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The August 23, 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 California legislature is poised to allow reasonable use of force in collection of convicted felon DNA samples. The US Attorneys Office is facing a challenge that the government has taken an overly broad interpretation of a federal law allowing DNA samples from certain federal offenders.

“Cold hits” on DNA databases made headlines in Florida (California inmate), Arizona, Minnesota, and Virginia, and have linked one perpetrator to a series of sexual assaults and murders in Arizona, California, Nevada and Oklahoma. In California, DNA evidence from a baseball cap solved a 1992 murder, and a suspect in Maryland was exonerated through DNA testing after spending a year in jail.

Newspapers covered backlog problems at crime labs in Los Angeles (California), Fort Worth (Texas), Illinois and Michigan. A bill to eliminate the statute of limitations for certain sex crimes has been introduced in Michigan.

Malaysia is planning a criminal DNA database, and a Canadian province has established a forensic lab for animal DNA. The Canadian Prime Minister is under fire from police for lack of attention to the DNA registry, and a state parliament of Australia has recently been told of impressive crime-solving ability of the region’s DNA database.

STATE LEGISLATION

Forensic DNA

1. Michigan SB 1394 – Eliminates the statute of limitations for certain sex crimes that are perpetrated by adults against children.

NEWS ARTICLES

Forensic DNA

1. “Graham convicted in 1983 slaying of 5-year-old.” Contra Costa Times, August 21, 2002.
In California, a jury has convicted a man of killing a 5-year-old girl in 1983. Authorities arrested the man in 1996, after DNA testing technology advanced enough to compare the long-stored crime scene evidence with his blood. During trial, prosecution witnesses put the likelihood that the rapist was someone other than the man at more than one in 11 quadrillion. The defense attorney questioned the validity of DNA testing and the conditions under which the crime-scene evidence was stored, but to no avail.
2. “DNA tests link slaying defendant to Florida case.” Copley News Service, August 21, 2002.
In California, DNA has linked a felon awaiting trial for the torture, molestation and killing of two boys to a 1989 slaying in Florida, prosecutors revealed in court Tuesday. The man has been in prison for eight years serving a life sentence for the rape of a San Diego woman, a crime that occurred about six months after the boys were killed in 1993. As a teen-ager in San Diego County, he spent much of his time behind bars after convictions for sexual assaults against women, girls and boys. He was paroled at 22 in the mid-1980s.

In the Florida case, the felon's DNA was on a cigarette butt that was found nine feet away from the body.

3. "Plan for data base on criminals' DNA." New Straits Times (Malaysia), August 21, 2002.
In Malaysia, laws are being drafted to make it compulsory for convicted criminals to give their DNA to a database that will help police and the Chemistry Department solve crimes faster. The database will have three indices: the DNA of all convicted criminals; DNA found at crime scenes; and, an index of missing persons, based on DNA obtained from remains found or from their next-of-kin. Setting up the database would cost about RM10 million.
4. "Qld: DNA tests reopen cases." AAP Newsfeed, August 20, 2002.
In Queensland, Australia, the parliament was told that DNA technology was helping police reopen hundreds of unsolved cases. The Police Minister said improvements in DNA technology had led to almost 300 suspects, including 62 prisoners, being matched to crime scenes. By mid-2003 police are expected to have a database of about 40,000 DNA samples to match against crime scenes. This year, the government plans to spend \$60,000 to extend the program to cover prisoners who have been released on post prison, community-based release.
5. "Cap DNA match leads to two more SoCal murder charges." The Associated Press State & Local Wire, August 20, 2002.
In California, DNA on a baseball cap found at the scene of a 1992 stabbing led to two more murder charges being filed against a man already awaiting trial for a 2000 killing.
6. "Sentence imposed for sex crime; DNA clears wrongly- convicted man." The Associated Press State & Local Wire, August 20, 2002.
In Arizona, a man has been sentenced to 24 years in prison for sexually assaulting a 10-year-old boy, a crime for which a Tucson man was wrongfully convicted. The man originally convicted spent nine years in prison before DNA evidence helped ruled him out as the attacker. After the exoneration, investigators entered the attacker's DNA into the national database, which led them to a felon who was serving time in a Texas prison on a drug charge.
7. "Wanted suspect linked to girl's rape." The Associated Press State & Local Wire, August 20, 2002.
In Oklahoma, the kidnapping and rape of a 9-year-old girl has been linked to a 36-year-old man through DNA tests that also turned up matches to other sexual assaults around the nation. The man has been charged with attempted murder as well as sexual assault, aggravated assault and kidnapping in Arizona, sexual assault on a young girl in Nevada, and is the prime suspect in series of sexual assaults in California. DNA has linked the man to the crimes. The suspect is still at-large.
8. "DNA tests clear man of rape." The Capital (Annapolis, MD), August 20, 2002.
In Maryland, County prosecutors have dismissed first-degree rape charges against a man after DNA evidence cleared him as a suspect. The man had spent the last 13 months in jail without bond awaiting his trial.
9. "Anoka County: Rape suspect accused in 3 earlier assaults." St. Paul Pioneer Press, August 20, 2002.
In Minnesota, a man charged with raping a woman in August has been charged with committing three earlier assaults. Police had suspected a serial rapist was responsible for a string of sexual assaults and attempted sexual assaults beginning in June. DNA has helped to link many of the cases together.
10. "Qld: DNA tests of men after 2yo girl raped." AAP Newsfeed, August 19, 2002.
In Queensland, Australia, men in an Aboriginal community were undergoing police DNA tests following the rape of a two-year-old girl. A detective said that the response of the community to the testing had been good with around 40 samples being sent for analysis.
11. "Noggle named interim forensics department chief." The Associated Press State & Local Wire, August 19, 2002.
A 31-year veteran of the Alabama Department of Forensic Sciences was named interim director of the agency while a nationwide search for a permanent chief continues. Taylor Noggle Jr., the agency's deputy director for laboratory services since 1998, stepped in while a replacement for Dr. James Upshaw Downs is conducted. Dr. Downs resigned in June after announcing a \$2.2 million budget shortfall. The cutbacks include closing regional

