PRESIDENT’S MESSAGE

These days, both civil and criminal wrongdoings are often transnational in nature. Frauds, computer crimes, child pornography, copyright infringement, terrorism, and many more nefarious acts are being instigated from outside the countries of those being victimized. Law enforcement authorities from around the world are working more closely than ever before and are sharing their investigative knowledge, techniques, and resources with each other. In the course of this cooperation, forensic science is becoming a common tie among the agencies in their fight against international crime. It is for this reason, among others, that we must continue to foster our relationships with the international scientific community, and also share our scientific knowledge, techniques, and resources.

Recently, I was scanning the Academy membership directory and was impressed to find that we have members from 56 different countries. That number says a lot about the value of Academy membership and about the common interests of forensic scientists around the world. This common interest was illustrated during the week of September 22, 2003, when President-Elect Ron Singer and I attended the Third European Academy of Forensic Science (EAFS) Triennial Meeting in Istanbul, Turkey. The meeting theme, appropriately, was “Partnership Against Crime.” The EAFS Meeting was organized by Sevil Atasoy, a member of the Criminalistics Section of the Academy. She did an outstanding job and the meeting was well worth attending.

I was pleased to see a number of AAFS members from America in attendance conducting workshops and presenting papers. In addition to those presentations, we and the other AAFS members were given several wonderful opportunities to meet forensic scientists from all over and to make friends in spectacular social settings. Dinners were served in historic mansions and palaces on the European shores of the Bosphorus. Istanbul is such a beautiful city and the people are so friendly. I want to thank Sevil Atasoy and the people of Turkey for their gracious hospitality.

The EAFS is a standing committee of its parent organization, the European Network of Forensic Science Institutes (ENFSI), which is composed of representatives from 32 countries. The goal of ENFSI is to “ensure that the quality of development and delivery of forensic science throughout Europe is at the forefront of the world.” Ron and I met with the ENFSI Board and experienced a very interesting and informative conversation as we shared information about our respective organizations.

If you missed the EAFS Meeting, you can attend the International Association of Forensic Sciences in Hong Kong, in August of 2005. The theme for that meeting will be “Justice Through Science.” You will hear more about the 17th Triennial Meeting at the AAFS Meeting in February. I hope that you will extend a warm welcome to our international members at the upcoming meeting in Dallas. These members are an essential part of the diversity of the Academy membership and make an important contribution.

On a different note, the membership dues of AAFS Trainee Affiliates have been increased by the Board of Directors to $145. This is the same membership rate paid by AAFS Provisional Members, Members, and Fellows. As you will recall, the Board passed the increase in 2002, to be effective for 2004. Since Trainee Affiliates are degreed, employed, and receive the same membership benefits as Provisional Members, the Board felt the dues should be the same. The Board emphasized that Trainee Affiliate is a temporary status. The affiliate member is expected to apply for Provisional Member status as soon as the educational and employment requirements of Provisional Member are met. The Board hopes these steps will help facilitate the promotion of AAFS members and to sustain a membership which represents its academic and professional achievements.
On Oct. 1, 2003, the U.S. Senate and the U.S. House of Representatives introduced S. 1700 and H.R. 3214. The purpose of the legislation is, “To eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.”

In addition to the funding elements of the bill, of special importance is a section in both bills which calls for the establishment of a national forensic science commission (from S. 1700):

SEC. 205. DNA RESEARCH AND DEVELOPMENT.

(c) NATIONAL FORENSIC SCIENCE COMMISSION

(1) APPOINTMENT- The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the ‘Commission’), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under paragraph (2).

(2) RESPONSIBILITIES- The Commission shall—

(A) assess the present and future resource needs of the forensic science community;

(B) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(C) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(D) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(E) disseminate, through the National Institute of Justice, best practices concerning the collection and analysis of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(F) examine, through the National Institute of Justice, best practices concerning the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(G) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(H) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in subparagraph (G) to ensure—

(i) the appropriate use and dissemination of DNA information;

(ii) the accuracy, security, and confidentiality of DNA information;

(iii) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(iv) that any other necessary measures are taken to protect privacy; and

(I) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in subparagraphs (A) through (H).

(3) PERSONNEL; PROCEDURES- The Attorney General shall—

(A) designate the Chair of the Commission from among its members;

(B) designate any necessary staff to assist in carrying out the functions of the Commission; and

(C) establish procedures and guidelines for the operations of the Commission.

This is an extremely important development. For the first time, the federal government will consider issues facing the whole of forensic science. I expect that the information will be used to develop public policy concerning forensic science on a national scale.

On a different note, I was privileged to attend the European Academy of Forensic Sciences in Istanbul, Turkey, in September along with a number of other AAFS members including Ken Melson, Ron Singer, and Joe Bono to name but a few. Sevil Atasoy (Fellow, Criminalistics), Director of the University of Istanbul Forensic Science Institute, hosted a world-class conference, which was a success by any measure. I was invited to participate in the opening session and spoke on the topic of Partnership Against Crime. I discussed the Consortium of Forensic Science Organizations’ advocacy efforts. It should not be a surprise, but many of the resource allocation issues we face in the U.S. are quite similar to those in other countries around the globe.
PLANNING AND DEVELOPMENT

AAFS AWARDED $99,464 GRANT FROM THE NIJ

The American Academy of Forensic Sciences has received official notice from the National Institute of Justice of a grant award in the amount of $99,464 designated for use by the Forensic Science Education Programs Accreditation Commission (FEPAC). Funding will support the establishment of the accreditation program and the accrediting of 32 academic undergraduate and graduate programs over the next two years (10-01-03 through 09-30-05). Of immediate relevance to this grant is the 2003 Pilot Accreditation which is presently being undertaken. Site inspections, consisting of teams of academicians, practitioners, and FEPAC commissioners, are taking place on the campuses of the following six colleges and universities:

Cedar Crest College - Lawrence Quarino, PhD
Inspection Team: Bruce McCord, PhD, Ohio University; Thomas A. Bristell, PhD, New Jersey State Police; and, Anjali R. Swienton, MFS, JD, SciLawForensics, Ltd.

