Sources in the article; they were holes under which there were trash buckets. With physical plant deficiencies like that, it was not surprising other problems were also identified in the quality assurance audit.

There are clearly the “have and the have-nots” in the crime laboratory community. Into which camp a laboratory falls may depend on whether there is a current budget crisis in the governing body or responsible agency. Or, it may depend on the priority that elected officials, cabinet members, or agency heads in federal, state, and local governments place on the quality of forensic science in their community. Many of the fiscal woes affecting the laboratories, such as those that seem to exist in Houston, did not just start during the fiscal shortages of the last couple years. They have been with us for a while—even during the good times when taxes were being cut because of excess state revenue. So, where was, or should I say where is, the commitment to quality forensic science that should be exhibited by sufficient funding for physical plants, equipment, training, salaries, and adequate personnel to complete analyses timely and accurately?

Inadequate funding is a precursor for a criminal justice system that cannot accurately produce the results. Where were the resources in Houston? At least they were not in the lab. It could very well be that the problem in Houston is not just the lack of enough funding but the funding was being spent on items other than what should be priorities. This could include human resources who are overworked, equipment and physical plant needs, and training. If the lab is not being run efficiently the outside auditors will find that too. It is not just the physical plant that needs improvement. The human resources of the lab also need improvement. The entire criminal justice system needs improvement.
differentiate the innocent from the guilty through the use of good scientific methods.

The Academy, through the Consortium of Forensic Science Organizations (CFSO), is working on developing the needed commitment on the federal level. During the week of May 12, 2003, members of the CFSO descended on Washington, DC, to meet with representatives of the legislative and executive branches of government to educate them on the funding needs for the forensic sciences. Joe Polski, Chair of the CFSO, and Beth Lavash, CFSO’s consultant, met early in the week with the Senators from Minnesota and a Representative on the House Commerce, Justice and State Appropriations Committee. They also met with the Undersecretary for Science and Technology at the Department of Homeland Security. Their message was the importance of financial assistance to the crime laboratories and medical examiners offices around the country, and the nexus between that assistance and quality forensic science produced in a timely manner.

On Wednesday, May 14, I joined Joe Polski, Beth Lavash, the Academy’s representative on the CFSO Barry Fisher, AAFS President-Elect Ron Singer, and ASCLD President Susan Johns. We met with a staff member from Senator Grassley’s office. Senator Grassley is on several budget and finance committees and is also a member of the Senate Judiciary Committee. Our important message to the staff member was that there are many needs in the forensic science community in addition to the DNA area. While DNA backlogs and other issues have to be addressed, so do the backlogs in other forensic science disciplines.

On Thursday of that week, Jamie Downs, representing the National Association of Medical Examiners, joined us at the White House. We visited with Diana Schacht from the Office of the Domestic Policy Council and Sara Hart, the Director of NIJ. We gave them updated information on the needs of the forensic science community. While we all support the President’s DNA initiative, consideration has to be given to funding other areas as well. Susan Johns collected and analyzed information on backlogs in crime laboratories, and pointed out that workload backlogs in the DNA area represent only five to eight percent of the total backlogs in crime laboratories.

With the emphasis on the President’s DNA Initiative by the administration, pursuing funding in other areas will be a real struggle. Nevertheless, the CFSO and Beth Lavash continue to spread our message, a message based on the collective experience and wisdom of the forensic science community. Despite some pessimism, you can see by the smile on our faces as we posed for a picture in front of the White House that we felt it was an accomplishment for representatives of the leading forensic science organizations to be together in Washington speaking with a single voice.
The month of May was a busy time for the Consortium of Forensic Science Organizations. AAFS President Ken Melson, President-Elect Ron Singer, and I were in Washington along with other members of the Consortium of Forensic Science Organizations in our efforts to press for more federal funding forensic science. Ken’s article discusses these efforts.

I wanted to use this month’s column to discuss the need for continued advocacy at the grass roots level. Former Speaker of the House Tip O’Neil had a favorite expression: “All politics is local.” Of the many visits we have made to Capitol Hill that refrain rings true. Congressmen and Senators ask what their constituents back home have to say about the need for funding for forensic science. It’s not that they doubt what we are saying. The fact is that a crime lab director or medical examiner from his or her own state carries additional weight.

You may recall that I reported in the last issue of the Academy News that the Administration’s 2004 budget provides approximately $200M, but only for DNA-related programs. Funds are not provided for medical examiner offices, nor for other crime lab related areas.

Each week I spend some time searching the web for news stories about forensic science. When I find one, I pass a copy on to our consultant Beth Lavash and I sometimes contact the crime lab director from the region the story is about. We then try to have the director or medical examiner contact Congressmen or Senators from that State. Our efforts are to press our case that there are many problems facing forensic science in addition to DNA typing. These efforts seem to be working.

Many Academy members have been willing to pick up the telephone to make a call to key members of Congress in their own State. A few have even been able to come to Washington to meet with members or their staffs. Letters to members also help, especially when a member can write to key members of the House and Senate Appropriations Committees asking them to support the Academy’s position.

Some AAFS members may not be able to pick up the phone and make a call because of restrictions placed on them by their parent agencies. In such cases, we have asked them to contact appropriate people in their organizations with whom we can speak to make our case. In some cases we have been able to have others place these calls on our behalf.

If you can help us out, we would greatly appreciate your support.

At the 2004 AAFS meeting, we plan on holding a forum on how to effectively advocate for forensic science funding and to bring you up to date on our continuing efforts. Joe Polski, IAI Chief Operations Officer and Chairman of the Consortium of Forensic Science Organizations, Beth Lavash, CFSO consultant, Jamie Downs, and I will lead this forum. We hope you will make time to attend this session and become more effective spokesmen for forensic science.

