

Publi Comments Deadline: January 3, 2022

ASB Best Practice Recommendation 142, Best Practice Recommendations for the Resolution of Conflicts in Friction Ridge Examination

#	Section	Type of Comment	Comments	Proposed Resolution	Final Resolution
28	General	T/E	Blind verification is offered in this document as a solution to conflict, however it should always be the default. The ASB Manual defines a best practice recommendation as a document which "identifies and sets forth the optimal way to carry out an action or actions." Blind verification is the optimal procedure for carrying out verification, and it should not be mentioned as if it is optional.	It should be noted that the original examinations be blind, as well as any additional verification needed.	Reject. Verification in the original examination is the subject of a separate document, BPR 144.
29	General	T/E	Outside agency examination is mentioned multiple places in the BPR, but documentation is not.	Note that documentation on any outside examination be provided by the agency used.	Accept. Language added to section 4.1.3.3.4
30	General	T/E	There should be a bibliography available for review. We cannot assess the warrant for the claim without the evidence and the nature of the research that has been done contributes directly to what can be said about forensic conclusions.	Add a bibliography.	Reject. ASB Manual, section 12.1 calls for normative references only if the document cannot be implemented without them and 19.1 says bibliographies are optional. Also, this document is consensus-based, not research-based.
24		T	if two examiners disagree they should be allowed to initiate a consultation of another examiner. There is no need to immediately escalate to a manager or lead if there is a clear policy in place on when to initiate consultation with a 3rd examiner	update wording to say if agreement cannot be reached then conflict resolution should elevate to a 3rd party	Reject. This situation described is considered a "consultation," which is covered by a separate document. However, consultation risks "using up" an eligible 3rd party examiner prior to the conflict resolution process. Notifying a responsible manager of an unresolved disagreement is good practice. The document does recommend elevation of the disagreement to a 3rd party (via blind verification) as one of the options suggested for the manager. This document does not preclude the FSP from enlisting others options beyond those listed in the document.
37			"4.1.3.3.3 Consensus Review (Consensus Opinion) The FSP <i>should</i> determine the appropriate number of examiners necessary for a consensus panel. At a minimum, the decisions or conclusions of all examiners on the consensus panel <i>should</i> be recorded in the case file and the collective majority opinion <i>should</i> be reported and described as a majority opinion. The FSP <i>should</i> have a policy to determine how that collective opinion is reported." Throughout section 4, including in this subsection, "shall" was replaced with should, which weakens the force of the document for no discernible reason.	Change "should" back to "shall" in this section	Reject. Best Practice Recommendations are supposed to consist of "should" statements.
40			It is extremely poor practice to recommend verification shopping and/or a majority vote.		No resolution proposed.
12	3.1	E	A definition should not have the word being defined within the definition (so blind verification should not have the word verification within it).	Substitute the definition of verification for the word verification within the definition (but may need to modify the definition of verification first).	Reject. Definition is consistent with BPR144 (verification document). Comments on this definition should be made on that document.
13	3.2	T	Conclusions Source Conclusions: The first sentence of 'Opinion stated by an examiner after interpretation of observed data' could apply to a value determination; it is not specific enough to apply only source conclusions - the definition of source conclusion needs to say its a regarding a source. The second sentence is actually defining 'opinion' and therefore should be a separate entry.	Make 3 separate entries: 1) conclusion: the end result of interpreting data that is reported out. 2) source conclusion: the end result of a comparison. 3) Opinion: personal judgement that the observed data can offer support for one proposition over another. A conclusion is distinct from a "proposition." However, the ASB Manual, section 13. 2.4 b) states, "do not include 'shall', 'should', 'may', 'can' or their negatives in terms or definitions" and therefore this definition of opinion does not follow the ASB Manual. The word 'can' should be removed and the definition of opinion could be: 3b) Opinion: personal judgement of the examiner.	Reject. Definition is consistent with STD 013 (conclusion document). Comments on this definition should be made on that document.
11	3.2 and 3.3	E	Per the ASB Manual, section 13.2.2 "A definition does not begin with an article ('a', 'the', etc.)"	Modify the definitions to conform to the ASB Manual.	Reject. The modification of definitions to conform to the ASB Manual is being done by Working Group TR016.
