

President's Message

Joyce A. Lauterbach

Goals and Directions

As I look over the past eight months, I realize that this has been a most stressful and trying time in the ABFDE community. I believe that we all share a common goal to establish and maintain the highest possible standards of practice among those certified by the ABFDE. Differing opinions revolve primarily around a course of action and the proper venue for accomplishing goals, particularly as they relate to the Pilot test project. As stated in the last newsletter, all feedback from the Survey published in the September 2006 Newsletter, as well as feedback from the Pilot test, will be taken into consideration at the next Board meeting in deciding how the Board will proceed with the Pilot test.

One year ago the primary reason for putting out a Pilot test was to study the feasibility of using this type of testing for certification and recertification requirements and also to determine whether individual error rates could be established. At the April 2006 Board meeting, there were side discussions regarding the number-crunching aspect and the possibility of research and publication funds being established should the Board determine that this was practical. The research and publication aspect, however, was not part of the original agreement or a subsequent authorization in January 2006 for sending Derek Hammond to the LaTrobe Laboratory in Australia for additional information.

At the Board meeting in April 2006, there was a decision that using the test for certification and recertification was not practical; however, other aspects of the tests such as using the test to establish error rates, continuing education, and self-evaluation may have practical use. Recent discussions have emphasized using the Pilot test for continuing education rather than error rates. Research and publication based on the Pilot test have also been considered.

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Daubert Corner

In April 2006, the US Federal Court of Appeals (5th Circuit) affirmed the lower court’s exclusion of a NADE document examiner from testifying. In *US vs. Garza* (No. 04-41244), the appellate court concluded as follows: “Exclusion of forensic expert’s testimony that the witness signatures on defendant’s written confession and consent to search were forgeries was warranted, as unreliable, in drug conspiracy prosecution; expert admitted that she considered only photocopied documents in rendering her opinion, that she did not know how many times the documents in question had been photocopied, and that looking at the original signatures was the best practice in analyzing them, and the photocopied documents and witness’s handwriting exemplars were provided to the jury for their own conclusion on the authenticity of the signatures.”

This decision is unfortunately the first instance of a federal appellate court affirming the exclusion of a document examiner. Although the details of the hearing are not known, it is important to note that the judge was not convinced that photocopies can be examined, that this type of examination is addressed in the ASTM handwriting standard (E2290), and that contrary to Dr. Moshe Kam’s findings, the judge believed the jury could reach its own independent, accurate conclusion.

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TESTING SCHEDULE

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

February 2007	AAFS, San Antonio, TX
August 2007	ASQDE, Boulder, CO

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.

● **Send contributions to:**
 ● **Kirsten Jackson, Editor**
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 ● **Deadline for the next issue is:**
 ● **March 20th**
 ● **www.abfde.org**



New Diplomate

Brittany King has been employed as a forensic document examiner for approximately seven years. She currently works for the Treasury Inspector General for Tax Administration (TIGTA) Forensic Science Laboratory. Prior to her employment with TIGTA, she worked for the U.S. Secret Service, where she received her training.

Brittany obtained a Bachelor of Arts degree in Psychology and Sociology from the University of Tennessee and a Master of Forensic Sciences degree from National University. She is a member of the Mid-Atlantic Association of Forensic Scientists.

Check 21 and the Forensic Document Examiner

Forensic document examiners have used canceled checks as an integral part of handwriting examinations for many years. The Check Clearing for the Twenty-First Century Act (Check 21) has had an adverse impact on our ability to obtain original canceled checks.

Canceled checks have long been a good source of known handwriting specimens because the FDE could use original canceled checks that are contemporaneous with the date of the questioned or disputed signature. A good FDE will ask for checks that “bracket” the date of the questioned signature. The original checks would usually give the FDE a good example of the writer’s range of variation. When requested, usually an ample amount of checks are submitted.

On October 28, 2004, President George W. Bush signed into law the Check 21 legislation. This legislation can trace its beginnings back to circa 1998. The legislation was put on the fast track after the tragic events of 9/11 which virtually stopped the ability of banks to clear checks.