On a final note, a long time friend and Academy member, Lisa Forman, is taking a leave of absence from the National Institute of Justice to take a temporary position to direct medical research on a childhood genetic disease. Lisa has been a major force at NIJ and we will miss her and look forward to her return. Another Academy member, Kevin Lothridge, Deputy Director of National Forensic Science Technology Center, will be taking Lisa’s place for a year. Kevin will be a major asset to NIJ during Lisa’s absence and will take on many of her duties. We acknowledge NIJ’s key role in administering federal funds to the forensic science community and wish Lisa and Kevin every success in their interim positions.

LEGISLATIVE CORNER

The Call for Papers deadline is fast approaching! Do you have an interesting and educational topic to present at the AAFS 56th Annual Meeting, February 16-21, 2003, in Dallas, TX? The deadline for submission of all abstracts is August 1, 2003. Please submit your abstracts now and keep in mind the meeting theme — “Truth and Justice in the Balance: Forensic Scientists as the Counterpoise.” The AAFS Call for Papers form may be found on pages 21-24 of this issue of Academy News. HOWEVER, did you know you may also submit an abstract online? The online process is faster, easier, and provides immediate feedback from the AAFS office.

What are the requirements? Only that you have an e-mail address to receive your password and future communications from AAFS headquarters.

What are the advantages? You will receive immediate confirmation of receipt of your abstract, the assurance that your paper has been received at the AAFS headquarters, and best of all, access to your abstract for editing.

Remember, the deadline for receiving your abstract is August 1, so have your abstract and curriculum vitae ready to attach and send electronically. Visit the AAFS website at www.aafs.org, and follow the meeting links to the AAFS Call for Papers Online Form.
The Forensic Science Education Programs

The Accreditation Commission (FEPAC) is making steady progress in its mission “to develop and to maintain standards and to administer an accreditation program that recognizes and distinguishes high quality undergraduate and graduate forensic science programs.” With continued funding from the National Institute of Justice, the Commission met on May 15 & 16, 2003, in the Conference/Press Room of the National Institute of Justice in Washington, DC. AAFS President Ken Melson and President-Elect Ron Singer, who were in Washington at the time on other AAFS business, attended the opening session of the meeting. Ken and Ron commended Commissioners for their vision and hard work in launching the accreditation initiative and offered continued support to FEPAC members as they moved forward in their mission.

Sarah Hart, NIJ Director, and Lisa Roman, Chief of the Investigative & Forensic Sciences Division, NIJ OS&T, made personal visits to welcome commissioners and to extend to them words of appreciation and future commitment.

The specific reason for this mid-year meeting in Washington was to finalize accreditation standards, policy and procedures, and a self-study and to prepare for the pilot accreditation for Fall 2003. Noting that the NIJ-sponsored TWGED document was official, FEPAC Chairman José Almirall affirmed the Commission’s intention to align the accreditation standards and policy & procedures with that document while following AAFS protocol. Those draft documents will be presented to the AAFS Board of Directors at the Mid-Year Meeting for their consideration and review. One final goal of the Commissioners during the two-day mid-year meeting was to determine which institutions and on-site reviewer applicants would be selected for the pilot accreditation process in October/November 2003. The six institutions (totaling eight academic programs) chosen for the first round are Cedar Crest College (Allentown, PA), Eastern Kentucky University (Richmond, KY), Florida International University, (Miami, FL), Metropolitan State College of Denver (Denver, CO), Michigan State University (East Lansing, MI), and Virginia Commonwealth University (Richmond, VA).

Information about FEPAC (summaries of meeting minutes, list of commissioners, draft documents, etc.) may be found on the AAFS website (www.aafs.org) at the link “AAFS,” then “Committees,” and then “FEPAC.”

Academy members continue to provide textual and technical support to Court TV and its “Forensics In The Classroom” lessons. Five AAFS Fellows (Ken Melson in Alexandria, Brian Gestring in New York City, Jennifer Mihalovich in San Francisco, Adam Negruz in Chicago, and Allan Warnick in Detroit) were on hand at Loews Theaters in those cities on April 29, 2003, for Court TV’s “Forensics Day” to assure that forensic science information provided by the network to teachers and students was both accurate and appropriate. While some aspects of the DVD-produced brief program were not up to AAFS standards, Court TV officials have expressed their strong desire to rely upon the AAFS as the network expands its outreach educational activities. Future “Forensics Day” live, interactive telecasts, targeting other sites throughout the US, are in the offing and will build upon existing lessons. AAFS advisors Tom Bohan, Brian Gestring, and Suzanne Bell will continue to evaluate materials being produced and to monitor progress of the initiative.

There are encouraging signs of another successful Forensic Science Educational Conference. More than 50 applications have already been received for the FSEC/UTA which will take place on October 17, 18, and 19, 2003, on the campus of the University of Texas at Arlington. President-Elect Ron Singer, Patricia Bills, and the Conference Steering Committee have finalized the “Schedule of Events.” Lectures, roundtables, and hands-on workshops will include an overview of the crime laboratory, forensic pathology, fingerprints, forensic botany, impression evidence, forensic anthropology, forensic odontology, legal aspects of forensic science, current DNA capabilities and the future of DNA, bloodstain pattern analysis, hairs and fibers, forensic entomology, color tests in the crime lab, and crime scene investigation and processing.

“Teachers’ essays on why they believe an FSEC will benefit them and their students are a constant reminder of why this AAFS outreach activity has much merit. The following comes from a science teacher in Delaware:

I teach in an economically depressed area. More than half of my students are on free or reduced lunch. It’s always a challenge to get them interested in their own education, so when something comes along that they are really interested in and also meets our state’s science standards, I get very excited. All of my students watch CSI and have a high interest in the genetics/heredity unit. If I can bring home hands-on activities that bring the unit to life, I believe I can make more of a difference in their lives. I’m writing a grant to purchase materials for the entire seventh grade to support a forensics activity.

