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The September 13, 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 Hampshire and Oklahoma received federal grants to assist with DNA investigations. Backlogs in West Virginia, Massachusetts and Indiana have been identified as delaying prosecutions. In the first Frye hearing on STR DNA held in New Jersey, the court ruled the evidence admissible.

In Wisconsin, a suspect on a John Doe warrant has been identified and charged by name after a DNA match. In Arkansas DNA linked 3 rapes to the same convicted sex offender, in Indiana DNA lead to an arrest for a 6 year old murder, and also helped solve a 15 year old murder, and expanded DNA database laws helped solve a murder in Georgia. In New York DNA evidence suggests that the 5 men convicted for the infamous central park jogger rape in 1989 did not commit the crime.

Post conviction DNA testing cases made headlines in Virginia, Montana, Mississippi, and Missouri. Suspects were exonerated before trial in California, Connecticut, Hawaii, Louisiana and Pennsylvania.

In international news... Greek investigators have officially gained authority to use DNA in the search for terrorists. Irish authorities are calling for expanded use of DNA with sex offenders. An Australian murder case may hinge on a court decision of whether the suspect must give authorities a DNA sample. In England, DNA from a chocolate wrapper helped convict a burglar. DNA testing was involved in identifying remains of the Kosovo conflict and the victims of an Argentina plane crash.

NEWS ARTICLES

1. "Case Against Milosevic Fails to Make Vital Link", The Independent (London), September 11, 2002
A new DNA laboratory opened in Belgrade recently. The staff hopes to resolve the cases of 40,000 Bosnian, Croats, ethnic Albanians and Serbs still missing after the conflicts in Kosovo.
2. "Convicted sex offender linked to three unsolved rape cases", The Independent (London), September 11, 2002
In Little Rock, Arkansas, A man serving a 20-year prison sentence on an attempted rape conviction was linked to three previously unsolved rape cases through DNA tests. State law requires sex and violent criminals to provide DNA samples to the state's DNA data bank. The suspect provided a sample after being convicted and sent to prison for a May 25, 2000, attempted rape. His DNA matched samples in three unsolved rapes; two of them less than a month before the attempted rape. "This case is a perfect example of why this is a good law," the deputy prosecutor said.
3. "Judges: DNA samples approved in terrorist probes", Associated Press Worldstream September 10, 2002
In Greece, authorities have been authorized to use DNA samples from November 17 terrorist suspects to check against items found during the investigation of the group. Greece's anti-terrorist squad had sought approval to use DNA samples from all 16 men arrested in connection with the group. November 17 has been blamed for 23 killings and dozens of bomb attacks since it first appeared with the 1975 assassination of the CIA station chief in Athens.
4. "Here lies Christopher Columbus. And here, and here" The Guardian (London) September 10, 2002
In Spain, historians plan to dig up the remains of Christopher Columbus for the 10th time in an attempt to resolve where exactly he is buried. Historians in the southern city of Seville and their counterparts on the Caribbean island

of Santo Domingo hope that by digging up both graves - and another burial spot, also in Seville, where his younger brother Diego is buried - they can use DNA testing to solve several arguments.