The law *allows* the transmission of electronic images of checks vs. the physical transportation of original checks from bank to bank. The law also allows the destruction of the original check. The law does not require the electronic processing of checks, it only

allows it. The process of transporting these checks from the depositing bank to the account holder’s bank is called *Check Truncation*.

Under the old law, check truncation became problematic when a check was deposited in a bank in New York and the account holder’s bank was in California. The checks would have to be loaded on a plane and flown to the account holder’s bank, very often within 24 hours of the presentment of the check. In the days following 9/11, when air traffic was grounded, the checks could not be moved to the account holder’s bank. The second problem that hastened the Check 21 legislation was the wave of bank mergers. The large mega banks had to maintain large check-clearing operations in several areas of the United States in order to clear the checks. Under the Check 21 legislation, the need for the large check-clearing operations is no longer necessary.

With Check 21 legislation came the evolution of the substitute check or “IRD,” Image Replacement Document. This is a paper reproduction of the original check that contains an image of the front and back of the check. A substitute check is considered a legal equivalent to the original check.

The substitute check or “IRD” must contain the following:

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Test Preparation and Validation

Ellen Mulcrone Schuetzner
Chicago, IL

“ You will find that the work of this committee is rewarding as you have the opportunity to review many resources. ”

When was the last time you needed to find information about the Projectina? If you needed that information, you would find more than one article about it in the ABFDE syllabus. However, if you needed to find recent information about Daubert issues, you would not find that in the same syllabus. The ABFDE syllabus is ready for a change.

As part of the work of the Test Preparation and Validation Committee, the Objectives for Training (OFT) have been rewritten. The new OFT reflects the current training of forensic document examiners and the standards as established in the ASTM International Minimum Training Requirements for Forensic Document Examiners (E 2388). New sections have been added to address such areas as digital imaging and software and other current training necessities. After thorough assessment, the new OFT were voted on and accepted by the Board of Directors of the ABFDE in 2006.

The OFT are meaningless without the syllabus that substantiates them. The Test Preparation and Validation Committee has started the work of rewriting the syllabus. Each section must be reviewed to

update it. The new sections need appropriate technical sources added. This will require the attention of Board Diplomates who are willing to participate in this project.

Once the new syllabus is completed and accepted by the ABFDE Board of Directors, the written test for candidates to the Board will be reviewed by the Test Preparation and Validation Committee to insure that all the questions are based on the sources in the new syllabus. New test questions will be added to the test and validated based on the sources in the new syllabus.

The Test Preparation and Validation Committee is looking for volunteers who are willing to become involved. If you have an interest in this project, please contact Ellen Mulcrone Schuetzner. You can request one section of the syllabus to review and edit, or work on the entire project. You will find that the work of this committee is rewarding as you have the opportunity to review many resources. You will be able to earn points for recertification as you assist a Board committee. And you probably won't have to review too many Projectina papers. 

2006 ABFDE Survey Results

by David L. Oleksow

The ABFDE has compiled the following results of the 2006 survey of its Diplomates in an effort to obtain guidance in future activities of the Board and to pinpoint any problem areas that need to be addressed in our future activities. The compilation of the entire survey and comments can be found on the ABFDE website. The following results are intended to provide a general overview of the responses.

As Public Relations Director, it was my intent not only to provide guidance to the Board but to also allow the Diplomates an insight into the opinions and beliefs of their fellow Diplomates.

I would like to acknowledge the significant assistance of my partner here at our private practice, Amy Matranga, in compiling and tabulating the results of this effort. Her daily attention to this survey greatly assisted in obtaining a timely, accurate, and complete record of the responses.

Many of the following responses will include a numerical and percentage breakdown of the results with a sample of the comments received from the respondents. No attempt at editorial comment or correction is included.

Question #1

Do you believe that the ABFDE (the Board) should be involved in testing to determine error rate?

Yes	13	21%
No	49	78%
No Response	1	2%

Comments by Diplomates:

No. This is outside of the Board's primary purpose and is distracting from necessary work of the Board.