Full information about the FSEC/UTA, sponsored by the University, Court TV, and the AAFS is available on the AAFS website under the link “Meetings” and then “FS Educational Conference.”

It is not too late to attend the Third Annual European Academy of Forensic Science Triennial Meeting which will take place on September 22-27, 2003, in Istanbul, Turkey. The main theme of the conference is “Partnerships Against Crime.” For further information, please log on to the EAFS 2003 website (http://www.eafs2003.org/).
A WORD FROM YOUR 2004 PROGRAM CO-CHAIRMAN

The theme of the 2004 annual meeting is "Truth and Justice in the Balance: Forensic Scientists as the Counterpoise." With less than a month to the deadline for abstracts, response to the Call for Papers has been outstanding. If you have not submitted your abstract, now is the time! In order to assemble the program in a timely fashion we must adhere to the August 1 deadline. The Announcement and Call for Papers may be found on pages 21-24 of this issue of Academy News. You are also encouraged to submit your abstracts electronically at http://aafs.org/abstracts/intro.asp. Please submit your proposals for workshops, breakfast seminars, luncheons, and other special program functions as well.

The 2004 Program Co-Chairmen and the Program Committee are presently evaluating your responses to the surveys conducted at the Chicago meeting. The majority of comments were very favorable, other than the sadness of missing some of our colleagues due to the snowstorms which blanketed the eastern seaboard and the vastness of the hotel facilities. The Dallas meeting location will provide a more centralized facility that will accommodate convenient access to all sessions. We still can't figure out how to control Mother Nature, so we'll hope for a mild winter. We received many excellent suggestions from the surveys that we will incorporate in the 2004 program.

The Program Committee is ready to receive the rest of your abstracts and proposals. We will be calling on many of you to assist with the review of abstracts. The quality of the program is dependent on your devotion to good science.

Mark your calendars for the dates in Dallas, TX, February 16-21, 2004. We look forward to seeing you there!

PROGRAM 2004 - DALLAS

BREAKFAST SEMINAR TOPICS SOLICITED

Presentations for breakfast seminars to be conducted during the AAFS 56th Annual Meeting in Dallas are being solicited by Chairman Anthony Falsetti. Because of the popularity of these programs, topics are expected to undergo a careful review and selection process. It is disappointing to turn away potentially excellent presentations because the abstract was received too late to ensure a time slot on the program.

Please call Tony at (352) 392-6772, or e-mail: falsetti@ufl.edu, with your ideas or questions. All abstracts must be submitted by August 1 to the AAFS office.

LAST WORD SOCIETY

Presentations for the Last Word Society at the 2004 AAFS Annual Meeting are being solicited. Since the primary purpose of this session is enjoyment for both the listeners and the presenters, presentations should be on cases of wide general interest which have forensic science connotations. The material presented should represent either new or little known information, a fresh approach to old information, a personal involvement in an unusual case, or one of historical interest.

If you wish to participate, please submit your abstract as soon as possible to the AAFS office. Additionally, you may wish to forward a brief outline of your story to Last Word Society Chairman James Starrs, George Washington University, 720 20th Street Northwest, Washington, DC 20052; jstarrs@main.nlc.gwu.edu.

AAFS TOPICS OF INTEREST/NEEDS REQUESTED

What topics should be addressed at the Academy’s 56th Annual Meeting? AAFS members are asked to send suggestions for topics of interest/needs for the 2004 AAFS Annual Meeting to the Academy headquarters. All responses received will be communicated to the program committee members when they commence their review of abstract submissions. Take this opportunity to have a voice on the program content in Dallas; send your suggestions today. Should you have any questions, please contact Nancy Jackson (njackson@aafs.org) at the AAFS office.
Considering the theme for the 2004 Meeting – Truth and Justice in the Balance... – the idea for a joint session focusing on “Seeing Both Sides of the Coin” seems like a natural. Members of both the Engineering Sciences and Criminalistics Sections, particularly private sector practitioners, find themselves seeing cases from both prosecution/plaintiff and defense perspectives (presumably not all three in the same case). Carol Erikson of the Engineering Sciences Section and John DeHaan would like to invite interested parties to contribute papers on this topic. The plan is to invite someone from the Jurisprudence Section to act as moderator who could offer commentary or mediate a debate on the role of the independent forensic scientist or engineer in balancing those scales of justice. There may be an opportunity to attract some users of forensic services such as prosecutors, public defenders, or plaintiff and defense civil litigants to join in the fray.

Two other topics that have currency (and some urgency) concern the shift of criminalists away from providing crime scene responses and away from traditional trace evidence and impression evidence analyses to more clinical, in-lab activities. It seems that with every retirement of an experienced crime scene or trace person, the profession loses more expertise. This knowledge was earned through years of experience and from a variety of sources, and there seems to be little interest in some sectors to maintain or replace it, let alone improve it. All the fancy tools and pretty pictures in the world will not help if the knowledge of scene reconstruction and trace evidence analysis is lost. A session or a panel discussion on “Criminalists at Crime Scenes” and one on “Vanishing Trace Evidence Expertise” would seem very valuable. Perhaps there are still a lot of practitioners of these seemingly lost arts out there and they are just not being heard from anymore. Remember, without being able to put evidence into a meaningful physical context, the analysis of that evidence, no matter how accurate or sensitive, is of limited use (and may be more hazard than help!).

“Fires in Clandestine Drug Labs” is a topic that should spark the interest of a wide cross-section of the Criminalistics Section membership (and other sections as well!), so that is under consideration as well as a workshop or as a session. Let’s hear from you if you are interested in hosting one of these special sessions. If you know of a speaker/instructor that you consider knowledgeable and capable, please let us know right away so we can begin “persuading” the candidates.

