

1969

Should Experienced Document Examiners Write Inconclusive Reports

Philip L. Schmitz

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Philip L. Schmitz, Should Experienced Document Examiners Write Inconclusive Reports, 59 J. Crim. L. Criminology & Police Sci. 444 (1968)

This Criminology is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

SHOULD EXPERIENCED DOCUMENT EXAMINERS WRITE INCONCLUSIVE REPORTS?

PHILIP L. SCHMITZ

For the past twenty-one years the author has been active in the field of questioned document examination in the Technical Laboratory of the U.S. Veterans Administration, Washington, D. C. Prior to that time he was a Special Agent in the Document Section of the FBI Laboratory. He is a member of the American Society of Questioned Document Examiners and a fellow in the American Academy of Forensic Sciences, and has served as Chairman of the Questioned Document Section of the Academy. This article was prepared for and presented at the 1967 meeting of the American Society of Questioned Document Examiners.—EDITOR.

The subject of report writing seems to automatically create a feeling of resentment or a "hands off" attitude among many document examiners. They seem to feel that this is a personal matter and no one should tell an expert how to write a report. There is no doubt that an expert, no matter what his field, should not be told how to conduct his examinations—whether he be a ballistics specialist, top-notch chemist, hair and fibres expert, or any other forensic specialist. However, of what value is an expert examination unless the results of the study can be reduced to written form and possibly later on to testimonial form? Therefore, the written report should not be taken lightly but should receive serious consideration. By this I mean that some pensive thought should be given during the preparation of a written report in order that the result will be a smooth, adequate expression of the judgment that has been made.

This is a somewhat controversial subject on which there are different attitudes. There are probably as many different ways of writing reports as there are individuals who write them, and no one individual will express himself consistently in the same manner as another person.

Some individuals prefer to use flowing terms and lengthy expressions to make even the simplest of statements. Others desire to incorporate all of the minutiae that they possibly can gather, in order that their end-product may be a report that is absolutely complete in every detail. This latter type is somewhat comparable to the person who will take five minutes to tell a story that most people can tell in one. Still others belong to the school of extreme brevity: "A wrote B," or, as I once noted while visiting a document laboratory

in a large city, results of handwriting comparisons were listed on a single line of a ledger book as either "MAKE" or "NO MAKE". However, the matter that I wish to emphasize does not concern the above *methods* of report writing as much as it concerns the ultimate *effect* of the report on the person who requested the examination. In other words, does the report state results in a satisfactory manner or is the report more like a beating around the bush but evading the issue and ending up in a "it could be, it might be, it should be, but I am not sure" type of statement. The latter type report serves a two-fold purpose: (1) it gives the client a written report, which is what he requested; and (2) it keeps the examiner from getting into conflict with anyone because in reality he did not say much of anything.

To me, the ideal report concerning results of a handwriting examination, is a firm statement expressed in terminology that fits the case, which states that the questioned writing *was written* by a certain individual or it *was not written* by a certain individual. It would not seem to be necessary to write a lengthy epistle about all the procedures involved in the examination, although some mention of them might be appropriate. The important thing is that the conclusion, or opinion, or reasoned judgment is *definite*. But can we always arrive at a definite conclusion after completing a document examination?

There was a time when I started conducting document examinations over 25 years ago that I felt a qualified document examiner should be able to arrive at a definite conclusion in most instances and that failure to arrive at a definite conclusion was a reflection of the examiner's lack of ability. However, experience has taught me that there are

numerous instances in which it would be tantamount to a wild guess or pure conjecture to make a definite statement concerning results of a document examination. How then does a document examiner express himself when he is unable to make a definite determination after completing his examination. There are many expressions that would be appropriate. However, I do not feel that a flat statement "No conclusion was reached" is sufficient, and yet it might be all that is necessary in some instances. The document laboratory report should be informative enough to satisfy the client or requesting party that a *thorough* examination has been conducted on all of the material submitted for study. Certainly it would be improper to report positively that a questioned writing was or was not written by the subject under suspicion or on a typewriter under investigation if such a report could not be supported by the evidence at hand. No competent ethical examiner would do so. Contrariwise, merely to report that no opinion is possible, when in fact there is some evidence to indicate a tentative conclusion can be reached means that the examiner is not assisting his client to the best of his ability.

