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The September 27, 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 City of Los Angeles is considering some significant reforms to its treatment of DNA evidence, including requirements to preserve all DNA evidence from sexual assaults, increase the use of private labs, inventory its backlog of untested DNA, and develop a plan to process all DNA cases within 10 days. Also in California, female death row inmates have surrendered DNA samples in response to a new law.

Cold hits helped identify perpetrators in Michigan (to a murder in Texas), Missouri (to two rapes), New York (to a rape), North Carolina (to a rape) and Wisconsin (to a rape). Charges were filed against two John Does in Washington State under a new law.

Backlogs made the news in North Carolina, New Mexico, Tennessee, and South Carolina. The US Attorney General is reconvening a working group on DNA backlogs.

DNA testing cases made headlines in Alabama and Kentucky, and exonerated men are suing local governments in California and New York. Prosecutors in Oklahoma are offering DNA tests for 111 convicts.

In international news... Authorities in Vancouver, Canada are discussing a missing persons database of known prostitutes. The EU continues to discuss common standards for DNA sharing. DNA from a cigarette butt was used to identify a burglar in China, and linked four men to 200 burglaries in England. For the first time in New Zealand, DNA was used to acquit a man wrongfully convicted 10 years ago for rape. Backlogs are delaying cases in Australia, and Singapore hopes to establish a DNA database soon.

NEWS ARTICLES

Forensic DNA

1. "Justice And Home Affairs: Parliament Backs Two Spanish Anti Terrorist Initiatives." European Report, September 25, 2002.
The European Parliament has given its blessing to two Spanish draft Decisions, aimed at combating terrorism by bolstering police and judicial co-operation between the EU Member States. The MEPs passed several non-binding amendments to tighten up data protection rules, and ensure that they are kept fully informed on how the proposals are implemented. The MEP's back the plan for joint investigation teams, which is provided for in a separate Framework Decision adopted by the Council in June 2002. But they feel there is an urgent need for common standards on investigation methods (wire-tapping, DNA, etc) especially in light of the recently approved European Arrest Warrant.
2. "San Jose man sues city over false imprisonment in rape of mother." San Jose Mercury News September 21, 2002.
In California, a man who spent more than three months in jail before DNA tests cleared him of charges of raping and attempting to kill his 71-year-old mother has filed a \$1 million claim against city and county authorities. The claim alleges false arrest, violation of civil rights, emotional distress and damage to his reputation. It is the first step toward filing a lawsuit against a government agency.
3. "DNA on cigarette butts linked to burglar." South China Morning Post, September 21, 2002.

In China, DNA evidence obtained from cigarette butts dropped at crime scenes led to the conviction of a "professional burglar" with 20 similar convictions.