No matter where your interests may be in Criminalistics, there will be a spot in the program for you. Together, let’s make Dallas – 2004 the most memorable Criminalistics program ever! Contact John DeHaan at (707) 643-4672, or by fax (707) 643-4682 for best results.

Preparations for the 2004 Annual Meeting in Dallas are well underway, with lots of folks lending their considerable talents to the effort. Several changes have occurred to the program plans. In April, Gary Brown had to step down from the Program Chairman position due to time constraints. Carol Erikson is now serving as Program Chairman for the upcoming annual meeting. Active tracks and chairs stand as follows: Environmental – Gary Brown (gc.brown@aol.com); Automotive/Accident Reconstruction – Holly Adams (asaholly@comcast.net); BioMedical Engineering – Laura Liptai (liptai@medicalforensics.com); Electrical Accidents – Peter Brosz (pbrosz@brosz.net); Mechanical Safety – Adam Aleksander (aka@aleksander.net); Walkway/Pedestrian Safety – Mark Marpet (mmarpet@rcn.com).

While the track chairs are actively soliciting papers for presentation, contributions from any and all members (or friends who might be considering becoming members) are certainly welcome. Please don’t feel limited to the topics listed above; there will be an appropriate venue for all high quality presentations on any Engineering Sciences subject!

The section is also working toward a joint session with Jurisprudence and Criminalistics, an idea originated by John DeHaan, entitled “Seeing Both Sides of the Coin.” Members of Engineering Sciences and Criminalistics Sections, especially private sector practitioners, may participate in a given case from either the prosecution/plaintiff or the defense perspective. How do these perspectives compare? Are they different? How do you approach/handle/deal with them? Do you have a case study (or two) you can share? Answers to any of these questions (or others of your own making) should lead to some interesting papers for Dallas. Contact John DeHaan at (707) 643-4672, or Carol Erikson at cerikson@trilliuminc.com, with any questions or suggestions.

Watch for a workshop entitled “How to be a Better Expert Witness,” organized by Environmental Track Chair Gary Brown. This is one you won’t want to miss!

Don’t forget that the deadline for submission of abstracts is August 1, 2003. It’s easy, quick, and efficient to do it all on-line, at www.aafs.org.

A connection: Robert Anderson is chairing the Student Academy Committee. Laura Liptai, who was previously identified as the chair, is serving on the committee.

Looking forward to reviewing papers in August, and seeing you all in Dallas in February!
GENERAL

Source: John E. Gens, MS, Section Secretary

Section Program Chairman Jim Adcock reminds section members to submit paper abstracts to the Academy office by the August 1 deadline. Opportunities to share research, training, and experience make each session valuable. Please consider presenting your work to ensure a solid slate of scientific papers for the meeting in Dallas, TX. AARS has even made it easier now by allowing online submission of abstracts.

Many members of the General Section have expertise to share in a longer format than an oral paper or poster. Consider proposing a workshop to share your knowledge with others. Workshop plans should also be submitted as soon as possible, but no later than August 1, to the Academy Program Workshop Chairman.

Awards Committee Chairman Vernon McCarty reminds all members that nominations for the John R. Hunt Award and the Paul W. Nehres Meritorious Service Awards must be received in writing by August 1. If you know of any section member deserving of either of these awards, please submit the written recommendation promptly. It has been two years since the General Section has recognized one of its members for their superb contributions to the AARS and the General Section. Let’s not let another year go by without nominating the deserving members in the General Section for these prestigious awards.

PATHOLOGY/BIOLOGY

Source: John C. Hunsaker III, MD, JD, Section Secretary

The deadline for abstract submission for the 2004 meeting in Dallas next February is August 1. Section Program Chairman Victor Weedn recommends early submission to guarantee timely review. For easier processing and prompt feedback, visit the AARS website for instructions about online submission. Remember, the Research Committee offers some funding. Grant applications to Section Chairman Greg Davis are due September 1. Residents who are eligible for the Best Resident Paper award, including a $500 cash bonus, are encouraged to submit papers. Jack Frost, Best Resident Paper Committee Chairman, congratulates Angela Wetherton, the 2003 winner for her oral presentation, Investigation of Time Interval for Recovery of Spermatozoa from Female Internal Genitalia.

Members should consider development of collaborative, cross-sectional ½- or full-day workshops, briefer workshops, or the popular multidisciplinary joint sessions within the scientific program.

In commemoration of the 50th volume of the Journal of Forensic Sciences in 2005, a special issue containing "seminal papers" from each section will be published. Please nominate papers previously published during the 50-year chronicle of the Journal. Such epochal papers should manifest a unique, far-reaching impact on the way practitioners re-think and practice the specialty. Nominations and a short rationale for selection should be sent by early summer to the Greg David (205-930-3603 or gclavis@path.uab.edu) or John Hunsaker (502-564-4545 or jhunsaker@uky.edu) for submission to the editorial board.

The current lack of ANR funding from NIH for non- funded forensic science, particularly for overlap (MSIA) legislation, should prompt all concerned about this zero-funding status to contact their Congressional representatives!!

continued on page 10
SECTION & PROGRAM NEWS CONT.

PHYSICAL ANTHROPOLOGY

Source: Marilyn R. London, MA, Section Secretary

Section Program Chairman Paul Sledzik is seeking moderators for the 2004 sessions. Each session will require two moderators: one to handle powerpoint presentations and computer issues, and another to manage introductions, time, and related topics. Those who wish to moderate, contact Paul at sledge@afip.osd.mil.