Yes. It is obvious from court opinions of the past three years judges are basing their decision on allowing, limiting, or excluding experts on testimony given regarding proficiency testing and peer review of case work. This is coming. The judges have yet to define "error rate" for the expert. The QD community has the opportunity to be proactive regarding proficiency testing of members of the community. By taking these steps now, it will go a long way in convincing the court we recognize that it needs to be done and it is a work in progress. By not doing it, the worst-case scenario very well may be courts deciding that the critics are the "voices

of reason" and direct the judicial thought that acceptable testing is through the critics. Past court decisions had made it clear that the QD community should listen to the criticisms. Having them oversee testing is the next logical step.

No, the personal error rate can be obtained at/determined to buy use of CTS or other proficiency tests.

No, at least not in the process that has been put forth in the proposed Found/Hammond model. There are too many problems with this format that can yield misleading and unrealistic numbers in regards to an examiner's ability.

Question #2

In your opinion, is personal error rate testing beneficial or detrimental?

Beneficial	22	35%
Detrimental	35	55%
No Response	3	5%
Both	3	5%

Comments by Diplomates:

Detrimental. This may change in time, but right now it feel would be more detrimental than beneficial, esp. if attorneys have access to rates.

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Continuing Education

Jeffrey S. Taylor
Charlotte, NC

February 2007

19-24 American Academy of Forensic Sciences (AAFS)

“Management Issues in Forensic Document Units”
by Diane Tolliver and Tom Riley

Henry B. Gonzales Convention Center
San Antonio, Texas

aafs.org
Dennis Mooney (QD Section Program Co-chair)
14632 Harbor Way
Flint, TX 75762
(903) 509-9097
etfde@sbcglobal.net

Fred Panhorst (QD Section Program Co-chair)
U. S. Army Criminal Investigation Laboratory
4930 North 31st Street
Forest Park, GA 30297-5205
(404) 469-7043
Fredrick.H.Panhorst@us.army.mil

April 2007

13-14 Southeastern Association of Forensic Document Examiners (SAFDE)

“The Fine and Subtle Elements of Handwriting” by
Lloyd Cunningham

Marriott Century Center
Atlanta, GA

Donald Moryan (Program Chair)
U. S. Army Criminal Investigation Laboratory
Forest Park, GA 30297-5205
(404) 469-7045
Donald.Moryan@us.army.mil

20-22 Southwestern Association of Forensic Document Examiners (SWAFDE)

“Technical Writing”

Beach Resort Monterey
Monterey, CA

Hotel Contact: Liz Bala
1-800-242-8627

Joseph Merydith (Program Chair)
(916) 227-3623
Joseph.Merydith@ca.gov

May 2007

23-25 Mid-Atlantic Association of Forensic Scientists (MAAFS)

“Chemically Prepared Toners” by Graham Galliford

Hyatt Regency Washington on Capitol Hill
Washington, DC

Program Co-Chairs:

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(202) 585-7268
Alan.Petty@csosa.gov

Dr. Jim Jones
(202) 585-7259
James.Jones@csosa.gov

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and Customs Enforcement
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McLean, VA 22102
(703) 285-2482 ext. 144
Doug.Shaffer@dhs.gov

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

Fifteen Minutes of What?

by Susan Morton

We have been having an endless Daubert hearing in federal court in San Francisco. For once it is not on handwriting. This one is on two subjects, dosage drug identification and firearms identification. As a veteran of several of these hearings, including two with the same defense attorney, I have been providing advice and counsel. So far things have been going well, at least as far as we can tell. As of this writing, there has been no ruling.

Although I am helping all I can, I must confess to a tiny bit of wry amusement at the scurrying around. There is shock and indignation that anyone would question these well established practices. Sound familiar? A year ago when I had a Daubert hearing in federal court with the same defense attorney and Saks on the other side, the only input I got from my superiors was a reprimand for releasing discovery information that the judge ordered me to release. So I am laughing quietly and gently up my sleeve. The court did not find Saks' testimony compelling and allowed unrestricted testimony on handwriting identification.