4. "DNA Evidence." City News Service September 20, 2002.
In California, a motion was introduced outlining sweeping changes to the LAPD's policies on storing and testing DNA evidence. The motion calls for the department to preserve all DNA evidence from rapes and sexual assaults in perpetuity and increase the use of private labs for testing. The motion also requests LAPD to create an inventory of its backlog of untested DNA evidence and increase the amount of space allocated to DNA analysis in the regional crime lab planned to open in several years.
5. "DNA trap for men behind 200 raids." Bristol Evening Post September 23, 2002.
In England, advances in DNA technology have led to police arresting four men thought to be responsible for breaking in to up to 200 homes in the south Bristol area. A detective who heads the South Bristol Anti-Burglary Team said most burglars should now be caught. He said: "The advances in DNA evidence and fingerprint evidence are moving forward daily. So now, if a burglar so much as sneezes in a home, he would leave DNA at the scene and we would be able to identify the burglar and arrest him."
6. "New DNA No Automatic Exoneration In Jogger Case." Connecticut Law Tribune September 23, 2002.
New DNA evidence in the infamous New York Central Park Jogger case proves that a man never charged in the rape, and not the teenagers convicted for the crime, committed it. The problem with relying on the new tests is this: The DNA says nothing about the innocence of the convicted defendants. Prosecutors argue that the new evidence doesn't say, nor can it, whether others raped her without ejaculating. All the DNA says is something the prosecution has said all along: a guilty man eluded capture. Lawyers for three of the five young men convicted in the Central Park rape have asked a judge to either set aside their convictions or order a new trial, claiming the DNA evidence exonerates them. Supporters say the other two convicted youths are expected to seek exoneration, too. The Manhattan district attorney's office, which is investigating the new evidence, hasn't filed a response yet. It's too soon to know whether the new evidence is enough to overcome the old evidence, despite defense claims. The point is, DNA evidence isn't necessarily a "Get Out of Jail Free" card.
7. "One-third of murder, rape convicts ask for DNA test." The Associated Press State & Local Wire September 24, 2002.
In Oklahoma, a prosecutor has offered to do DNA tests on evidence used to convict 111 people who were convicted at least in part by the testimony of forensic chemist Joyce Gilchrist, but most have not taken him up on the offer. The FBI has accused Gilchrist of doing shoddy work and testifying beyond her expertise in this and other cases. The Oklahoma County district attorney's office has heard from 38 inmates who do want the tests. The District Attorney said another reason many of the convicts might not want the test is because of the condition that their DNA could be used later in investigations into unsolved cases. Most of the cases are at least 10 years old, when DNA testing was not available. The point of the joint project of the district attorney's office and the Oklahoma Indigent Defense System is to use more advanced technology in cases where biological evidence was preserved.
8. "DNA Tests Identify Kosovo War Dead." The Independent (London), September 25, 2002.
In Kosovo, the bodies of 16 people killed in the war have been identified by DNA tests. The technology is being used to help relatives find the remains of the more than 4,000 people who remain unaccounted for, nearly three years after the end of the war. DNA matching has resulted in almost 1,000 identifications in Bosnia this year.
9. "Justice Department (DOJ), Office of Justice Programs (OJP) (F.R. Page 59550) - holds a meeting of the Attorney General's Initiative on DNA Laboratory Backlog." The Washington Daybook October 22, 2002.
In Washington, D.C., the Justice Department (DOJ), Office of Justice Programs (OJP) will hold a meeting of the Attorney General's Initiative on DNA Laboratory Backlog Working Group, on October 21-22 at 1:00 p.m. at the Courtyard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA. Contact: Lisa Forman, 202-307-6608
10. "Man charged with 10-year-old rape." Deutsche Presse-Agentur September 25, 2002.
In New Zealand, police charged a man with a 10-year-old rape for which another man had been wrongly convicted before being released on ground breaking DNA evidence. The other man, who was a neighbor of the girl, was jailed for seven years in 1993 but released three years later after new DNA evidence showing that he could not have committed the crime was presented at a re-trial. It was the first time DNA evidence was used in New Zealand to secure an acquittal rather than the conviction of a defendant. A police statement said, "We have now charged another man with the same offence."

