

President's Message

Joyce A. Lauterbach

At the April 2006 Board of Directors meeting, Derek Hammond was elected to complete an unexpired term for vice president, and Gregory Floyd was elected to complete an unexpired term for secretary. Allen Southmayd will continue to serve as treasurer. The remaining directors—Kirsten Jackson, Ellen Schuetzner, Dennis Mooney, Andre Moenssens, Jeffrey Taylor, Donna Eisenberg—and new Director David Oleksow comprise a strong team.

For personal reasons, past president Paige Doherty resigned from her position effective April 22, 2006. I will complete President Doherty's unexpired terms per the provision in the ABFDE bylaws. Paige Doherty was on the BOD for seven years, having served as secretary, vice president, and finally as president from 2005 to 2006. Her contributions included significant updates to the ABFDE syllabus. She has always been a voice of temperance and calm. I will miss her insight and reasoned judgment.

One of past President Doherty's goals was to complete the FSAB application. At this time, the FSAB application has been made a priority. Although Director Hammond resigned as the ABFDE's representative to FSAB and as the FSAB treasurer, Director Hammond agreed to continue to work on the FSAB committee until the FSAB application is complete and has been submitted. As a prerequisite for the FSAB application, it was necessary to have a Confidentiality Agreement for the administrative staff in our Houston office; our accountant; and for Diplomate Frederick Panhorst, who has agreed to maintain the Random Test Generator used to prepare our written tests. Director Dennis Mooney, in consultation with Andre Moenssens, has developed this Agreement. With thanks to, and assistance from, the following individuals, this

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From the Editor

**Kirsten Jackson
Dulles, VA**

As the new ABFDE newsletter editor, I can state with certainty that I am both excited and apprehensive about my new job. Without question, Susan Morton has very large feet (i.e., BIG shoes for me to fill :^)), and I hope to be nearly as competent, and a fraction as entertaining, as she has been for the past nine years in helming this newsletter. I've also already had the pleasure of experiencing the professionalism and efficiency of Glenda, the architect who arranges the columns for each newsletter.

With change often comes....more change. You will see some new features added to the newsletter, such as this issue's "Q&A" section in which a fellow Diplomat asks the burning question, "How are the directors selected, and how are they elected to their positions?" Questions for the Board may be submitted to President Joyce Lauterbach for consideration in future newsletters. Jan Kelly and I also plan to include regular articles and updates in the "Daubert Corner" to keep Diplomates current on courtroom happenings.

I cannot complete this letter without mentioning the recent firestorm surrounding the Skill Assessment pilot testing now offered by the ABFDE. Frankly, I find the many debating voices very comforting, and this is why: whether we agree or disagree with the tests, contrary opinions would not have been expressed without a passion for the profession and the confidence that each and every opinion is considered by the Board. Time will tell whether we have made the right decision; but as a director, I can assure you that no decision is made without great attention and serious consideration by the Board of Directors. And I stand by this truth, in my very BIG shoes.

Editor Kirsten Singer Jackson

Associate Editor Jason Lee Miller

Board Reports

President Joyce A. Lauterbach
 Secretary Gregory A. Floyd
 Treasurer Allen Southmayd

Contributors

Jan Seaman Kelly
 Susan Morton
 David Oleksow
 Tobin Tanaka

Composer

IntelliType

2006-2007 Board Officers

PRESIDENT Joyce A. Lauterbach
 VICE PRESIDENT Derek Hammond
 SECRETARY Gregory A. Floyd
 TREASURER Allen Southmayd

2006-2007 Committee Chairs

CONTINUING EDUCATION Jeffrey Taylor
 CREDENTIALS Gregory Floyd
 FSAB Dennis Mooney
 HISTORIAN Jan Kelly
 NEWSLETTER EDITOR Kirsten Jackson
 PRC Gregory Floyd
 PUBLIC RELATIONS David Oleksow
 RECERTIFICATION Donna Eisenberg
 RULES & PROCEDURES Allen Southmayd
 TEST PREPARATION & VALIDATION Ellen Schuetzner
 TESTING Derek Hammond
 WEBMASTER William Leaver
 WEBSITE ARTICLE EDITOR Andre Moenssens
 WORKSHOP COORDINATOR Jan Kelly

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Deadline for the next issue is:

September 20th

www.abfde.org

New Director

David Oleksow was born in Washington, D.C., to a U.S. Navy family. After his father's retirement from service in 1964, his family settled in San Diego. Dave has been engaged in full-time document examination for over 31 years. The majority of his career has been as a document examiner in law enforcement crime laboratories. Dave retired from government service to work full time in a fully equipped private laboratory. He currently works with his daughter, Amy

Matranga, who recently completed her apprentice training. They provide service to private law firms, insurance companies, major corporations, law enforcement, and the criminal defense community. Dave is a SWGDOC committee member, served on the SWGDOC handwriting subcommittee, and served on the NIJ grant committee on handwriting validation. He was responsible for training a number of ABFDE Diplomates and enjoys memberships in AAFS and SWAFDE. His personal interests include stained glass; fishing; his wife of 34 years, Robin; and his children and grandchildren.