34	3.3	T	Conflict "A condition in which two or more examiners disagree on a suitability decision or source conclusion." This definition might be read as excluding disagreements about which bin to select on a future scale (inconclusive v. some support for; some support for v. strong support for etc.) if it is limited to "source" conclusions.	A possible rewrite: A condition in which two or more examiners disagree on a suitability decision or on the specific conclusion (e.g. inconclusive v. some support for common source; some support for common source v. strong support for common source).	Reject. Please note that comments on a re-circulation are generally accepted only on revised section of a document. Comments made on text not revised from the previous public comment period are generally not accepted.
21	3.4 and 4.1.2.3.2	T	A majority vote is not a best practice, it does not ensure correct conclusions or appropriate application of a method. Stating this as a BP simply shows there are no standards for conclusions, and no way to check for appropriate application of the method.	Remove 'take a majority vote' as an option.	Accept.

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14	3.4	T	consensus review consensus opinion: As per the ASB Manual, section 3.2 e) use consistent terminology	Chose a consistent term to use and modify it throughout the document.	Accept.
31	3.4	E	The consensus opinion is defined here as the collective judgement, followed by majority as another example. Majority does not mean the same thing as consensus and collective, which leads to confusion over whether all examiners need to agree or not.	Remove majority as an example or explain the limitations of reaching a conclusion if the panel is not in agreement.	Accept.
15	3.7	T	suitability decision utility decision: As per the ASB Manual, section 3.2 e) use consistent terminology.	Chose a consistent term to use and modify it throughout the document.	Reject. Please note that comments on a re-circulation are generally accepted only on revised section of a document. Comments made on text not revised from the previous public comment period are generally not accepted.
16	3.7	T	suitability decision utility decision: A definition should not have the word being defined within the definition (defining 'suitability decision' should not include the word decision).	It appears that the overarching recommendation is to state results as opinions, therefore it would be best to change the word 'decision' in the definition to be 'opinion'. A better option would be to simply define the word 'suitability' and then 'opinions regarding suitability' could be used throughout the document.	Reject. Please note that comments on a re-circulation are generally accepted only on revised section of a document. Comments made on text not revised from the previous public comment period are generally not accepted.
17	3.7 and Throughout the document (suitability decision utility decision)	T	A decision is not the same as a conclusion. Suitability is a conclusion, not a decision. A conclusion is the end result of an assessment and can be judged to be in conformance with stated criteria. A decision is a CHOICE between different actions, dependent on a preference or belief, and only judged as 'good/bad' 'valuable/not valuable' after the fact, depending on the results (not judged as correct, accurate, or in conformance). Examples, the man 'decided' to buy a lottery ticket. It turned out to be a good decision because he won, or the examiner decided to search the AFIS database even though it was below the AFIS quality criteria. The decision was good because the search provided valuable information, or the person chose/decided to use R6G over Ardrex (a choice). It is not a Best Practice to describe value determinations to be decisions, because value determinations should not be a choice. Additionally, too many words are being used to describe the same thing (conclusions, opinions, decisions, judgement, etc.) causing confusion. If these are different then they all should be defined. If they are the same, just use one word, as required by the ASB Manual, section 3.2 e) use consistent terminology.	Change the word decision to opinion throughout the document. This will help with consistency throughout the documents (and would adhere to ASB Manual, section 3.2 e) use consistent terminology).	Reject. Please note that comments on a re-circulation are generally accepted only on revised section of a document. Comments made on text not revised from the previous public comment period are generally not accepted.
18	3.9	T	If verification is an independent examination, then the result would ascertain if the conclusion is reproducible, it would not ascertain if a conclusion conforms to specified requirements. Only a review can ascertain if a conclusion conforms to specified requirements. The way the definition is written, a verification is the same as a technical review, the definitions are just worded differently but the meaning is the same.	Modify the definition of verification to state "An independent examination to ascertain if the conclusion is reproducible".	Accept.
32	3.9	E	The use of "independent" does not fit in this definition. The examination cannot be independent if there is prior knowledge of another's opinion.	Remove independent.	Reject with modification. Clarifying NOTE added.