5. "Rape Suspect Gets DNA Appeal." Belfast Newsletter, September 10, 2002.
In Australia, a double rape suspect has won the right to appeal against his DNA being analyzed in attempt to link him to the apparent murder of a British backpacker. Northern Territory police applied for a sample of the man's DNA to be tested against one taken from a blood stain found on the clothes of murder victim's girlfriend. However, the Supreme Court said that tests could not be carried out until the appeal from the suspect's lawyers is heard.
6. "Police: Rapes of 3 older Bay Area women not related." San Jose Mercury News, September 10, 2002.
In California, DNA tests have informed investigators that they are looking for three different rapists who prey on older women. DNA test results have shown that none of three recent high-profile cases - a 94-year-old woman, a 55-year-old woman and a 71-year-old woman - is related and that each woman was attacked by a different man. Investigators ordered comparisons of the DNA evidence from all three victims after jailed suspects in two of the cases were cleared by DNA testing last month.
7. "Rape convict exonerated by DNA sues detectives and D.A." The Associated Press, November 9, 2002.
In Pennsylvania, a man who spent more than 15 years in prison before DNA tests exonerated him has filed a civil rights complaint against the Montgomery County District Attorney's Office and the two former detectives who took his confession. The suit says that the detectives coerced him into confessing to raping two women in 1986, and that the District Attorney's office refused to release the DNA evidence that eventually cleared him.
8. "DNA Leads to Arrest Six Years After Murder." The Associated Press State & Local Wire, September 9, 2002
In Indiana, DNA evidence has linked an Indianapolis man to a woman's murder six years after she died - and about a year after one of her relatives fatally shot another man who had been suspected of killing her.
9. "Prisoner admits killing Vincennes University student." The Associated Press State & Local Wire September 9, 2002
In Indiana, a man pleaded guilty to the 1987 slaying of a Vincennes University student. The man was already serving an 89 year prison term for the 1995 murder of a 15 year old girl. He was charged with the University student's murder, committed in June, 2000, after a DNA sample taken in prison matched evidence from the 1987 murder. The Indiana database contains the genetic profiles of individuals convicted of a felony crime against a person.
10. "DNA Clears Man Who Served 15 Years In Virginia On Rape Conviction." Jet, September 9, 2002
In Virginia, the Governor has issued a pardon to Marvin Anderson, the 110th convicted felon to be exonerated through the use of DNA testing. Mr. Anderson had served 15 years and had been on parole since 1997.
11. "Few bills on terror reached governor." The San Francisco Chronicle, September 9, 2002.
One of the few bills to reach the California Governor's desk this year is a bill that will allow law enforcement officials to take DNA samples of anyone accused of a crime related to terrorism.
12. "DNA tests clear Bustamante murder suspect." The Associated Press State and Local Wire, September 7, 2002.
In Hawaii, an Indiana man who was charged with murdering a 13-year-old girl 27 years ago was freed from custody after being cleared by DNA tests. DNA samples submitted to a Louisiana lab for testing failed to match the DNA of the suspect. The man, a former Kaneohe Marine, was extradited to Hawaii from Indiana last October and charged with the 1975 murder. He was also indicted for the attempted murder of her friend, another 13-year-old girl.
13. "Five years for chocolate raider." The Daily Telegraph(London) September 07, 2002
In London, A burglar caught by DNA evidence after dropping a chocolate wrapper during a pounds 200,000 raid has been jailed for five years.
14. "Two Suspects Cleared In Rape Case." The Hartford Courant, September 7, 2002.
In Connecticut, a state prosecutor has dropped charges against two men alleged to have raped and beaten a 30-year-old city woman. DNA samples taken with a rape kit from the woman did not match the DNA of either of the two men charged in the case or another man not charged in the case.