New Diplomat



Tobin Tanaka is a forensic document examiner with the Canada Border Services Agency (CBSA), which was formerly part of the Canada Customs & Revenue Agency. He received his training in document examination from

1993 to 1996 at the Canadian Security

Intelligence Service (CSIS), where he was employed from 1993 to 2000.

He is now primarily involved with the examination of documents related to taxation and customs issues in the criminal and civil arenas.

Mr. Tanaka is a member of the document section of the Canadian Society of Forensic Science and a provisional member of the ASQDE. Tobin has a Bachelor of Science degree, major in physics, and a diploma in meteorology from the University of British Columbia, Vancouver.

Recognitions

History of the ABFDE Newsletter:

The first ABFDE Newsletter was published in September 1991. Linda Hart was the first editor, and she retained that responsibility through 1994. In January 1995, Diane Tolliver became the newsletter editor and held that position until January 1997. In July 1997, Susan Morton became the ABFDE newsletter editor and has been our longest reigning editor, resigning recently after nine years. Many, many thanks to these three outstanding Diplomates. Our new editor is Kirsten Jackson, and assistant editor is Jason Lee Miller.

Ordway Hilton revised edition:

The Second Edition of *Scientific Examination of Questioned Documents*, edited by Jan Seaman Kelly and Brian S. Lindblom, has been released. The manuscript was available for review at the American Academy of Forensic Sciences in February. The book is currently available at CRC Press at a discount of 15% and free shipping.

The new revision is comprehensive and very well written. Contributors include Bonnie L. Beal, William J. Flynn, Susan L. Fortunato, Robert Gervais, Frank Hicks, Ordway Hilton from the revised edition (1982), Mary W. Kelly, Carl R. McClary, Susan E. Morton, Dan C. Purdy, Howard C. Rile Jr., Farrell C. Shiver, and Tom Vastrick. Congratulations to all of you for a work well done.

From the Board Room

Gregory A. Floyd
Bostic, NC



The annual meeting of the ABFDE Board of Directors (BOD) was held in Buford, Georgia on April 22-23, 2006. The following excerpts are from the Minutes of the meeting:

New Applicants

During the past year, the Credentials Committee received applications from two new applicants seeking ABFDE certification. Both applications were approved by the Credentials Committee, and each applicant has entered the testing program.

FSAB

Two new certification boards were awarded FSAB accreditation during the February meeting of the FSAB Board of Directors: the Board of Forensic Document Examiners (BFDE) and the American Board of Forensic Toxicology (ABFT). The application of a third board, the International Institute of Forensic Engineering Sciences (IIFES) is still under review by the Application Review Committee. To date, four certification boards have been awarded accreditation status. In addition to those mentioned above, the other boards that have been accredited by FSAB are: the American Board of Criminalistics (ABC) and the American Board of Medicolegal Death Investigators (ABMDI).

The ABFDE's application for FSAB accreditation has not yet been submitted. The application is expected to be completed and submitted to FSAB as soon as possible. Finalization of the FSAB application is contingent on the receipt of answers regarding Validation of the Board's written test and sourcing for some minor procedures and policies.

Director Derek Hammond had serious concerns regarding FSAB's handling of the BFDE application and has resigned from his position as the ABFDE's representative to FSAB and as the FSAB treasurer. Director Hammond has been replaced by Dennis Mooney as ABFDE's representative. Director Hammond will continue with the FSAB application process until it is complete.

Recertification Committee

As of March 21, 2006, the ABFDE has 123 Diplomates. During the past year, four new Diplomates completed the testing process, 18 Diplomates completed the recertification process, three Diplomates opted to take non-Diplomate status, nine Diplomates allowed their certifications to lapse, and four "grandfathered" Diplomates completed the testing process.

Test Preparation and Validation Committee

The ABFDE Objectives for Training (OFT) has been revised and updated to conform to recently published ASTM minimum standards for training. Due to these revisions, the ABFDE Training Syllabus will also need to be updated.

Two new sets of practical problems were validated and forwarded to the Testing Committee. One practical problem was rejected and returned to the test maker with suggestions for improvement. Four additional practical problems are in the validation process.

To comply with FSAB accreditation, Ellen Schuetzner has sought the assistance of several professionals to discuss validation of the ABFDE's written tests. Depending on the extent

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“Authentication of Documents and Simulations Workshops” *and* “The Paradigm Shift in Forensic Sciences” (Daubert Symposium)

by Jan Seaman Kelly

The 2006 ABFDE workshops, November 6 through 8, focus on certain tasks not necessarily encountered on a daily basis but which certainly fall under the purview of the FDE. Examination methodology of authenticating documents through various dating methods; examining impressions produced by flat die stamps; and determining whether signatures are genuine, simulated, or autoforgeries will be discussed in depth. Additionally, inherent limitations associated with each of these tasks will be reviewed.