Eastern Kentucky University - Diane E. Vance, PhD
Inspection Team: Peter R. De Forest, DCrim, John Jay College/CUNY; Brian J. Gestring, MS, NYC OCME; and, Karen W. Kershenstein, PhD (consultant to FEPAC)

Florida International University - José R. Almirall, PhD
Inspection Team: Ray H. Liu, PhD, University of Alabama at Birmingham; Benny Del Re, MFA, Santa Clara County Crime Laboratory; and, Susan H. Johns, MA, Illinois State Police

Metropolitan State College of Denver - Charles “Chris” Tindall, PhD
Inspection Team: Max M. Houck, MA, West Virginia University Forensic Science Institute; and, Jan S. Bashinski, Mcrim, (ret.) California Department of Justice

Michigan State University (undergraduate and graduate programs) - Jay A. Siegel, PhD
Inspection Team: Frederick P. Smith, PhD, University of Alabama at Birmingham; Michele E. Kestler, MS, IAPD Criminalistics Laboratory; and, Barry A. J. Fisher, MS, MBA, Los Angeles County Crime Laboratory

Virginia Commonwealth University (undergraduate and graduate programs) - Sherry B. Mikuta, PhD
Inspection Team: Robert E. Praas, PhD, (ret.) Eastern Kentucky University; Karen L. Irish, BS, (ret.) Baltimore County Police Department; and, Carl Selavka, PhD, Massachusetts State Police

FEPAC commissioners will convene in Miami in early January 2004 to complete the accreditation process for the six institutions (eight programs) and will forward recommendations to the AAFS Board of Directors at theAnnual Scientific Meeting in Dallas in February. Moreover, the Commission will offer a half-day workshop on Tuesday afternoon, February 17, 2004, to answer questions about the forensic science accreditation process and to offer guidance and direction to those who plan to make institutional and/or site inspection applications. Members requiring any assistance regarding accreditation may also contact me (jhurley@aafs.org).

More than 130 middle- and high school science teachers took part in the PSSEC/UTA on the campus of the University of Texas at Arlington October 17-19. Details about the event and photos of AAFS members and participants engaged in the lectures, roundtables, and workshops will appear in the next Academy News.

With strong backing from Chaminade University of Honolulu’s Provost, Br. Bernard Ploeger, and President, Sue WessellKamper, M. Lee Goff (Pathology/Biology) is preparing for the fourth Forensic Science Educational Conference which takes place June 10-12, 2004, on the campus of the University. The PSSEC/CHI will follow the model of the three previous conferences. However, given the tropical habitat and the frequency of outdoor scenes, Dr. Goff and the Steering Committee members will look at including a little more on outdoor scene processing and decomposition (entomology and anthropology). In recent years, Dr. Goff has offered these kinds of workshops and training to teachers on the Islands and has found them to be quite successful as teaching exercises. Possible scenarios will include a crime scene set-up prior to the opening day of the conference, possibly even a grave exercise, to use for several different laboratory workshops. Much attention will be devoted to aspects of trace evidence and other low-cost exercises and activities that Hawaiian science teachers may adapt to their courses and/or employ in their classrooms and labs.

Further information about the PSSEC/CHI, including an on-line application service, is posted on the AAFS website under the link “Meetings.” Court TV, once again, partners with the Academy and the University, and will provide funding to cover scholarships for 50 Hawaiian middle- and high school science teachers as well as presentations on the Forensics In The Classroom lessons.

Past-President Mary Fran Ernst (General), who established and launched the first forensic science educational conference in July 2002, has again been awarded a $50,000 grant from The Saigh Foundation to support an Advanced Forensic Science Conference to be held July 19-23, 2004, at Saint Louis University School of Medicine. In her letter announcing confirmation of the grant, Ms. JoAnn Hejna, Executive Director of The Saigh...
A WORD FROM YOUR 2004 PROGRAM CO-CHAIRMAN

In three short months, everyone will be in Dallas for the annual meeting – start packing your boots and cowboy hats – I will be wearing my Stetson!

The program has been finalized. The program committee has assembled a full slate with over 600 platform and poster presentations. In addition to the scientific sessions, twenty-three workshops, two workshops, eight breakfasts, and two luncheons will be offered. Several sessions are also planned for the evening, including Bring Your Own Slides (BYOS) and Last Word Society.

A very interesting Multidisciplinary Session has been planned by Cecelia Crouse and Anjali Swienton – “The Anatomy of a Coerced Murder Confession: Can Post-Conviction Relief Repair the Integrity of the Criminal Justice System?” The session will examine a Texas case in which the defendant was released after serving twelve years in prison for murder. The only evidence against the defendant and his co-defendant was his confession. DNA testing exonerated the co-defendants. This session will examine some of the factors that contribute to the erroneous convictions of innocent persons including the unreliability of eyewitness evidence, and how interrogation tactics may cause innocent people to confess. In addition, recommendations for legislative post-conviction reform and the filing of John Doe warrants to stay the statute of limitations in no-suspect cases will be discussed. Finally, in instances where an innocent person is exonerated, not only are law enforcement and prosecutors left with an overturned conviction, but suddenly a case that may have been closed for decades once again becomes a live investigation. To address this issue, an integrated approach to instituting effective cold case squads will be considered.