15. "Remains Are Of Long Lost Cousin", Saturday Nottingham Evening Post September 7, 2002
In Argentina, the remains of victims of a 1947 plane crash have finally been identified through DNA testing. Their remains were discovered more than two years ago, but the families have faced a long wait for them to be identified. Now, DNA tests have finally identified some of the remains. Because of icy winds, the human remains found at the site were well-preserved.
16. "Burglar Left Blood In Victim's Fridge." Derby Evening Telegraph, September 6, 2002
In England, A burglar who left his blood in his victim's fridge and then broke into another flat while on bail has been jailed for five years. The suspect has convictions for 13 burglaries since the age of 14. The first of his two latest offences was on April 7 when he broke into a student's flat in his own road while she was asleep. The suspect was arrested nine days later after the blood was examined and matched his DNA.
17. "Armed Gobber", The Mirror, September 6, 2002
In England, a knifeman dubbed the Armed Gobber was jailed after being trapped by his saliva on a crash helmet. The suspect and another man put a knife to a security guard's throat and stole pounds 9,000. As he fled by motorbike, the suspect threw away his crash helmet. Tests later revealed spittle on the visor and scientists matched the DNA to the suspect. He was jailed for five years for robbery.
18. "Gold Coast taxi drivers undergo DNA test in hunt for rapist." AAP Newsfeed, September 5, 2002.
In Australia, police are collecting DNA samples from up to 30 Gold Coast taxi drivers in the hunt for a suspected rapist. A 29-year-old woman caught a taxi but passed out while being taken home. Police say she awoke while being sexually assaulted by the driver who threw her out of the cab and drove away.
19. "LSU Police officer clear of serial-killing charges." The Advocate (Baton Rouge, LA), September 5, 2002.
A Louisiana State University police officer charged with receiving child pornography has been cleared in the serial killer investigation by a DNA test. Test results on a DNA sample taken from the suspect show he did not kill three women between September 2001 and July. However, DNA does link the three murder to a still unnamed perpetrator.
20. "Sex Offenders Don't Have To Provide DNA." The Mirror, September 5, 2002.
In Ireland, existing legislation does not require suspected sex offenders to submit DNA samples, but a leading forensic scientist has warned that the legal position is seriously hampering police investigations. Dr Jim Donovan from the State Forensic Laboratory said police must be able to demand DNA samples from suspects, adding: "I have been trying to persuade the authorities for a long time to adopt what has been adopted right across Europe. Gardai must have the authority to take cell swabs from inside the mouth using a cotton bud." Dr Donovan also called for the establishment of a database of sex offenders' DNA.
21. "State to revisit old crime scenes", The Tulsa World (Quincy, MA) September 5, 2002
Oklahoma is getting a \$300,000 Federal grant to help pay for DNA testing for a number of the state's unsolved cases. DNA tests will be conducted on 500 biological samples collected from crime scenes in cases where police have no suspects. The money will be used to help hire a private lab to create the DNA profiles. A law that took effect Sept. 1 did away with the statute of limitations in rape cases where DNA evidence is available. Authorities say the law can be applied retroactively. Because of the new technology and the law, prosecutors will be able to go back and prosecute cases where DNA confirms a suspect. The database has recently revealed a match with one of Oklahoma's profiles and the DNA profiles from cases in Arizona and California.
22. "Around the towns: Political signs under fire. NH gets federal grant." The Union Leader (Manchester NH) September 05, 2002
New Hampshire is getting a federal grant to beef up DNA investigations. The \$ 72,000 grant is designed to allow the state to process DNA evidence in more cases in which there is no suspect and to improve the state's forensic laboratory. Part of the grant will pay for overtime for experts to process the DNA cases.
23. "Captain Cook's relatives may undergo DNA tests to determine whether a 200-year-old arrow in The Australian Museum collection was made from the explorer's thighbone." History Today September 1, 2002
In Australia, Captain Cook's relatives may undergo DNA tests to determine whether a 200-year-old arrow in the Australian Museum collection was made from the explorer's thighbone.
24. "Expanded Database Led to Match." The Augusta Chronicle August 31, 2002

In Georgia, expanded DNA database laws helped solve a murder by linking a non-violent felony offender to the crime. But the same year the 17-year-old was stabbed and strangled to death in her home, a new Georgia law went into effect that required DNA samples from every convicted felon. Previously, only DNA from convicted sex offenders went into the state's database. "We got hits, but nothing like when we started this testing of all inmates," a Georgia Bureau of Investigation spokesman said. "That tells us that you need to expand (DNA testing) to all prisoners," he said. The match in this case will bring Georgia's total hits on CODIS to 31.

25. "State Police crime lab experiencing backlog buildup." The Associated Press State & Local Wire September 9, 2002

The West Virginia State Police crime lab is struggling to keep up with an increasing volume of evidence. The DNA analysis section has a five-month backlog. Even new hires with four-year degrees require an additional six months to two years of training, depending on their specialties. DNA analysts must train a year before working alone. Analysts earn an average of \$30,000 to \$35,000 per year, and the lab director said the lab has lost workers to medical schools and industrial labs that offer higher pay. Job stress can also be a factor in turnover, he said. Meanwhile, recent turnover rates have left the lab's backlogged sections with more trainees than fully trained workers. The DNA section has three replacements and three new analysts in training, leaving only three fully trained workers.