Gerry LaPorte, U.S. Secret Service, Forensic Services Division, is the instructor of the one-day workshop, “The Authentication of Documents.” Various methods used to authenticate and date questioned documents, different techniques used in writing ink analysis, examination of paper including watermarks, and feasibility of dating inkjet and color toner documents based on static methods will be explored.

ABFDE vice president Derek Hammond will discuss the pilot testing ABFDE is conducting to determine the viability of a voluntary skill assessment testing program that is under consideration. Mr. Hammond will provide attendees with a summary of the first pilot test administered by the ABFDE in June. The presentation will include illustrations of the subject matter from the initial study to include a detailed description of the test’s design, structure and possible limitations. In addition, each registered attendee will be provided with a newly designed pilot study in advance of the workshop. Attendees will not be asked to return any answers but will be encouraged during the

workshop to comment on the test. During the workshop, Mr. Hammond will release the known answers and provide a detailed description of the test’s design, structure, and possible limitations. Feedback received from the first pilot study will also be discussed.

Determining whether a signature is genuine or nongenuine is a question the FDE must answer in every signature examination. In order to reach this determination, the FDE considers whether the questioned signature is truly spurious or an autoforgery. What is autoforgery? Does it exist; and, if so, what are its characteristics? Does autoforgery significantly differ from disguised signatures; and, if so, in what ways? The autoforgery workshop will delve into these questions and provide findings from ongoing research conducted by Christine Cusack.

In the “Duplicate Stamps: The Flat Die Manufacturing Process” workshop, Jan Seaman Kelly will discuss the manufacturing process of light burst and thermal technologies used to produce flat die stamps. To demonstrate how easily one can make a duplicate stamp, the registrant will burn his/her die at the workshop (registrant submits stamp impression to Mrs. Kelly at the time of registration). Characteristics of an impression made by a flat die stamp and impressions made from a duplicate stamp will be explored in the workshop discussion and practical exercises. (Registrant’s impression must be submitted by September 25, 2006.)

Paid registrants will receive practical exercises from each workshop. The scheduled series

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Treasurer's Report

Allen Southmayd
Forest Park, GA



CASH FLOW REPORT 4/1/05 Through 3/31/06

Category	Description	
INFLOWS		
	Application Fee	\$ 250.00
	Directories (kits)	-700.00
	Dues	31,682.00
	Gift Received	-171.19
	Interest Inc.	424.17
	Workshop Proceeds	19,000.00
TOTAL INFLOWS		\$50,484.98
OUTFLOWS		
	2005 Board Meeting	\$ 4,334.96
	Accounting Fees	389.30
	Ames Fund	4,320.10
	Award	160.70
	Bank Charge	285.00
	Bank Originated Debit	250.00
	Canadian Deposit	14.50
	FSAB Dues	900.00
	Hilton Project	4,000.00
	Inc Filings	75.00
	Insurance	3,675.00
	Legal Services	600.00
	Management	4,528.10
	Newsletter	2,288.41
	Operating Expense	684.95
	Postage	146.58
	Registered Agent Services	400.00
	Testing & Certification	3,365.99
TOTAL OUTFLOWS		\$30,418.59
OVERALL TOTAL		\$20,066.39

AMES ACCOUNT BALANCE As of 3/31/06

Date	Transaction	Spend	Receive	Balance
4/1/05	Opening Balance cat: [Ames]		\$7,782.36	\$7,782.36
5/5/05	Lindblom cat: Hilton Project	\$ 500.00		6,782.36
5/27/05	Kelly, Jan cat: Hilton Project	500.00		5,782.36
9/27/05	Lynn Lee, RPR, FCRR cat: Court Transcripts memo: CIV-04-1320-M, Legacy Visio...	320.10		5,462.26
1/9/06	Derek Hammond cat: Found Study Error Rate Testing memo: Derek Hammond Trip To Australia	3,000.00		3,462.26
3/31/06			BALANCE	\$3,562.26

ACCOUNT BALANCE REPORT (includes unrealized gains) As of 3/31/06

Account	Balance
ASSETS	
Cash and Bank Accounts	
Checking	\$ 5,959.57
Money Market	59,336.67
TOTAL Cash and Bank Accounts	\$ 65,296.24
TOTAL ASSETS	\$65,296.24
LIABILITIES	0.00
OVERALL TOTAL	\$65,296.24

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Error Rates in Forensic Science: A Look at the Mitchell Case

by Andre A. Moenssens

Challenges to admissibility of testimony on Daubert grounds are not new to forensic document examiners (FDEs). They were, after all, the first to suffer the brunt of such challenges when a U.S. District Court decided, in *United States v. Starzecpyzel*, 880 F.Supp. 1027 (S.D.N.Y. 1995), that FDEs would not be permitted to testify to their ultimate conclusion as to a criminal defendant's authorship of a questioned document because handwriting identification did not satisfy the Daubert criteria.

