

ASTM

American Society for Testing and Materials,
International

Committee E30 on Forensic Sciences

**The History of
Subcommittee E30.02
on Questioned Documents**

Presented by Vickie Willard, AFDE Symposium 2013

During the 1990s....

**Subcommittee E30.02
begin with a handful of people**



**Forensic Document Examiners
Andrew Sulner (New York City)
and Peter Tytell (New York City)
were among the first members.**

1996: Six people attended the E30.02 meeting – held in conjunction with the AAFS annual conference

1996: [Second Meeting] Seven people attended this meeting that was held in conjunction with the ASQDE annual conference

Note: Because the ASQDE holds closed conferences, the meeting site was challenged because it was convenient and inexpensive for members of ASQDE to meet and vote on ASTM matters, while inconvenient and expensive for non-ASQDE members who were not permitted to attend the ASQDE Conference. No more meetings were held in conjunction with the ASQDE Conference. All future E30.02 meetings were held in conjunction with the AAFS Conference

1997: Ten people attended the meeting

1998: Twelve members and two guests attended the meeting

1999 Five members and three guests attended the meeting

2000: Eight members and nine guests attended the meeting

Reno, NV
Feb 20, 2000



Enter SWGDOC.....



**The meeting minutes of the E30.02
Subcommittee on Questioned
Documents read:**

**“It is anticipated that a number of SWGDOC
Guidelines will be moved forward through
the ASTM/SWGDOC Liason (sic) Task
Group to become ASTM standards”**

Who is SWGDOC?

SWGDOC (Scientific Working Group for Forensic Document Examination), formerly known as TWGDOC (Technical Working Group for Questioned Documents).

SWGDOC is a task group funded by the FBI. It restricts its membership to individuals who trained on a full time basis for two years or more, further defined as working almost daily in the laboratory/office of the “supervisory practitioner or other instructor” . This precludes almost all privately trained examiners because a four-year part time training program called a mentorship is the norm in the private sector. The SWGDOC “private examiners” are government examiners who retired into a private practice, with the exception of one or two.

SWGDOC was formed to write its Standard Operating Procedures (SOPs) into guides to promote “standardization in procedures used in government laboratories.” * After a few years, however, SWGDOC decided to write their SOPs into guides and take them to the ASTM for publication as ASTM standards.

* Shriver & Nelson Web Site – Farrell Shriver was the first Chairman of SWGDOC



2000 -- E30.90 Executive Committee Minutes of February 21st Meeting

The chairman of the SWGDOC requested a meeting with the Executive Committee “to express their concern over some of the pitfalls...” of the ASTM process. “Their main concern centered on SWGDOC’s fear that the documents [the standards they were presenting] would or could be held up at the subcommittee level for an inordinately long time in the subcommittee’s attempt to resolve differences of opinion...in turn, prevent the SOP’s [SWGDOC’s Standard Operating Procedures] from being readily available...”

The SWGDOC chairman “expressed concern over how the FBI would react to a discussion on our part [referring to the E30.90 Executive Committee] not to alter the process to satisfy the concerns of the SWGDOC membership.”



2001 -- E30.94 Liaison Committee Minutes of February 18th Meeting

The chairman of E30.02 states:

“SWGDOC has decided to go with the ASTM System for handling their documents. One issue has surfaced however. SWGDOC is not willing to allow for changes or alterations to the documents based on negatives that may be received between subcommittee and main committee ballots.”

This attitude prevailed in the subcommittee
through the subcommittee's demise.



2003 – Committee E 30 on Forensic Science

Minutes of February 17th Meeting

It was announced that “a good way to get SWG members to be E30 members” was by using “a \$50,000 NIJ grant to pay for committee memberships from public sector laboratories – 350 over the next 3 years”. The grant had been arranged by two E30 members.

E30 members ultimately have the final vote on passage of any new standard or a revision to a standard submitted by the Questioned Document Subcommittee.

2002 Meeting -- 20 members present

It was announced that “there has been much work product from SWGDOC. Seven guides came out of the fall meeting and the handwriting guide came out last month.”

2003 Meeting -- 26 members present

- ▶ *In Ballot: Training Standard*

2004 Meeting -- 43 members present, 40 holding proxies

- ▶ *Training Guide recommendations and revisions offered by non-SWGDOC members were to be voted on for merit*

2005 Meeting -- 69 members attending, 56 holding proxies

- ▶ *More Training Guide recommended revisions from non-SWGDOC committee members were on the meeting agenda*
- ▶ *The SWGDOC representative brought pre-written motions to the meeting – motions to defeat all recommendations offered by the non-SWGDOC members of the subcommittee.*

E2388-05 Standard Guide for Minimum Training Requirements for Forensic Document Examiners

THE FINAL VOTE TO APPROVE TRAINING GUIDE

Affirmative:	38
Affirmative Proxies	40
Negative	21
Negative Proxies	16
Abstaining	0
Abstaining Proxies	0

TOTAL VOTES CAST: 115

Votes Required to Pass 77 --- Affirmative Votes 78

The training guide passed by one vote.