The Mountain, Swamp & Beach crew is scheduled to meet in Chattanooga this year, with Tom Bodkin as host, sometime around Labor Day weekend. Anyone interested in getting on the MSB mailing list, please send an email to elizabeth.murray@mail.msj.edu and she’ll be sure you are notified of meeting details as they emerge.

Steve Symes has accepted a teaching/research position with Mercyhurst Archaeological Institute at Mercyhurst College in Erie, PA (http://mai.mercyhurst.edu/). His new email is SSymes@mercyhurst.edu, as of the last week of June. Steve and Dennis Dirksen will be developing a 'Center of Excellence' for the College, with a new MA program in Physical/Forensic Anthropology, and a BS in applied Forensic Sciences. Steve will continue to consult and lecture nationally and internationally since the college is quite interested in international student participation.

PSYCHIATRY & BEHAVIORAL SCIENCE

Source: Gregory B. Leong, MD, Section Secretary

Section Fellow-at-Large J. Arturo Silva has just published a second article in his research stream involving the use of a Neurodevelopmental Model for the study of serial killers. His first article on the subject was published in the November 2002 issue of the Journal of Forensic Sciences.

Section Program Chairman Stephen Billick has just been nominated to be a candidate for the office of Vice President of the American Academy of Psychiatry and the Law. Section Chairman and former AAFS President Richard Roemer anticipates a summer release of Textbook of Adolescent Psychiatry, which he has edited.

QUESTIONED DOCUMENTS

Source: John L. Sang, MS, Section Secretary

It is with great sadness to report the passing of a senior member of the Questioned Documents Section, James V.P. Conway, who passed away on May 29, 2003. Mr. Conway had served as Section Secretary, Chairman, and Chairman of the Academy Council. He was also the recipient of the Distinguished Fellow Award and served as a past Director of the ASBDE and a past President of the ASQE. Mr. Conway was a former Deputy Postmaster General, Postal Inspector in charge of San Francisco Identification Laboratory, U. S. Postal Inspection Service and the author of Evidential Documents. Mr. Conway was a role model and he will be sadly missed by all, but his valued contributions to the document community will be his legacy.

The next Academy meeting will be here in no time at all and preparations are well underway. The Program Chairman for the 2004 meeting is Dale Stobaugh (512-424-2105; Dale.Stobaugh@txdps.state.tx.us). Dale is busy preparing another full program, including workshops. Please let him know how you are going to participate in the program. If you have not already done so, please submit your abstract form to ensure your spot on the program. Don’t forget that the abstract deadline is August 1, 2003. Dale is still surveying the field and requests information on the type of workshop you would like to have at the meeting.

Anyone wishing to nominate a colleague for the 2003 Hilton Award should contact Awards Chairman Janet Masson as soon as possible (jfmass@metropolis.net).

If any of your colleagues are not members of AAFS, now is the time to invite them to join and take advantage of this opportunity for professional development, enhancement of their knowledge in the field, and to share ideas with AAFS colleagues. Members are encouraged at this time of year to apply for promotions. Applications are available online at www.aafs.org, or from Kimberly Wasse (kwasse@aafs.org).

TOXICOLOGY

Source: Timothy P. Rohrig, PhD, Section Program Chairman

It is not too soon to begin planning for the 2004 meeting in Dallas, TX. Although several individuals have already expressed interest in assisting in next year’s program, more assistance is always needed. Participation in the Toxicology Section program is a good way to work toward one’s promotion to Member or Fellow status.

The success of the program is dependent upon high quality scientific presentations. To this end, all members are asked to consider sharing their knowledge and experience through a formal presentation, be it platform or a poster.

Workshops are another educational benefit at the Academy meetings. Everyone is encouraged to suggest topics and/or consider presenting a workshop. The section has historically asked that the workshop proposals be reviewed by the Program Chairman (Tim Rohrig) and the Workshop Chairman (Adam Negrusz) prior to submission to the Academy.

Plans to continue the successful annual Lectureship in Toxicology are underway. The topic will be announced in the near future. Robert Middleburgh has agreed to continue his special session on Pediatric Toxicology on Friday afternoon.

With your help, this will be another great meeting! Hope to see “y’all” in Dallas next February.

Please email any comments, suggestions and/or if you would like to volunteer to assist in next year’s program (tcrhrig@sedgwick.gov).
The Forensic Sciences Foundation, Inc., gratefully acknowledges the generous contributions made to the Foundation. Please accept our apologies if your name has been inadvertently omitted and contact the AAFS office as soon as possible with the correction. This listing reflects contributions received from 08/01/02 through 06/01/03.

CONTRIBUTORS

The percentages shown indicate the number of members within each section who have contributed to the Endowment Fund.

CRIMINALISTICS

($) $101+ - “Chairman’s Circle”
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THE FORENSIC SCIENCES FOUNDATION WISHES TO EXPRESS ITS DEEP APPRECIATION FOR THE GENERAL SECTION’S GENTLEMEN. THE SECTION RECENTLY DONATED $5,000 TO THE FOUNDATION’S ENDEAVOR FUND. THIS DONATION IS A LARGE STEP TOWARD THE GOAL OF $500,000 BY 2005. A MAJOR FUNCTION OF THE ENDEAVOR FUND IS TO PROVIDE MONETARY FUNDING FOR RESEARCH IN FORENSIC SCIENCE THROUGH ITS ACORN AND LUCAS GRANTS. INTEREST EARNED ON DONATIONS IS USED TO PROVIDE FUNDING FOR SUCH GRANTS. THE CLOSER WE COME TO REACHING OUR GOAL, THE LARGER THE MONETARY FUNDS BECOME. THANK YOU, GENERAL SECTION MEMBERS!

FOUNDATION NEWS

Source: Carla M. Noziglia, MS, FSF Chairman

Summer is upon us and school is out, but education is the continued focus of the FSF.

