

Third Printing

Evidential Documents

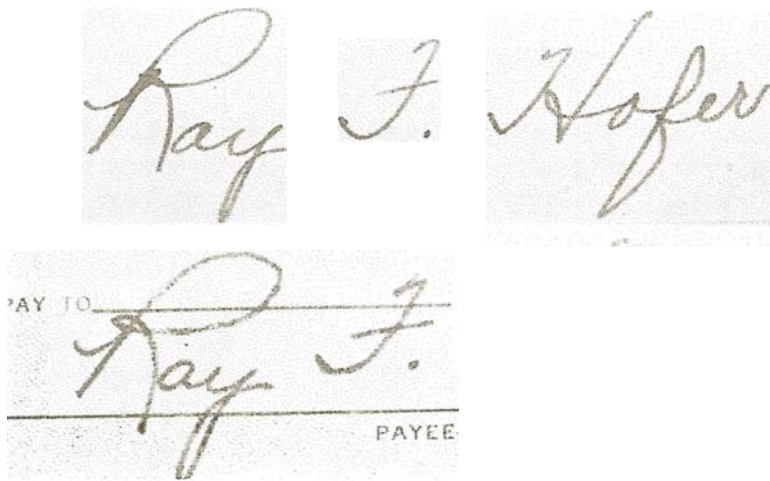
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Figures 6. Natural execution of upper authentic signature readily distinguishes it from lower traced forgery, containing irregular movement impulses, carbon traces, and double tracks of ink overwriting and carbon outline.

type, by the double tracks of the carbon outline and the ink or pencil retouching strokes.

A second method of traced forgery is similar to the carbon process, except that the carbon paper is not interjected. The document containing the authentic signature is placed on top of the spurious document being forged. The forger traces, usually with considerable pressure, over the genuine signature, using a pencil, pen, stylus, or similar instrument and creates an indented signature outline on the document being forged. This indentation or depression outline is thereafter overwritten, using pencil or pen and ink. This sort of traced forgery likewise is usually readily apprehended because of its slow unnatural execution, the presence of indentations and depressions, and a lack of precise coincidence between the indented signature outline and its overwritten counterpart.

A further mode of forgery by tracing involves the use of transmitted light. The document to be forged is placed on top of the document containing the genuine signature. In registration, the two documents are superimposed over a light source and a

so limited in quantity that the writer did not have an opportunity to inject individuality. The investigator or examiner who presumes to identify definitely every writing with which he is confronted seeks to do that which cannot be done. Relying on a tangible, concrete list of individualities as he sees them, rather than on a general impression of letter forms or "intuition," will steer the investigator of evidential writings on a truer course, irrespective of whether he intends to specialize in handwriting evaluation or purports to be expert therein.

No volume of verbiage can describe with exactitude and currency each and every personal and individual handwriting characteristic which the investigator or examiner may encounter. Although made to a common image, man was not devised in precise facsimile. The handwriting of each is different as its author is different from all other men. The various styles of the twenty-six large and twenty-six small letters of the several alphabets, the ten figures, the various punctuation markings, and the multiplicity of the interrelationships of these characters, as produced by different minds, wills, and hands provide millions of personal twists in handwriting. It is the *combination* of these individualities with their accumulative significance in a handwriting which serves to identify it.

The accompanying case illustrations exemplify combinations of individualities of established identifying value. The legends cite only the salient features of these writings and many individual ties, not specifically cited, will be noted by the keen observer.

The Statistician may inquire: "How many 'points of similarity' are necessary to a handwriting identification?" The mathematician may pose: "Is handwriting identification an exact science?" The jurist or administrator may question "Does handwriting identification have a scientific basis?" The defense advocate may accuse "Do not document experts make errors- in handwriting identification?" Although these queries do not represent the immediate problems of the investigator of evidential writings, they are of interest to him and he should know something of their ramifications.

Two handwritings cannot be deemed to be the writing of one

and the same person unless they agree in every fundamental element and embody no basic differences. It is not a matter of six or eight or twelve or fifty or five hundred "points of similarity." Points of similarity furnish inferences of identity between two writings as points of difference indicate their non-identity. The significance of such inferences proceeds from the relative singularity, the relative individuality in terms of all possible writers for the particular point under consideration. "Points of similarity" do not justify identifications unless they involve a combination of agreements in personal individuality which adequately isolates one and only one writer from all the other possible writers.

Would that this principle could be committed to some easy formula for the neophyte examiner of writings. However, there is no high speed parkway to measurements interpretations of handwriting individuality. Some critiques of handwriting identification seem to suggest pique that the critic cannot be provided with a scorecard of the millions of possible handwriting individualities, with the separate probability values listed thereon, so that the critic might himself tote up the final outcome for each game of identification. Only through extensive experience in evaluating thousands of writings of all classes can one estimate accurately the relative singularity, the relative individuality of a "point of similarity" or a "difference."