If you plan on presenting a case during the BYOS session, please complete the form on page 11 of this issue of Academy News. The Young Forensic Scientist Forum (YFSF) also invites individuals to submit interesting cases for the YFSF BYOS session.

The Advance Program will be mailed later this month. The program will also be published on the Academy’s website (www.aafs.org). Attendees are encouraged to register on-line.

Finally, everyone is reminded of the upcoming deadlines. Please pre-register by January 21, 2004, and to secure a room at the Adams-Mark Hotel, please send in your reservation request by January 24, 2004.
The American Academy of Forensic Sciences has selected American Airlines as the official airline for its 56th Annual Meeting in Dallas, TX, February 16-21, 2004. American Airlines is offering special meeting fares for all attendees who use the Special Meeting Desk to book their reservations. Book early and take advantage of the promotional fares that give you the greatest savings! Simply call 1-800-433-1790 and refer to Authorization Code: A2724AI.

Avis Worldwide has been selected as the official car rental agency for the 56th Annual Meeting in Dallas. To receive the special discounted rate being offered to you by Avis, you may either call their toll-free number (800) 331-1600, or reserve online at www.avis.com. Be sure to refer to the AAFS Worldwide Discount (AWD) Number D131169.

If you have a disability that may impact your participation at the 56th Annual Meeting, please check the appropriate box on the AAFS Pre-Registration Form (page 23), and append a statement regarding your special needs. Someone from the AAFS headquarters will contact you prior to the meeting to discuss accommodations. Availability of appropriate accommodations cannot be ensured without prior notification of need.

Due to an overwhelming response, and often confusing jumble, of traditional job posting boards at the AAFS Annual Meetings, AAFS will be hosting its second annual Employment Forum. The intention is to provide a means for employers and applicants to meet, exchange information, conduct informal interviews, or schedule interviews for later in the week. This special event will be held on Tuesday, February 17, 2004, from 6:00 p.m. - 8:00 p.m., directly adjacent to the AAFS Welcoming Reception.

Space is limited! Employers, to reserve your place at the Employment Forum, please notify Nancy Jackson at the AAFS headquarters by e-mail: njackson@aafs.org, or fax: (719) 636-1993. Nancy will be happy to answer any questions you may have.

Plan on joining us for the AAFS Annual Meeting Employment Forum!

Don’t miss this opportunity to attend the 2004 Multidisciplinary Symposium, entitled The Anatomy of a Coerced Murder Confession: Can Post-Conviction Relief Repair the Integrity of the Criminal Justice System?

On January 17, 2001, Christopher Ochoa was released after serving 12 years in prison. He was convicted after he confessed that he and an accomplice, Richard Danzinger, committed a murder in 1988. Both men were convicted and sentenced to life in prison. The problem was, they had not committed the murder.

The original prosecutor, defense attorney, and a state laboratory forensic scientist will present the facts of the 1988 case of Texas v. Richard Danzinger and Christopher Ochoa. This symposium will examine the consequences of a false confession on the accused, the actual perpetrator, and the criminal justice system. In addition to presentations on the case the symposium will examine some of the factors that contribute to the erroneous convictions of innocent persons including the unreliability of eyewitness evidence, and how interrogation tactics taught to law enforcement play on psychology to cause innocent people to confess. Legislative post-conviction reform and the filing of John Doe warrants to stay the statute of limitations in no-suspect cases will be discussed.

To attend this full-day special session, be sure to complete the pre-registration form found on page 23, and check the S-1 box.
Saddle Up for Dallas! Trace evidence and crime scene investigators are clearly alive and well! Section Program Chairman John DeHaan is recovering (slowly) from the task of scheduling over 160 papers into three days for the 2004 Dallas meeting. There will be special sessions on criminalistics at crime scenes and trace evidence followed by technical papers relating to each topic. The highlight of the program will be Thursday afternoon’s special joint session with Engineering Sciences and Jurisprudence focusing on opinions, bias, and the role of the scientific expert in both criminal and civil cases. Moderated by Judge Rod Kennedy and Bruce Lyons, the program, Expert v. Expert: Seeing Both Sides of the Coin, will include a number of well-known experts (including Peter DeForest, Ray Prime, Ed Hueske, and Peter Barnett) presenting their views, followed by an open discussion period. Both Thursday and Friday will include technical papers divided into parallel sessions so that attendees may focus on their special interests, such as fires/explosions, DNA, or management, without missing special papers elsewhere. Such a huge number of excellent submissions means that Saturday will also be a nearly full day with parallel sessions on trace evidence and instrumental methods and DNA technologies. All these sessions mean that moderators and volunteer assistants will be needed, so let AAFS or the Criminalistics Program Chairman know you can help. More than 60 papers have been accepted as posters, so there will be poster sessions (again divided by topic) on Wednesday, Thursday, and Friday.

Don’t forget the workshops (on Monday and Tuesday) presented by Criminalistics Section members. Workshops have been suggested on topics such as clandestine drug lab fires and explosions, psychoactive drugs, toxintoxins, forensic mitochondrial DNA analysis, Y-STR analysis in forensic casework, and facial imaging from human remains.