Many of you have seen the new and revised FSF Career Book, So You Want To Be A Forensic Scientist! which is now available on the AAFS website. But did you also know that copies of this fascinating informational book are available for schools? It is the goal of the FSF to have a copy of the FSF Career Book in every middle, high school, and college library. For more information, contact Kathy Reynolds at kreynolds@aafs.org.

To acknowledge the support that many of you continue to give to the FSF every year, categories of giving have been created. Look at the FSF Contributors list on the previous page. Find your name? If it’s not there, why don’t you consider making a donation to the FSF? See page 35 for a contribution form.

I’d like to personally thank Susan Morton of the Questioned Document Section, for her recent donation of used equipment to the FSF. This equipment was being surplus, but by donating it to the FSF, it will find a new home in Africa, courtesy of ICUP! What a great way to assist forensic scientists not as fortunate as we.

Equipment, instruments, and supplies are desperately needed in other countries. Imagine that you have the knowledge but not the means to use it because of a lack of resources. In Dar es Salaam, Tanzania, for instance, the test-firing of weapons is still done in a cotton box; the document section has no microscope; and one magnifying loop for fingerprint comparison is shared by six fingerprint examiners. These are situations that we would find intolerable, yet the scientists there do a good job with these limited resources.

Instead of tossing out those old supplies, or surplus that perfectly good EDA, GCMS or microscope, consider donating it to the Foundation. It will be put to good use and it won’t cost you a cent! Please, won’t you donate that old equipment now? You’ll have the satisfaction of knowing you helped other scientists do a good job. Contact Carla Noziglia at skidpnes@aol.com, or Dan Garner at daniel.garner@usdoj.com for more information.

A new committee of the FSF has been formed, the Futures Committee. Chaired by Ken Field, it is charged with identifying a vision for the FSF: where we are, where we want to be, what we should do to get there. If you have ideas, contact Ken at kfield@aol.com.

Enjoy your summer and the extra time with your children and grandchildren.
In penning the lines “When tis done, ne’er will be undone,” Shakespeare was most unwittingly voicing the law’s mantra of finality or, in the contemporary parlance, closure. The urge to call it quits resonates in the law, both in the opinions from the courts as well as in the statutes issuing from the legislative halls. No one, it seems, who is in the slightest way linked to the law espouses or promotes continuation of litigation in perpetuity. An end must be in sight, else enough will never be enough and an end will never arrive. The door to the courts must be shut tight at some point or so it is frequently asseverated by judges, legislators and public commentators alike.

One would think it to be incontrovertible that death, without more, would bring finality to legal proceedings but that has been proved, on rare occasions, not to be the case.

The opponents of capital punishment have striven mightily - high and low, long and hard, even far and wide - to find a case where someone was executed upon conviction for a crime of which that person was not genuinely and demonstrably guilty. It is thought that such a case, better or worse, would have a debilitating effect on the arguments of those who support capital punishment. After all, surely everyone would be at least chagrined and shaken by the knowledge that an innocent person had been executed. Maybe, so it is conceived, such a finding would be the tidal wave sufficient to swallow up the case.

But in July 2002, Dr. Blake sent a letter to the Buchanan County Circuit Court declaring that “PCR-DNA” testing performed on the preserved bodily fluid samples from Wanda McCoy. The 1990 testing had been conducted by Edward T. Blake, DCrim. whose test results underscored or reinforced the jury’s finding of (Coleman’s) guilt. The 1992 testing had been confirmed by Edward T. Blake, DCrim. whose test results combined with the previous ABO typing of the biological stains, narrowed the percentage of the population with these characteristics to .2%.” In 1992 a Federal District Court (Coleman v. Thompson, 798 F. Supp. 1209 (W.D. Va. 1992) viewed these results as “significantly bolstering” the jury’s finding of (Coleman’s) guilt.”

The newspapers sprang into action upon their being notified that in July 2000, eight years after Coleman’s execution, there was “a more sophisticated testing procedure” than was available in 1990 when Coleman was on death row and had obtained court permission to have “PCR-DNA” testing performed on the preserved bodily fluid samples from Wanda McCoy. The newspapers needed no further incentive to come front and center with their petition for just such a DNA analysis.

The newspapers’ petition and the Virginia high court has now upheld that determination.

The newspaper petitioners attempted to make their case on two fronts. First, they argued that their First Amendment (Freedom of the Press) right should suffice to allow them to obtain and retest the evidence they were seeking. Secondly, they maintained that the Virginia Freedom of Information Act gave them such a statutory take-lead to access the requisite bodily fluids. The Commonwealth of Virginia vigorously opposed the position of the affected newspapers. And they did so from the outset and their view that neither the Constitutions of Virginia or the United States nor the cited statutes of Virginia gave the newspapers any legitimate basis for their petition prevailed in an unanimous opinion of the Virginia Supreme Court.

Apart from the case itself and its resolution, there are a number of behind-the-scenes features of moment which are deserving of mention.

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In spite of the technical nature of the Commonwealth’s argument, viz. that the newspapers lacked constitutional or legislative authority to bring such an action, underlying their opposition was the fear of dire consequences to the legal system in Virginia if such a right were confirmed to exist in the newspapers. It was finality that was sought, garbed as it was in contortions of gross impracticality.
THE LAW’S MANTRA . . . CONT.

In the words of the Virginia Supreme Court, “the right to test evidence in a criminal case has not been historically extended to the press and general public.” No mention, however, was made to the obvious fact that the criminal case against Coleman had terminated with his execution.

More pertinently the court’s opinion pointed to the very practical difficulty of limiting the right of access to evidence and the testing of the evidence as requested by the newspapers. Would such a right, if granted, be restricted only to “cases in which a death sentence has already been imposed?” But that, it was said, would not be a “principled way” of resolving this case. “The practice ... would logically apply to all criminal proceedings.”

