a lake a decade ago. Authorities say the man was linked to the slaying by DNA, which was taken from him and entered into a DNA database after his arrest in 1999 for sodomizing a 14-year-old boy. The man is currently serving a five-year sentence for the sodomy conviction.
16. "Drivers turn DNA detectives." The Evening Standard (London), July 5, 2002.
In London, England, drivers who commit serious traffic offences like drunk driving are now required to submit saliva swabs for comparison against the national DNA database. In one recent case, a child killer was trapped when stopped for drink-driving 31 years after murdering a Grammar School pupil. Officers began taking

samples from motorists detained for "recordable" offences - those that carry a potential prison term - as part of the 2001-launched, £185 million Home Office DNA Expansion Programme that allocated the Metropolitan police authority £24 million over three years. In London, the total number of samples taken annually has risen from 12,367 in the 12 months to April 1997 to around 78,000 for the year to April 2001.

17. "Rape convictions overturned on basis of DNA evidence." The Associated Press State & Local Wire, July 4, 2002.
In Georgia, the convictions of two men accused of raping a Savannah woman 15 years ago have been overturned on the basis of DNA test results. A Superior Court Judge granted motions for a new trial, saying the new evidence would likely produce a different verdict. The two men asked for a new trial after DNA tests showed their blood samples did not match the sperm prosecutors used as evidence in the 1986 rape. The judge ruled that the men must be released from prison immediately, but he said he "flatly disagrees with defendants that the new evidence exonerates them of the crimes charged."
18. "Overdose kills rape suspect on same day DNA clears him." The Boston Herald, July 4, 2002.
In Massachusetts, the same day a Worcester man was exonerated of year-old rape charges, he died of a heroin overdose. Just hours after the man was pronounced dead, a Worcester Superior Court judge dismissed the rape charges against him after receiving negative results on his DNA test. The man had been identified by a 24-year-old woman as the man who came up behind her, dragged her into a secluded area and raped her.
19. "Hanratty Was Guilty, Rules House Of Lords." The Independent (London), July 4, 2002.
In England, the House of Lords has ruled that DNA tests prove conclusively that James Hanratty carried out the "A6 Murder" for which he was hanged 40 years ago. DNA from Hanratty was found on a fragment from the underwear of the victim, who had identified Hanratty as her attacker. The man's brother has been waging an ongoing battle to have his family's name cleared of the crime. It had previously been argued that the conviction led to one of the most famous alleged miscarriages of justice, was "fatally flawed".
20. "Judge Finds Death Penalty Unconstitutional." The Legal Intelligencer, July 3, 2002.
A Southern District of New York judge has ruled the federal death penalty unconstitutional, finding that it creates an unacceptable risk of executing innocent people. U.S. District Judge Jed S. Rakoff's decision, which held that the death penalty denies due process under the Fifth Amendment, is the first to declare that the 1994 Federal Death Penalty Act violates the U.S. Constitution. The judge dismissed the idea that federal procedures offer greater protection than state procedures, which have resulted in all the mistaken executions on record. The judge said there was "no logical reason" for that assumption, noting that the most common cause for mistaken convictions is inaccurate eyewitness testimony.
21. "Biden Holds Senate Hearing In Seaford On Use Of DNA Evidence As Crime Fighting Tool." States News Service, July 3, 2002.
US Senator Biden (D-DE), chairman of the Senate Judiciary Subcommittee on Crime and Drugs, recently held a field hearing on forensic DNA issues in Seaford, Delaware. During the hearing, Senator Biden discussed the power of DNA evidence as a crime-fighting tool and heard testimony from Delaware officials about what local law enforcement are doing to tap into that potential. Legislation introduced by Biden in Congress would: require the Attorney General to survey local law enforcement agencies to assess the backlog situation; increase federal grants to states and local governments to allow them to expand DNA testing; set up a new training program for sexual assault examiners collecting forensic evidence; create a new grant program to train law enforcement on the collection and handling of DNA evidence; authorize "fictitious name indictments."
22. "DNA tests clear convict in Ventura killings." Ventura County Star, July 3, 2002.
A DNA test has eliminated one of California's most notorious criminals as a suspect in the 1980 slayings of a Ventura couple. The inmate, a member of the white supremacist prison gang the Aryan Brotherhood, is under federal indictment in the Midwest for arranging the murders of other inmates. After he declined to supply blood for DNA analysis, the Orange County District Attorney's office sought and was granted a court order to force him to comply. His blood was taken in May, and he was eliminated as the possible perpetrator in these serial killings last month.
23. "Two weeks to prepare DNA profile of suspect." New Straits Times-Management Times, July 2, 2002.