Dallas promises to offer not a little to a few attendees, but a lot of technical and thought-provoking papers for everyone. So don’t try to wrap up early; plan on staying for the whole show (hey, the return airfares are much cheaper if you stay over to Sunday, so your Saturday night lodging will be more than covered — you or your boss will like that idea). So, pack up your bags and bedroll and saddle up for the ride to Dallas. It will be a meeting to remember!

ENGINEERING SCIENCES

Source: Carol A. Erikson, MSPH, Section Program Chairman

Two full days of concurrent technical presentations, a joint session with Criminalistics and Jurisprudence, and three workshops to choose from — that’s what the Engineering Sciences Section will have to offer in Dallas at the 2004 Annual Meeting.

A tremendous late surge provided a total of 64 abstracts submitted, with 63 accepted and included in the program.

These papers reflect the typical high quality that has come to be expected from Engineering Sciences Section, and will not disappoint. Walkway and pedestrian safety research, accident reconstruction and biomedical engineering case studies, electrical accident workflows, and a wide variety of environmental issues will be offered for presentation on Thursday and Friday.

Two presentations by Engineering Sciences Section contributors have also been included in the joint technical session, “Seeing Both Sides of the Coin,” with Criminalistics and Jurisprudence, which is scheduled for Thursday afternoon.

Three workshops are included in the program on Monday and Tuesday. Watch for more information on How to Be a Better Expert Witness, Forensic Image and Video Processing, and Engineering Evidence and Lay Testimony, coming soon.

The business meeting/luncheon on Wednesday is a great opportunity to get involved and volunteer your services for next year. Don’t miss it!
February 16-21, 2004, Dallas, TX. Bring your spouse.
Bring a colleague, or two! Just be there.

GENERAL

Source: John E. Gerns, MFS, Section Secretary

General Section Program Chairman Jim Adcock and General Section Secretary John Gerns have been busy reviewing General Section applicants as well as those applying for promotion within the section. Thus far, over 50 applicant and promotion packages have been reviewed.

Program Committee Chairperson Dayle Hinman and Penny Byglet have also been very busy reviewing abstracts for oral presentations and posters, and are very excited about the upcoming program in Dallas. Dayle reports that the General Section Program will be fantastic. It will be diverse, educational, and entertaining. She advises that 44 oral scientific abstracts and 25 posters have been accepted for presentation. This will allow the section to once again have a Saturday program. It should be noted that five workshops will also be offered by General Section members. Thanks to all who have taken the time out of their hectic schedules to submit scientific papers and posters for presentation and to organize workshops. This could very well be one of the best General Section programs! It is also important to recognize the great work of Dayle and Penny in organizing and orchestrating the General Section Program for Dallas.

Awards Committee Chairman Vernon McCarty is pleased to announce that two Fellows of the General Section have been nominated for the John R. Hunt Award and the Paul W. Nehes Meritorious Service Award. These awards will be presented to the recipients at the General Section Business Meeting. Vernon also requests that those who want to be considered for the Achievement Award must have their abstracts submitted to the Awards Committee for review to ensure they meet the eligibility criteria.
ODONTOLOGY

Source: Thomas J. David, DDS, Section Program Chairman

The 56th AAFS Annual Meeting is fast approaching. In just a few short months everyone will be gathering in Dallas for the first time in the history of the Academy. The preliminary program has already been submitted which includes the scientific sessions on Thursday and Friday as well as poster sessions on these days. In addition, this year’s speaker at the Tom Krauss Memorial Bitemark Breakfast will be Robert Dorion. Dr. Dorion will discuss the evolution of bitemark analysis as a forensic science in North America beginning with the founding of the Odontology Section of the AAFS to the present. As one of the founding members of the Section, Bob has some unique perspectives of interest to all of us. Historically, the Bitemark Breakfast sells out quickly, so plan on returning your registration without delay.

PATHOLOGY/BIOLOGY

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

The Program Committee, headed by Victor Weedn working with Jack Frost, has prepared an outstanding, wide ranging set of presentations for the annual meeting in Dallas, February 2004. Over sixty presentations are scheduled from Wednesday to Saturday covering a panoply of issues. Seven platform presentations are eligible for the Best Resident Paper. Thanks to all who submitted abstracts.

Pathology/Biology Section members have organized six workshops, including full and half day, which are on the docket for Monday and Tuesday. Topics cover medicolegal death investigation and the role of environment (atmosphere), forensic histopathology, and recreational diving fatalities. Multidisciplinary workshops with the General and the Physical Anthropology Sections address respectively a scene-to-trial case study of quadruple homicide and anthropological/entomological approaches to recovering, examining, and gathering evidence in decomposed and skeletonized bodies. A particularly timely, hotly debated subject, Evidence-Based Medicine and the Shaken Baby Syndrome, will be covered as a full day session in conjunction with members from the Engineering Sciences Section. Also available on Monday is a workshop on pediatric death, including subtle forms of abuse, which takes the audience from the scene to the courtroom.

One of the most popular section programs, the Jay Dix Memorial Forensic Pathology - A Bonus Day, returns under the direction of Michael Graham. This series of lectures introduces the fundamentals of forensic pathology (postmortem change, pathology of trauma, drug-related death, asphyxia) and is specially geared to newcomers and members outside the discipline.

In preparing your travel arrangements, consider this rich menu of offerings and plan accordingly!