Since that time, a few isolated cases have followed that model—in some cases justifiably so when one considers the record produced by the government in those cases. But all of the broad-based Daubert challenges have been rejected by the courts, whose decisions have permitted FDEs to testify to their conclusions without restriction. All of the appellate courts which have addressed that issue have held that handwriting identification satisfies the Daubert criteria. That doesn't mean there are no more challenges, but the challenges of today are typically more narrowly based, either on the specific facts of a case or on the qualifications of a witness.

A new wrinkle that may come on the courts' forensic science horizons was the result of a Daubert decision involving a different discipline: that dealing with friction ridge ("fingerprint") individualizations. The case in question is *United States v. Mitchell*, 365 F.3d 215 (3rd Cir. 2004), cert. denied 125 S.Ct. 446 (2004).

When Byron Mitchell was indicted, a broad Daubert challenge to "fingerprinting" was filed. It resulted in several days' testimony, after which the district court judge rejected the challenge in a from-the-bench ruling. The case went to trial, and "fingerprint identification" evidence was used against Mitchell. Because the evidence against him was strong, he was, understandably, convicted.

He appealed, arguing that the trial court had erred in rejecting his pretrial broad-based Daubert challenge. The Third Circuit Court of Appeals, following the district court's example, also rejected Mitchell's arguments but wrote an extensive opinion as to its reasons for doing so. It held that, on the record presented to it, an analysis of the Daubert factors showed that "most factors support (or at least do not disfavor) admitting the government's" evidence on friction ridge individualizations. Thus, the district court was found not to have abused its discretion in admitting it. But the victory for "fingerprinting" was not without some qualifications. There are at least two points in the court's opinion that appear to apply to forensic experts other than friction ridge examiners. The first is the court's discussion on individual error rates.

In the part where the court discussed, "The degree to which the expert testifying is qualified," the opinion recommended that, in future cases, prosecutors seek to show the individual error rates of expert witnesses. This was not in the part where it dealt with Daubert "error rate" factor but in a discussion on the competence of the government's witnesses. We know that the Daubert error rate factor refers to methodological error in the underlying science or technique. And the Mitchell court certainly understood this. But the courts seemed to desire more in support of particular testimony by an expert. The exact wording of the court when discussing the experts' qualifications was:

"The putative blemish on their qualifications, which we hint at above, is that neither testified extensively about his own error rate as a practitioner (as might be revealed, for example, by proficiency tests they had taken). While that is no means fatal to the admissibility of the testimony, prosecutors would be

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Continuing Education

Jeffrey S. Taylor
Charlotte, NC

August 2006

19-24 American Society of Questioned Document Examiners (ASQDE)

Doubletree Hotel & Executive Meeting Center
Lloyd Center
Portland, Oregon

Program Chair: Linton Mohammed
San Diego Sheriff's Crime Laboratory
5255 Mt. Etna Drive
San Diego, CA 92117
(858) 467-4592 / Fax: (858) 467-4650
Linton.Mohammed@sdsheiff.org

Site Chair: James A. Green
Post Office Box 5379
Eugene, Oregon 97405
(541) 485-0832 / Fax: (541) 485-0832
qdman777@aol.com

20-24 Canadian Society of Forensic Science and the Canadian Identification Society (CSFS/CIS)

University of Windsor
Windsor, Ontario

<http://www.csfs.ca>

September 2006

22-24 Southwestern Association of Forensic Document Examiners (SWAFDE)

Tempe, Arizona

Contact: Miriam Angel
Los Angeles Police Department
150 N. Los Angeles Street
Los Angeles, California 90012
(213) 485-2976 / Fax: (213) 485-2985
G9784@lapd.lacity.org

October 2006

9-13 Midwestern Association of Forensic Scientists (MAFS)

Hyatt Regency Hotel
Downtown Indianapolis, Indiana

Program Chair: Mark Ahonen
(317) 899-8521
mahonen@isp.state.in.us

Local Arrangements Chair: Dirk Shaw
(317) 327-3021
dshaw@indygov.org

November 2006

6-10 American Board of Forensic Document Examiners (ABFDE)

ABFDE Workshop/Seminar
The Orleans Hotel and Casino
Las Vegas, Nevada

Contact: Jan Seamen Kelly
Las Vegas Metropolitan Police Department
Forensic Laboratory, Document Section
5605 West Badura Avenue, Suite 120B
Las Vegas, NV 89118-4705
(702) 229-3963 / Fax: (702) 259-0082
qdwatchdog@aol.com

This list of opportunities available to Diplomates seeking recertification credits may not be all-inclusive. Provide details of upcoming meetings or workshops for this newsletter to:

Jeffrey S. Taylor
Charlotte-Mecklenburg Police Department
Crime Laboratory
601 E. Trade Street, 4th Floor
Charlotte, NC 28202
(704) 336-8778 / Fax (704) 353-0088
JTaylor1@cmpd.org

"Everyone is Entitled to My Opinion"

Blind Testing: *Should We, or Shouldn't We?*

by Susan Morton

First, let me offer best wishes to Kirsten Jackson as the new editor of this newsletter. I held the post for nine years—that is long enough! Time for a new perspective. Also, Kirsten says I can write a column so I can continue to spout off. This is way fine—I get to pontificate without having to do any actual work-like activity. SAWEEEEET!

