

1948

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Recommended Citation

Louis A. Waters, Questioned Documents in Police Work, 38 J. Crim. L. & Criminology 649 (1947-1948)

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AMERICAN JOURNAL of POLICE SCIENCE

QUESTIONED DOCUMENTS IN POLICE WORK

Louis A. Waters

As Louis A. Waters, Director of the Syracuse Police Laboratory, clearly points out, questioned documents play an important role in police investigations today. The opinions rendered on such papers by the police examiner many times bear upon the liberty of an individual. Because of the weight with which such an opinion may be received either in the course of investigation or in the trial of the accused these document examiners have serious responsibilities. In many instances their work commands greater public attention than that of their fellow workers whose practice is confined for the most part to examination of wills and contracts in civil disputes. Consequently, the conditions under which the police examiner works must be recognized, and moreover, every effort must be made to maintain the high caliber of ability which is necessary to carry out this work properly. We are fortunate in having a man of Mr. Waters' extensive experience—which covers twenty years of work in the examination of questioned documents for various law enforcement agencies such as the District Attorney of Onondaga County, New York, and consultant with the New York State Police Laboratory from 1936-45—to discuss this vital police science problem.—EDITOR.

A document examiner in a police department has some problems that are different from those of civil practice. In police work it is usually most important to identify the forger, while in civil work it is usually enough to prove that an instrument is a forgery. Police work mostly relates to forged checks and anonymous letters, seldom to wills and deeds such as the civilian examiner usually has.

The police examiner, moreover, sometimes has to work under great pressure since a suspect may be held while awaiting his decision, and this cannot be done for too long a time. As in civil cases, some of the questions presented to the examiner cannot be answered, at least with the material available, and there should be no hesitation in so stating.¹ Since a man's liberty may depend on the decision of the examiner, he must be very careful to resolve all doubts in favor of the suspect.

In spite of these obstacles, a document examiner can be of real service to his department. For instance, in a case where a forgery was known to have originated in a certain group of men, an examination of the writing of these men and study of the forgery enabled the examiner to eliminate a large number because they lacked the necessary writing skill to have produced

¹ The better the imitation of the signature on a check, the less chance there is of identifying the forger, since his own characteristics have been lost in attempting to write like another. Also, a highly disguised hand is hard to identify unless there is a great deal of writing, as in a series of anonymous letters, and a good supply of known writing by the suspect.

the forged signature. As Mr. A. S. Osborn has pointed out, no man can write a better hand than his training and manual skill permit, so a smoothly flowing, cleanly executed signature can never be charged against a poor or average writer. Others were dropped because their style of script made it unlikely that they would be able to so completely change their writing habits. For example, when a person writes a hand that is all sharp angles, it is very unlikely that he will be able to forge scrip which is rapidly written with symmetrically rounded curves, or vice versa. Thus, a group of more than 200 men was shifted down to three most likely suspects. Securing more writing of these three led to the guilty party, who confessed when the expert showed him some of his "trade marks" in the forged signature.

In another instance, the handwriting on a telegraph blank served to tie in a suspect with a gang of fur thieves when the same writing was found on a package which contained a number of stolen fur coats, even though these coats were found in a city a thousand miles from the place where the telegram was sent. With this lead, detectives were able to secure additional evidence and convict a member of the gang who might otherwise have escaped. Both of these are given as instances where the document examiner was able to assist the detectives even though he did not have to go to court with his evidence.

A very serious problem for the police examiner is that of obtaining adequate specimens of known writing from a suspect. If he is a professional, he probably has not been in the city where he is picked up for a very long time. Sometimes one of the hotels will have a specimen on a registration card. Before using this the clerk who took the registration must be interviewed, for at times the professional forger will avoid signing on a pretext that he has hurt his hand and will persuade the clerk to enter his name of the moment on the register. If he has been arrested before in other cities, his fingerprint card should have his signature, but usually this will be in a disguised hand and therefore worthless for our purpose. The writer has compiled a list of 117 possible sources of genuine handwriting which he will gladly send to anyone who is interested enough to send him a stamped and addressed envelope.

If circumstances are such that it is possible to interview the suspect, he may be willing to write some samples. Such items are likely to be disguised, but by getting a number of samples taken a few at a time and then removed from his view before asking him to write more, he sometimes will make a slip and provide a specimen like the forged instrument.

In securing these samples every effort should be made to provide the same type of writing instrument; e.g. if a fine pen has been used in the forging, have the suspect use a fine one in making the samples; and also to supply paper that will limit the spaces allotted for the samples to the same size that is present in the forgery. If the forged instrument is a check, have a number of similar checks for the suspect to write on. This is important because most everyone will condense his writing to come within the limits of a space which is bounded by lines or by printing, rather than write over the boundary line. Even if the natural writing of the suspect is much larger than that on the check it may prove that the difference is due to the limited space in which to write.

