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Subject: Notice of Correction to current policy of the IAI re fingerprint analysis representations

Some of you may have outlines from CLEs on Fingerprint Identification testimony presented by Marvin E. Schecter, Esq. Here is a correction to his materials. The change concerns the current policy of the International Association for Identification (IAI) regarding fingerprint analysis representations. The IAI member code of conduct was revised on July 16, 2010. This revision rescinded the provision that a member testifying regarding fingerprints would be in violation of that organization's code of conduct and rules if it was not affirmatively stated that the fingerprint in issue could be that of someone else. See, the additional information below regarding the IAI standards for fingerprint identification and the rescinded expert testimonial requirement.

July 20, 2011

NEW YORK STATE BAR ASSOCIATION
CORRECTION TO CLE MATERIALS
OF CRIMINAL JUSTICE SECTION CLE PROGRAM
ON MAY 14-15
BY
MARVIN E. SCHECHTER, Esq.

During a lecture I gave on May 14, 2011, participants received written materials which contained an error. Specifically, I referred to a change in the standards by which the International Association for Identification was treating fingerprint identification testimony by its members. See Outline, "The National Academy of Sciences Forensic Report: Recent Legal Developments and New York Evidence, Section G, Touchstone Concepts of the NAS Report, 2b. As published in the outline it reads as follows:

G. Touchstone Concepts of the NAS Report

……

<u>b. The International Association for Identification (IAI) re-</u>
<u>cently changed its standard for reporting fingerprint com-</u>
<u>parisons. It now reads as follows:</u>

“THEREFORE BE IT RESOLVED that any member, officer or certified latent print examiner who initiates or volunteers oral or written reports, or testimony of possible, probable or likely friction ridge identification, or who, when required in a judicial proceeding to provide such reports or testimony, does not qualify it with a statement that the print in question could be that of someone else, shall be deemed to be engaged in conduct unbecoming such member,...”

RESOLVED that, based upon the results of a multi-year study by the Standardization II Review Committee, the IAI hereby recognizes the following:

1. For over a century, the examination and comparison of human friction ridge skin impressions have been used to determine the specific source of those impressions.
2. The practice of this form of comparative analysis by trained and competent examiners has been shown, through experience and study, to be reliable with rare occurrences of error.
3. This reliability and extremely low occurrences of error have afforded friction ridge skin evidence a high degree of value and importance when used in the forensic arena.
4. It is the responsibility of forensic experts to offer a clear and unambiguous presentation of their conclusions.
5. Friction ridge skin impressions can display varying levels of commonality (pattern type, ridge flow) in appearance with other impressions which do not derive from the same source.
6. Friction ridge skin impressions can share class characteristics (pattern type, ridge flow) and any associations based on these criteria require, ethically and professionally, that the examiner clearly state any limitations of their conclusions.
7. The use of mathematically based models to assess the associative value of the evidence may provide a scientifically sound basis for supporting the examiner’s opinion. Examiners shall only use mathematically based models that have been accepted as valid by the IAI in partnership with the relevant scientific community and in which they have been trained to competency.
8. Mathematically based models may not be used as the sole determinant when concluding that friction ridge impressions share

> a common source. The use of mathematically based models does not relieve the examiner of responsibility for their expert opinion. (Emphasis Supplied)

The entire bold, underlined section above, which begins with the words "THEREFORE BE IT RESOLVED that any member, officer……" and ending with the words "shall be deemed to be engaged in conduct unbecoming such member…." was in fact rescinded by the IAI ON July 16, 2010, and no longer represents its current policy respecting testimony by its members. The eight statements following this now rescinded material are in effect and represent the current policy of the IAI re fingerprint analysis representations in a court of law by IAI members.

As incorrectly published by me in the CLE outline materials, a practitioner would be misled into believing that an IAI member testifying regarding fingerprints would be in violation of that organization's code of conduct and rules if (s)he did not qualify their testimony with an affirmative statement that the fingerprint in issue could be that of someone else. While this was the previous policy of the IAI, it is not anymore. Instead IAI members testifying regarding fingerprints are and should be governed by the eight principles noted above which have been adopted by the IAI.

My apologies to all my colleagues for this error. If you have any questions, please call me at (212) 307-1405.