I've been reading all these e-mails flying around about error rate testing program. At first I wondered what this proposed testing of blind document examiners was about. I have known a number of blind document examiners over the years, but none that would admit it. I wondered where they were going to find subjects. So then I read more and realized the *testing* is blind. Does this mean we have to give opinions without looking at the evidence? I have known a few document examiners who seemed to favor that approach as well. Ah, no; it just means we don't know the answer ahead of time. Well, DUH! Why would we be taking a test if we already knew the answer? Hello, folks, listen up because I do not want to have to repeat this: life and case work are not open-book. You do not already know the answers. *Any testing that approximates real life has to be blind.*


Okay, so the question is whether this testing will be useful. It is very expensive and takes a lot of time. Of necessity, it requires a lot of examinations in order to generate meaningful statistics. The question we have to address is: is it going to be worth the effort and expense?

Tom Riley thinks not. He maintains that there is nothing we can do to please "The Critics." They have already made up their minds and do not want to be confused by facts. Their tortured arguments explaining away Dr. Kam's results support Tom's contention.

It makes no scientific sense to test a practitioner's error rate. You don't judge the

efficacy of a new vaccine based on vaccines developed in the past by that researcher. You do the blind testing on the vaccine, not the researcher. So in that sense, blind testing of FDEs is meaningless. However, as Jan Kelly pointed out in her eloquent article in the last issue of the newsletter, the courts seem to like it. We may never satisfy The Critics, but then they are not our target. Judges are. Judges are not much concerned with scientific abstracts. They want to know whether this witness right here right now is likely to provide reliable information to a jury or hornswoggle them with smoke and mirrors. A track record could be mighty useful for that purpose. How many times have FDE's brought up in court past mistakes by graphos and wannabes? Can we really object to having the same standard applied to us?

Another question that has come up is the possibility that we will eat it in court if we don't do well on the tests. Of course we will. We will also eat it if we take the tests and do well (The tests are invalid!) or if we don't take them (They refuse to take tests!). Worrying what will happen in court is useless. It is beyond our control. My experience with lawyers tells me very few of them will notice. You are more likely to get questioned about your eyesight.

I am not sure whether this program is the right thing to do. I am near the end of my career and it may never affect me. However, I hold the profession dear and want to see it continue. I don't know whether this will solve our problem with the courts, but I do know there is only one way to find out. We have to proceed with the pilot study. I am volunteering to be in the test group. I don't much enjoy taking tests, but I will do it. I hope a number of other prominent FDE's will join me so that we can get a valid sample. We owe it to our profession and to the future. So bring it on and let the stats begin! 

Q & A

by Joyce Lauterbach

"How are the directors selected, and how are they elected to their positions?"

This is a new section that is designed as a forum in which Diplomates may submit a question for the Board to address and answer. Please submit your questions directly to President Lauterbach (Joyce.Lauterbach@ci.irs.gov).

For the introduction of this section, Jason Lee Miller presented the question "**How are the Directors selected and how are they elected to their position?**" The following is the information resulting from that inquiry:

Until 2001, the ABFDE Board of Directors (BOD) was an internally elected group. Nominations were made at BOD meetings, and the directors would then vote to confirm the next person who would fill a vacancy.

At the meeting of the directors in 2001, a change was made to comply with the directives of the Forensic Specialties Accreditation Board (FSAB, <http://www.thefsab.org>). Specifically, their standard 4.2.4 states:

The certification body shall use formal procedures for nominating members to its board. The current board members shall not nominate a majority of their successors.

This change was reflected in 2001, in Article IX: Elections and Terms of Office):

4. Election of Directors

- a. Not less than one-half (1/2) of the members at large of the Board of Directors shall be elected by a mail ballot whenever a vacancy exists. These members shall be elected from a ballot consisting of a slate of candidates prepared by the Nominations Committee. A provision will be made on the ballot for write-in candidates. Such elections shall require a simple

majority affirmative vote. In the event of a tie vote, a majority affirmative vote by the Board of Directors shall break the tie.

- b. Not more than one-half (1/2) of the members at large of the Board of Directors shall be elected whenever a vacancy exists by the members at large of the Board of Directors, provided that at least one (1) position is filled by a public member. Such elections shall require a majority affirmative vote.

This bylaw remained until 2004, when the following change was made (and subsequently published in the July 2004 ABFDE newsletter):

Article IX, Section 4 (Election of Directors)

- a. A Director to the Board shall be elected from the Diplomates of the ABFDE by a single majority vote of the Board of Directors. Elections regarding a public member (non-Diplomate) shall also be by a simple majority vote of the Board of Directors
- b. The following election procedures will be put into effect during such time as the Board is prepared to submit an application for accreditation by the Forensic Specialties Accreditation Board (FSAB):
 - i. Not less than one-half (1/2) of the members-at-large of the Board of Directors shall be elected by a mail

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Q&A

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- ballot whenever a vacancy exists. These members shall be elected from a ballot consisting of a slate of candidates prepared by the Nominations Committee. A provision will be made on the ballot for write-in candidates. Such elections shall require a simple majority affirmative vote. In the event of a tie vote, a majority vote by the Board of Directors shall break the tie.
- ii. Not more than one-half (1/2) of the members at large of the Board of Directors shall be elected whenever a vacancy exists by the members at large of the Board of Directors, provided that at least one (1) position is filled by a public member. Such elections shall require a majority affirmative vote.

