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FORENSIC EXAMINATION OF HANDWRITTEN DOCUMENTS WITH SPECIAL EMPHASIS ON WILLS – RESEARCH RESULTS

Summary

This study presents the results of research in the field of forensic handwritten documents in testamentary cases. The research focused on evaluating the effectiveness of methods used in scribal analysis and how to detect document forgeries. The results indicate that scribal opinions are crucial in litigation regarding the authenticity of documents. The paper also identifies the main challenges and limitations of scribal research. The research underscores the importance of thorough analysis in detecting counterfeiting and points to the high quality of opinions issued by experts. Ultimately, the study provides a starting point for further research into the effectiveness of forensic methods of document analysis.

Keywords: handwriting expertise, document examination, expert, proof, expert opinion, evidence, forgery, will, handwriting

Introduction

The present study is aimed at presenting the results of the research carried out in the preparation of the master's thesis entitled *Forensic Expertise of Handwritten Documents on the Example of Wills*, defended at the Department of Forensic Science at the University of Warsaw, in which both general issues related to the place of the will among other types of documents and the problems of document forgery and the related methods used in forensic *handwriting* expertise were discussed.

The discussion of general issues provided the basis for the second presentation of the results of our research, including issues relating to the specifics of the study of wills, the methods and tools used by handwriting experts in the analysis of handwriting, and the importance of such expertise in the process of detecting crimes.

Research objective

The research objective of the study was to identify the most common methods of forgery of wills used today and to analyze the techniques and tools used in scribal expertise. In addition, the work was aimed at assessing the impact of expert opinions in detecting forgeries of handwritten documents.

Presentation of research material

Before discussing the research material, it is worth mentioning that it was initially planned to conduct research based solely on the analysis of file materials. Consideration was given to selecting files based on cases in which forgery was detected, or to analyzing all cases in which holographic wills occurred, to look for those cases in which the authenticity of the will was questioned. However, after consulting with several experts in the field of handwriting examination, who suggested that it would be very time-consuming and inefficient to reach “testamentary” cases directly, and given the limited time available to conduct research and describe them, as well as the difficulty of collecting a sufficient number of such cases, it was decided to narrow the empirical material to an analysis of the opinions of experts who evaluated the authenticity of wills. In addition, expert witnesses were interviewed to gain insight into the methods and techniques used by them in conducting their handwriting expertise and formulating their opinions.

The paper is based on an analysis of the literature and the results of our research. The survey was based on research material in the form of expert opinions made available to the author of the paper for research purposes by the Department of Forensic Science at the University of Warsaw, the Polish Forensic Association, and the Institute of Forensic Science of the Polish Forensic Association. To gain substantive knowledge of the advanced problems associated with expert handwriting, the author completed an internship at the laboratory of the Polish Forensic Association.

Course of study

The survey consisted of two stages. A total of 42 opinions on challenging the authenticity of the will were analyzed and 5 handwriting experts were interviewed. The total study time was 70 hours. This research allowed us to gather information about the approach and the way experts work. Research questionnaires were a key tool in the process of eliciting information from experts and verifying opinions as part of the research. The survey was divided into two stages and two research questionnaires were prepared.

In the first stage, expert opinions were analyzed based on a survey questionnaire¹. Detailing the research problem were the questions:

- 1) What was the justification for appointing an expert?
- 2) What methods were used in conducting the expertise?
- 3) Did the study use technical aids?
- 4) Did the expert's opinion include a justification for the conclusions?
- 5) Has there been a finding of forgery?

The second stage was to interview handwriting experts. This study was done by contacting the experts (by email, phone, and in person) and asking them questions from a pre-prepared survey questionnaire². These questions included the experience of the experts, the methods they use in their work, and the most common methods of document forgery.

The research began with the selection of appropriate research material; this included handwriting examination opinions, in which the evidence was a will. Then, based on a pre-prepared research questionnaire, information was collected on the methodology of expert witnesses, the tools used and the procedures in the course of conducting an expert opinion. Finally, the results of the study were subjected to statistical analysis and interpretation, which made it possible to draw appropriate conclusions, which will be described later in the paper.

Test results

As a result of the research, it was found that the body appointing the expert in all but one of the cases - the **commissioning of an out-of-court opinion** - was the court, which, based on the order for the admission of expert evidence, requested a specific expert's written opinion.

The aforementioned out-of-court opinion was requested by a private individual, who demanded a determination of whether the text and signature on the will were drawn by the testatrix. The original holographic will was presented for examination, along with an affidavit from the commissioner of the expertise, which showed that the testator was seriously ill, with an injury to her arm and leg after an accident. Among other things, computer programs (SCANGRAF and GRAFOTYP) were used in conducting the expertise, which, combined with the graphical-comparative method, enriches the expert's workbench. In the conclusions, it was noted that the identified manuscript, together with the signature of the testator of the quoted word-

¹ Survey of expert opinions presented in Appendix No. 1.

² Expert interview questionnaire presented in Appendix No. 2.

ing, showed such a level of correspondence of the graphic features of the handwriting that, when juxtaposed with the patterns of graphism presented for expert examination as comparative material (name), gave grounds for considering this person as their executor.