CLASSIFIED

September 2005

E30.02 became a Classified Committee

Purpose: Promotes “balance of interests” by controlling the number of voters from the public sector and private sector

ASTM Definitions

User: Salaried public agency employee or company employee (i.e., government local, state and federal employees)

Producer: Person who sells their services (i.e., individuals who own their own business, known as private examiners)

Was the classification issue really to create balance within the subcommittee or to give the government funded SWGDOC an edge in the vote?

An ASTM representative stated that the reason for the classification was:

“The committee had a number of controversial issues that began to divide those in private practice and those working for the government. Therefore we implemented the balance requirements - keeping the number of individuals selling their services (those in private practice) at 50% or less.”

CLASSIFIED

BONUS

Committee Bylaws were changed to permit full time government employees who moonlight in the private sector to choose whether they want to vote as a User or Producer. Due to ASTM restrictions on the number of Producers allowed to vote, by electing to vote as a Producer, a moonlighting full-time government examiner could displace a full time private sector examiner who previously had voting rights on the balloted standards and standard's revisions.

APPEALS



Appeals challenging due process began in 2004 during the Training Guide balloting process

Appeals were filed by numerous E30.02 members, one major appeal signed by forty-four (44) members

Challenges to Due Process

Appeals filed

- **Interference in the balloting process by the SWGDOC**

THE ASTM BALLOTING PROCESS...how it was

1. ASTM Regulations required that a negative vote must contain recommendations for revisions to the content in the standard to which the voter is objecting.
2. ASTM regulations require that a motion be made to find the member's recommendations without merit; otherwise the recommendations will be deemed to have merit and will be incorporated as a revision to the standard.
3. Instead of allowing members attending the meeting to make or not make motions, ASTM was permitting the member's suggestions to be sent to the non-ASTM affiliated SWGDOC group for discussion at its meeting.
4. SWGDOC was permitted to decide whether they wanted to accept the voter's recommendations or reject the voter's recommendations.
5. At the next E30.02 subcommittee meeting, a SWGDOC representative would be given the floor and allowed to make continuous motions to reject the recommendations made by subcommittee members.

The SWGDOC action was consistent with the SWGDOC representatives comments at the 2001 meeting about not permitting changes to their standards. This interference by the SWGDOC infringed upon the rights of E30.02 members attending the subcommittee meeting and tainted the balloting process.

- **Violation of ASTM Regulations**
- **Violation of ASTM Bylaws**

In May 2011, forty-four members of the subcommittee signed an appeal alleging violation of the ASTM Bylaws and Regulations during the balloting of standards and revisions to standards.

Seven (7) Regulations and three (3) Bylaws were referenced in the Complaint.

➤ Inappropriate classification of members

Inappropriate because the E30 Committee on Forensic Science revised its bylaws and made a change approved by the ASTM whereby a full-time salaried government employee could elect to vote as representatives of the private sector (i.e., as Producers) if their agency allowed them to moonlight during the year and accept private sector case work, even though their case work was limited due to conflict of interest if a case involved any government agency or criminal defense work. Due to the ASTM restrictions on the number of *Users versus Producers*, this allowed government employed examiners to elect to vote on behalf of the private sector. This practice also displaced full-time private sector examiners who previously had the right to vote on balloted standards.

Inasmuch as the SWGDOC drafted standards were being balloted, and SWGDOC is a government funded organization, at the very least, this created a conflict of interest, if not antitrust issues.

More Challenges to Due Process

- Robert's Rule of Order not being followed at meetings, thereby denying rights to subcommittee members.
- ASTM Regulations require technical reasons to be stated in a motion to find a negative voter's recommendation for changes in a standard to be declared as having no merit. Many times technical reasons were not provided, thus violating regulations.
- ASTM Regulations require all parts of a negative voter's comments be addressed by motion to find no merit to the recommendations, but often this was not done, thus violating regulations.
- ASTM Regulations require a subcommittee ballot for any substantial changes to an existing standard, thereby requiring subcommittee approval before the item is sent to the main committee for final ballot. Bypassing the subcommittee was advantageous to the SWGDOC in eliminating one stage of the review process, thus quicker publication of their SOP (now standards). Bypassing the subcommittee was an infringement of member's rights. *(Example – next slide)*

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Designation: E 444-07

Item 2 – Wk19366

Standard Guide for Scope of Expertise of Forensic Document Examination¹

This standard is issued under the fixed designation E444; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of supersession. An epsilon (ϵ) indicates an editorial change since the last revision or reapproval.