This change was made to simplify the process of locating those Diplomates who were aware of the challenges of serving on the BOD and who had the available time and desire to meet those challenges.

Recently, at the last meeting of the BOD in April, more changes were proposed.

A change to the Rules and Procedures was presented to form a Nominating Committee at the request of the president and have it consist of one person who is either a director or the immediate past president, with another two committee members who are from the body of Diplomates at large. This proposal was the direct result of questions presented to FSAB concerning their requirements and was deemed to satisfy Standard 4.2.4 (as outlined above). This proposal passed and was incorporated into the Rules and Procedures Guide.

Another proposal was to remove the language in Article IX, Section 4 under item b and subitems i, and ii. This initiative was proposed to streamline the process of elections and have all nominations submitted to the BOD directly by the Nominations Committee. This proposal did not pass. The bylaws state that if a proposal

for change to the bylaws is received by the BOD 30+ days in advance of the meeting, then only a two-thirds (2/3) majority is needed to make the revision. If a proposal is not distributed to the BOD in the appropriate time, a unanimous decision must be reached. This proposal was not submitted in the appropriate time frame, and unanimity was not reached. Thus the 2004 revision is the current standard for the election of Diplomates to the BOD.

The question whether or not item (a) or (b) in Article IX, Section 4, applies is based upon the status of the FSAB application at the time of this publication.

Workshops

(continued from page 5)

of workshops offers quality instruction in forensic document examination tasks not considered the profession's "bread and butter" (i.e. handwriting); nevertheless, these tasks are encountered by FDEs in casework.

The third ABFDE Daubert symposium, "The Paradigm Shift in Forensic Sciences," will be held November 9 and 10, following the workshops. This multidiscipline symposium includes presentations of judicial expectations in Daubert hearings; individual error rates, proficiency testing, and peer review; the role of cognitive and visual sciences; friction ridge identification science: the appellate process; firearms and firearms challenges; and error rates in nonforensic disciplines. The presentations consist of new material and updates relating to today's Daubert and critic challenges.

Both events will be held at The Orleans Hotel and Casino in Las Vegas. Registration forms for each event are included in this newsletter and can also be downloaded at www.abfde.org.

I am thrilled about this year's training opportunity. The workshops and symposium both offer new information and quality discussion for the paid registrant. Any questions or comments, please do not hesitate to contact me at 702-229-3963. I hope to see you in November!



President

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application is nearly complete: directors Derek Hammond; Dennis Mooney; David Oleksow; and non-director Carl McClary, who answered questions regarding validation of our written test and sourcing some issues such as ethics, professional standards, and general operating requirements.

The ABFDE website is under construction. The appearance, ease of use, and navigation within the website are being revised. Webmaster William Leaver has presented two mock-ups for a new look to the ABFDE website. Public Relations Chair David Oleksow will be working with William Leaver to review and make recommendations for content on the entire site. Director Andre Moenssens will review all articles posted on the ABFDE website.

The ABFDE brochures are being reprinted. This became necessary after notification from the American Academy of Forensic Sciences that they no longer "sponsor" any organization because they do not have authority or responsibility for the functions of these organizations. Reference to the AAFS as a sponsor of the ABFDE must also be removed from the ABFDE Rules and Procedures Guide and website.

Some additional goals for the coming year are to continue to provide high quality workshops on topics related to forensic document examinations, move forward on the validation of the Board's written test, and conduct a full assessment of the pilot study that was recently made available to ABFDE Diplomates. An update of revisions to the Rules and Procedures Guide should be posted on the new website very soon. The addition of procedures for a Nominations Committee are described in the secretary's report (page 4).

The Skill Assessment pilot study has been released. The pilot test was described in detail in the announcement of its availability. Ten Diplomates requested the pilot study on the first day that it was released. Feedback from the initial pilot study will be summarized at the upcoming ASQDE Meeting in Portland,

Oregon. A second pilot study is being prepared as workshop material for the upcoming ABFDE Workshop in November 2006.

A summary and registration forms for the upcoming Board Workshop and Daubert Seminar are provided in this newsletter. Past President Jan Seaman Kelly continues to provide invaluable contributions and support to the ABFDE as Workshop chairperson.

You will find an insert letter relating to *Qualifications and Requirements for ABFDE Certification* in this edition of the Newsletter. The letter is included for your use and is provided at the request of a Diplomate.