This year the defense attorney has found equally lame opposing experts for drugs and firearms. The defense expert for firearms, a law professor, was rather astonishingly inept. Her claim to fame is an article she wrote on the subject that appeared in The Amicus Brief. The article contains some interesting and thoughtful observations, but the lady in person lacks

gravitas. Some years ago, I prepared a list of 40 tips for how not to make an idiot of yourself while testifying. She found one I did not think up. After being sworn in and asked to spell her name for the record, she made a rhyming alphabet song out of the letters of her name. Somehow this failed to convey the impression that she was a well-prepared, take-no-prisoners professional. Later during her testimony, the judge had occasion to remind her that she was not appearing as an advocate and that she was under oath. Our firearms examiner was rather wrought up that the prosecutor did not take after her with more enthusiasm. However, I pointed out that when the judge admonishes a witness about perjury during a hearing to the court, any more destruction would be redundant. She might as well put jam in her pockets, because she is now toast.

The expert's performance reminded me of a phrase I came across recently in an incriminating jail letter. The writer was advising his buddy on the outside to lay low. Being an illiterate thug, he was unable to spell. He told his friend to stay out of the "lame light." The lame light. Now that is a useful phrase. It would appear that Ms. Expert has enjoyed her moment in the lame light.

As for my amusement over the Daubert hearing on other subjects, I am facing retribution. The defendants have been writing incriminating letters out of jail.

Q

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Detrimental. It would be a number we would be stuck with for the rest of our lives and be used for everything we do. We should all be aware that we can make mistakes and hopefully profit from them, but to be assigned a number at some point in our career would be lethal.

A personal error rate is beneficial in that it gives the court the type of measurement it is seeking to make sure the expert before them as competent. The error rate can be achieved through testing such as Found stats; but, it can also be met by proficiency testing, such as the pilot test the Board recently released. Failing a proficiency test has not been proven detrimental. In fact, in the Fuji case, the FDE testified she failed a proficiency test on handwriting, completed remedial training, was retested, and passed. This was commented on by the judge and the fact that the FDE initially failed the proficiency test was not a concern in the case.

Question #3

Do you have any comments regarding the current pilot testing provided by the Board?

Comments by Diplomates:

I personally feel that this is something that the ABFDE should not be pursuing and find this a waste of the Board's time, energy, and finances. The time and money spent on this issue could have been much better spent on other areas of importance within the organization (i.e., FSAB accreditation, working on promoting our organization and increasing its membership, educating the legal community along with the media, etc.)

Yes. Part of recertification is to demonstrate competency in the field. Competency cannot be demonstrated sitting in meetings listening to paper presentations. Competency has to be demonstrated...which is usually testing participating in proficiency test provides a measurement to the FDE as to how he/she performs specific tasks. If the performance is low (exhibited by a low or failing score), the examiner is made aware

of an area to seek additional training. Proficiency testing is viewed as a punitive activity. It really is a shame for this to happen, because what better measurement of an FDE's examination ability is there other than proficiency testing?

The current test is like a guessing game with areas of gray and does not reflect actual examinations and reportable findings. ASTM standards do not allow for broad statements that have vague findings.

Question #4

Do you believe that the Board should be involved in any testing beyond the initial certification testing?

Yes	28	44%
No	30	48%
Maybe	2	3%
Nothing	3	5%

Comments by Diplomates:

Yes. In the absence of cost-effective alternatives from other sources, the Board should expand its current pilot testing program into a full-fledged voluntary test program. This program, if implemented, should not be associated with certification or recertification requirements as participation should be voluntary.

Maybe. Probably, but first the Board would have to come to satisfactory response about how the testing would affect one's certification status. How can the Board offer testing beyond the initial certification that is not in some way tied to a Diplomates certification? This is illogical. What do other certifying bodies do?

No. The time, energy, and effort needed to properly accomplish this would be monumental. The Board had a hard enough time just putting together good tests for the new members going through the testing process. As you well know, and if done properly like CTS tests, any test that is going to be administered to the membership needs to be both internally and externally validated with a certain percentage of

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consensus agreement. I definitely feel that this is something the Board should not be getting involved in.

