

# THE TESTING COLUMN

## JULY 2008 PERFORMANCE ON THE MBE

by Susan M. Case, Ph.D.

**A**s many of you know, MBE scaled scores were at a record high in July 2008; the average MBE score was 145.6, 1.87 points higher than in July 2007, and about 0.5 points higher than the previous high of July 1994. Although it is the highest score we've seen on the MBE (at least in our electronic history), it is a fairly small increase over some previous mean scores.



Figure 1 shows the trend in average July MBE scaled scores from 1991 to 2008. Score changes from one July to the next have ranged from a low of 0.14 points to a high of 2.4 points; we have seen decreases in means as large as -1.8 points.

Following is an explanation of this result in a Q & A format. (Last night, I watched the second presidential debate, and I didn't think either candidate answered the questions posed—I'll try to do better.)

### 1. Does the increased score mean the MBE is getting easier?

No, the MBE is not getting easier. The MBE scaled score is adjusted to take any differences in question difficulty into account. As a result, when the average score increases from one July to the next, we can assume that the examinees

were more proficient than the previous year's group. In this case, they were almost 2 points more proficient.

### 2. What accounts for the increase in performance?

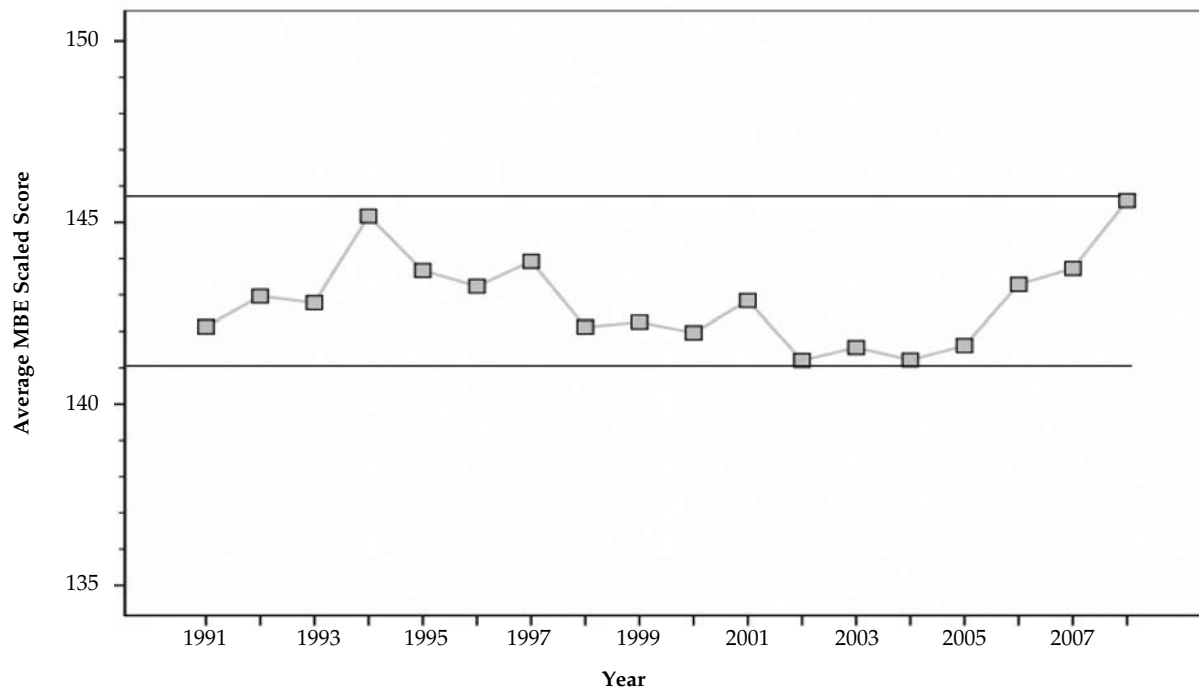
The examinees were more proficient in July 2008 than in July 2007. A small portion of this increase (about 20%) can be attributed to higher entering scores on the LSAT. The rest can likely be attributed to better preparation. This group may have benefited from taking for-credit bar prep courses at the law schools they attended. However, although we can speculate, we don't actually know what factors resulted in the increase in proficiency.

### 3. Did the score increase apply to all groups evenly?

No. Analyses to date have shown that blacks and women had larger increases in scores than other groups. In a data set of examinees from July 2008 ( $n = 25,934$ ) and July 2007 ( $n = 26,060$ ) with gender and ethnicity information, whites had an increase of almost 2 points from July 2007 to July 2008, while blacks had an increase of 3.6 points. Overall, men had an increase of 1.6 points, and women had an increase of 2.6 points.

Figure 1

### TREND IN AVERAGE JULY MBE SCALED SCORES



The increase in performance by blacks is not explained by any difference in their LSAT scores. Blacks' July 2007 LSAT mean was identical to their July 2008 LSAT mean in this data set. For women, the LSAT results account for about 20 percent of the difference.