labs, reducing staff and discontinuing transporting bodies to crime labs.

12. "Los Angeles' stockpile of untested genetic evidence." CBS News Transcripts (CBS Evening News), August 18, 2002.
CBS News reports "Nationwide, tens of thousands of women live in fear as their rape cases go unsolved, as critical genetic evidence goes untested for years. And nowhere is the backlog bigger than in Los Angeles...The backlog of untested DNA evidence nationwide is catching the attention of Congress. Several bills have been introduced which would allocate more resources to states for DNA analysis."
13. "Disposal of DNA Leads to Review." Los Angeles Times, August 18, 2002.
The revelation that the Los Angeles Police Department mistakenly destroyed evidence in 1,000 unsolved rape cases has ignited a debate about when, if ever, DNA evidence should be thrown out. A Santa Monica police spokesman acknowledged that the department, like others in Los Angeles County, allows disposal of biological evidence when the statute of limitations expires. For now, no biological evidence is being destroyed at the LAPD. The uproar over the destroyed rape kits prompted the LAPD to declare a moratorium. And the Sheriff's Department, which does lab work for itself and cities other than Los Angeles, imposed a moratorium in November 2000.
14. "Hearing to determine whether DNA evidence can be used." The Associated Press State & Local Wire, August 17, 2002.
In Indiana, prosecutors must show DNA was not altered while in police custody for it to be used as evidence against a convicted murderer awaiting trial in another slaying that occurred in 1987. The defendant was already serving an 89-year-prison term for the murder, when he was charged in the 1987 death after a DNA sample was taken in prison.
15. "Alberta opens first DNA lab to track animal poachers." Calgary Herald, August 17, 2002.
In Canada, Alberta is now the only province to have a forensic lab dedicated to ferreting out both poachers and rampaging wildlife. The same sophisticated DNA analysis equipment that lets homicide investigators find their killer by matching hair and blood samples will be used to snare poachers by testing animal fur, antlers, saliva, teeth and bones.
16. "French reject DNA test to determine if body in tomb is really Napoleon's." Edmonton Journal, August 17, 2002.
France's ministry of defense has turned down a request to test the DNA of the body assumed to be Napoleon's, which lies in the Invalides in Paris, amid claims that it could actually be his butler.
17. "Ontario police union endorses Martin, says PM indifferent to justice issues." The Canadian Press, August 16, 2002.
In Canada, angered at what they see as Prime Minister Jean Chretien's indifference to justice issues, Ontario's police union endorsed Paul Martin for the Liberal party leadership. Among the union's complaints is that the Chretien government has been "slow-footed on issues such as the national sex offenders registry and the DNA registry."
18. "Lawmakers OK Inmate DNA Testing." Los Angeles Times, August 16, 2002.
The California legislature is poised to give final approval to a measure allowing authorities to use force on inmates who refuse DNA testing. The Justice Department contends, "there was no need for the bill. But obviously, if there are any ambiguities in the law, this will clear them up. This gets everyone on the same page."
19. "Inmate charged with 1996 murder in Richmond." The Associated Press State & Local News, August 15, 2002.
In Virginia, a state prison inmate convicted of killing a man in Norfolk in 1997 has been charged with murder and rape in the 1996 strangulation of a woman in Richmond. The charges are based on evidence from a resubmitted DNA test. Richmond police submitted DNA taken from the victim's body to the state Division of Forensic Science shortly after her death in 1997. The division found no match in its DNA database of felons, but a periodic review of old files led to the resubmission of the DNA evidence. The man's DNA profile had been entered into the database sometime in 1998.

