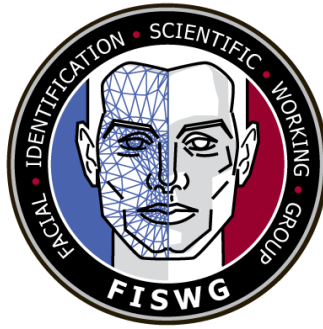




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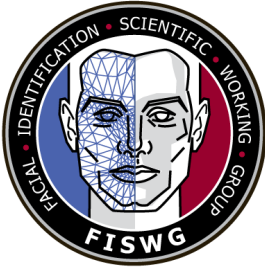
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Recommendations for Courtroom Preparation and Testimony

1. Scope

1.1 This guide provides recommendations for interactions between face practitioners and the legal community. Face practitioners hold responsibility for explaining how their work and opinions are presented.

1.2 This document provides a recommended list of courtroom preparatory actions and proper conduct while providing testimony.

1.3 This document is intended for face practitioners who have been called upon to potentially testify in court. This document is not intended to be legal guidance.

2. Referenced Documents

2.1 *FISWG Documents:*

Role-Based Training in Facial Comparison

Guideline for the Use of ACE-V Methodology in One-to-One Examinations

Minimum Guidelines for Facial Image Comparison Documentation

Guide for Facial Comparison Training of Examiners to Competency

Guide for Facial Comparison Training of Reviewers to Competency

Guide for Facial Comparison Awareness Training of Assessors

Minimum Training Criteria When Using Facial Recognition Systems

2.2 Other Standards:

OSAC 2022-S-001 Standard Guide for Image Comparison Opinions¹

2022-09-22 SWGDE Introduction to Testimony in Digital and Multimedia Forensics
(22-Q-00101.0)

3. Terminology

3.1 Definitions:

3.1.1 *Face practitioner, n*—an individual who (1) applies scientific or technical practices to the recognition, collection, analysis, or interpretation of face evidence for criminal and civil law or regulatory issues; and (2) provides interpretations, or opinions with respect to face evidence.

¹ Available from the NIST Organization of Scientific Area Committees for Forensic Science (OSAC) at <https://www.nist.gov/organization-scientific-area-committees-forensic-science/osac-registry>

3.1.2 *Legal practitioner, n*—an individual who is professionally qualified and licensed to practice law, including representing clients in legal matters and appearing in court.

3.1.2.1 *Discussion:* This may be for the prosecution or defense.

3.2 *Acronyms:*

3.2.1 *SOP, n*—Standard Operating Procedure

4. Significance and Use

4.1 Face practitioners may be contacted by legal practitioners for engagement with the legal system. This document provides recommendations for preliminary communications and courtroom preparation, testimony, and conduct.

5. Overview

5.1 When communicating with legal practitioners:

5.1.1 Face practitioners shall inform legal practitioners on facial comparisons, their limitations, and results.

5.1.2 Face practitioners shall not present opinions or investigative leads as definitive identification or proof of identity.

5.1.3 Face practitioners shall maintain impartiality, favoring neither the prosecution nor the defense.

5.1.4 Face practitioners shall be transparent and truthful in their interactions and reporting.

6. Preliminary Communications

6.1 FISWG recommends that a face practitioner who receives notice of court-related proceedings should collect and share relevant information. This information may include but is not limited to:

6.1.1 Face Practitioner's Role (e.g., Facial Recognition System (FRS) User, Facial Assessor, Facial Reviewer, or Facial Examiner). Role should be determined by the tasks performed by the practitioner, not their job title. (e.g., A face practitioner who conducted an FRS search but did not compare the probe and candidate facial images will be limited to discussion on the FRS search portion of the case).

6.1.2 The process and limitations if using an FRS, to include designating automated and manual system-related inputs or processing steps (e.g., image enhancement or selection), FRS software information, database(s) searched, and information recorded in notes. Manual image comparison activities should be documented separately. FRS outputs require a face practitioner to review and compare prior to any interpretation or use in legal contexts.

6.1.3 Relevant standard operating procedures (SOPs) may be provided, including what can and cannot be done with system outputs and derived products (e.g., candidate lists, investigative leads, or reports).