As president, I hope to establish and maintain open lines of communication with our Diplomate body. Directors should be open and candid regarding all issues that have an effect on the greater Diplomate body. Announcements and updates pertaining to Board activities should be posted on the ABFDE website in a timely manner. There will be an ABFDE update at the upcoming ASQDE meeting in Portland, Oregon. I encourage you to contact me with suggestions and/or questions. Diplomate Jason Lee Miller suggested a question-and-answer column for the ABFDE newsletter. Questions from a Diplomate were addressed in the previous newsletter in Past President Doherty's Message. A separate question-and-answer column appears in this newsletter (page 10).

Please do not hesitate to contact me at joyce.lauterbach@ci.irs.gov or at (803) 253-3547.



Board Room

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of the previous work in this area, the projected costs may run between \$15,000 and \$30,000.

Testing Committee

During the past year, eight candidates successfully completed all three phases of testing. This includes four new candidates and four "grandfathered" candidates. There are currently 12 candidates in various stages of the testing process.

The statistics for each phase of testing are listed below; however, since all of the candidates did not complete all phases of testing during the current calendar year, these numbers may not correlate to the above-cited statistics.

- Three candidates completed the 100-question multiple-choice test, and all three were successful (100%).
- Seven candidates completed the practical phase of the testing process, with five candidates successfully completing the process and two candidates failing (71%).
- Nine candidates completed the oral board phase of the testing process, with eight candidates successfully completing the process and one candidate failing (89%).

Minor problems were experienced with the Random Test Generator Pro software; however, these problems have been corrected, and Fred Panhorst has volunteered to assume responsibility for generating future written tests.

2005 Workshop

The efforts of Jan Kelly, Kirsten Jackson, and others made the 2005 ABFDE Forensic Document Examination Workshop in Las Vegas a success. There were 34 attendees, and the feedback was excellent. The workshop covered printing processes (desktop and commercial), Rule 16 and Rule 26A, the electromagnetic spectrum, and line intersection/alteration problems. Special thanks should be given to Gerald LaPorte, Scott Walters, Jan Kelly, Derek Hammond, Brian Carney, Gerald Richards, Bonnie Beale, and Susan Morton for their

contributions as instructors/preparers of problems.

2006 Workshop

The ABFDE Forensic Document Workshop/Daubert Seminar is currently being planned for November 6-10, 2006, at the Orleans Hotel and Casino in Las Vegas, Nevada. See page 5 of this newsletter for more details.

Continuing Education Committee

During the past year, the following workshops received continuing education credit:

- Northeastern Association of Forensic Scientists (NEAFS) for "Microsoft Access Workshop for Forensic Document Examiners."
- Northeastern Association of Forensic Scientists (NEAFS) for "An Introduction to Typography for the Forensic Document Examiner."
- Midwestern Association of Forensic Scientists (MAFS) QD Section for "The Preservation of Deteriorating Documents."
- Canadian Border Services Agency (CBSA) for "Workshop on Disguised/Simulated Writing, the Introduction to the FEPL Proficiency Testing Program and the Review of ANZFSS Methods and Procedures."

Nominations Committee

The BOD approved the creation of a Nominations Committee, chaired by an immediate past president or a director designated by the president, and at least two additional non-director Diplomates to be responsible for preparing a slate of (at least two) candidates willing to serve as directors when vacancies to the Board occur.

Pilot Testing Program

Each member of the BOD was given the opportunity to discuss the pros and cons of the ABFDE's potential involvement in this type of testing. After this discussion, Dr. Bryan Found was invited into the meeting to further discuss validation trial testing. Subsequent to Dr. Found's departure, the BOD further discussed and debated this issue, and it was voted on and

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Treasurer

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During the 2005 to 2006 reporting year revenues from dues decreased approximately \$2,500.00 due to retirements. Expenditures increased by \$5,388.82 during this same reporting period. Fluctuations in spending by the Board were due to several factors, some of which are reflected in the Ames Report.

- ABFDE supported the completion of the update of Ordway Hilton's Book, *Scientific Examination of Questioned Documents, Second Edition*, in the form of a \$5,000.00 grant against any future revenues that the book editors Jan Seamen Kelly and Brian S. Lindblom would have received. The grant was broken down as follows: \$1,000.00 from the Ames Fund and \$4,000.00 from the general account. As of the date of this newsletter, no revenues have been received.
- ABFDE allocated \$3,000 to send Director Hammond to LaTrobe University in Australia to determine the feasibility of offering a proficiency test modeled on the Expertise Profiling tests designed by Dr. Bryan Found, et al.
- FSAB dues increased from \$500 to \$900 annually.
- Expenses allocated to Testing and Certification were \$1,534.85 above the previous year. In order to provide written and oral testing at the ASQDE meeting in August 2005, and at the ABFDE Workshop in November 2005, it was necessary to send a third director to each of these meetings. Airfare and one additional night at a hotel were the primary additional expenditures for testing.
- Expenditures for the 2005 Directory were \$2,968.38 below the previous year. In the 2004 to 2005 reporting year the new format RPG was printed and mailed. In the 2005 to 2006 reporting year, these updates were sent by email and should be made available on the ABFDE website.



