

	<b>LPU-PM 12.0 Testimony</b>	
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	<i>Document Manager: Tracee McIntosh</i>	<i>Approved By: Jeffrey Nye</i>

## 12.0 Testimony

### 12.1 Scope

This policy applies to personnel assigned to, or conducting work in, the FSD Latent Print Units who are authorized to prepare reports and provide expert witness testimony regarding the forensic examination of latent print evidence. This document is intended to provide guidance in the concepts used to provide testimony. It is not intended to be used as a verbatim recitation for responses. This document does not cover every aspect of testimony that may arise.

#### 12.1.2 Responsibility

##### 12.1.2.1

As expert witnesses, forensic analysts may express reasons for conclusions and offer opinions. All members of the latent print discipline are responsible for ensuring accurate, clear, concise, unambiguous and objective testimony.

##### 12.1.2.2

Under no circumstances may forensic analysts provide opinions outside the scope of their specific expertise.

## 12.2 Acceptable Range of Conclusions

### 12.2.1 Identification

Identification is an examiners conclusion that two friction ridge impressions originate from the same source based on friction ridge detail in sufficient correspondence such that the examiner would not expect to see the same arrangement of features repeated in an impression that came from a different source - and has found insufficient friction ridge detail in disagreement to conclude that the impressions came from different sources. Identification is an opinion and does not mean to the exclusion of all others.

May be referred to as "Source Identification."

A "source identification" is the statement of an examiner's opinion that the probability that the two impressions were made by different sources is so small that it is negligible. A 'source identification' is not based upon a statistically-derived or verified measurement or actual comparison of all friction ridge skin impression features in the world's population.

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### **12.2.2 Exclusion**

Exclusion is an examiner's conclusion that two friction ridge impressions did not originate from the same source. The basis for an exclusion is an examiner's opinion that there is sufficient friction ridge detail in disagreement to conclude that the two impressions came from different sources. May be referred to as "source exclusion".

### **12.2.3 Inconclusive**

Inconclusive is an examiner's conclusion that there is insufficient quantity and/or quality (clarity) of corresponding friction ridge detail between two impressions such that the examiner is unable to identify or exclude the two impressions as originating from the same source. The basis for an inconclusive conclusion is an examiner's opinion that a 'source identification' or 'source exclusion' cannot be made due to insufficient information in either of the two impressions examined.

## **12.3 Qualifications and Limitations of Forensic Latent Print Examinations**

### **12.3.1**

An examiner shall not assert that two friction ridge impressions originated from the same source to the exclusion of all other sources or use the terms 'individualize' or 'individualization.' This may wrongly imply that an identification conclusion is based upon a statistically-derived or verified measurement or actual comparison to all other friction ridge skin impression features in the world's population rather than an examiner's expert opinion.

#### **12.3.1.1**

An examiner may describe being confident in their opinion but may not express that confidence with a numerical degree of probability. Nor shall an examiner use the expression "reasonable scientific certainty".

#### **12.3.2**

An examiner shall not assert that forensic friction ridge examination is infallible or has a zero error rate in reference to either the methodology or the examiner.

If error rates from validation studies are discussed, the statements must be qualified to clarify that these were designed studies and may not be representative of the error rates in casework.

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### **12.3.3**

An examiner may cite the number of forensic latent print examinations performed in his or her career for establishing, defending, or describing his or her qualifications or experience but shall not cite the number of forensic latent print examinations performed in his or her career as a direct measure for the accuracy of a proffered conclusion. Conclusions may only be described or defended based on the friction ridge detail in correspondence or not in correspondence.

### **12.3.4**

An examiner shall not guesstimate the age of a latent print.

### **12.3.5**

An examiner shall not state nor imply the intent or purpose of contact for an identified latent print.

## **12.4 Quality Assurance**

### **12.4.1**

Examiners shall conform to witness testimony monitoring requirements (see LOM 2.7).

### **12.4.2**

Examiners should make every effort to hand out expert witness review forms at every court appearance.

## **References:**

MSP LOM  
 DOJ Uniform Language for Testimony, effective 9/24/2018  
 OSAC Draft Standard for Friction Ridge Examination Conclusions, 2018