11. "Michigan man linked to murder in Texas." Lansing State Journal (Lansing, MI) September 20, 2002.
In Michigan, a man who was imprisoned for four years has been linked to a Texas murder through the DNA database. The suspect was required to submit a DNA sample for testing upon his release in accordance with a new state law, and the database matched it to one taken from a Texas woman who was sexually assaulted and killed eight years ago. The man had been in prison in Michigan for assault and breaking and entering.
12. "Solving rape cases; Processing DNA evidence is key." Star Tribune (Minneapolis, MN), September 20, 2002.
Editorial urging the passage of federal legislation called The Debbie Smith Act. "That any woman has to bear the ongoing emotional pain of sexual assault is bad enough. Yet in addition to memories of rape, thousands of women also live with the knowledge that their assailants are still out there, free to attack again. DNA evidence can change that. That is why Congress must support the processing of such evidence from millions of rape cases."
13. "DNA registry for sex trade workers OK." Vancouver Province, September 20, 2002
A former member of Vancouver's missing women's task force says most prostitutes would be happy to hand over samples of DNA for a provincial registry. Some have criticized a proposed DNA registry for sex-trade workers as macabre and an invasion of privacy, but a member of the RCMP who has surveyed prostitutes about such a database found the opposite when he spoke to them. He explained, "The usual reaction from a sex-trade worker was, 'Is that so you can identify me when I'm dead, so you can ID my body?' I'd say yes. Nine times out of 10 they would offer to provide a sample right then and there." The idea of a registry is still in its preliminary stages and the provincial prostitution unit has spoken to the justice department and the privacy commissioner. "We've sort of hammered out a consent form and looked at a few issues concerning that, making sure the sample can only and will only be used for our purposes and not for investigative purposes for other things."
14. "Taree murder case delayed by Twin Tower DNA tests." The Daily Telegraph (Sydney) September 19, 2002.
In Australia, police may have to wait up to 12 months for the testing of vital DNA evidence in the case of a woman allegedly murdered by her husband. The DNA evidence in the murder will have to be sent to the US because the technology does not exist in Australia yet to test the sample (presumably mitochondrial testing). But US laboratories are giving priority to testing DNA collected at the sites of the September 11 attacks and identifying victims killed by the terrorists, so there is a backlog for other cases of up to 12 months.
15. "Women on Death Row Surrender DNA Samples." Los Angeles Times September 19, 2002.
In California, women prisoners on death row, who had asked the state Supreme Court to exempt them from giving up DNA samples, have now submitted to voluntarily providing the specimens. All 13 of the condemned at the state prison for women at Chowchilla provided blood and saliva specimens one day after Gov. Gray Davis signed a bill that authorizes the use of "reasonable" force on inmates who refuse to provide them voluntarily. The new law will not take effect until Jan. 1, but the women were offered the opportunity to give their DNA immediately and agreed to do so.
16. "High-tech crime busters." The Straits Times (Singapore) September 19, 2002.
In Singapore, police are going high-tech and will apply state-of-the-art technology to analyze DNA samples at crime scenes to identify likely criminals quickly. The Criminal Investigation Division is working with Nanyang Technological University on two projects totaling about \$800,000 to create specialized crime-fighting tools. In the first project, DNA kits will be produced for detectives to do on-the-spot extraction, analysis and comparison of samples, such as blood or hair, that are found at a crime scene. If a law is passed to set up a DNA database, it will likely empower the police to collect a genetic material to add the criminal's DNA profile to the database.
17. "Police: DNA matches rape suspect's." The Herald-Sun (Durham, NC), September 18, 2002.
In North Carolina, DNA evidence from a March 7 rape has been matched to DNA samples on the state database of a man who was released from prison last year after serving time for raping two Duke University students in 1988.
18. "Rape cases await two John Does." The Spokesman-Review (Spokane, Wa.) September 17, 2002.
In Washington State with the help of DNA evidence, prosecutors in Spokane and Pierce counties became the first in the state last month to file rape charges against John Does. A 2-year-old law allows prosecutors to file charges against an unnamed suspect when they have a genetic profile. There is no statute of limitations on such charges. In July, jails and prisons across the state began collecting DNA samples from more inmates under new state guidelines requiring felons and those charged with certain gross misdemeanors to be tested. Before the program went into effect, DNA samples were collected only from felons convicted of sex crimes and violent offenses. Now, tests are

being done on all felons and people convicted of three misdemeanors - stalking, harassment and communicating with a minor for immoral purposes.