20. "State crime-lab backlog deserves more attention." The Pantagraph (Bloomington, IL), August 15, 2002. Editorial discusses backlogs at Illinois crime labs. Concludes, "Clearly, there are many demands on tax dollars at all levels of government. However, it is important that adequate funding goes to crime labs, which play a key role in convicting the guilty and clearing the innocent. It is also crucial that money allocated to crime labs is spent prudently and effectively."
21. "Kidnap suspect's DNA found on teen's underwear, cops say." Chicago Tribune, August 15, 2002. Illinois State Police have presented DNA evidence linking an Indiana man to a sexual assault of a 14-year-old girl he is alleged to have abducted and taken to California in January 2000. A report from the state police crime laboratory said the underwear worn by the girl when she traveled with the man to California contained his DNA.
22. "DNA tests show no link between serial killer and rapist." The Associated Press State & Local Wire, August 14, 2002. In Louisiana, preliminary DNA tests show a man who posed as a police officer and raped a woman at a rest stop is likely not the serial killer responsible for the death of three Baton Rouge women.
23. "S.C. Suspect Killed 3 Girls In Va. In '90s, Police Say." Daily Press, August 14, 2002. Virginia authorities have revealed that a South Carolina rape suspect who committed suicide in June, after a high-speed police chase in Florida had abducted and killed three Virginia girls in the 1990s. Police linked the man to the murders in 1996 and 1997 through forensic evidence, including hair, fibers and DNA.
24. "Lab Staffing Under The Microscope." The Daily News of Los Angeles, August 14, 2002. In Los Angeles, District Attorney Steve Cooley warned that child molesters and other criminals could go free unless Los Angeles beefs up its plans for DNA analysis in a new joint city-county crime lab. Cooley told the Los Angeles Police Commission the city's plan for 25 DNA criminalists and their workspace is "grossly inadequate for present and future needs," and suggested improving both. By comparison, the county Sheriff's Department has 19 criminalists, with 70 planned by the time the new crime lab opens. Despite the disparity, the LAPD handles as much DNA evidence each month as the Sheriff's Department. Furthermore, the LAPD lags behind other large cities in its commitment to DNA evidence -- New York City is planning a new crime lab with 450 criminalists and even the smaller San Diego Police Department has more criminalists than the LAPD.
25. "Officials: Lab upgrades need crime-tax funds." Fort Worth Star-Telegram, August 14, 2002. In Fort Worth, Texas, city officials have proposed funding upgrades to the city's backlogged crime lab -- including additional staff and renovations -- through crime-tax collections. The additional funding would reduce backlog and staff turnover and ensure proper processing of criminal cases. The Assistant City Manager said the Crime Control Prevention District -- which collects a special tax earmarked for crime-fighting efforts -- will be asked to revise its budget to include the funding. Police officials have asked for more than \$183,000 to pay for three forensic scientists. The department has also requested \$700,000 for lab renovations.
26. "Program Of DNA Sampling Proves Its Value Many Times." Portland Press Herald, August 14, 2002. Editorial: Maine's DNA database has proved its worth. Its list of accomplishments lengthened earlier this month when a DNA sample from a cigarette butt left at the scene of a \$50,000 jewelry heist was linked to a man with two prior burglary convictions. "Considering the cost of crime to society, the state and federal investment is yielding higher returns than the New York Stock Exchange."
27. "The other side of DNA." Journal News (Westchester County, NY), August 13, 2002. "The latest exoneration by DNA testing was Larry Johnson, a Missouri man who spent nearly 18 years in prison for a rape he did not commit. He was released last month when tests cleared him. That's one side of DNA testing. The other side is that there have been only about 100 such exonerations nationwide since 1989, despite offers of free testing for inmates in some areas...By all means, the criminal-justice system should pursue every avenue to identify and free those wrongly convicted of crime. And the public must be made aware of the results. But it is worth remembering that, as important a tool DNA testing is to justice, it is only one tool, one that can help exonerate - or convict."

