

**DEPARTMENT OF JUSTICE
UNIFORM LANGUAGE FOR TESTIMONY AND REPORTS
FOR THE FORENSIC TEXTILE FIBER DISCIPLINE**

I. Application

This document applies to Department of Justice examiners who are authorized to prepare reports and provide expert witness testimony regarding the forensic examination of fiber evidence. This document applies to reports and to testimony based on reports finalized after its effective date. Section III is limited to conclusions that result from the comparison of two or more fibers. Section IV is applicable to all forensic fiber examinations unless otherwise limited by the express terms of an individual qualification or limitation.

II. Purpose and Scope¹

The Uniform Language for Testimony and Reports is a quality assurance measure designed to standardize the expression of appropriate consensus language for use by Department examiners in their reports and testimony. This document is intended to describe and explain terminology that may be provided by Department examiners. It shall be attached to, or incorporated by reference in, laboratory reports or included in the case file.

Department examiners are expected to prepare reports and provide testimony consistent with the directives of this document. However, examiners are not required to provide a complete or verbatim recitation of the definitions or bases set forth in this document. This is supplemental information that is intended to clarify the meaning of, and foundation for, the approved conclusions.

This document should not be construed to imply that terminology, definitions, or testimony provided by Department examiners prior to its effective date that may differ from that set forth below was erroneous, incorrect, or indefensible. It should also not be construed to imply that the use of different terminology or definitions by non-Departmental forensic laboratories or individuals is erroneous, incorrect, or indefensible.

This document does not, and cannot, address every contingency that may occur. For example, an examiner may not have an opportunity to fully comply with this document's directives during a testimonial presentation due to circumstances beyond his or her control. In addition, this document does not prohibit the provision of conclusions in reports and testimony that fall outside of its stated scope. Finally, the substantive content of expert testimony may be dependent upon legal rules imposed by the court or jurisdiction in which it is offered.

¹ 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 or legal prerogatives of the Department.

III. Conclusions Regarding Forensic Comparison of Fibers

The examiner may offer any of the following conclusions:

1. Inclusion (i.e., included)
2. Exclusion (i.e., excluded)
3. Inconclusive

Inclusion

'Inclusion' is an examiner's conclusion that two or more fibers could have originated from the same source, or from another source with indistinguishable microscopic characteristics and optical properties.

The basis for an 'inclusion' conclusion is an examiner's decision that two or more fibers are indistinguishable in all assessed microscopic characteristics and optical properties with no unexplainable differences.

Exclusion

'Exclusion' is an examiner's conclusion that two or more fibers are excluded as having originated from the same source based on the sample provided.

The basis for an 'exclusion' conclusion is an examiner's decision that two or more fibers can be differentiated by their microscopic characteristics or optical properties.

Inconclusive

'Inconclusive' is an examiner's conclusion that no determination can be reached as to whether two or more fibers could have originated from the same source based on the sample provided.

The basis for an 'inconclusive' conclusion is an examiner's decision that there are insufficient microscopic characteristics or optical properties to determine whether or not two or more fibers could have originated from the same source.

IV. Qualifications and Limitations of Forensic Fiber Examinations

- An examiner shall not offer an 'inclusion' conclusion unless he or she explains that the fiber(s) could also have originated from additional sources that are indistinguishable in all assessed microscopic characteristics and optical properties.
- An examiner shall not assert that forensic fiber examinations are infallible or have a zero error rate.
- An examiner shall not provide a conclusion that includes a statistic or numerical degree of probability except when based on relevant and appropriate data.

- An examiner shall not cite the number of forensic fiber examinations performed in his or her career as a direct measure for the accuracy of a proffered conclusion. An examiner may cite the number of forensic fiber examinations performed in his or her career for the purpose of establishing, defending, or describing his or her qualifications or experience.
- An examiner shall not use the expressions ‘reasonable degree of scientific certainty,’ ‘reasonable scientific certainty,’ or similar assertions of reasonable certainty in either reports or testimony unless required to do so by a judge or applicable law.²

² See *Memorandum from the Attorney General to Heads of Department Components* (Sept. 9, 2016), <https://www.justice.gov/opa/file/891366/download>.