We will continue to monitor these gender and ethnic differences for future examinations.

#### 4. Why was there such a large increase in the pass rate for some jurisdictions?

This question can be best answered by looking at the distribution of scores. Figure 2 shows the distribution of examinee scores in July 2007 and July 2008. The July 2008 curve is just slightly to the right of the July 2007 curve; it is also slightly more peaked. The curves in Figure 2 highlight how small the differences in performance were. However, although the differences seem small,

there are a lot of people represented in the middle region of the curve where most of the pass/fail standards lie. As a result, the small differences in mean scores can create large differences in pass/fail rates.

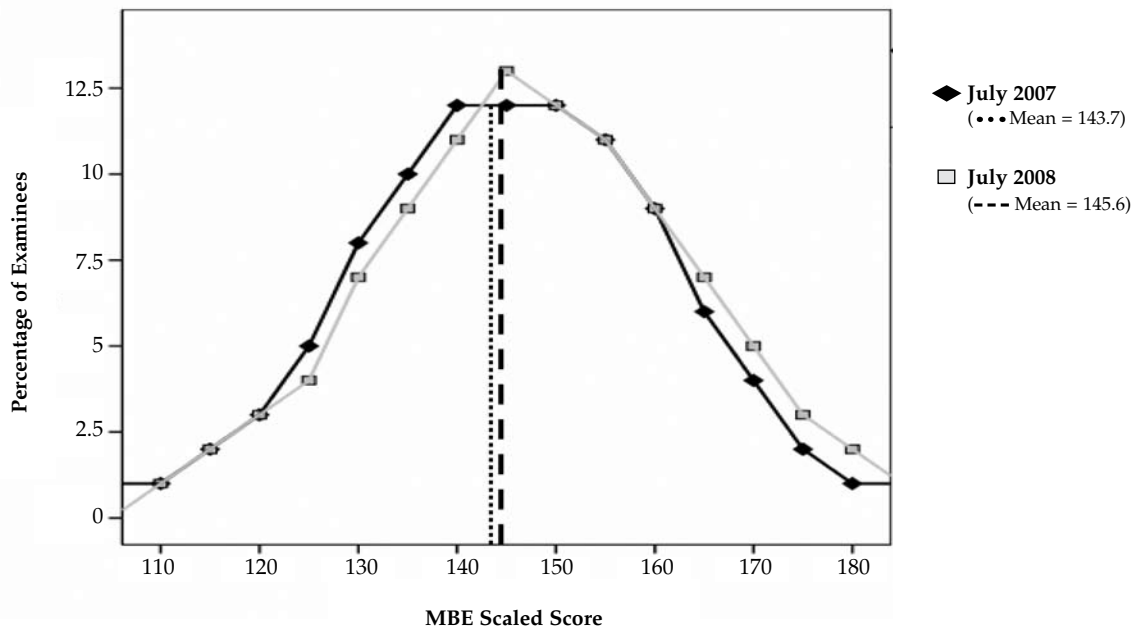
Note that the reverse phenomenon occurred several years ago when the mean score dropped. Several jurisdictions saw a large drop in the pass rate. Large swings in the pass/fail rates are seen more commonly in small jurisdictions, but large jurisdictions will obviously see large swings in actual numbers of passers and failers.

#### 5. Could the increased pass rate be a function of the essay graders being more lenient or the essay questions themselves being easier?

No, not if the essay and performance test scores are scaled to the MBE. For example, let's consider Jurisdiction A that has a mean MBE score

Figure 2

### DISTRIBUTION OF MBE SCORES IN JULY 2007 AND JULY 2008



of 145. If the average total written score in that jurisdiction was 46, the scaled score for that 46 would be a 145. If the graders were more lenient or the essay questions were easier, so that the average total written score was 49, the scaled score for that 49 would still be 145; the same scaled essay value is achieved regardless of the raw total essay score. Scaling the written scores to the MBE eliminates the impact of grader stringency or leniency. We have written about scaling in several previous issues of THE BAR EXAMINER. Articles that describe the process in more detail are "Frequently Asked Questions About Scaling Written Test Scores to the MBE" (November 2006) and "Demystifying Scaling to the MBE: How'd You Do That?" (May 2005). These can be found on our website, <http://www.ncbex.org>.

Every administration of the MBE results in changes to the pass rate; most of these changes are very small, but occasionally mean scores change by several points and the pass rate shifts quite a bit. These differences are the result of real changes in examinee performance, not the result of a more or less difficult MBE or a more or less difficult written test. These differences also cannot be explained by differences in grader leniency. We are left with unanswered questions about why these examinees performed better than expected and why this change was not seen evenly across various groups.

As always, your comments and questions are welcome. 📧

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