28. "Woman Fights Feds Over DNA." Rocky Mountain News (Denver, CO), August 13, 2002.
A lawyer for a woman convicted of bank larceny contends the federal government is going too far in trying to extract a sample of her DNA. Under a federal law adopted by Congress in 2000, certain categories of federal criminals are required to submit a DNA sample at the request of their probation officers. The woman's lawyer maintains that the law was meant to include violent criminals convicted of bank robbery or burglary, not larceny or embezzlement. The Assistant U.S. Attorney countered that larceny was properly included in the law. Overruling the attorney general could lead to "endless litigation and hairsplitting" as to which offenses were meant to be covered by the law. The U.S. District has reserved decision on the dispute.
29. "Database keeps DNA from cleared suspects." Cincinnati Enquirer, August 8, 2002.
"Quietly and without fanfare, the state of Ohio for three years has collected DNA profiles from people cleared of crimes. Supporters hail it as an invaluable tool to fight unsolved crimes. Critics see Big Brother intruding on innocent people. The uncommon practice is so unsettling that the Hamilton County coroner refuses to contribute DNA samples to the database. And an Enquirer investigation indicates that some people who willingly gave up their DNA samples were never told their profiles would be kept and compared against evidence in future crimes."
30. "Requests for DNA testing overwhelm Michigan labs." Lansing State Journal, June 27, 2002.
In Michigan, nearly 40,000 DNA samples collected from felons have flooded the state police crime lab in this year - about twice as many as expected - and forensic scientists have processed only a fraction of them. The result: long delays for local police agencies eager to build cases with the evidence they've submitted for testing. Critics say state legislators shouldn't have passed the law requiring all felons to submit DNA samples without approving money to go with it. While technological advances have helped the besieged lab, frustrated officials there say they need at least another 20 scientists.

Genetic Privacy / Research

31. "Genetic tests outpace efforts to safeguard people's data." USA Today, August 20, 2002.
Today's debate: Medical privacy -- Our view: Laws leave too many vulnerable to employer, insurer discrimination.
32. "Fears are overblown." USA Today, August 20, 2002.
Today's debate: Medical privacy -- Opposing view: Current laws already protect consumers' medical information.
33. "Japan to Compile DNA Database on 300,000 People." Jiji Press Ticker, August 17, 2002.
Japan will collect some 300,000 blood samples to analyze genetic differences among individuals from the next fiscal year starting April 2003. The Ministry of Education, Culture, Sports, Science and Technology plans to spend some 40 billion yen over the five years from fiscal 2003 to build the genetic database based on the collected blood samples and medical records.
34. "GM medicine potentially dangerous, hearing told." Waikato Times (Hamilton), August 15, 2002.
In New Zealand, an associate member of Physicians and Scientists for Responsible Genetics recently told a hearing that genetically modified medicines posed more risks than benefits. Crown Research Institute AgResearch is seeking permission from the Environmental Risk Management Authority to insert human and animal genes into cows. It hopes to eventually produce GM drugs and study the effects of gene transfer.

Paternity

35. "DNA test by mail targets paternity." The Washington Times, August 15, 2002.
"DNA testing, until recently a somewhat exotic procedure associated with criminal trials, is now available for the rest of us. Paternity testing by analysis of DNA has become a commodity procedure, like ordering a book from Amazon."

36. "Court Orders DNA Test in Detroit Estate Case." Detroit News, August 10, 2002.
Discusses Michigan probate case of a man who died with no will. His parents stand to inherit his estate, but a woman has come forward who claims to have a son with the deceased who was never acknowledged. Asks the question: "When two parties are vying for an estate, how should the claimants' privacy rights be balanced against the court's need to have sound information on family relationships in the use of DNA tests?"