The police examiner must be very sure that he confines his opinion entirely to the result of his examination of the writing. Many detectives will insist on relating a long list of circumstances which they claim prove that the suspect is the forger. They may have an iron bound case against the man as the one who uttered the forgery, and still he may not have been the actual forger. These men often work in gangs, where one person is the "penman" and another does the passing.

It is essential that similarities which are due to the writers having learned the same system of writing be discovered and discounted as evidences of the identity of an individual writer. Differences between the characteristics of the suspect's writing and that of the forged instrument should be given consideration, particularly when the differences are not the result of an attempt to imitate the writing of the person whose script is forged or of an attempt to write unnaturally.

When a letter written by the suspect to some person not connected with the forgery, and preferably before the date of the forged instrument, can be obtained, this material will often give sufficient natural writing in which there will be found significant individualities to enable the expert to decide the matter with certainty.

Lately there has been an unfortunate attitude taken by the heads of some police departments that they can make a qualified questioned document examiner merely by appointment. The police chief picks someone from the laboratory or the identification section and "makes" him an "expert." The results have been disastrous in some instances where such "experts" have selected a suspect as the forger only to have it proved later on that someone else was guilty.

Mistakes of this kind lower the opinion of the public, who make

up the juries, as to the ability of all experts and, if continued, will bring questioned document testimony into the doubtful class from which Albert S. Osborn and other conscientious and able men have raised it by years of effort in educating the public and practising according to the highest ethical standards. It will also reduce the usefulness of this valuable testimony as far as these same police forces are concerned.

Criticism without offering a remedy is useless. This writer is well aware that the reason most of the chiefs who have made such mistakes have done so is because they are denied sufficient funds to employ a competent expert for the numerous cases which their departments handle. It would seem that in most instances they could arrange with a competent document examiner in private practice to permit their expert to consult with him on doubtful cases for a reasonable retaining fee, if they would also agree that when an important case came up in which the prosecuting attorney's office was supplying the funds, this private expert would be retained, provided his conclusion was in line with the theory of the police.

This would leave the expert a free agent, not being in the direct employ of the department, while at the same time preventing the police "expert" from making any serious error which would not only discredit the department but also document experts in general.

The road to becoming an expert on questioned documents is long and difficult; there is no substitute for education, intelligent experience, and good judgment not only in handwriting and typewriting problems but in photography, microscopy, chemistry, paper manufacture, and inks. The equipment required for satisfactory work in this line is expensive and extensive. Reference files and a complete library on all the above subjects are essential. Many police organizations are unable to secure sufficient funds to properly outfit an expert, let alone pay for the basic education and years of experience which such a man must have.

There are, of course, some of the larger law enforcement agencies which are able and willing to expend a large sum on equipment, reference files, and other laboratory facilities but are unwilling to spend corresponding amounts for salaries in order to attract and hold the services of properly trained and educated personnel to examine the documents. As the volume of work increases other inexperienced men who may be even poorly qualified by reason of educational and personal background are transferred to the laboratory—a process which may lead to a

condition comparable to the blind leading the blind. A similar program to that outlined above, coupled with more careful selection of laboratory personnel for training as experts and adequate compensation after training, could place such departments in the enviable position of leadership in law enforcement rather than their present status of destroying public confidence in the value of scientific evidence.

On the other hand, the routine small check forgery, usually done by some "drunk" who finds himself short while out on a party, and the petty thefts of girls who sign their employer's names to a charge slip in some store in order to get a new dress, are so very obvious that an intelligent man could be trained in a short period under good instructor to handle most of them. It is very unfortunate that most of the policemen who are assigned to this work are denied even this brief period of coaching.

There is one other matter which should be pointed out at this time. Lately there is a policy on the part of the large bonding companies not to prosecute for forgery if they can get the forger to make at least partial restitution. On the face of it this seems to be sensible from a strictly dollars and cents viewpoint.

In some individual cases this may be true. However, there is a growing feeling that if one is caught forging on a big scale the worst he has to fear is that he will have to give up a part of his loot. If this feeling becomes widespread, the resulting losses will become greater, and the bonding companies will lose more money than they would by insisting that such criminals go to jail, whether they restore some of their plunder or not.

When such companies use a police department to help them run down a forger and to persuade him to disgorge, and then they refuse to prefer charges against him and say that they will not assist in his prosecution, they are compounding a felony. You may say that the police and the prosecuting attorney are to blame for not going ahead with the case. Actually, there is no incentive to prosecute when the victim withdraws his complaint and states that he does not want to press any charges. Both the police and prosecuting attorney have enough business so that they do not take on cases when no one wants to press the matter.

In conclusion it is the writer's sincere hope that all who have occasion to pass on a question of the identity of the writer of a forged instrument will resolve all doubts in favor of the suspect. By so doing this he will advance the interests of justice and prevent lowering of the standing of the profession of Questioned Document Examiners.