

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 HANDWRITING ANALYSIS DISCIPLINE**

Purpose and Scope

If adopted, this document will apply to Department of Justice personnel who perform examinations and/or provide expert witness testimony regarding the forensic examination of handwriting evidence. This document does not imply that statements made or language used by Department personnel that differed from these proposed statements were incorrect, indefensible, or erroneous.

This document provides the acceptable range of opinions expressed in both laboratory reports and during expert witness testimony while acknowledging that this document cannot address every variable in every examination.

Statements Approved for Use in Forensic Handwriting Analysis Testimony and/or Laboratory Reports

Identification

1. The expert opinion, which is the highest degree of confidence expressed, that two samples of handwriting originated from the same writer(s) due to significant characteristics in agreement, both in quality and quantity, such that the examiner would not expect to see the same combination of characteristics repeated in a handwriting sample of another writer. There are no fundamental differences to suggest another writer and there are no significant limitations with the items examined. Unexplained characteristics are far outweighed by the combined effect of agreement in all other details.

Qualified Opinion(s) Did Write

2. An expert opinion based on the prevalence of characteristics in common between two bodies of writing; however, a limitation(s) exists which prevents an identification. This is a less than definitive opinion and requires an explanation of limiting factors. The strength

or weakness of a qualified opinion will be provided by the use of any of the following terms:

Strong Probability Did Write
Probably Did Write
Indications May Have Written

No Conclusion

3. The expert opinion that no determination can be reached whether the items being compared were or were not prepared by the same writer(s). This opinion is usually reached because of significant or numerous limiting factors, such as a lack of comparability or lack of clarity and detail in the submitted items, or the weight of the combination of characteristics observed in common is counterbalanced by the weight of the combination of inconsistencies or unexplained characteristics observed. This opinion requires an explanation of limiting factors.

Qualified Opinion(s) Did Not Write

4. An expert opinion based on the prevalence of dissimilarities between two bodies of writing; however, a limitation(s) exists which prevents an elimination. This is a less than definitive opinion and requires an explanation of limiting factors. The strength or weakness of a qualified opinion will be provided by the use of any of the following terms:

Strong Probability Did Not Write
Probably Did Not Write
Indications May Not Have Written

Elimination

5. The expert opinion, which is the highest degree of confidence expressed, that two bodies of writing were not prepared by the same writer(s) due to disagreement in significant characteristics. Any similarities are far outweighed by the lack of agreement in all other details. No significant limitations are present.

Statements Not Approved for Use in Forensic Handwriting Analysis Testimony and/or Laboratory Reports

Exclusion of All Other Writers

1. An examiner may not state that two handwriting samples originated from the same writer to the exclusion of all other writers.

Due to the impossibility of examining all handwriting, an identification to the exclusion of all others can never be proven. However, an identification opinion is supported by

research, which has shown that as more significant characteristics are found in agreement, it becomes less likely to find that same combination of characteristics in a handwriting sample from another writer.

Absolute or Numerical Certainty

2. An examiner may not state a level of certainty in his/her opinion that is absolute or numerically calculated.

Error Rate

3. An examiner may not state that the method used 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.