In comparing two handwritings, the examiner first must determine from his knowledge of handwriting development, handwriting execution, and handwriting forms whether two writings agree in every fundamental particular. Assuming that he so finds, the examiner must then adjudge from his experience in evaluating writings of all classes the relative frequency, the relative probability of such individual agreements, and such aggregate agreement. In arriving at a judgment that two writings are the product of the same person, the examiner must have calculated that there is 110 likelihood of the combination of agreeing individualities occurring in the writing of any other possible writer. An ultimate conclusion which takes into consideration every individuality in the writings being examined, which is based on a knowledge of handwriting execution and on experiential research in the sing-

ularity and recurrence of handwriting individualities obviously proceeds on scientific principles. Its mathematical lineage is evident in the calculation of the separate and aggregate probability for the individualities in the handwritings. Specific mathematical calculations on a case to case basis are the exception rather than the rule for the experienced examiner, as his carefully calculated judgment that a combination of individualities is so singular that it could exist in only one handwriting is not augmented by the physical calculation of the combination as one in three hundred billion or one in five hundred billion.

While the identification of handwriting follows scientific principles and is reducible to the laws of exact science, no responsible authority contends that it is an exact science per se. Handwriting identification is more accurately described as a technique which applies a number of arts and sciences. As to possible error, of course, document experts may err. Document experts, even as the rest of the human race of whatever station or calling, are neither infallible nor impeccable. The possibility of error exists in all calculated judgments, scientific or otherwise. The records for accuracy of competent document examiners in the United States are, however, highly impressive. They inspire confidence in those who are truly familiar with them. This author is aware of hundreds and thousands of cases wherein unerring conclusions were rendered by practicing specialists in the document field. An awareness of the possibility of error in all things human seasons the efforts of the knowing, diligent worker to greater accuracy it never prejudices the efforts of the truly qualified, nor should it.

A handwriting identification should be accepted or rejected in the same manner as all evidence should be accepted or rejected. As succinctly stated by the late Dean Wigmore* it should be "measured by its convincingness." The identification of a handwriting must stand on its reasons- their exposition, and their illustration-the same basis on which we decide all the weighty problems of human affairs.

.Wigmore 011 Evidence, Second Edition, 1923.

The procurement of exemplars for comparative purposes in a handwriting investigation presupposes that one or more questioned documents and handwritings have arisen or are anticipated in a given case. Of course! That is obvious, we say. But it should not be permitted to become so obvious that the questioned handwriting in any case is taken for granted. Some investigations degenerate into hit-or-miss scattershot operations. "Get some handwriting" becomes the order rather than "Study this questioned handwriting carefully and compile representative exemplars for comparison with it." Each handwriting investigation, each search for exemplars should be conducted in the light of and under the auspices and patronage of the questioned writing. Its identification is the ultimate objective. With this end result in mind, correct procedural techniques will tend to follow as a natural, logical consequence.

Handwriting exemplars should recreate the identifying elements of the questioned writing with which they are to be compared. The object of exemplars is to illustrate, fairly and completely, their author's personal habits in the creation of such handwriting as is under question or in dispute. It is not the object of exemplars to do more, and they are deficient when they accomplish less. Accurate, complete exemplars which demonstrate their authors' habits in the light of the handwriting which is in question provide the basis *for* reliable sound conclusions. Incomplete exemplars or those whose manner of procurement has distorted or precluded an accurate interpretation of their author's habits inherently circumvent reliable sound conclusions. Inadequate exemplars can and do result in inconclusive findings. They can even lead to erroneous conclusions.

The procurement of exemplars might be likened to a manhunt. One would not initiate a manhunt without a description of the man who was sought, his probable attire, his possible disguises, his known peculiarities, and everything else of identifying significance which could be developed concerning him. One would brief himself and his collaborators exhaustively on the identifying elements, the characteristics of the individual for whom he was searching. It would be considered inefficient and downright foolish

for one to seek a suspect in the flesh without some idea of what the suspect looked like, what he acted like, and where he was apt to be found. Handwriting presents an analogous problem and one with equal if not greater tangibility.

The identifying elements of a questioned handwriting provide the core around which its investigation should revolve. These identifying elements should be before the mind of the investigator consistently in his inquiry and throughout his search for exemplars. One is not simply seeking any handwriting from suspected individuals. The object is to develop exemplars which fairly and completely illustrate a suspect's habits in the recreation of the handwriting which is under investigation. The purpose is not necessarily to obtain exemplars which seem similar to the questioned handwriting and indicate guilt on the part of a suspect. The ultimate is to acquire true and accurate exemplars of the suspect's habits and individualities so that they will reveal the truth, perhaps the innocence of the suspect.

Classes of Exemplars

There are two general classes of handwriting exemplars. The first and the better general class includes those writings which are prepared in the normal, routine course of business or personal affairs. This class will be referred to as informal or regular-course-business exemplars. The second and the second best general class of exemplars consists of those writings which are prepared in the presence of the investigator and at his request, for the specific purpose of comparison with a questioned document or documents. This latter class of exemplars will be referred to as request exemplars.

The relative value and the particular applicability of informal and of request exemplars represent vital information for the investigator of evidential writings. It should be understood by the law enforcement officer, the attorney, the judge, and the document examiner how each of these general classes can be utilized most effectively and weighed most accurately.