PHYSICAL ANTHROPOLOGY

Source: Marilyn R. London, MA, Section Secretary

The North Eastern Forensic Anthropology Association (NEFAA) Meeting was held in Utica, NY, October 31-November 2. Thomas Crist and his wife Molly Crist, both professors at Utica College, were this year’s hosts. The schedule included a tour of the F.X. Matt Brewery, in addition to presentations by practicing forensic anthropologists and students attending. For more details, contact Tom at tcrist@utica.edu.

A new master’s program has been approved for Southwest Texas State University in San Marcos, TX. There are nine full-time faculty members who cover all the subfields in anthropology, including two physical anthropologists. Laboratories for archaeology, bioarchaeology, and forensic anthropology as well as the Center for Archaeological Studies are part of the department. For more information, contact David Glassman at bones@swt.edu, or check the website at www.swt.edu.anthropology.

The Maxwell Museum of Anthropology at the University of New Mexico is scheduled to reissue the book Skeletal Attributions of Race, edited by George Gill and Stanley Rhine in the fall of 2003. For more information, see the museum’s website at www.unm.edu/~maxwell/

SECTION & PROGRAM NEWS

PSYCHIATRY & BEHAVIORAL SCIENCE

Source: Gregory B. Leong, MD, Section Secretary

Section member J. Arturo Silva has published the third article in a series of work on autism spectrum disorders, the neurodevelopmental model, and serial criminal behavior in the American Journal of Forensic Psychiatry. Dr. Silva’s first work in the area appeared in the Journal of Forensic Sciences last year.

Richard Rosner has once again made a generous contribution to the Rosner Award Fund in memory of his late wife, Bernice Rosner. The Richard Rosner Award is presented annually for the “Best Paper by a Fellow in Forensic Psychiatry or Forensic Psychology.”

continued on page 14
SECTION & PROGRAM NEWS CONT.

QUESTIONED DOCUMENTS

Source: John L. Sang, MS, Section Secretary

The next Academy meeting will be here soon. Program Chairman Dale Stobaugh has put together a great meeting.

On Tuesday there will be a four hour Adobe Photoshop Workshop with instructors Bill Flynn, Lee Miller, and Derek Hammond. One of the topics to be covered will be using Photoshop images in Power Point to make court exhibits. This workshop will explain the particular uses of Photoshop for the Forensic Document Examiner in the areas of evidence examination, case notes, court exhibit preparation, and image demonstration. Two full days have been scheduled for the Thursday and Friday scientific sessions.


Jo Ann Buscaglia will make a presentation regarding extensive Questioned Document research currently being conducted by the FBI.

Friday afternoon will be devoted to Dr. Kam’s data collection and continued research regarding the identification of “non-English speaking mother tongue writers.” This is going to be a meeting that will be hard to miss. See you all in Dallas.

TOXICOLOGY

Source: Christine M. Moore, PhD, Section Chairman

The Toxicology Section program for the Dallas meeting is taking shape and is extremely exciting. Program Chairman Tim Rohrig has been coordinating the workshops as well as reviewing over fifty submitted abstracts.

There are four workshops planned including: Tryptamines and Other Psychotic (Mind Altering) Substances: Analysis, Toxicology, and Pharmacology; Drug or Supplement? Ephedrine Related Compounds and the Debate on Their Potential for Contribution to Injury; and Application of the Principles of Pharmacology and Pharmacokinetics to the Interpretation of Drug Blood Levels.

It is highly encouraging to see some new names (and some old ones) on the workshop proposals. Let’s hope the trend toward active participation in the Toxicology Section continues. Tim Rohrig reports that many section members have offered to help in Dallas.

On Wednesday, the section’s annual Awards and Poster Session will take place. It is a pleasure to announce that awardees have been selected for three categories this year. The Gettler Award, the Harger Award, and the Sunshine Award will all be presented to deserving toxicologists. Thank you to the Awards Committee, chaired by Jane Speaker, for their hard work. Thursday promises to be a full day of oral presentations, ending as always, by the popular Toxicology Open Forum, annually presented by Chip Walls and Bob Zettl.

Friday is a full day comprising oral presentations, the Annual Lectureship (so far, a well kept secret), and the annual Pediatric Toxicology Session, hosted by Rob Middleberg and Nik Lemos.

All the voluntary work the members of Toxicology Section do, apparently willingly and cheerfully and always efficiently, is greatly appreciated. Looking forward in great anticipation to Dallas 2004.

Forensic Sciences Foundation Endowment Fund Contribution

Name ____________________________________________
Address __________________________________________________________________________________________
____________________________________________________________________________________________________
City ____________________________________State ______________________________ Zip ______________________

Forensic Sciences Foundation Contribution
(80% Restricted Endowment; 20% General: $ _________)
Forensic Sciences Foundation Restricted
Endowment Contribution : $ __________
Forensic Sciences Foundation
General Contribution : $ __________

Mail To: Forensic Sciences Foundation, Inc.
PO Box 669
Colorado Springs, CO 80901-0669
(719) 636-1100 Fax: (719) 636-1993

Thank you for your commitment to forensic sciences. Contributions to the Forensic Sciences Foundation are deductible as charitable contributions for federal income tax purposes. Your contribution will be acknowledged in the Academy News.

q Visa q Mastercard q Enclosed Check (Payable to: FSF)
Account No: ____________________________ Expiration Date: ______________
Signature: ______________________________________________________________

Signature, Account Number and Expiration Date Required for Credit Card
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 08/01/03 through 10/01/03.