The results of an examination in which a definite conclusion cannot be reached might include a statement of the reason *why* it was not possible to make a definite determination or form a definite opinion. It would seem almost mandatory that this type report should be somewhat longer than the report in which a definite conclusion has been reached because the indefinite report would include a reason or reasons why it was not possible to make a definite judgment on the matter at issue. Such a report will serve as a guide to the submitter and should also set forth the additional requirements which would be necessary to answer the question at issue in a further examination, providing it is indicated that a definite conclusion may be possible if certain criteria are met.

There are numerous reasons for being unable to make a definite statement concerning results of a document examination. Some of these are:

1. Limited amount of questioned writing.
2. Limited amount of known writing.
3. A span of many years between the dates that the questioned and known materials were written.
4. The questioned material is not repeated in known standards.
5. The known standards are not comparable

with the questioned material, for example, handprinting is asked to be compared with handwriting, or upper case typewriting, with lower case typewriting.

6. Photocopies are involved.
7. The health of the individual has changed between the writings of the questioned and known specimens; for example, stroke, serious accident, crippling disease such as Parkinsonism.
8. Drugs, narcotics, alcohol, etc. may be involved in one group of specimens but not the other.

The problem of photocopies, mentioned in the preceding paragraph, is probably one of the more common ones that document examiners must face today. In addition to not presenting a sharp, clear writing line, photocopies present further obstacles in the path of the document examiner. At times such copies simply do not reproduce *all* of the evidence present on the original document. By way of example, I might mention a recent case involving endorsements on two checks. Photostatic copies of the checks were submitted with the request that the endorsements be compared with known signatures of the subject. In this case it was possible to obtain the original checks and, after detailed study, it was revealed by parallel beam illumination that an embossed or indented signature appeared directly beneath the questioned endorsement on each check, showing an attempt to forge by first tracing a genuine signature in the appropriate area and then attempting to follow the invisible indented line with a written line. The attempt was not very successful; however, the photostat gave no indication of any indented signature and, as a matter of fact, indentations were not even noted in the first phase of examining the original checks, but were observed as the examination progressed. Since the quality of writing of the endorsements was quite comparable to the quality in the genuine signatures, the value of the original document was once again shown to be very essential.

In some instances where examination indicates that the writing on a photocopy was or was not prepared by a specific individual, the expression "The tentative conclusion has been reached. . ." may be of value when it is desired to hold final judgment in abeyance until the original document has been made available for examination, at

which time a firm statement of identity or non-identity may be made. Other statements, such as "Results of this examination are subject to confirmation upon examination of the original evidence. . ." may be sufficiently strong to allow the client to take further action in the matter at issue. Also, there are times when a report which states, "There are indications that a specific individual is responsible for writing the questioned material . . ." may be of great value to the person who requested the examination. This type report is especially helpful to the investigator who is desirous of narrowing the field of suspects as much as possible. Usually, additional writing is furnished in cases of this nature, and a second, more definite, conclusion may be reported.

The purpose of this paper is not to *tell* anyone how he or she should write a report setting forth

results of a document examination, but rather to emphasize the necessity of being truthful and sincere when stating results of a document examination and of using clear expressions which are readily understood by a nontechnical mind. These points should not be overlooked when the results of the examination are not conclusive.

Summary. In summary, it is understood that there are numerous instances in which a well-qualified document analyst or examiner must of necessity write inconclusive reports, but such reports should be well written and a reasonable explanation of the reason why results of the examination are not definite would seem appropriate. Also, a statement as to whether or not a definite conclusion may be possible in a later examination, providing certain requirements are met, would appear to lend strength to the report.