1. Scope

1.1 This guide describes, in general, the duties of forensic document examiners, also referred to as ~~examiners, examiners of questioned documents, document examiners, or document analysts~~, the qualifications of individuals engaged in the scientific practice of forensic document examination.

1.2 This document can provide guidance to anyone encountering matters involving forensic document examination.

2. Referenced Documents

2.1 ASTM Standards:²

E 2388 Guide for Minimum Training Requirements for Forensic Document Examiners

3. Job Description

3.1 The forensic document examiner ~~conducts~~ ~~makes~~ scientific examinations, comparisons, and analysis to: (1) establish genuineness or nongenuineness, or to ~~reveal erasures, forgeries, or to~~ alterations, additions, or deletions, (2) identify or eliminate persons as the source of handwriting, (3) identify or eliminate the source of mechanical typewriting or other impression marks, or relative evidence, and (4) preserve and restore legibility ~~of~~ ~~testimony, when needed, to aid the users of the examiner's services in understanding the examiner's~~ technical reports and give expert testimony.

3.2 A complete forensic examination involves the assessment of all elements of a document to ~~draw~~ reasoning and conclusions.

3.3 Qualification as a forensic document examiner is based upon a combination of knowledge, education, and training (Guide E 2388) specific to forensic document examination. It is critical that the examiner only the ability to analyze and compare, but also the comprehension of the manufacturing process, production and preservation of documents.

3.4 An examiner shall be totally objective in all situations. Each shall be honest, ethical, and act in confidence.

3.5 There are additional professional practices that increase reliability and reproducibility of their work. Examples of professional practices: reliable chain of custody, accepted evidentiary procedures, quality assurance and control, professional and trade consultation, methods from peer review.

¹ This guide is under the jurisdiction of ASTM Committee E30 on Forensic Sciences and is the direct responsibility of Subcommittee E30.02 on Questioned Documents. Current edition approved April 1, 2007. Published June 2007. Originally approved in 1972. Last previous edition approved in 2006 as E 444-06. For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org. For Annual Book of ASTM Standards volume information, refer to the standard's Document Summary page on the ASTM website.

Balloted by SWGDOC as having no substantial changes



professional development and participation, case review, routine proficiency testing, adherence to an ethical code, and adherence to national standards. Additionally, an examiner should be familiar with relevant emerging forensic

3.5.1 Continuing education in the following does not constitute expertise in forensic document examination: calligraphic fraud investigation, law enforcement, loss prevention, banking, general criminalistics or other forensic training, or laboratory management.

3.6 Forensic document examination does not involve the employment or practice of the study of handwriting to create a personality profile or otherwise analyze or judge a writer's personality or character. Furthermore, personality profiling or character assessment based on handwriting is not a foundation for the practice of forensic document examination in whole or in part.

3.6.1 Examination in the following does not constitute expertise in forensic document examination: calligraphic fraud investigation, law enforcement, loss prevention, banking, general criminalistics or other forensic training, or laboratory management.

3.6.2 Short overview courses, literature reviews, or distance learning, in and of themselves, do not qualify as forensic document examination.

4. General Responsibilities/Duties

4.1 Inquiries arise in matters where the genuineness of documents is in question. Examiners in this field are limited to the scientific handwriting report. Forensic document examination includes expertise in handwriting identification, handwriting analysis or script style writing, handwriting, signature, numerical, and other written marks. Forensic document examination does not involve the employment of calligraphers or engraving skills, nor does it involve the study of handwriting in an attempt to create a personality profile or otherwise analyze or judge the writer's personality or character.

4.2 Common analytical requests are for: Questions about documents arise in business, finance, civil and criminal law matters affected by the integrity of written communications and records.

4.2.1 The examination and comparison of handwriting, hand printing, numerals and signatures, typewritten characters.

4.2.1.1 Typical problems in the field are:

4.2.1.1.1 The identification of handwriting and typewriting.

4.2.1.1.2 The identification or elimination of the source of and the output of other mechanical or electronic in such as printers, copying machines, facsimile equipment, and the like.

4.2.1.1.3 The identification or elimination of ink, paper, and writing instruments.

4.2.1.1.4 The establishment of the date, source, history, sequence of preparation, alterations or additions to the relationship of documents.

