

This document provides examples of the scientifically-supported conclusions and opinions that may be contained in Department of Justice reports and testimony. These examples are not intended to be all inclusive and may be dependent upon the precedent set by the judge or locality in which a testimony is provided. Further, these examples are not intended to serve as precedent for other forensic laboratories and do not imply that statements by other forensic laboratories are incorrect, indefensible, or erroneous. This document is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable by law by any party in any matter, civil or criminal, nor does it place any limitation on otherwise lawful investigative and litigative prerogatives of the Department.

**DEPARTMENT OF JUSTICE
PROPOSED UNIFORM LANGUAGE FOR TESTIMONY AND REPORTS
FOR THE FORENSIC HAIR EXAMINATION DISCIPLINE**

Purpose and Scope

This document provides examples of the scientifically-supported conclusions and opinions approved for reporting examination conclusions and offering expert opinion statements during testimony by Hair Examiners. It is noted that these examples are not intended to be all inclusive and may be dependent upon the precedent set by the judge or locality in which a testimony is provided. Further, these examples are not intended to serve as precedent for other forensic laboratories and do not imply that statements by other forensic laboratories are incorrect, indefensible, or erroneous.

Statements Approved for Use in Forensic Hair Examination Testimony and/or Laboratory Reports

Somatic Origin

1. The examiner may state or imply that a human hair is classified as a head hair, pubic hair, facial hair, or body hair. An examiner may further state or imply that a body hair exhibits characteristics of a limb hair, axillary hair, chest hair, eyebrow/eyelash hair, or transitional hair. Body area classifications are based on the macroscopic and microscopic characteristics that are typically observed in hairs from different areas of the body.

Characteristics of Ancestry

2. The examiner may state or imply that a human hair exhibits Caucasian (European Ancestry), Negroid (African Ancestry) and/or Mongoloid (Asian or Native American Ancestry) characteristics. Ancestral group classifications are based on characteristics that are typically observed in hairs from individuals of different ancestral groups and may or may not correspond with how an individual identifies his or her race.

Animal Hair Classification

3. The examiner may state or imply that a hair is an animal (non-human) hair consistent with a particular type of animal (e.g., cat, dog, mink). Animal hair classifications are based on characteristics that are typically observed in hairs from different types of animals.

Growth Stage

4. The examiner may state or imply that a hair exhibits characteristics of the anagen or telogen growth phase. Hairs in the anagen growth phase require some force to be removed from an individual; however, the amount of force required to remove a specific hair is unknown.

Damage

5. The examiner may state or imply that a hair is consistent with having been cut, broken, crushed and/or burned; however, the specific source that caused the damage cannot be determined.

Artificial Treatment

6. The examiner may state or imply that a hair has been artificially treated (e.g., dyed or bleached) or that it exhibits characteristics of having been artificially treated.

Characteristics of Decomposition

7. The examiner may state or imply that a hair exhibits characteristics of decomposition to include postmortem banding. These characteristics may be observed in hairs that have been removed from individuals postmortem; however, the possibility of other conditions causing the same or similar characteristics cannot be excluded.

Comparisons

Human Hair

8. The examiner may state or imply that the questioned human hair is microscopically consistent with the known hair sample and accordingly, the source of the known hair sample can be included as a possible source of the questioned hair. Microscopic hair comparisons are meaningful due to the variation in macroscopic and microscopic characteristics between individuals. However, the comparison of hair characteristics does not constitute a basis for personal identification and the number of individuals who could be included as a possible source of a specific hair is unknown.

Animal Hair

9. The examiner may state or imply that the questioned animal hair is microscopically consistent with the known animal hair sample and accordingly, the source of the known hair sample can be included as a possible source of the questioned hair. However, animal hairs do not typically possess sufficient differences in microscopic characteristics to distinguish between animals of similar breed and color.

Exclusion

10. The examiner may state or imply that the questioned hair is microscopically dissimilar to the known hair sample. Accordingly, based on the known sample provided, the source of the known hair cannot be included as a possible source of the questioned hair.

Inconclusive

11. The examiner may state or imply that no conclusion can be reached because the questioned hair exhibits both similarities and dissimilarities to the known sample or because the hair is of limited value for microscopic comparisons.

Suitability

12. The examiner may state or imply that a hair is either suitable or not suitable for meaningful microscopic comparison purposes.

Statements Not Approved For Use in Forensic Hair Examination Testimony and/or Laboratory Reports

Individualization

1. The examiner may not state or imply that a hair came from a particular source to the exclusion of all others.

Statistical Weight

2. The examiner may not state or imply a statistical weight or probability to a conclusion or provide a likelihood that the questioned hair originated from a particular source.

Zero Error Rate

3. The examiner may not state or imply that the method used in performing microscopic hair examinations has a zero error rate or is infallible.

**DEPARTMENT OF JUSTICE PROPOSED UNIFORM LANGUAGE
FOR TESTIMONY AND REPORTS REVIEW SHEET**

Directions: This review sheet is designed to assist you in evaluating the attached Proposed Uniform Language for Testimony and Reports document against certain criteria while maintaining internal consistency in review and assessing comments.

Your use of this rating sheet is completely **optional**. While it is anticipated this review sheet will encourage comments on issues of particular importance, you are welcome to submit comments in any format that you believe appropriate. This review sheet is not intended to limit comments in any way.

If you elect to use the review sheet, you may find it helpful to frame your comments as suggested below.

Proposed Uniform Language Discipline Reviewed:

Reviewer Name:

Reviewer Organization:

Reviewer Email:

Statements Approved for Use in Laboratory Reports and Expert Witness Testimony

Provide a summary of your assessment of the statements approved for use, including the most important highlights from the individual criteria comments.

- The statements approved for use are supported by scientific research.
- The statements approved for use accurately reflect consensus language.
- The statements approved for use are stated clearly.

Statements Not Approved for Use in Laboratory Reports and Expert Witness Testimony

Provide a summary of your assessment of the statements not approved for use, including the most important highlights from the individual criteria comments.

- The statements not approved for use are supported by scientific research.
- The statements not approved for use accurately reflect consensus language.
- The statements not approved for use are stated clearly.