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

**CONTRIBUTORS**

**CRIMINALISTICS** (2%)

$51-$100 - "Trustee"
Jan S. Bashinski, MCrim

Up to $50 - "Board Member"
Thallab Al-Bagami
Lucy Davis Houck, BHS
Dennis C. Akin, BS

**ENGINEERING SCIENCES** (3%)

$51-$100 - "Trustee"
James S. Smith, PhD

Up to $50 - "Board Member"
John A. Talbott, BS, RE

**GENERAL** (1%)

$51-$100 - "Trustee"
Robert E. Fraas, PhD

Up to $50 - "Board Member"
R. K. Jones, JD, PhD
Betty L. James, LLB, BSN, MA
Thomas Christy Coburn, MD

**ODONTOLOGY** (3%)

$51-$100 - "Trustee"
Sanford Block, DDS, LLB
Mitchell M. Kirschbaum, DDS

Up to $50 - "Board Member"
Jane Alexis Kaminski, DDS
George J. Kotterman, DDS
Brian C. Smith, DDS
Duane E. Spencer, DDS
Paul G. Stimson, DDS, MS

**PATHOLOGY/BIOLOGY** (1%)

$51-$100 - "Trustee"
James T. Hicks, MD, PhD, JD
J. Scott Denton, MD
Charles A. Catanese, BA, MD
Amy Martin, MD

Up to $50 - "Board Member"
Robert D. Lawrence, MD
Tai-Ping Shih, MD
John R. Fernandez, BS, MDCM

**PHYSICAL ANTHROPOLOGY** (1%)

$51-$100 - "Trustee"
Kenneth A.R. Kennedy, PhD

Up to $50 - "Board Member"
Leslie E. Eisele, PhD
Michael W. Warren, PhD

**ODONTOLOGY** (2%)

$51-$100 - "Trustee"
Sanford Block, DDS, LLB
Mitchell M. Kirschbaum, DDS

Up to $50 - "Board Member"
Jane Alexis Kaminski, DDS
George J. Kotterman, DDS
Brian C. Smith, DDS
Duane E. Spencer, DDS
Paul G. Stimson, DDS, MS

**TOXICOLOGY** (2%)

Up to $50 - "Board Member"
Rebecca Elledge, MS

American Academy of Forensic Sciences

In Memory of
Leslie Eng, PhD

**FOUNDATION NEWS**

Source: Carla M. Noziglia, MS, FSF Chairman

Previous issues of the newsletter contained information about the Emerging Forensic Scientist Initiative. Those who are laboratory directors, supervisors, professors, and others in positions to know young scientists, are encouraged to make them aware of this opportunity. The reward of presenting a paper in front of your peers and then the possibility of receiving complimentary attendance at the following AAFS meeting is surely a great incentive. Encourage these young scientists; they are the torch bearers of the future. Don't forget to attend these presentations given by the emerging scientists in your section at the annual meeting.

The call for used instruments, equipment, and supplies is an ongoing albeit much needed one. Clean out your 'McGe' closet (if you are of the mature generation and remember this from radio) or your 'Kratt Brothers' closet if your children watch Zobomafo. There are treasures in there, treasures that can make the difference between doing a job and doing a good job in evidence processing and analysis. Contact FSF Chairman Carla Noziglia (skipncar@aol.com) or ICTIP Forensic Director Daniel Gamer (daniel.gamer@usdoj.gov) for more information. This initiative will truly prove that one man's trash is another man's treasure.
IN MEMORIAM

Larry Balding, MD, Provisional Member of the Pathology/Biology Section, September 2003.
Robert Bucklin, MD, JD, Retired Fellow of the Pathology/Biology Section, September 2001.
W. J. Cadman, BA, Former Fellow of the Criminalistics Section, September 2003.
Bernard L. Harmeling, DMD, Fellow of the Odontology Section, May 2003.
Richard Lease, MS, Retired Fellow of the General Section, July 2003.
William J. Waldmann, MD, Retired Member of the Pathology/Biology Section, 1992.
Frederick Webb, MA, Retired Fellow of the Questioned Documents Section, unknown.

REMEMBERING PROFESSOR KAZUO SUZUKI

Professor Kazuo Suzuki, 76, passed away on August 28, 2003, at the Keio University Hospital, following a prolonged illness. He was a pioneer in developing the modern day forensic odontology practice in Japan and was appointed as professor in the Department of Forensic Odontology, Tokyo Dental College, which was the first of such full time research and graduate education program in Japan. After retirement, he maintained a full schedule as Professor Emeritus of Forensic Odontology. At the time of his death, he was the President of the famed Japanese Society of Criminology.

Professor Suzuki was well known for his dedication to the study of dental identification and developed the technique of individualization of lip prints. He was active in the service of national aviation accident investigation and assisted in numerous major crimes where dental identification was the key in solving the crime.

JFS TAKES ON A NEW LOOK

The Journal of Forensic Sciences will have a new cover design beginning with the January 2004 issue. With the current cover dating back to January 1987, the publisher and editors felt it was time for a fresh look.
Standards of Admissibility

The rules of admissibility for the introduction of scientific and other expert testimony are a case in point. The United States Supreme Court’s triad of decisions in Daubert v. Merrell Dow Pharmaceuticals, Inc. (1993) and General Electric v. Joiner (1997) and, lastly, Kumho Tire Co. v. Carmichael (1999) all addressed the issue of the admissibility of expert testimony in the context of civil litigation. Nevertheless it would be an egregious error to suppose that the high court’s rulings were intended to be limited to civil trials, excluding criminal prosecutions. On the contrary the gatekeeping function for the trial court on issues of the admissibility of expert testimony posited by the United States Supreme Court applies in both civil and criminal litigation but not in pari passu.

