

**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 EXAMINATION OF SEROLOGY**

**Purpose and Scope**

If adopted, this document will apply to Department of Justice personnel who perform forensic examinations and/or provide expert witness testimony regarding the forensic examination of serological 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 Serological Examination Testimony and/or Laboratory Reports**

**Identification of Blood or Semen**

1. The examiner may state or imply that blood or semen was identified on an item of evidence when a positive result is obtained from the appropriate confirmatory testing procedure(s).

**Presumptive Identification of Blood or Semen**

2. The examiner may state or imply that blood or semen may be present on an item of evidence when a positive result is obtained from the appropriate presumptive testing procedure(s).

**Inconclusive Result**

3. An examiner may state or imply that no determination can be made regarding the presence or absence of blood or semen when an inconclusive result is obtained from the appropriate testing procedure(s).

## **Negative Result**

4. An examiner may state or imply that no blood or semen was detected on an item of evidence when a negative result is obtained from the appropriate testing procedure(s).

## **Limitations**

### **Confirmatory Tests**

5. An examiner may state or imply that confirmatory testing procedures may yield false-negative results (i.e., no test signal when blood or semen is present) due to the sensitivity of such tests.

### **Presumptive Tests**

6. An examiner may state or imply that presumptive testing procedures may yield false-positive results (i.e., test signal in the presence of materials other than blood or semen) due to the lower specificity of such tests.

## **Negative Results**

7. An examiner may state or imply that the recovery of an insufficient quantity of blood or semen for detection and/or the recovery of biological material of insufficient quality can limit the ability to detect blood or semen using both presumptive and confirmatory testing procedures.

## **Statements Not Approved for Serological Examination Testimony and/or Laboratory Reports**

### **Numerical Certainty**

1. An examiner may not state or imply that a level of numerical certainty is calculated to support the identification of blood or semen.

### **Zero Error Rate**

2. An examiner may not state or imply that the methods used in performing serological examinations have error rates of zero or that they are infallible. While the laboratory has a quality system in place to minimize and/or identify potential procedural errors, the analytical processes and procedures used to support serology testing do not have a calculable error rate due to the unpredictability of human error.

**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.

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**Proposed Uniform Language Discipline Reviewed:**

**Reviewer Name:**

**Reviewer Organization:**

**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.