19. "DNA matched to man freed in Greene County leads to charges." Springfield News Leader August 27, 2002.
In Missouri, a man has been charged with raping two Kansas City women in 1999 after his DNA sample obtained in relation to charges in another rape for which he was acquitted, was run against the CODIS database. The man had been serving 14 years in prison on a felony first-degree robbery conviction. Although the law currently only allows violent offenders - such as those who commit murders, rapes, robberies -and sexual offenders to be input into the database, officials are looking to change that. The Assistant County Prosecutor urges lawmakers to pass legislation broadening the law to include all felons.
20. "State crime lab DNA backlog slows rape investigation." The Associated Press State & Local Wire September 21, 2002.
In North Carolina, a rape suspect was free for six months before his arrest because of a backlog of DNA analysis cases at the state crime lab and the attorney general says the situation threatens public safety. It was six months before the DNA test was conducted in the Durham rape case. The suspect was arrested within hours of the test. The slowdown was because of budget problems and an overwhelming case load.
21. "DNA Testing of All Rape Evidence Urged." Los Angeles Times September 21, 2002.
Alarmed at the LAPD's destruction of 1,000 untested rape-evidence kits, two Los Angeles City Council members proposed that all such evidence in violent crimes be inventoried and tested for DNA. The council members introduced two motions, including one that would endorse pending federal legislation known as the Debbie Smith Act, which would provide grants to states to increase education, testing and analysis of DNA evidence. The other motion asks the council to adopt a policy prohibiting police from destroying rape kits and other DNA evidence from violent crimes, and calls for an inventory and testing of all backlogged evidence. The commission also was asked to develop a plan to test all evidence within 10 days of a crime, and to determine whether a proposed new crime lab needs to be redesigned to provide enough space to handle the DNA testing plan.
22. "State Not in Nationwide DNA Database." Albuquerque Journal September 20, 2002.
In New Mexico, a shortage of qualified scientists at the state crime lab means DNA samples taken as evidence over the years from unsolved crimes across the state have not been input into a nationwide DNA database. Since May, the Department of Public Safety Crime Lab has had the ability to analyze DNA evidence from unsolved cases and compare it with DNA samples from possible suspects already in the database, but law enforcement agencies from across the state have not been asked to send to the lab DNA evidence they collected from unsolved cases over the years because a shortage of qualified scientists who can analyze the DNA samples and input the information into the database. A backlog of about 150 samples from pending cases needs to be analyzed, but not input into CODIS.
23. "DNA backlog leaves many rape cases on the shelf." The Associated Press State & Local Wire September 23, 2002
In Tennessee, physical evidence that could be used to catch rapists and other serious criminals in about 2,500 cases awaits DNA analysis, a logjam officials attribute to insufficient equipment, staffing and money. The material such as semen, saliva and blood is collected in "rape kits" that are held at police departments across the state. The departments want to send the evidence to the Tennessee Bureau of Investigation for analysis, but TBI officials say they don't have the resources to process all of it. The TBI has applied for a \$3.45 million federal grant to help clear the backlog. The TBI says it is expecting the grant money, part of the No Suspect Casework DNA Backlog Reduction Program, to be approved and to arrive in March.
24. "Rape kits going untested." The Greenville News August 22, 2002.
In South Carolina, key DNA evidence that could solve some of the hundreds of South Carolina rape cases is sitting in law enforcement property rooms because it hasn't been analyzed, mirroring a nationwide trend. The Forensic DNA Lab now has the technology to compare those samples to a statewide database of convicted violent offenders. It is applying for federal grant money to quicken the process. The lab's supervisor said federal money would allow them to continue to hire a private lab to both analyze the hundreds of cases in which there is no suspect and enter the DNA profiles of the more than 30,000 convicted violent offenders -- both imprisoned and on parole -- in the state.
25. "Rapist sentenced to 14 years for raping 88-year-old woman." The Associated Press State & Local Wire September 19, 2002.

In New York, a man was sentenced to 14 years in prison for raping an 88-year-old woman in her home. The man, already a convicted felon, was linked to the crime by a "cold-hit" match of his DNA sample in a convicted-felons database. An attempted-robbery conviction, for which the man was placed on five years' probation just three days before the rape, resulted in his DNA being in the database.

26. "DNA test helps nab suspect in rape case." Green Bay Press-Gazette September 17, 2002.

In Wisconsin, DNA testing has led investigators to the man they believe broke into a woman's home and sexually assaulted her last spring. During the attack, the victim tore off his necklace and one of the latex gloves he wore during the assault. Skin cells from the inside of that glove provided the DNA evidence linking the suspect to the case. He had been convicted in 1993 of attempted second-degree sexual assault. Although he was not originally a suspect in the case, the DNA sample from the glove was compared with thousands in the state of Wisconsin database of DNA samples ordered from all convicted felons. The sample obtained from the latex glove matched a sample he has earlier provided as a registered sex offender.