The Civil-Criminal Dichotomy

Ninth Circuit Judge Alex Kozinski, in his decision for the 9th Circuit on the remand of Daubert from the Supreme Court, made it palpably clear that the trial judge’s gatekeeping function may operate quite differently depending on whether the controversy arises in a civil as opposed to a criminal context. Judge Kozinski, being renowned as an independent-thinking judge, engrafted onto the various criteria abounded by the Supreme Court in Daubert for the guidance of the trial court in exercising its gatekeeping function a new stepping stone to admissibility. As he expressed it: “The very significant fact to be considered is whether the experts are proposing to testify about matters growing naturally and directly out of research they have conducted independent of the litigation, or whether they have developed their opinions expressly for purposes of testifying...we may not ignore the fact that a scientist’s normal workplace is the lab or the field, not the courtroom or the lawyer’s office.”

The Litigation Bias Factor

This newly minted gatekeeping standard might be termed, in short, the litigation bias factor (or, more pejoratively, the hired gun factor). But such an unwelcoming and unwelcome bias can impact the testimony of experts in both civil and, most particularly, in criminal prosecutions. Recognizing the fact that “(f)ingerprint analysis, voice recognition, DNA fingerprinting and a variety of other scientific endeavors closely tied to law enforcement may indeed have the courtroom as a principal theatre of operations” Judge Kozinski backtrack from his otherwise all-encompassing concern for litigation bias as tainting the admissibility of all expert evidence. “As to such disciplines, (as the foregoing enumerated ones which are chiefly operative in criminal trials) the fact that the expert has developed an expertise principally for purposes of litigation will obviously not be a substantial consideration” on the question of admissibility. Apparently Judge Kozinski did not set as his paradigm the well-worn canard “what is sauce for the goose is sauce for the gander.” But what he did do was to bifurcate criminal from civil proceedings and, as a consequence, lessen the heft of his new guideline only in criminal trials, which guideline, as it happened, the Supreme Court adopted in its 1999 opinion in Kumho, which, by happenstance, was a civil action.

Admissibility Rules in the States

Dissimilarities in the application of admissibility standards for expert testimony prevail among the state courts and, in particular, in their perception of the controlling value of the precedent set by Daubert and its progeny in the Supreme Court. Needless to say state courts and state legislatures are not bound by the United States Supreme Court’s rule-making for the admissibility of expert testimony in the Federal Courts, the Supreme Court’s decisions not being bottomed on an interpretation of the United States Constitution.

The Wisconsin Schema

The State of Wisconsin is a stunning exemplar of the disparity between federal and state rules governing the admissibility of expert evidence. Such a disparity recently became starkly evident in Ricco v. Riva, 2003 Wis. App. 687. This was an appeal by the plaintiffs in a civil action for misrepresentations by the defendants in connection with the sale of real estate. There was no criminal law component involved.

The Riccos had proposed to have one John Wantz testify as an expert in home inspections to support their suit. But the trial judge would have none of Mr. Wantz, having had his fill of him in a prior unrelated proceeding. Consequently, Wantz was prevented from testifying and...
the Rivas motion dismissing the action was granted. Unsatisfied the Riccos appealed.

The Wisconsin appeals court took the trial court’s characterizations of Wentz as established. It, therefore, quoted the trial judge as having found Wentz “deceives” people into believing he is a licensed home inspector by taking as his “corporate or trade name” that of “Master Home Inspector.” Further, Wentz was said to have misrepresented himself as a graduate of the Milwaukee School of Engineering, whereas he has neither a diploma nor a degree from that institution. Wentz, in his own behalf, responded that there was no misrepresentation in his claim to being a graduate since a graduate, according to “the dictionary definition” cited by him from some unspecified dictionary was merely one who moves “from one class to another,” which was precisely what he did.

Wentz could not disingenuously try to squirm his way clear of the representation in his website that “he has never been challenged in a lawsuit.” On the contrary there are lawsuits, so the trial court noted, contesting “his holding himself out as being a licensed building or home inspector.”

All this being said and all to the detriment of Wentz’s truthfulness, the trial court refused to allow him to testify before the jury. But the appellate court did not concur.

Although the reviewing court did not object to the trial court’s exercise of its power “to protect the administration of justice and the integrity of the judicial process” it, notwithstanding, viewed the trial judge as having “exceeded its limited ‘gatekeeper’ function” in its finding that Wentz’s testimony for the plaintiffs would be unreliable. In spite of the appellate court’s finding Wentz’s inflated estimation of himself and his credentials “to be obnoxious to us” that does not suffice, it ruled, in Wisconsin to exclude the testimony of a person purporting to be an expert.

Although the Wisconsin statute governing the admissibility of expert testimony is virtually a word for word repeat (the Wisconsin court said “Wisconsin”) of the Federal rule of evidence (Federal Rule of Evidence 702) which was construed by the United States Supreme Court in Daubert et al. to require that such evidence first be determined to be reliable, still Wisconsin marches to a different evidentiary drummer. In Wisconsin expert testimony need only be relevant, not reliable, to be placed before the jury at a civil or criminal trial. Wisconsin forthrightly places much heavier reliance on “the vehicle of cross-examination to test the reliability of an expert witness” than does the United States Supreme Court (although it does still extol the more limited virtues of cross-examination). The short of it is that, in spite of the similarity in the language of the rules in Wisconsin and the Federal system, a forensic scientist would be woefully off the mark to conclude that both jurisdictions are as one in interpreting their respective rules or statutes. Wisconsin places the burden on the jury in the first instance to assess the reliability factor while the Federal trial court judges are faced, as Judge Kozinski saw it, with “a far more complex and daunting task in a post-Daubert world,” giving the jury only a second bite at the reliability apple via its weighing of the evidentiary value of the expert’s testimony.