6.2 FISWG recommends that face practitioners prepare for courtroom testimony by having an awareness of the following, including but not limited to:

6.2.1 Agency policies and procedures.

6.2.1.1 Guidelines associated with proprietary information.

6.2.2 Voir Dire questions.

6.2.3 Case notes and documentation content and requirements.

6.3 Relevant case law.

6.4 Courtroom layout, procedures, and etiquette.

7. Courtroom Preparation

7.1 Face practitioners should have a general understanding of the following when undertaking courtroom preparation which can include, but is not limited to:

7.1.1 Preliminary Legal Interactions.

7.1.2 Voir Dire/Qualifying Questions.

7.1.2.1 Curriculum Vitae/Resume.

7.1.2.2 Relevant training/certifications.

7.1.2.3 Professional Organizations.

- 82 7.1.2.4 Previous Experience with courtroom testimony.
- 83 7.1.3 Case Notes and Review.
- 84 7.1.3.1 Role and Action Taken.
- 85 7.1.3.2 Chain of Custody.
- 86 7.1.3.3 Relevant Agency Policy and Regulations.
- 87 7.1.3.4 Tools Used (e.g., FRS, image processing software).
- 88 7.1.4 Methodology (e.g., Morphological Analysis).
- 89 7.1.4.1 Opinion Scale.
- 90 7.1.4.2 Peer Review Process.
- 91 7.1.4.3 Limitations.
- 92 7.1.5 Outputs.
- 93 7.1.5.1 Reports.
- 94 7.1.5.2 Statements.
- 95 7.1.5.3 Case Notes/Documents.
- 96 7.1.6 Courtroom Readiness (e.g., Mock Court, Testimony Practice, Courtroom
- 97 Etiquette and Procedures).

98 7.1.6.1 Be aware of leading, challenging, or repetitive questions.

99 7.1.6.2 Courtroom Exhibits.

100 7.1.6.3 Cross Examination.

101 **8. Courtroom Testimony**

102 8.1 Face practitioners may provide testimony in legal proceedings regarding their
103 methods, observations, and opinions. Expert witness requirements may vary based on
104 jurisdiction and will be determined on a case-by-case basis.

105 8.2 Face practitioners shall conduct themselves in a manner as follows while
106 testifying:

107 8.2.1 Arrive on time and be prepared for potential delays.

108 8.2.2 Provide truthful statements.

109 8.2.3 Use professional conduct.

110 8.2.3.1 Maintain decorum throughout courthouse (e.g., hallways, witness rooms).

111 8.2.3.2 Avoid discussing testimony with external parties.

112 8.2.4 Demonstrate competence.

113 8.2.5 Remain impartial.

114 8.2.6 Expect leading, challenging, or repetitive questions.

- 115 8.2.6.1 Maintain a neutral, composed voice and demeanor.
- 116 8.2.6.2 Avoid argumentative answers, in voice and body language.
- 117 8.2.7 Provide concise, accurate answers.
- 118 8.2.7.1 Use plain language when possible unless technical explanation is needed.
- 119 8.2.7.2 Allow questions to be fully asked before answering.
- 120 8.2.7.3 Allow time for objections before answering.
- 121 8.2.7.4 Ask for clarification or to have questions repeated.
- 122 8.2.7.5 Avoid over-explaining or providing additional information past what was
123 asked.
- 124 8.2.7.6 Keep testimony within scope of knowledge and role performed.
- 125 8.2.7.7 State “I don’t know” or “I don’t recall” when applicable.
- 126 8.2.7.8 Direct answers to the Judge/jury.
- 127 8.2.7.9 Use appropriate vocal tone and speed.
- 128 8.2.7.10 Provide verbal answers, do not nod or gesture in lieu of an answer.
- 129 8.2.7.11 Avoid speculation.
- 130 8.2.7.12 Avoid lingo, explain abbreviations and acronyms.

8.2.8 Request permission from Judge to refer to notes, approach exhibits, review documents.

9. Post Testimony

9.1 Face practitioners should follow up post-testimony in any combination of the following:

9.1.1 Request feedback on testimony.

9.1.2 De-brief with co-workers to share experience and knowledge, if shareable.

9.1.3 Follow up on results of court outcomes, where appropriate.

9.1.4 Be aware of case status and proprietary information before sharing.

FISWG documents can be found at: www.fiswg.org