As previously discussed, handwriting is identified on the basis of the personal individualities of its author. These individualities are the result of handwriting training, experience, and usage

and they are developed through constant repetition until they become quite automatic in most adult writers. These individualities are essentially unconscious expressions. As a general rule, they are produced outside the conscious concentration of the mature writer. When one writes informally, in the regular conduct of his business or personal affairs, he has no motive to disturb his usual writing habits. No reason is injected to distort or disguise the automatic routine expression of his personal writing individualities. Writing in his habitual unrepressed Manner, there is no overhanging inclination to self-consciousness, mental stress, deception, nervousness, fear, or resentment. It follows that informal, regular-course-of-business exemplars are inherently more personal and more natural. Thus, they are more apt to embody the writer's true, unvarnished, unembellished individualities.

Request exemplars are prepared within or related to the law enforcement atmosphere, or at least within the circle of specific interest in a questioned handwriting. The writer by request has a point to prove. He is either interested in proving that he executed the writing in issue or in disproving his responsibility. He is not neutral. He has a concern for what his exemplars may reveal. He has become associated in some way with the questioned or disputed writing. The writer by request usually is under some suspicion or at least thinks he is, regardless of what he is told or what he says at the time of preparation of request exemplars. Whether the writer is guilty or innocent, deceptive or just plain scared, cooperative or antagonistic, of high station or low, clever or stupid, first offender or recidivist, skilled penman or semi-illiterate, his consciousness is directed to the act of writing in some degree. Self-consciousness, deception, nervousness, intentional disguise, mental stress, fear, and other like factors must be carefully considered and reconciled in the interpretation of individualities from request exemplars. The mental attitudes and manual ability of some writers make it possible for them to distort effectively, and occasionally to exclude entirely, their normal and true individualities from request exemplars.

It is not intended to infer that request exemplars are not valuable. Nothing could be more remote from the truth. Request

exemplars are not only distinctly worthwhile, they are in many cases indispensable to success. Many handwriting identifications and eliminations can be' and are accomplished through request exemplars alone. There is always a place and an important place for the second team. Occasionally it will outscore the varsity. It is especially adapted for particular plays. In some games it should be employed throughout. But no coach could be very successful if he consistently started his scrub team and played it throughout all his contests.

Departments having a low percentage of handwriting case solutions are urged to take a new look at their thinking and their procedures in respect to handwriting exemplars. The first team of exemplars, the informal, regular-course-of-business writings should not be virtually ignored. No department should attempt to rely exclusively on the substitutes, the self-interest, request exemplars. Some handwriting inquiries fail of solution because of the absence of informal exemplars. Still more cases necessitate tortuous and protracted laboratory studies and produce borderline conclusions because of the unavailability of informal-regular-course-of-business exemplars.

The principle which is involved may be seen by analogy in oral statements, verbal exemplars, let us say. Would anyone seriously contest that statements by an accused to sympathetic family, friends, and associates, completely removed from the law enforcement atmosphere, would be liable to elicit valuable and accurately informative data? Does not the accused react characteristically when talking to his business associates, family and friends, who know him well, and whom he could not readily deceive in any event? Would not the reliability of the accused's statements be augmented if they were made prior to his accusation? Prior to the date of the incident which brought him under suspicion and made him an accused? Handwriting exemplars present similar considerations. When written in the normal, routine flow of daily affairs, under no possible aura of deception, self-interest or unreliability, they are clearly of great value in isolating, and with facility, the true writing individualities of their authors.

A few inexperienced document examiners, unimaginative

answers. They may change later. Tell him why you prefer to wait until after he has prepared exemplars in your presence to permit him to examine or to re-examine the alleged forgery with you. You are simply endeavoring to preclude the writing and format of the questioned document from influencing his exemplars, consciously or unconsciously. When it is impracticable to obtain exemplars prior to the claimant's immediate examination of an alleged forgery, note of such circumstance should be incorporated in the case memoranda for future consideration.

In obtaining request exemplars, the claimant-writer should be seated in a natural writing position. Supply him with fountain pen, steel pen and holder, ball pen, pencil, or whatever instrument was used to prepare the questioned writing. When a forged endorsement is claimed, have the claimant write endorsements on blanks checks of comparable size and writing space. If blank checks are not available, blank slips of paper of corresponding size may be used. When the questioned endorsement is written on printed lines, blank checks or slips of paper with similar ruled spaces should be used.

As the claimant prepares each exemplar, remove it from his immediate vision, while he prepares the next one. This procedure is much preferable to having him write a series of signatures on the same piece of paper. The investigator should be casual about the entire proceedings so as to induce naturalness in the exemplars, and in the light of the questioned document. If the latter was probably written in a standing position at a bank counter or under some unusual writing conditions, the claimant should be asked to prepare several exemplars in like manner. The investigator should indicate on such exemplars the manner of their preparation. Similarly, he should show by a small unobtrusive number the order in which the various exemplars were written.

When questioned writings include a street address, city and state, telephone number, military designation, identification number, etc., the subject should be specifically requested to include such particulars in his exemplars. Additionally, he should be questioned for the precise significance of these data.

If the issuance of an entire check is alleged, the disputant