26. "District attorneys say lab delays hurting prosecutions", The Associated Press State & Local Wire, September 7, 2002

Every year in Massachusetts, hundreds of criminal cases around the state are being dismissed before going to trial and even more are being delayed because of a huge backlog of cases in the state police crime lab. The backup is forcing prosecutors to dip deeply into their own budgets to pay for testing at private labs. For the last two years, each of the state's 11 district attorneys' offices has been limited to only one DNA case per month at the state crime lab. For the last decade, the crime lab has focused on getting scientific accreditation for DNA testing, which it received in March after acquiring some new equipment and moving from an outdated facility in Boston to a renovated school building in Sudbury.

27. "Crime lab backlog is unacceptable", South Bend Tribune, September 1, 2002

Editorial: The Indiana State Police crime lab has lagged way too far behind in processing evidence for criminal justice cases. Now that it is taking steps to catch up, the department should accelerate the process and then seal the effort with a commitment that it never will slip so far behind again. State police intend to more than double the capacity of their DNA analysis unit. The plan is to reduce the backlog to no more than 45 days. As it is now, the waiting time for test results can stretch into years. To its credit, the General Assembly earmarked a portion of a Bureau of Motor Vehicles fee for the crime lab, which will amount to more than \$12 million over four years. The lab also expects to receive \$2 million in federal grants for DNA and drug testing. The State Police need to devise a way to use those resources to reduce the time it will take to cut the backlog.

28. "DNA yields arrest in 1996 death", The Indianapolis Star September 9, 2002

In Indiana, DNA helped identify the perpetrator of a rape committed almost 6 years ago. The victim was found behind a trash bin in 1996. Until this week, no one had been charged in her death. Samples were taken from the suspect in 1997 after he was convicted in another case. When put through the Indiana State Police DNA database, they matched samples taken from the body of the 1996 murder victim, who may have been sexually assaulted. It took years for the analysis in this case to be completed because of a backlog at the state's crime lab

29. "Bordering On Arrest", Newcastle Herald (Australia), September 6, 2002

In Australia, almost 4000 Victorian criminals received a letter with the news that police are going to take a sample of their DNA. A new law requiring convicted criminals who are not in prison to provide a DNA sample has just come into effect. Previously, Victorian law gave police the power to take a DNA sample from criminals who were in jail. From now on, in Victoria police can and are demanding the DNA of people who have been convicted of any of 36 offences since July 1998 and who have completed their jail sentence or who may not have been jailed. The offences include murder, arson, burglary, serious assault, rape and drug dealing.

30. "Protecting the innocent: Federal action is needed on executions", Philadelphia Inquirer, September 6, 2002

Pennsylvania joins other states in opposition of the death penalty, recommending that Congress rally around a set of national rules on DNA testing and counsel. Both the House and Senate have similar proposals for a so-called Innocence Protection Act. Each gives states incentives to preserve DNA evidence and grant inmates access to it. For qualified legal defense, the House would develop national standards for lawyers, with \$50 million set aside

to aid states. The Senate would let states set their own standards for attorneys, but fund nonprofit defense groups if states fail to act.

31. "Where the Newspaper Stands", Daily Press September 5, 2002

In Virginia, one question up for consideration in the the November elections is whether the Constitution should be amended to permit the Supreme Court to consider, as part of its original jurisdiction, claims of actual innocence presented by convicted felons in the cases and manner provided by the General Assembly. It would also remove the governor from the process. The state's "21-day rule," the most stringent in the nation, limits the introduction of new evidence of innocence after a trial to that time frame. This can leave the state in the position of holding wrongly convicted felons who have scientifically and incontrovertibly proved their innocence, yet have no legal recourse. The General Assembly passed a law in 2001 to exclude DNA and other scientific evidence from the 21-day rule. The law also requires all biological and DNA evidence to be stored centrally, at the forensics department in Richmond; and it provides for retesting of such evidence, post-conviction, through a Circuit Court hearing rather than by petition to the governor. If the tests should then prove "actual innocence," the issue becomes one of jurisdiction and which court should review the results.

32. "Louise parents' DNA battle hailed; Courageous couple's campaign earns award", Bristol Evening Post, September 4, 2002

In England the parents of a murdered teenager received an award for their long fight to get a change in the law on DNA samples. Their three-year campaign for a change in the law, which included collecting 9,000 names on a petition, was won last year. A last minute amendment to the Criminal Justice and Police Act meant police can now keep samples collected during investigations. It allows police to build up a DNA database but only about people who have agreed to have their samples retained.