Aside from these ipse dixits, unsupported by the adumbration of rational and convincing grounds, the court saw all kinds of skeletons, so to speak, lurking in the arras of its courtroom if the petition were to be approved.

These skeletons which the court presaged were all of the practical kind, ramifications which would have puzzling and disturbing consequences for Virginia courts. In their presence, and with the score of their lurking menacingly in the courthouse wings, finality was definitely in order. And finality meant an end to the newspapers’ efforts to unearth the truth, as they saw it, of the guilt or innocence through scientific testing of Roger Keith Coleman.

But what were these skeletons which the court saw as so overpowering in leading to its decision? In the words of Justice Lemons for the Virginia Supreme Court, “it does not take much imagination to envision requests for ‘access’ to test substances alleged to be illegal or weapons alleged to have been used in assaults. When the items to be tested are limited in quantity or subject to destruction when tested, how would a court supervise such testing? How would competing claims of rights to ‘access’ be handled when quantity or integrity of the items are an issue?”

However, Justice Lemons did not tarry to reconcile his opinion with that of the United States Supreme Court in Press-Enterprise Co. v. Superior Court, 478 U.S. 1 (1986) where it was declared, in a different context, that “a qualified First Amendment right of public access attaches ... (unless) closure (read finality for present purposes) is essential to preserve higher values and is narrowly tailored to serve that interest.” Presumptively the “higher values” to be preserved in the Coleman matter all related to the infliction of practical woes upon the trial courts in Virginia if access and retesting were permitted.

As the colloquialism has it, Roger Keith Coleman, through the failed interposition of the newspapers, was left “drowning in the water.”

Although alive and kicking on his appeal from his convictions on Federal drug charges Chamond Henderson a/k/a “Butter” suffered the same fate as Roger Keith Coleman and on a paucity of judicial logic.

Henderson (I choose not to call him by his nickname,) was convicted in the Federal District Court in Massachusetts for various Federal drug charges involving crack cocaine (a common superflusy). On his appeal to the First Circuit Federal Court of Appeals he raised many grievances with the outcome at the trial but the one dealing with finality concerned the sentence he received under the Federal Sentencing Guidelines. Henderson suffered the sentencing consequences of having had a prior drug trafficking conviction in the state courts of South Carolina. Such a previous conviction followed by this Federal drug trafficking conviction upped his sentencing ante under the Federal Sentencing Guidelines to a minimum twenty year sentence. However, Henderson had a card to play to fend off the aggravated sentence.

He challenged the validity of the South Carolina conviction, thus seeking to negate it as an aggravating factor at the time of his later Federal sentencing. But he was said to be disabled from interposing such a roadblock by a Federal statute prescribings challenges to the validity of “any prior conviction” occurring “more than five years before the date of the information alleging such prior conviction.” That statute plainly and clearly prevented his attacking his South Carolina conviction which occurred in 1991. Since his involvement in the current drug distribution was of 1998 vintage the five year statute’s declaration of finality to all claims of invalidity of convictions prior to the running of that five year period was seemingly an insurmountable obstacle to Henderson’s attempt to lower his Federal sentence. But Henderson had yet another card to play.

The Federal sentence he received was unconstitutional under both the due process and equal protection clauses of the United States Constitution, so he protested. The five year limit is “patently arbitrary” as a cut-off date and being arbitrary it contravened his due process rights, went his argument. The equal protection clause also came into play in his support, as he maintained, because the five year limitation “unfairly discriminates against those who commit a federal offense more than five years after a prior conviction.” In a manner of speaking he was urging that no reasonable basis existed for differentiating those within the five year period and those, like him, who were beyond.

But the Federal court had the trump card and that card was the call for finality. There was a “rational basis” for the five year cut-off, in the appellate court’s view of the matter, since there were “the administrative difficulties inherent in challenges to prior convictions, such as lost or destroyed records, unavailable witnesses, and fading memories.” But the clincher the reviewing court found to be “the interest in finality.”

The perceived, not proved (skeleton-in-the-closet-like), results of finding the Federal statute in question to be unconstitutional as applied to Henderson and others in his class were more worrisome and onerous than the possibility that the aggravated sentence given Henderson might have been generated by an invalid South Carolina conviction. It was not a question of fairness to Henderson but of practicalities in the operation of the Federal courts without the benefits of finality as settled by the five year statutory cut-off.
In the First Federal Circuit Henderson lost because the court was all abuzz over similar practical effects from a lack of finality as defined by the Federal sentencing statute. And in general terms, the omnipresent statutes of limitations throughout the states and the federal system put the brakes on litigation, both criminal and civil, after the prescribed period for filing the necessary litigation documents has expired.

It is a repeated refrain, even a cliché, in the legal system that “ubi jus ibi remedium” (where there is a right there is a remedy). But the extant statutes of limitations prove the limited value of this axiomatic declaration for if there is a statute of limitations concerning the right to seek redress for a wrong, then that statute can stymie any effort, by litigation, to right that wrong. David Pearl’s situation was a case in point as well as in proof of the fact that the finality exacted by a statute of limitations can mandate finality even to litigation both justified and needful.

David Pearl waited 35 years to seek his full-blown legal remedy for the injuries he sustained at the hands of law enforcement officers of the City of Long Beach (Nassau County, NY). It was not that Pearl was dilatory. It was just that he did not know until all those years had passed that he had been wronged to the extent that he later learned he had been.