Pre-trial Discovery from Experts

Another area where dissimilarities bulk large is that of the requirements of pre-trial disclosure by expert witnesses in civil and criminal matters. One would initially assume that the rules of disclosure at pre-trial would be more exacting, more demanding of the expert in criminal prosecutions than in civil proceedings if only because the consequences of criminal trials are much more draconian. As it turns out the rules of pre-trial disclosure in civil litigation are much more sweeping and much more disclosure oriented than in criminal prosecutions where a “close to the vest” attitude of cover and concealment prevails.

Pre-trial Discovery under the Federal Rules

So, for example, in the Federal system Rule 16 of the Federal Rules of Criminal Procedure calls the shots concerning the disclosure requirements imposed on experts at pre-trial in Federal criminal proceedings. It is Rule 26 of the Federal Rules of Civil Procedure which, comparably, imposes duties of pre-trial disclosure on experts in civil matters.

Civil Rule 26 imposes duties of disclosure on all civil-litigation experts which are much more extensive than in the Criminal Rule 16 counterpart. Under Rule 26 a written report must be prepared by the expert containing:

- a complete statement of all opinions to be expressed (at the trial) and
- the basis and reasons (for those opinions)
- the data or other information considered by the witness in forming the opinions
- any exhibits supporting the opinions
- the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years
- the compensation to be paid for the study and testimony
- a listing of any other cases in which the witness has testified as an expert at trial or by deposition with the preceding four years.

In contrast, Criminal Rule 16 is less unforgiving in demanding disclosure of a “written summary” of the proposed trial testimony which summary should describe “the witness’s opinions, the bases and the reasons therefore, and the witnesses qualifications.”

Aside from the patent open-door policy expressed in Federal Rule 26 in contrast to the closed-door policy underlying Federal Rule 16, one wonders to what extent sanctions are imposed for a violation of either of those pre-trial closure rules.

Penalizing a Civil Rule 26 Violation

Norris v. Murphy, 2003 WL 21-4886-40 was a civil action in Federal court in Massachusetts in which the plaintiff, Danny Norris, contended that a Boston police officer had used excessive force upon him in arresting

continued on page 22
Penalizing a Criminal Rule 16 Violation

Although Federal Criminal Rule 16 is nowhere as demanding as Federal Civil Rule 26, backed as it is by Federal Civil Rule 37, still a lack of specificity which doomed Dr. Kennedy could have a limiting effect on expert testimony under Rule 16. Such was, in fact, the case recently in U.S. v. Barile, 286 F. 3d 749 (4th Cir. 2002).

Michael Barile was convicted in Federal court of making materially false statements to the Federal Food and Drug Administration concerning various medical devices manufactured by a company in which he was the director of quality assurance and regulatory affairs. Barile sought to stave off a conviction through the testimony of an expert, Robert Sheridan, to the effect that Barile’s submissions to the FDA were not material as required for a criminal infraction to have occurred.

The trial court, apparently accepting the qualifications of Robert Sheridan as an expert, was not so approving of his Criminal Rule 16 discovery notice. In the notice he gave his conclusions but he “did not give the reasons for those opinions as required under Rule 16,” said the trial judge. He gave his opinion but he did not provide the “bases and reasons (is there a difference?) for those opinions” as mandated by Rule 16. Consequently the trial court felt justified in sanctioning Sheridan by allowing his testimony on the “procedure, practice, and history” of the FDA submissions in question but disallowing the statement of his opinion “regarding the materiality of the misrepresentations” in the instant submissions.

The district court judge had played the failed role of King Solomon cutting the proposed testimony in half. The defendant, Barile, rue’d the day for it was that which was excluded which was most supportive of his claimed innocence of the crime charged. The Fourth Circuit found no fault in the trial judge’s choice of the appropriate sanction for the Rule 16 violation.

Unlike Federal civil rule 26, which when read in conjunction with civil rule 37, is very heavy handed when violations of the disclosure requirements of it occur, Federal Criminal Rule 16 does not contain a presumption in favor of exclusion in the event of a disclosure violation of its terms. The dissimilarity is explicit as a reluctance to add an extraneous burden to one already burdened by a charge of criminality, particularly where the scales could be tipped towards a criminal conviction based on a purely technical violation of the rules.

More on the Morrow

The convergences and the divergences of the practice and the rules binding upon forensic scientists are not limited to those discussed here. It is without a doubt, to quote the phrasing of odontologist Michael West (Verdict v. State, 868 S.W. 2d 443, 445 (Ark. 1993)) that these similarities and dissimilarities are legion in the legal rules and the practice governing forensic scientists. Suffice it to say that such a ramification of discordance and concordance is evident in deposition practice and in the differential diagnosis required to sustain the decisions of forensic pathologists and forensic psychiatrists as well as to establish the cause and effect relationship in civil litigation of the nature of medical malpractice, product liability and other causes of civil law grievances.

In sum, it is well worth a forensic scientist’s while to eschew simplistic views of the practice in civil and criminal causes as a seamless and unbroken web with consistent applications when discordances and concordances are commonly found to be the order of the day. As the Roman dramatist Titus Maccius Plautus put it “a word to the wise is sufficient.” (dictum sapienti sat est)