4.2.2 The examination, decipherment and preservation of indentations on documents. Other problems are the identification of the location, date, or damaged parts of documents.

4.2.3 The examination, comparison and classification of the product of typewriters, facsimile machines, photocopiers, printers, commercial printing and other mechanical or electronic imaging devices used to create documents.

4.2.3.1 The examination of these devices and the comparison thereof to the product.

4.2.3.2 The decipherment of machine ribbons.

4.2.3.3 The comparison of paper fiber impressions to machine ribbons.



4.2.4 The examination and comparison of ink, paper, and writing instruments. Document examination includes the recognition and preservation of other relevant physical evidence that may be pertinent to an examination.

4.2.5 The collection and preservation of charred or liquid-soaked documents.

4.2.6 The collection, restoration and preservation of torn and cut (including shredded) items, and:

4.2.7 The decipherment or restoration of altered, obliterated, or erased parts of documents.

4.3 Many document questions, such as sequence of preparation, dating of documents, and counterfeit recognition, may require more than one type of document examination in order to arrive at a properly reasoned and accurate conclusion.

Equipment used in forensic document examination and analysis includes conventional optical, photographic and other imaging devices, a wide variety of imaging materials, adaptive devices with a variety of lighting methods including those involving radiant energy in the ultraviolet, visible, infrared, and other regions of the electromagnetic spectrum, as well as electronic or other devices for the detection, or visualization, or both of indentations and other features present in or on paper or similar substrata. Other analytical substrata. Other analytical substrata are used where appropriate.

4.4 Examiners should understand each technique's capabilities and limitations. Questions about documents are answered through the application of law, forensic skills, experience, training (Guide E 2388), or education specific to forensic document examination, as well as forensic science and other fields such as the physical sciences, mathematics, computer science, and the like. The field of interest includes manufacturing processes and the materials that go into the production of documents, such as the methods, machines, instruments, and human agencies by which the parts of documents are formed or brought together.

4.5 Relevant physical evidence present on a document(s) should be recognized and preserved for other forensic discipline examinations. The results of examinations are reported to the judiciary, administrative and executive officers, law enforcement agencies, boards, commissions, forums, and individuals. These results are often presented in the form of expert testimony, explaining the basis and reasons for the conclusions, which may be illustrated by the use of demonstrative evidence.

4.6 Competency in forensic document examination includes knowledge of and proficiency in equipment routinely used for examinations such as: microscopes and other optical aids, photographic and other imaging devices, a wide variety of imaging materials adaptable for use with a variety of lighting methods, including those involving radiant energy in the ultraviolet, visible, and infrared regions of the electromagnetic spectrum, as well as electronic or other devices for the detection, or visualization, or both of indentations and other features present in or on paper or similar substrata. Other analytical substrata may be used where appropriate.

4.7 The results of examinations, explaining the basis for the conclusions, are reported orally or in writing for use by the judiciary, administrative and executive officers, law enforcement agencies, boards, commissions, attorneys, and individuals. These results may be presented in the form of expert testimony and are often illustrated through the use of demonstrative evidence.

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Delete: ~~crossed out text in red~~
Add: new text in red
Keep: text in black

Challenges continued

- Attempting to influence and/or pressure members to vote affirmative by using specific language in the ballot cover letters, such as:

“As previously written [this wording]...is not in agreement with the SWGDOC Guide...”

“As modified [this section] is also consistent with membership requirements of the Questioned Document Section of the American Academy of Forensic Sciences.”

- References in standards include only the articles written by SWGDOC members and members of their support groups.
- Training guide revisions are biased in favor of government-type training programs.

Challenges continued

- Disadvantaging some members by placing their negative vote recommendations and the SWGDOC comments to defeat the vote into a e-mailed ballot, while others are given the opportunity to discuss their recommendation on the floor of the meeting, hold parliamentary debate, and have other speak on their behalf. Not all members were being treated equally.
- Chairman's refusal to ballot revisions to standards proposed by non- SWGDOC committee members, such as:

Revisions to the training guide proposed by a group of subcommittee members not affiliated with SWGDOC in 2008 and their proposal remained un-balloted when the subcommittee closed in 2012.

- Chairman's refusal to allow minority members (those belonging to organizations not affiliated with SWGDOC) to be on a committee to evaluate member's negative vote recommendation.
- Chairman's refusal to disclose the names of the SWGDOC members who were permitted to determine the merit of the ASTM members' recommendations for revisions to standards.

Interesting loopholes in the balloting process.....