35	3.9	T	3.9 Verification (phase of examination method) "Independent examination by another examiner, to ascertain if a decision, conclusion, or opinion conforms to specified requirements or is in conflict. NOTE 'Specified requirements' are the FSP's policies and procedures relating to analysis, comparison, and evaluation of friction ridge impressions. NOTE Verification is a quality assurance measure for friction ridge examination" This rewrite does not provide a clear distinction between blind verification, verification and technical review. How is verification different from technical review? What are the "specified requirements" when an examiner makes a determination that the observed features strongly support a common source opinion, this is a subjective determination. Technical review covers compliance with the FSP's policies and procedures, what additional process is brought to bear in (non-blind) verification. And what does it mean in this context to be an "independent examination"? It appear to mean having sufficient materials such that the 2nd examiner can form a conclusion/opinion without relying on any decisions/judgements/assumptions of the prior examiner. But arguably a blind verification is what is meant by independent as one both doesn't rely on the work of the previous examiner and is not influenced by the work of the previous examiner.	Redraft to present with specificity the differences between a blind verification, an open verification (see ASB 144), a verification and a technical review	Accept with modification. Verification and Technical Review are different and discussed in separate documents. To avoid confusion, references to "specified requirements" have been removed from the verification definition. Note 1 now states that there are different forms of verification available and that "verification" is the general term. The various types of verification have their own definitions. Note 3 now clarifies the use of the term "Independent"

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19	3.9 note	T	The note says that verification is a quality assurance measure. Verification is not a quality assurance measure. Quality assurance measures are activities that prevent errors from occurring, not methods that detect errors See Quality Theory (Juran) and Note Ashbaugh, "Verification is a form of peer review and is part of most sciences. Many organizations erroneously use verification as a method of protecting against errors in place of adequate training. While verification may prevent the occasional error, its purpose is to verify process and objectivity as opposed to only check results. It is also an excellent vehicle for training." Detail 28 http://www.clpex.com	Modify the note to say that verification can detect errors in lieu of good quality assurance measures.	Reject. The included Note is consistent with the definition of Quality Assurance Measures as appears in BPR 144 and TR 016.
38	4.1.1	T	"4.1.1 General Forensic Service Providers (FSPs) <i>should</i> have a policy for conflict resolution." Replacing shall with should in this rewrite weakens the document.	Replace should with shall.	Reject. Best Practice Recommendations are supposed to consist of "should" statements.
20	4.1.2.2	T	The way the process is described, conclusions are arrived at and then discussed if there is disagreement. This is a reactive approach in lieu of strong quality assurance measures to prevent errors from occurring. It is a better practice, according to quality theory, to encourage discussion (consultation or blind testing) prior to arriving at a conclusion, to ensure conclusions are solid. This is not a 'best practice', it is a highlighting 'poor practices' and a lack of having a method to arrive at solid conclusions.	My recommendation is to develop a proactive approach to ensure conclusions are solid prior to verification (such as consultation or blind testing).	Reject. Recommendation is outside of the scope of this document. We have a consultation document that promotes this. However, conflicts DO happen. This document is to deal with those eventualities.
23	4.1.2.3.1.1 and 4.1.2.3.1.2	T	These recommendations are formalized verification shopping, and should never be condoned.	Remove these recommendations.	Reject. Blind verification precludes "shopping" for confirmation of a specific conclusion. Subsequent recommendations are appropriate to resolve who shall be responsible for the reported conclusion and provide requirements for documentation both within the case record and report to establish sufficient transparency.
22	4.1.2.3.2	T	What is the difference between a 'collective majority' and a 'majority'?	Remove the word 'collective'	Accept with modification. Both words removed.