Question #5

Would you be willing to take proficiency testing similar to the CTS testing through the Board?

Yes	32	51%
No	26	41%
No response	5	8%

Comments by Diplomates:

Yes. CTS-type testing that does not require the process type opinions would be much preferable to a barrage testing model.

Yes. I believe everyone should have a choice, whether it is to participate in CTS, Found, or the Board proficiency test. It should always be a choice. If the Board proficiency test is established, I would participate in it and CTS. Results from two different tests sources will strengthen testimony, not weaken it.

No. CTS proficiency testing already exists and is not cost prohibitive, so why should the ABFDE try to replicate it? Furthermore, I suspect that most of the current CTS participants would state that as a general rule nothing is learned or gained through their participation in CTS tests. Many participate because they work in an ASCLD/LAB accredited laboratory and are required to participate.

No. Test production by an organization that gives "credit " for the rest is not appropriate; that is one reason ASCLD/LAB does NOT provide tests.

Question #6

Should the Board continue to seek independent validation of test that the Board administers?

Yes	48	76%
No	9	14%
Maybe	1	2%
No response	5	8%

Comments of the Diplomates:

I didn't know the Board was seeking independent validation. How is it being validated independently? Who is taking the test to determine whether a question is valid or not?

Yes. Absolutely! This, in my opinion, is vital to any test-taking process and without it compromises the integrity of the whole testing process.

No-unless it is required by FSAB.

Question #7

Do you believe the Board should be involved in workshops such as those currently being presented?

Yes	45	71%
No	16	25%
No response	2	3%

Comments by Diplomates

Yes. With the exception of the "Found" type workshop, unless the "why" is gone into in much more depth. I have taken several of Dr. Found's workshops. He does a good job of setting up a workshop and explaining what his testing is doing; but when it comes to discussing the answers and why an answer is correct or incorrect, his workshop comes up short.

Yes, but only to a very limited extent so as to not compete with AAFS and ASQDE events.

No. The workshop that I attended and was put on by the ABFDE was very good. However, I feel that if the ABFDE continues with these workshops, it will compromise other functions and therefore do not feel that the Board should continue down this path, especially when other regional organizations offer workshops that are just as good. Do we really want to spread ourselves even thinner? Let's grow the membership first and look at continuing this in the future.

Question #8

What types of workshops do you believe the Board should be directly involved in presenting?

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Comments of Diplomates:

Similar to present. Areas not easily found in books. Areas where practical experience is beneficial, vs. literature.

I feel the Board should not be giving the workshops but should support other organizations' workshops and maybe work in conjunction with the other organizations.

Daubert, technical aspects of QD examination, overview of different types of QD examination conducted by government and private examiners.

Anything related to technical competency and/or an important legal issues.

The Board should remain with its primary objective of certification and recertification of examiners, and the admissibility of testimony. The workshop should be geared towards these goals. The Daubert workshops meet and support these goals.

Question #9

How often should the Board offer workshops if there is interest?

One per year 24 38%

All others range from never to twice a year (see website for individual responses).

Question #10

Do you believe that the Board should use materials similar to those offered in the current pilot testing for training purposes?

Yes	29	46%
No	7	43%
Undecided	2	3%
No response	5	8%

Comments by Diplomates:

Yes. However, the "why" should be much more thoroughly examined than Dr. Found does it.

Yes. ONLY if reasonable, not guessing game in gray area.

No. Pilot tests are not representative of work.

No. The Board is not supposed to train but to certify and to be sure the Diplomates maintain their certification. I am not against case like proficiency exams.

No. I still have problems with the validation of the "pilot" test format and validation process as discussed in ABFDE publications. It still appears to be a self-serving shell game

Question #11

Do you believe that continuing proficiency testing is a responsibility of the board?

Yes	14	22%
No	37	59%
No response	9	14%
Undecided	3	5%

Comments by Diplomates:

No, unless it is a component of the recertification process.

Yes. It is a demonstrable fact of recertification and clearly falls under the heading of continuing education.