27. "Wrongfully Imprisoned As A Rapist, Man Sues City, Police Department." The Buffalo News September 21, 2002.

In New York, a man who already has collected \$2 million in state funds for the 17 years he spent in prison after being falsely accused as the "Tiff Farm rapist" has launched a \$15 million false arrest and malicious prosecution suit against the city and its Police Department. DNA testing eventually exonerated the man.

28. "Editorial; Another DNA release." The Courier-Journal (Louisville, KY) September 20, 2002.

In Kentucky, DNA evidence convinced a judge to free a man who had served 13 years for a rape he says he didn't commit. The release represents the first victory for the Kentucky Innocence Project. Participating law students did the leg work, and the project kicked in \$7,000 of the nearly \$20,000 cost of the DNA test.

29. "Federal appeals court sides with death row inmate." The Associated Press State & Local Wire September 23, 2002.

A federal appeals court agreed that an Alabama death row inmate can sue to obtain evidence that led to his capital murder conviction in 1983. The 11th U.S. Circuit Court of Appeals ruling released Monday found that the lawsuit should be allowed. The opinion overturned a ruling in U.S. District Court in Birmingham. The lawsuit could pave the way for a second lawsuit seeking to overturn the conviction following DNA testing of the evidence. The man, who has always maintained his innocence, wants DNA testing done on the rape kit and victim's clothing. The technology was not available in 1983 when he was convicted. In July last year, the Alabama Supreme Court blocked the scheduled execution pending the DNA testing. The Alabama Attorney General's Office says the evidence has been lost.

Genetic Privacy

30. "Gov't set to ban human cloning." The Korea Herald, September 24, 2002.

In Korea, a government-drafted bill that would completely ban the cloning of humans will be put to public notice on Oct. 12. The bill unequivocally outlaws the cloning of human beings and imposes strict limitations on embryo research. The bill also forbids the use of individual genetic information for the purpose of education, employment and insurance.

31. "Clinic to collect DNA, match to medicines." United Press International, September 20, 2002.

Researchers at a central Wisconsin clinic plan to collect DNA from 40,000 volunteers to help create a database that will be used to match genetic profiles, medical histories and other data to medications to treat disease.

32. "Oregonians Wish To Control Their DNA's Destiny." The Oregonian September 18, 2002.

In Oregon, in a survey of 500 residents, a majority say consent should be required whenever their genetic material is used in research. Oregon passed a genetic privacy law in 1995 that put the state "at the cutting edge" in the nation. The law was amended last year to make it more clear that a person's genetic code is not "personal property," as it was listed in 1995. The amendment also said that scientists who want to anonymously research samples taken after the law passed could only use those from patients who had been told that their tissue might be studied. The phone survey of 500 Oregonians 18 and older indicated that the vast majority of state residents want to know when their DNA might be used in anonymous research, and they want the chance to opt out of such

studies.

Paternity

33. "Big Brother: The Black market in your personal data." The Guardian (London) September 21, 2002.
The DNA Testing Centre in Texas welcomes international business and all major credit cards. For a price, customers can order paternity tests, maternity tests, grandparent to grandchild tests and sibling to sibling tests. The centre offers to test blood stains, well-chewed chewing gum, cigarette butts, hard candy, semen stains, a sweaty hat, a piece of snot, earwax on a cotton bud, used beer cans, electric razor debris, exhumed tissue, and toothbrushes. Private DNA testing centers are springing up around the world, offering mainly to test samples to establish paternity, although there are a range of other relationships they can check as well.
34. "Court: Man may owe child support even though boy isn't his." The Associated Press, September 20, 2002.
35. In Maine, the State Supreme Court has ruled that a 34-year-old man may owe child support to the boy he helped raise even though DNA testing proves he is not the child's father. The man is now waiting for a lower court to rule on whether he will remain responsible for thousands of dollars in back child support.