33. "Supreme Court won't hear death row DNA challenge", The Associated Press State & Local Wire September 4, 2002

The U.S. Supreme Court has declined to consider an appeal of a case against the state of California that challenged the taking of DNA samples from condemned inmates. Eight death row inmates had appealed a May decision by an appellate court that overturned a lower court decision and allowed the Department of Corrections to take DNA samples from condemned inmates. The state Supreme Court declined to hear the case in August. The DNA Convicted Felons data bank has helped solve 122 crimes since the project began in 1994, most of them since 1999. The ruling comes as Gov. Gray Davis considers a bill that would let the Corrections Department take DNA samples from inmates by force if they don't comply voluntarily. The department plans to have those regulations in place by January.

34. "State v. Deloatch, Evidence -- DNA Testing", New Jersey Law Journal September 2, 2002

NJ held its first hearing on the admissibility of STR DNA testing after the trial court granted the defendant's motion for a Frye hearing. After hearing expert testimony from the state's principal forensic scientist, the court ruled that the STR methodology used to analyze DNA substances is generally accepted for use by the scientific community and is, therefore, admissible in this court. Forty-eight states and the FBI use and recognize STR. A June 2000 survey reports its common use in more than 100 laboratories. New Jersey retains the Frye standard on the admission of expert/scientific evidence. Other states have adopted the more relaxed Daubert standard requiring only a finding that the scientific test results and expert testimony would assist the fact finder and that the results of any test were scientifically valid and reliable. Notwithstanding that distinction, every reported appellate level decision nationwide has approved the scientific reliability and acceptability of the STR technique.

35. "New Jersey man is charged in the 1982 beating death of his teenage girlfriend", The Associated Press September 6, 2002

In New Jersey, DNA helps identify a woman who disappeared in 1982. Her relatives had filed a missing persons report July 10, 1982, after she failed to attend a family picnic. A body matching her description was found two days later in waters off Manhattan's Battery Park, but it was never identified and eventually was buried as "Jane Doe." She remained a missing person until August, when the remains were exhumed and identified through DNA testing after her boyfriend from 1982 was recently charged with her slaying based on a tip from one of his relatives. A new autopsy confirmed the cause of death.

36. "Cold Case", City News Service September 5, 2002

In Los Angeles, The Cold Case Unit of the District Attorney's Office filed a murder charge today against an El Monte man accused of killing a Redondo Beach woman who had accused him of rape. The case is based on DNA

testing of blood found at the suspect's former residence near the Redondo Beach pier and his current home in El Monte, prosecutors said. A Deputy District Attorney charged the suspect with one count of murder in the killing of his friend, between Dec. 24 and Dec. 27, 1999.