Yes. I am not sure that the Board is the right body to do computing testing, but it needs to be done and I can't think of anybody else to do it.

No. Some type is required with FSAB, correct?

Question #12

In what areas would the Board be helpful in assisting Diplomates in evaluating or improving the quality and knowledge in the discipline?

Comments of Diplomates:

Annual training in workshops to help with certification and recertification.

The ABFDE should concentrate their efforts on establishing in certifying the minimum competency.

By working with regional and national QD organizations, not in competing with them.

By supporting ASQDE, AAFS, etc.

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ABFDE should not be doing this. Workshops-additional training-testing.

Question #13

The Board in the past has provided pamphlets outlining the nature of our discipline and the requirements for membership and qualification for practicing examiners. Do you want the Board to continue to provide these materials to the Diplomates?

Yes	57	90%
No	5	8%
No response	1	2%

Question #14

Should there be a charge for production and distribution of the Board pamphlets?

Yes	24	38%
No	28	44%
Other	11	18%

Question #15

What suggestions would you offer the Board in improving the public relations of the Board?

Comments of Diplomates:

LISTEN! Seek the input of Diplomates. Hold elections for positions. Talk to the legal community. In general communication was a common theme.)See website for all responses.)

Question #16

Do you believe the Board should be involved in commentary or case review of the activities of examiners outside of the mainstream organizations?

Yes	19	30%
No	35	56%
Others	9	14%

Question #17

Do you believe that the professional organizations should be involved in public comments regarding prominent document matters?

Yes	30	48%
No	16	25%
Others	17	27%

Question #18

Which organizations?

ABFDE	19
ASQDE	25
AAFS	16
Regional	17
Others	4

Question #19

Do you think the Board should be involved in the publication of research?

Yes	24	38%
No	35	56%
Others	4	7%

Question #20

In what areas do you think the Board can do a better job?

Get out of error testing. Focus on accreditation. Elections. Listen to Diplomates. Almost all areas. Communication was a common issue.

Question #21

Would you be in favor of the Board providing a speakers bureau for the public?

Yes	40	63%
No	12	19%
Others	11	18%

Question #22

If you were provided with a pre-packaged PowerPoint presentation, of which you be willing to participate in a speakers bureau?

Yes	35	56%
No	12	19%
Others	16	26%

Question #23

Regarding the speakers bureau.)See website for suggestions.)

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Question #24

Should the Board be involved in contacting various educational institutions, defense and prosecutorial agencies and other interested parties to set up presentations?

Yes	37	59%
No	15	24%
Others	11	17%

Should news organizations also be included?

Yes	23	37%
No	27	43%
Other	13	20%

Question #25

Do you believe that the Board should address the current misinformation about our field in the news media?

Yes	38	60%
No	13	21%
Other	12	19%

Question #26

Regarding suggestions pertaining to Question #25. (See website for responses.)

Question #27

Do you have any comments regarding at FSAB accreditation?

A common response was to pursue accreditation.

Question #28

Do the Bylaws and Guidelines in the Board's Rules and Procedure Guide address the needs of the organization?

Yes	42	67%
No	13	21%
No response	8	13%

Comments by Diplomates:

Yes. Bylaws currently address a more fair Board member placement policy, but it is not being followed

No. Most do. We need better ethics policy.

No. No checks and balances.

Yes, as they are currently drafted.

Question #29

Do you have any suggestions about needed changes in the Bylaws or Guidelines in the Board's Rules and Procedures Guide?

General elections. Elected positions. Numerous revisions needed. Stick to certification activities. Provide checks and balances. (See website for results.)

Question #30

Should the Board work closely with other mainstream organizations or work independently?

(See website for results.)

Question #31

What issues should the Board consider for future planning?

Limit current duties. Daubert issues, proficiency/error rate testing. Getting back to basics. Certification, FSAB, public relations. Demographics of the ABFDE, natural attrition, encouraging young members. Active participation with other groups. Competency, ethics. (See website for results.)

Question #32

Please address any other concerns or personal comments on any subject or question you would like the Board to address.