Board Room

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decided that the ABFDE should proceed in issuing a pilot test for validation purposes to only those ABFDE Diplomates interested in participation, with a limit of one test per laboratory and with the stipulation that feedback to the Board would be provided by each participant.

Newsletter Editor

Kirsten Jackson has assumed the duties as editor of the ABFDE newsletter, replacing Susan Morton. Lee Miller will be the assistant editor. We would like to thank Susan Morton for all of her excellent work during her tenure as editor.

Recertification Points

Recertification points were re-evaluated, with emphasis on continuing educational activities. These changes will be included in the next newsletter.

ABFDE Website

Bill Leaver will be contacted regarding an update of the ABFDE website.

Changes to the Executive Committee

Upon the resignation of Paige Doherty as president of the ABFDE, bylaws provided for vice president Joyce Lauterbach to complete the vacated term as president. Nominations to complete the vacated terms of the vice president and secretary were voted on, and Derek Hammond and Greg Floyd were selected for these positions, respectively.



Error Rates

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well-advised to elicit testimony about their experts' personal proficiency, rather than relying on the discipline's good general reputation among lay jurors. . . ."

The failure to present such evidence in *Mitchell* was deemed to be harmless, since the primary government witness exhibited "uniquely strong qualifications" and his testimony was further buttressed by "confirmatory identifications by state agencies" which the court saw as a "surrogate" for the absence of evidence about the governments two expert witnesses' individual error rates.

Nevertheless, in commentaries that are already floating around the defense bar, the critical academics who have been instrumental in attacking forensic science disciplines on *Daubert* grounds are likely to ignore the distinction between methodological error and practitioner error. They may well seek to force government witnesses to produce such error rate evidence. In the absence of such evidence, it is entirely possible that in forensic disciplines which lack the "good general reputation among lay jurors" that benefited "fingerprint identification," some courts may not qualify certain witnesses who lack evidence of favorable proficiency test results.

A second point that must be noted in the *Mitchell* opinion is its discussion of defense witnesses who seek to attack the reliability of a particular forensic science in question. The court suggested here that there be no limitation on the defense's right to present expert testimony. In that regard, the court noted: "Experts with diametrically opposed opinions may nonetheless both have good grounds for their views, and **a district court may not make winners and losers through its choice of which side's experts to admit when all experts are qualified**" [author's emphasis].

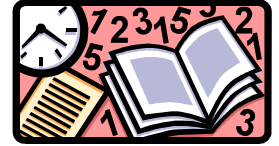
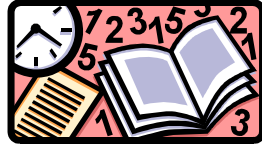
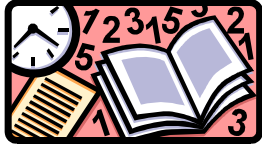
But the court went further and said that if there were any question about a proffered expert's competence on a given issue, the court should err on the side of "admitting any

evidence having some potential for assisting the trier of fact." A lot of space was devoted in the latter part of the court's opinion to a discussion of the limitations believed to have been imposed on the testimony of some defense experts in *Mitchell's* case. No limitations should be imposed, the court said. What saved the case from a reversal on that point was perhaps the failure of the defense to effectively preserve its objections.

Thus, government motions to preclude certain critics from testifying that handwriting identification is not sufficiently reliable to be admissible under Federal Rule of Evidence 702 and *Daubert* are likely to fail in the future.

A third significant point is more applicable to friction ridge individualization testimony and perhaps does not apply to other forensic sciences. At the pretrial hearing, the district judge, like many courts had done before him, had taken judicial notice that "human friction ridges are unique...including small friction ridge areas...." The Third Circuit opinion in *Mitchell* found that part of the trial judge's ruling to be in error.

While there have been state reviewing court decisions going back 40 or more years taking judicial notice of the uniqueness of fingerprints, the court found these decisions not only not binding on the court but clearly distinguishable, since the decisions dealt with the uniqueness of complete fingerprints. Uniqueness of each "fingerprint" was not the issue here; the issue was uniqueness of small areas of friction skin such as are typically visible in a latent impression. As to that issue, the appeals court felt that the very fact it took five days of testimony to establish the "uniqueness" of "small areas of friction skin" showed that the fact was by no means "generally known" or "capable of ready determination"—two of the requirements for taking judicial notice of a disputed fact. Because the trial judge's ruling on that point was not deemed to likely have altered the outcome of the case, it was considered to be "harmless error" not requiring a reversal.



TESTING SCHEDULE

The written test and/or oral boards will be offered at the following national and regional forensic document conferences:

August 2006 **ABFDE, Portland, OR**
February 2007 **AAFS, San Antonio, TX**

Testing may also be available at other regional meetings in the upcoming year if three directors are available for oral panels. Any candidate interested in beginning the testing process should contact Testing Committee Chair Derek Hammond at (404) 469-7044 for details.

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