2	4.1.3	T	"When conflicting suitability decisions (value/no value) or source conclusions occur, the FSP should take one of the following steps to resolve the conflict." The review of suitability decisions or utility decisions should not be treated the same as conclusion decisions. Best practice documents should be written in a way that allows an agency to adopt the best practices. This document is going to lead to unintended consequences. Adding utility decisions to verification is going to cause some agencies to avoid conflict in this area and therefore this information will not go through a rigorous review. The FSP should have documented criteria for suitability decisions. Sometimes there are conflicts on what is suitable. If the assigned examiner keeps more than the reviewer would, that should not be considered a conflict - the examiner should have discretion. If the examiner considered something unsuitable that is suitable according to policy, it should be returned by the reviewer for remedial interaction and if that does not resolve the issue it should go for managerial review and end there. I completely disagree with this going to blind verification because of 4.1.3.3.2.3 "If the third examiner agrees with the suitability decision or source conclusions of the second examiner, the case should be transferred to the second examiner and this transfer shall be documented in the case record." So if the reviewer finds one additional latent print that should be kept according to policy and in blind review they are agreed with, the entire case gets transferred to the reviewer because of a single utility decision. Consider that this could be a very large case - there may be over 100 latent prints in the case and now they have inherited the entire case (in which they believe some of the latent prints that were kept by the first examiner did not meet the suitability requirements of the agency) just because they were diligently reviewing the case. Your best practice recommendation will cause this tech reviewer to be less likely to disagree with a utility decision in the future. I agree that examiners should not be forced to report comparison conclusions that they do not agree with but what is the harm in keeping one more latent print that others agree should be kept by policy. The original examiner is not forced to identify the latent print, just to keep it as determined by the FSP policies. I would even be fine with them listing in the notes that they do not believe the latent print was suitable for comparison, but to transfer the entire case over one utility decision is going to lead to no conflicts on utility decisions or in other words no review of utility decisions - unintended consequences.... Suitability or utility decisions should be reviewed during technical review because you are determining conformance with the FSP policies	End utility decision conflicts with managerial review and documentation of the conflict.	Reject with modification. The provision that no examiner shall be forced to author an opinion that they do not agree with includes utility decisions. Management is not necessarily the most competent reviewer. Case transfer issue addressed by change from "case" to "relevant examination" added in section 4.1.3.3.2.3

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39	4.1.3.1	T	4.1.3.1 General Examiners or the FSP <i>should</i> initiate conflict resolution when examiners disagree on a suitability decision or a source conclusion ... again the rewrite weakens the document.	Replace should with shall.	Reject. Best Practice Recommendations are supposed to consist of "should" statements.
3	4.1.3.2	E	Shall should be changed to should - best practices document not a standard: "If agreement is not achieved, the disagreements shall be noted in the case record and the conflict resolution process should proceed to the responsible manager to determine and utilize the most appropriate option(s) to resolve the conflict (i.e., option(s) that is (are) available to the FSP).	Change "shall" to should	Accept.
4	4.1.3.3.1	E	Shall should be changed to should - best practices document not a standard: "No examiner shall be forced or coerced into agreeing with, or writing a technical report in supportof, any conclusion or opinion with which they do not agree."	Change "shall" to should	Accept.
25	4.1.3.3.2	T	A 3rd reviewer should be looking over the documentation of the first two examiners to see the basis of the conclusions reached after they've done their own discussion. Then there should be a discussion among the 3 to determine any conflicting areas and what conclusion can be best supported	update 4.1.3.3.2 to be more thorough on the criteria. As written, it appears that the final conclusion is based solely on who the 3rd examiner agrees with and is done by someone other than the 3 examiners working the case.	Reject. This section is about blind verification, so cannot recommend that 3rd examiner review documentation prior to decision. The document does not state that someone other than the 3 examiners working the case should make the final conclusion.
36	4.1.3.3.2	T	"4.1.3.3.2 Blind Verification 4.1.2.3.1.14.1.3.3.2.1 A third examiner (who may be a bench-level examiner, technical lead or technical supervisor/manager) should examine the friction ridge impressions in question and document their decision and conclusion in the case record. In blind verification, the third examiner should be shielded from the decisions, conclusions and documented data of the other two examiners and from any other task-irrelevant information (information that is not needed to interpret the impressions). The three decisions or conclusions (original examiner, second examiner, and third examiner) should be reviewed to determine if two agree and how the case should proceed. If the third examiner wishes to confer with either the original or second examiner, they should have their decisions or conclusion documented first and that interaction should be recorded in the case file." The changes made to this section significantly weaken the standard. While we would prefer that all verification be blind, the prior version requirement for the third review to be blind was appropriate. In addition, the prior version requirement that the third examiner document their decisions or conclusions before interacting with the other two examiners is likewise appropriate.	Re-draft to require that, in the event of a conflict, the third examiner shall conduct a blind review and shall document their conclusion or opinion prior to any interaction with either of the other examiners.	Reject. The revisions did not make blind verification optional. Blind verification was always optional. The revision were made because the statement "This shall be done blindly" was redundant because the section was titled "Blind Verification."