(See website for results.)

Of the respondents, 73% of respondents subscribe to some form of proficiency testing, and 87% have been working in the field for ten years or more. Survey results were equally balanced between government and private practice examiners.

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President

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Recently I was informed that the second Pilot test—the one used at the ABFDE Workshop in Las Vegas—was also used by LaTrobe University to test the ability of six Australian document examiners to group simulators of a questioned signature. Dr. Found then asked Derek Hammond to be a co-author for this study since Derek was the person primarily responsible for the creation of the materials. Dr. Found has also expressed that he would like to cite the ABFDE as the source of the materials used in the study and that he would like to submit the results of the study to a U.S. journal such as the Journal of Forensic Science or the Journal of the American Society of Questioned Document Examiners. Let me restate for emphasis that this study was NOT about error rates; rather it was on the ability of six Australian document examiners to group simulators (common authorship). Because Diplomates have been told that the Board is going to suspend all activity regarding the Pilot test until the next Board meeting, Dr. Found has agreed to hold off on seeking publication to provide the Board of Directors an opportunity to discuss this request at the next BOD meeting in April 2007. A decision whether the ABFDE or any Board member would co-author this publication has therefore been deferred until the entire Board can meet in April to discuss the research and publication aspect of the tests. Since the project was presented as a Board project, all Board members will be allowed an opportunity for input.

Diplomate Representation

One item of some concern is whether Diplomates have a voice, whether private and government examiners are equally represented on the Board, and whether all regions of the country are represented. I have asked Dennis Mooney to chair a nominations committee. I have also asked Frank Hicks and Jason Lee Miller to serve on this committee. These three individuals are a diverse group who are active in the document community, represent

government and private practice, and also represent the west, midwest and east regions.

Unless a term on the Board is extended because the director is completing a second year as president, vice president, secretary or treasurer, Board members are allowed to serve two terms. Two directors were elected by the greater Diplomate community in 2002. Currently all sitting directors have been elected by the Board of Directors. Re-election for a second term has also been by the Board of Directors. The current Bylaws regarding election of directors in Article IX, Section 4.b.i. state:

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.

Currently there are six members-at-large and one public member serving as directors. Three director positions that come up for vote in 2007 are all first-term positions. These directors have been hard-working individuals who have made valuable contributions to the Board. One director does not wish to seek a second term, and two of the directors would seek a second term. A vote from the Diplomate body-at-large for these three positions would put us in immediate compliance with our Bylaws. Historically all second-term directors have been re-elected by the Board; however, there is no explicit direction in the Bylaws that provides for this. Clearly, the impending vacated positions will go out to vote by the Diplomate body-at-large. The question whether a vacancy exists when a term expires is subject to interpretation. As in most other elected positions, does the end of a term create a vacancy, or can the Bylaws be interpreted to mean that a sitting director eligible for a second term does not constitute a vacancy? The Bylaws

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President

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as they are written do not provide for nor preclude these individuals from being elected by the Diplomate body at large rather than the Board of Directors. Any action taken on this will be communicated to all Diplomates.

Current Board members and the expiration of their terms are:

<i>Board Member</i>		<i>Term Expires</i>
Joyce A. Lauterbach	2nd term	2008
Derek Hammond	2nd term	2009
Gregory Floyd	2nd term	2008
Allen Southmayd	1st term	2008
David Oleksow	1st term	2010
Andre Moenssens	2nd term	2008
Dennis Mooney	1st term	2009
Kirsten Jackson	1st term	2007
Jeff Taylor	1st term	2007
Ellen Schuetzner	1st term	2007
Donna Eisenberg	1st term	2009

Survey

This morning I received the compilation of 61 survey results. Although I was really hoping for much more feedback from our Diplomate body, this number does comprise nearly one-half of our current Diplomates. Public Relations Chair David Oleksow has summarized the results from the survey for this newsletter. Some of the responses are lengthy, and it is not feasible to print the results in their entirety in the newsletter. They will be posted as a password-protected file on the ABFDE website.