37. "Inmate denies guilt in stabbing; Woman slain in '95 in Imperial Beach", The San Diego Union-Tribune, September 5, 2002
In California, a prison inmate arrested this week in connection with a 1995 slaying pleaded not guilty to charges that could allow prosecutors to seek the death penalty. The suspect was serving a sentence for robbery when he was charged with the murder of a 42 year old executive secretary and mother of three who had been found stabbed to death in her apartment. Authorities said that information and DNA testing led them to the suspect.
38. "John Doe charged with rape found in prison", The Associated Press State & Local Wire, September 9, 2002
In Wisconsin, a man charged with rape two years ago based only on his DNA has been charged by name after authorities linked his DNA to a 1994 rape. When the genetic pattern was compared with DNA profiles of convicted sex offenders in the DNA databank in 2000, no match was obtained because although the suspect was imprisoned, his DNA sample had not yet been collected and analyzed. The suspect provided a DNA sample the following year and was linked to the 1994 crime in a routine search earlier this year. He is the fourth man to be linked to an old unsolved case in Milwaukee after having originally been charged by his genetic code when his identity was not known.
39. "DA to Examine Jogger Case; But retired detective says DNA does not absolve 5 convicted", Newsday (New York, NY) September 11, 2002
In New York, a judge gave the Manhattan district attorney until Oct. 21 to respond to a defense motion to set aside the guilty verdicts against the young men jailed for the rape and near-fatal attack on the Central Park jogger in 1989. The motion cites new DNA evidence and a confession linking a convicted rapist and murderer to the attack. The detective who originally worked the case said authorities always knew there was DNA that did not match the suspects and someone had gone unapprehended. The suspect named in the defense motion was arrested for other crimes in August 1989 and is serving a sentence of 33 1/3 years to life. Still, his DNA was never tested against that found on the jogger because he was never a suspect.
40. "Attorney general says DNA exonerates imprisoned man", The Associated Press State & Local Wire, September 11, 2002
In Montana, the state Attorney General is calling for the release of an inmate who has served the last 15 years in prison for a rape of an 8 year old girl which DNA evidence shows he did not commit. The Attorney General joined the Yellowstone County Attorney in asking a District Court judge to vacate the convictions against the inmate, now 33. The Attorney General said it is the first case in Montana in which DNA evidence showed a person convicted of a crime was innocent.
41. "DNA evidence leads to new trial for Lowndes County man", The Associated Press State & Local Wire September 6, 2002
In Mississippi, New DNA evidence has prompted a judge to order new trial for a convict, once sentenced to death for the rape and murder of a child. An Assistant Attorney General who has prosecuted death penalty cases for the state for 25 years, said this is the first time in Mississippi a new trial has been granted for a death row inmate because of new DNA evidence. The inmate, who has been on death row at the state penitentiary for seven years, will remain in the jail until trial. DNA testing last May by a private lab excluded the inmate but detected the DNA of two unknown subjects.
42. "State, Circuit attorney agree to DNA testing of convicted rapist" The Associated Press State & Local Wire September 5, 2002
In Missouri, a convicted rapist serving a 60-year prison term will undergo DNA testing immediately, after officials located a man who had consensual sex with the victim hours before the assault. Appeals were dropped after the victim's boyfriend at the time of the assault was located and agreed to provide a DNA sample that would confirm the suspect's guilt or innocence. The Circuit Attorney said she originally appealed the judge's order to test because DNA testing could not exonerate the suspect in the absence of a DNA sample from the victim's known sex partner. A staff attorney for the Innocence Project, disagreed that a DNA sample from the boyfriend is needed to confirm guilt or innocence. She said that stance also violates Department of Justice guidelines, which say to test the evidence and the accused to see if they match. The Innocence Project attorney said a DNA sample from the rape kit could match that of a perpetrator in the state's DNA data bank of convicted offenders.

43. "Judge denies motion in S & S case; DNA testing won't be done on bloodstains", The Pantagraph (Bloomington, IL.), September 4, 2002

In Illinois, a judge denied a motion to test DNA which may be the key to solving a triple murder from 1988. The judge rejected the defendant's claim that the results could help prove his innocence in the execution-style shooting during a robbery. Tests of a jacket that may have been stolen from a victim revealed human tissue and bloodstains, but the samples were too small to be identified. The DNA testing of this jacket will contribute nothing to this defendant's spurious claim of actual innocence the State's Attorney said. The defendant's attorney said new testing technology could identify the person who was the source of the bloodstains and provide strong proof of whether his client was involved in the murders.

Genetic Privacy / Research

44. "Ambitious Estonian gene bank project enters pilot phase." Deutsche-Presse Agentur, September 9, 2002.

The pilot phase of a gene bank project which aims to include blood samples of the entire Estonian population is to begin. The blood samples of 10,000 donors were to be analyzed within the next six months before making a gene bank comprising the entire population. The project is considered the most ambitious of its kind worldwide.

45. "Scientists hail code of ethics." Montreal Gazette September 9, 2002

In Canada, international DNA researchers responded favorably to a new code of ethics developed by Quebec scientists who want to ensure data obtained in large DNA sampling studies are handled sensitively. The code of ethics, made public at the closing of the Third International Conference of DNA Sampling, says members of the public who agree to participate in large-population studies should be properly informed about the study and its potential benefits. The individual genetic information obtained from the study should be kept confidential, but the over-all results should be made public, the code says. It also recommends that the population being studied be told of possible socio-economic discrimination or group stigmatization that can result if a group is perceived to have a genetic risk.