It was the all-too-familiar scenario. Pearl, a sixteen-year-old, was called over to a police cruiser on August 9, 1967, for questioning. He was ordered into the rear seat in the police car and transported to the police precinct. During that trip Pearl was “repeatedly punched in the stomach and face” by one police officer while he was restrained by another police officer. The pummeling continued at the police station until Pearl lost consciousness. The injuries inflicted on Pearl “required a ten-day period of hospitalization and left him permanently blind in one eye,” according to a 2002 opinion from the Second Circuit Federal court on Pearl’s appeal from the dismissal of his Federal civil rights action instituted to secure recompense for the injuries he sustained and continues to exhibit. It was, you see, a simple matter of Pearl’s waiting too long to right the wrong perpetrated on him.

As Circuit Judge Jon O. Newman put it in the excerpt to his opinion for the Federal appellate court - “This appeal illustrates, in a dramatic context, the tension between the judicial system’s instinct to provide a remedy for every wrong and the system’s recognition that the passage of time must leave some wrongs without a remedy.”

In short, Judge Newman and the two concurring judges agreed that the finality declared by the applicable statute of limitations for such Federal civil actions for damages must prevail over the humanitarian interest to assuage and right the wrong inflicted on Pearl, a wrong it was conceded by the court did occur. It was not considered to be compelling that Pearl did not learn of the police conspiracy involved in his beating and the cover-up following it until June of 1999, when officer Vincent F. Milo, Jr., one of the officers directly involved in the 1967 episode, recanted his and his fellow officers previous statements as a fabrication intended to put the blame for Pearl’s injuries squarely on his shoulders. Furthermore Milo, in another sworn affidavit, affirmed that “beatings by senior officers, especially the detectives to extract confessions were common place” in the City of Long Beach’s police department. Indeed, he confessed that “blackjacks, clubs and rubber hoses and telephone books were all part of our ‘unofficial’ equipment” in 1967.

To make matters within the legal system in Long Beach ever so much worse, officer Milo declared under oath that the lawyer the City of Long Beach hired to represent him and his fellow officers in 1967 was present in the grand jury room “while the Pearl case was being presented.” Indeed that attorney gave “detailed accounts” of the grand jury testimony of each civilian witness’ testimony so that we could adjust our presentation to contradict their grand jury testimony.

Unfortunately for him Pearl was conceded to be aware in 1967 that he had been wronged by the police. He had also then exercised his right to redress by suing the City of Long Beach and the police involved. That civil action terminated with his accepting $30,000 in return for his dismissing his civil damage claim. But he had been the victim not only of police brutalization but the police’s fraudulent concealment “of facts that, if known, would (have) enhance (his) ability to prevail as to a cause of action of which (he) was previously aware.”

The Federal appeals court, in agreeing with the trial court’s dismissal of Pearl’s belated action, distinguished the concerted police concealment in this action from the concealment of the existence of a cause of action in the first place. The latter form of concealment was said to be actionable in spite of the statute of limitations due the equities which would support such a late claim but the concealment of facts augmenting the known cause of action would not militate in equity in Pearl’s favor. Such reasoning reminds one of the cynicism inherent in the aphorism about counting the number of angels on the head of a pin.

Pearl’s civil rights action’s dismissal was affirmed with the concluding app that “(t)he absence of an available judicial remedy... does not necessarily mean that David Pearl has no recourse. Courts are not the only forum for redress of grievances.” The City of Long Beach, in its magnanimity, might grant “whatever compensation it concludes is warranted.” The demands of finality espoused by the statute of limitations must be upheld, come what may.

And so finality seems to be an end in itself in the legal order and the upshot in terms of redress takes a back seat. Many other examples of the dispiriting effects of finality core to mind, not the least of which is found in those statutes of limitations which will cut short prosecutions of criminals for their crimes when the identity of the criminal, at least by name in contrast with DNA, is unknown until the statute of limitations governing the prosecution for such offenses has run its course. DNA warrants have been called to the task of taking the bite out of such statutes. And at least in the state of Wisconsin an appellate court has upheld the use of such a DNA warrant...
But finality and its tension with justice are ever-vying for the lead role. It is a conflict with no end in sight, which calls to mind the patois of Seinfeld to the effect that “yada yada yada.”

L’envoi:
All this being said and re-said there are minimal signs from the courts that these may be cracks in the armor of finality. One such crack, not yet a crevice, appeared in the United States Supreme Court’s decision on April 22, 2003, in Jinks v. Richland County, South Carolina, 123 S.Ct. 1667 (2003). Justice Scalia wrote for a unanimous court in upholding a federal statute which tolled state statutes of limitations during the pendency of federal court proceedings. In this case the state of South Carolina’s statute of limitations, a statute declaring finality to litigation, for the tort action commenced by Susan Jinks, whose husband died in confinement after his arrest for failing to pay child support was two years. Notwithstanding that statute the U.S. Supreme Court found that it had been extended by the federal statute in question during Mrs. Jinks' federal court damage action against the municipality of Richland County. That decision effectively opened the courthouse doors in South Carolina to Mrs. Jinks' tort action.

So finality in the law is not a categorical imperative, at least under the circumstances occurring in the Jinks case. Such is the state of affairs with finality for the nonce, to quote the Bard again, but a new chapter may be written when the U.S. Supreme Court issues its opinion in the pending matter of Marion Reynolds Stogner’s prosecution in the California state courts for child molestation in spite of the purported constitutional bar of ex post facto finality. The Stogner case will be grist for later milling.

IN MEMORIAM

James V.P.Conway, Retired Fellow of the Questioned Documents Section, May 2003

Thomas Haley, PhD, Retired Member of the Toxicology Section, March 2003

Jack Hayes, PhD, Member of the Pathology/Biology Section, December 2002

C.R.Kempe, MA, Retired Fellow of the Criminalistics Section, date unknown

Louis A. Schneider, MD, Retired Fellow of the Pathology/Biology Section, January 2003

Egle L. Weiss, MS, Provisional Member of the Toxicology Section, July 2002