FSAB

Since the application was submitted on August 15, 2006, we do not have any additional information to impart regarding the review process. We do know that up to this point in time we have not received any comments regarding areas of concern or that may require corrective action. That is a good thing. And while I do not wish to convey a false sense of well-being, it is with cautious optimism that so far we believe things are going well.

Las Vegas Workshop

I have received a number of praises and commendations for the ABFDE Workshop last November. It is because of the hard work and dedication of Workshop Coordinator Jan Seaman Kelly that this happens. This year was the third Daubert Seminar. From all reports, this one was the best one yet. Please thank Jan Kelly when you talk to her for her time and commitment in making these workshops the great success that they are.

Finally, I hope that the New Year finds you and your family and friends in good health and prosperity.

Survey

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As of December 19, 2006, 63 responses were received. The entire results of the survey can be downloaded and reviewed on the ABFDE website. The 63 responses constitute over 50% of the current Diplomates who received the survey.

This survey will be discussed at length at the April 2007 Board of Directors meeting. Any additional comments will be included in the results for discussion. Additional comments can be submitted to Dave Oleksow, Forensic Document Examiner; 591 Camino de la Reina, #408; San Diego, CA 92108 or doleksow@sbc-global.net.

We would like to thank everyone who contributed to the survey for the betterment of our field. The input and quality of ideas were outstanding. Your participation has provided the Board with guidance and direction as to how the Diplomates want the Board to proceed in 2007.

Check 21

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1. An image of the front and back of the check
2. Wording identifying it as a replacement check
3. Routing transport number (RTN)
4. Account number
5. Dollar amount of the check in MICR ink (magnetic ink similar to the original check)

Problems arise for the FDE in the imaging of the check. In years past when documents were imaged, microfilming was the preferred method. An examination of the original microfilm proved to be advantageous. The Check 21 legislation does not stipulate any parameters for imaging the checks. Most banks have a file limitation of 90k to manage data storage requirements. As a result of this limitation, the image is simply a high-speed photocopy of the check, creating a black-and-white image void of any grayscale components—in short, no quality image of the check remains.

IRD conversion can be done by any bank involved in the check truncation process. Most checks are eligible for conversion to IRD including the following:

1. Corporate checks
2. Consumer checks
3. Money orders
4. Travelers checks
5. Convenience checks
6. U.S. Treasury checks

Once the check has been imaged, the Check 21 law does not specify when the original check shall be destroyed. The time that elapses between the imaging of the original check and its destruction varies greatly from bank to bank. The imaging and destruction of the checks may be outsourced to a third-party vendor, and this may also affect when the original check is destroyed. Some banks are also experimenting with imaging the checks right at the bank branch rather than a third-party vendor. The bank may tell you that the check has been destroyed but it actually has been sent for

destruction and not actually been destroyed at the time of your request. Depending on the bank policy, the check's life may be longer than a few weeks after it has been cleared.

When requesting known writing involving canceled checks, the submitting agency or client may provide bank statements that depict ten 12 checks on a page approximately 1" by 2". There are images available that are full size or larger than the original check. These full-size or larger images are stipulated in the Check 21 law. The banks have these readily available or available for download.

The challenges that the Check 21 law presents for the FDE are numerous. It is certainly more difficult to conduct a handwriting examination from a copy. Microscopic examinations of the questioned and/or known signatures are impossible. Nondestructive and destructive ink examinations are also impossible. It is virtually impossible to make any determination regarding alterations or obliterations to the check. The banking community has responded to the concern for altered and/or obliterated checks by stating that any alterations to checks are usually detected during the clearing process.

In recent years we have seen security features incorporated into the original check. These security features attempt to prevent alterations or obliterations to checks such as check washing. These security features are lost when checks are imaged and converted into IRDs. Banks have been exploring "image survivable" security features that would not be lost when the checks are converted into IRDs.

Estimates are that 100% of banks will be electronically truncating their checks by the year 2008. While working at a disadvantage without the original check, the FDE should strive to examine the best copy available if the original has been destroyed. This may require asking the right questions.

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