In Malaysia, the district deputy police chief superintendent said that police would need between one and two weeks to prepare the DNA profile of a drug addict arrested in connection with the rape and murder of a 34-year-old mother of five. The suspect's DNA will be compared with the evidence being put together by experts.

24. "DNA IDs Con As Macy's Rapist." The New York Post, June 30, 2002.
In New York, a DNA match has identified the so-called Macy's rapist who sexually assaulted and bashed a sales clerk in the chain's flagship Manhattan store more than four years ago. The Manhattan district attorney's office is expected to file charges tomorrow against a man who is serving time for another crime in an upstate prison. The clerk, a mother of two, had stabbed the rapist in the face with her identification pin as she was raped in a storage area. The blood on her pin was eventually matched in the DNA database to the man who was forced to give a DNA sample as the result of a felony conviction. The state's growing DNA database has helped cops close at least 32 previously unsolved crimes, according to a January 2002 report by the Criminal Justice Services' research department on the state's first 100 DNA matches since the law was introduced. Police previously had no suspects in one third of the cases in which DNA matches were made between February 2000, when the first match was made, and July 2001, the report stated.
25. "Police dish out genetic justice." Evening Chronicle (Newcastle, UK), June 19, 2002.
In Newcastle, England, police are close to charging suspects with a number of historic undetected sex attacks. The move follows the success of a six-month joint police and forensic science operation, using the latest developments in DNA testing. "Operation Phoenix" has concentrated on over 100 rapes from 1985 to 1999 that have remained unsolved.

Genetic Privacy / Genetic Research

26. "Anger at plan to sell DNA of dead great." The Australian, July 10, 2002.
Family and admirers of baseball great Ted Williams expressed revulsion yesterday at reports the slugger's dead body would be frozen in the hopes of one day selling his DNA or cloning him. Williams' son had shipped his father's corpse to the Alcor Life Extension Foundation in Scottsdale, Arizona, hoping the family could cash in on his genes.
27. "Genetic discrimination should be made illegal." AAP Newsfeed, July 8, 2002.
Opening the Human Genetics Society conference in Adelaide, South Australia, a state Senator said such legislation should have been introduced several years ago. "We now have numerous reported cases of discrimination on the basis of a person's genetic make-up. This should be unlawful," she said.

Paternity

28. "DNA Directory." Fort Worth Star Telegram, July 8, 2002.
A Houston, Texas company has launched a database that uses DNA to help match adopted children and birth parents. Users of the Identigene kit (\$350) swab the inside of a cheek and send the sample to the firm's clinic. The DNA profile for each sample is automatically compared with others in the database. Records are kept for five years. If two samples match, both parties are notified. The database has collected about 100 names since June, and there have been no matches as of Friday. "This only is as good as the number of people you have willing to donate a swab and pay the money. I think it's one of the dumbest ideas in the world," said the secretary of the Texas Coalition for Adoption Resources and Education.
29. "DNA testing shakes up child-support rights." Chicago Tribune, July 7, 2002.
Advances in DNA testing have liberated convicts from Death Row and helped clear up scores of unsolved mysteries, but they have been slower to release men from obligations to pay child support in cases where the tests show they are not the biological father. Instead of resolving some of those cases, DNA has plunged the area of child support and paternal obligation into complicated new debate over the law and issues as profound as what it means to be a father.
30. "Supreme Court cancels DNA test of Peru's Toledo in paternity suit." Agence France Presse, July 6, 2002

In Peru, the Supreme Court has suspended a hearing slated for August 7 in which Peruvian President Alejandro Toledo was due to have undergone DNA testing in a paternity suit. Toledo is alleged to be the father of a 14-year-old girl from an extramarital affair. The court ruled there was a basis for the Peruvian president's complaint -- that justice authorities have already ruled four times on the case, the first time in 1992.

31. "Kenya; Court Orders DNA Tests in Cleric's Case." Africa News, July 3, 2002.

In Kenya, a Kabarnet clergyman alleged to have been involved in adultery will undergo a medical test to establish whether he impregnated a 15-year-old girl in 1987.