5	4.1.3.3.2.3	E	Shall should be changed to should - best practices document not a standard: "If the third examiner agrees with the suitability decision or source conclusions of the second examiner, the case should be transferred to the second examiner and this transfer shall be documented in the case record."	Change "shall" to should	Accept.
8	4.1.3.3.2.3	T	"If the third examiner agrees with the suitability decision or source conclusions of the second examiner, the case should be transferred to the second examiner and this transfer shall be documented in the case record." Consider a case where there are many comparisons performed and on one comparison conclusion there is a conflict. The original examiner concluded identification but consensus is that the comparison is inconclusive with similarities observed. This one conflict gets the entire case transferred? I understand not forcing someone to change their opinion but why transfer the entire case when the original examiner can report the lower conclusion with the conflict documented in the case file? You could also have the 2nd examiner just report the comparison on that one latent print. Why does the entire case need to be transferred to the reviewer?	If the conflict is not resolved with remediating interaction, the decision or conclusion should be reported by the second examiner. The conflict should be documented in the case file according to section 4.3.	Accept with modification. Section was edited to recommend transfer only of "relevant examination," not entire case.
27	4.1.3.3.2.3	T	if the original examiner agrees with the conclusion of the second and third examiner after consultation they should not have to be removed as the examiner in the case. When presented with new/conflicting data that is persuasive it is in line with science for the initial examiner to change their mind. all documentation should be retained in the case but it should not preclude the initial examiner from completing the case with the updated conclusion. current draft only allows for the case to go back to the initial examiner if the 3rd examiner agrees with them and not the verifier and is not how conflicts should be resolved as a best practice	Reword statement to say "If the third examiner agrees with the suitability decisions or source conclusions of the second examiner and the first examiner is still in disagreement, the case should be transferred to a supervisor/technical lead for review to determine additional testing as needed."	Reject with modification. The Consensus Body finds the proposed resolution too prescriptive, but has edited the section to allow the FSP greater flexibility.
6	4.2	E	Shall should be changed to should - best practices document not a standard: "If the above methods have not resolved the conflict, all source conclusions shall be recorded in the case record and the report shall state that a consensus source conclusion could not be reached.	Change "shall" to should	Accept.

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1	4.3		add - "The issued report shall disclose that the reported finding was is result of a conflict resolution."		Accept.
7	4.3	E	"When a conflict with a suitability decision or source conclusion occurs, the conflict shall be documented. The level of documentation needed for conflict resolution will vary according to the nature of the conflict and according to FSP policy. For all conflict resolutions, the documentation shall include the following:..."	Change "shall" to should	Accept.
33	4.3	T/E	This section provides a list of items that need to be documented following a conflict resolution. In prior sections of the best practice, the only location for documentation is the case file. Given the variable discovery practices across the nation, there is a very good chance that defense lawyers may have variable access to case files (some not receiving it at all) or variable timelines when case files are turned over by the prosecution. For this reason, the best practice MUST include a notation in the latent print report that conflict resolution took place in the case.	Include language that the presence of conflict resolution in the case shall be documented in the laboratory report.	Accept.
26	4.3.3	T	Should is being using inconsistently here with the listed definition of how "should" will be used in the document	Reword to something like "Examiners should not be forced or coerced into agreeing with, or writing a technical report in support of, a source conclusion with which they do not agree."	Accept with modification. "Shall" changed to "should in section 4.1.3.3.1
9	comment resolutions	T	The comment resolutions, line 1, number 8, says you are following TR 016. First, TR 016 is not a document that is finalized or available for others to review. Second, definitions in a document should feed into a TR document, not the other way around, or the process you are using will not lead to best practices or improvements, it will simply continue to support poor practices.	Have WG's fix definitions instead of giving a reason for not fixing them.	Reject. The comment resolutions were approved by the Consensus Body
10	comment resolutions	T	The comment resolution, line 9, number 9 says you are following ISO 17025. ISO 17025 is not the standard for the friction ridge discipline, this WG is supposed to be writing standards, not just repeating what others have written. The standards should be useful for all agencies, not only those accredited to ISO 17025.	Make ISO 17025 a normative reference if you are relying on it for this document, Or refrain from using documents that are not listed as normative references as rational for rejecting comments.	Reject. The comment resolutions were approved by the Consensus Body