1. A substantive (major) change to a standard requires subcommittee ballot.

LOOPHOLE: the ASTM requires a “successful ballot” before the major change can be balloted at the next level – the main committee. However, the ASTM does not require the ballot to pass, thus receiving approval from the subcommittee, before it can move up the ladder in the process. “Successful” simply means completed on paper and whether the item is approved or disapproved at subcommittee level is irrelevant.

2. When the SWGDOC would offer a major revision on the required subcommittee ballot and negatives were received, the SWGDOC would declare one negative “persuasive” (i.e. having merit) and withdraws the ballot.

LOOPHOLE: the recommendations declared meritorious are NOT required to be included in the standard. The recommendations can simply be discarded along with all of the other voter’s recommendations, and the ballot moves up the ladder to the main committee for its vote -- even though there is NO consensus in the subcommittee and outstanding concerns. Further, the SWGDOC was not even required to even disclose to the voter’s whose comments were found to have merit that allowed their votes to be discarded.

LOOPHOLES continued

1. If an appeal was filed that challenged any aspect of the balloting prospect,
the appeal could be declared moot by one simple procedure.

LOOPHOLE: the SWGDOC would simply declare one negative voter's comments to have merit (i.e. be persuasive), not disclose whose negative was being referenced, and then withdraw the ballot. All negative votes were then "set aside" and they never had to be resolved. ASTM considered this a "successful ballot" and, not only were the appeals moot, but the SWGDOC proposed revision got to move up the ladder for balloting by the main committee.

NOTE: Absent consensus agreement, absent a ballot that passes with two-thirds vote, a standard or revision to a standard for the questioned document community could be sent for a main committee vote. Those voting on best practices for the divided forensic document examiner subcommittee are then individuals in the fields of analyzing gunshot residue, paint chips, glass fragments, textile fibers, drugs, and ignitable liquids. If they pass the revision or standard, it would be published and stated to be a "consensus standard".

Outcome to the appeals....

- ASTM declared many appeals moot because the SWGDOC withdrew the ballots that were being challenged, rather than face the challenge.
- The ASTM's Committee on Standards (COS) and/or Committee on Technical Committee Operations (COTCO) stated they did not have "jurisdiction" to hear the appeal – yet ASTM staff would not identify any other ASTM committee having jurisdiction to hear the appeals – so appeals were simply put aside.
- The COS read the appeal signed by 44 members and stated it did not have jurisdiction. COS, however, stated that "the issues you raise should be addressed.... Therefore, I have requested (and am copying) [name], E30 Staff Manager, and [name] Vice President of Technical Committee Operations, to evaluate these issues and respond to your concerns.... Relative to point 5 of the remedial actions, I have copied [name], President of ASTM, and ask that he include your request for oversight of this activity by a disinterested party as an agenda item for the Board of Directors at their upcoming meeting in October." (July 2011)

Note: None of the 44 individuals were ever contacted about their concerns. No third party oversight was ever enacted.

**IN SUMMARY... the closing of E30.02 in
April of 2012 was the result of:**

The SWGDOC, an FBI funded task group, wanted complete control over writing best practices and training standards for forensic document examiners. Despite the fact that a majority of the members of ASTM Subcommittee E30.02 on Questioned Documents comprised active and retired government employees, this group was unable to control the ASTM standards-setting process due to challenges and input by private sector members. Faced with allegations that government-affiliated members were violating ASTM's due process requirements and federal antitrust laws, the majority members (government affiliated) voted to close down ASTM Subcommittee E30.02 on Questioned Documents.

Simply put, the SWGDOC and its supporters elected to abandon the rigorous due process requirements of ASTM's voluntary consensus standards development process in order to give the FBI's SWGDOC task group unfettered control over writing standards for forensic document examiners.

P.S.

September 10, 2013

**Notice e-mailed to E30 Committee on Forensic Sciences
From Chairman Patricia Manzolillo**

“E30 has struggled to fit forensic science practitioners into ASTM voting classification for many years. E30 felt it was in the best interests of the committee to remove the required classification and committee balance which has prevented some members from having an official vote”. By vote and with the approval of the ASTM’s Committee on Technical Committee Operations (COTCO) the E30 committee is no longer a classified committee. All members NOW have a vote.

A Reasonable Question to ask is.....

If E30 has been struggling with the unfairness of the classification system for forensic practitioners “for many years”, then why did officers of E30 and E30.02 defend the classification system over the last several years when E30.02 members were challenging its fairness?

Apparently, classification served its purpose for seven years by allowing government affiliated members to control E30.02 Subcommittee on Questioned Documents, but since the subcommittee disbandment the classification system is no longer needed.