Most of the expert opinion materials presented for the study were first opinions (Tab. 1). The supplementary opinion appeared several times. It should be noted that when a supplementary opinion was commissioned to the same expert, the conclusions of that opinion did not differ from the conclusions of the first opinion.

Tab. 1. Type of opinion in relation to the whole analyzed material

| Type of opinion | Number |
|--------------------------|--------|
| first opinion | 34 |
| supplementary opinion | 7 |
| non-foundational opinion | 1 |

Source: own study

Among the materials reviewed, two supplementary opinions referred to the technical document examination expertise. In the first case, an expert was appointed to determine the compatibility of the features of the opaque agents on the original will from the 1990s. As a result of the expert examination by non-destructive methods, the expert was able to establish that the document in its entirety was drawn up with a pen with blue ink, exhibiting identical optical characteristics and spectral characteristics, which suggested the use of the same type of covering agent.

The second case dealt with the issue of determining the content of the will and commenting on the time of outlining the amendments, crossings out, additions visible in its content, and the order in which they were made. Evidence was presented for examination in the form of an original holographic will. As a result of the expert examination, the expert was able to determine the final wording of the fuzzy original records and the added elements that were altered. Since the issue of determining the date of production of a document or its individual records is the most difficult problem in forensic document examination, and modern forensic science has not yet developed widely used and accepted methods to unambiguously determine the absolute or relative time of production of the records, the expert's at-

tempt to examine the locations of the crossed records using, among other things, the 3D imaging technique did not make it possible to pronounce on the time of production of the document's contents.

The dominant portion of the wills submitted for examination was presented in the form of holographic wills (Tab. 2). In this regard, several opinions concerned the determination of the authenticity of the signatures made on notarial wills. In contrast, in one opinion, the expert's task was to determine whether the evidentiary document was indeed drawn up by one of the four individuals whose handwriting samples were submitted for examination as comparison material. The evidence, presented for examination in the form of a holographic document with content indicating that it is an oral will, was drawn up at the request of the testator probably by one of the four persons acting as witnesses to the act in question. However, the conclusions stated that none of the four people contributed to the document presented for examination, so the oral will was forged.

Tab. 2. Type of opinion in relation to the whole analyzed material

| The form of wills | Number | Authentic wills | Forged wills |
|-------------------|--------|-----------------|--------------|
| holographic will | 38 | 34 | 4 |
| notarial will | 3 | 3 | - |
| oral will | 1 | - | 1 |

Source: own study

For understandable reasons, holographic wills are more likely to be subjected to forgeries than their other forms³. Thus, for example, concerning the totality of the opinions reviewed, the inauthenticity of handwritten wills was found in four cases. In his first opinion, the expert, justifying his conclusions, concluded that the date annotation appearing at the bottom of the will in the form of a digital notation of the year contains elements of alterations and cross-outs with the broken line of the original notation. He added that these records, due to distortions, circles, and additional graphic elements, could not be the object of identification analyses to establish their graphic consistency with other evidentiary records.

³ M. Goc, Chapter XXII, in E. Gruza, M. Goc, J. Moszczyński, *Kryminalistyka, czyli o współczesnych metodach dowodzenia przestępstw*, Wolters Kluwer Polska, Warsaw 2020, p. 324.

The second case presented the graphic dissimilarity of the handwriting and signatures of the executor of the will in juxtaposition with the signature and handwriting patterns of the person whose samples were submitted for testing as non-fluent material. After a graphic and comparative analysis of the evidence and comparative material, the expert concluded that the evidentiary document presented in the form of a will was not drawn up by the assumed testator (the person whose comparative specimens were submitted for comparative study). Examples of questionable signatures and their variations are shown in Figs 1 and 2.

Indeed, in the analyzed⁴ and comparative evidence, significant differentiating features were found, including not only specific features, related to the manner of execution of letters or digits and their graphic details but also general features, relating to the class and degree of craftsmanship of the examined handwriting or the manner of its organization. Compared to the comparative handwriting, the evidentiary manuscript was produced at a slower pace and with reduced spontaneity and motricity of drafting, resulting in a lack of letter binding and instances of enlarged character spacing.

Fig. 1. Examples of evidence

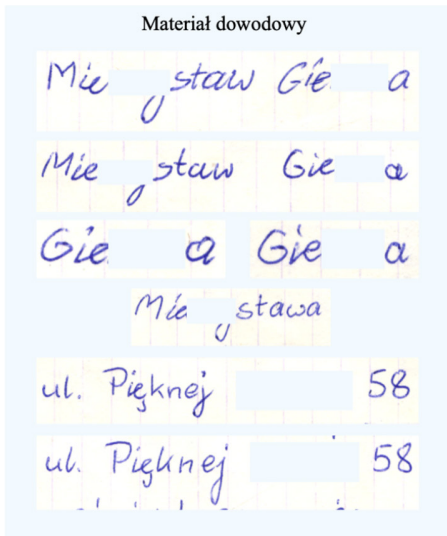
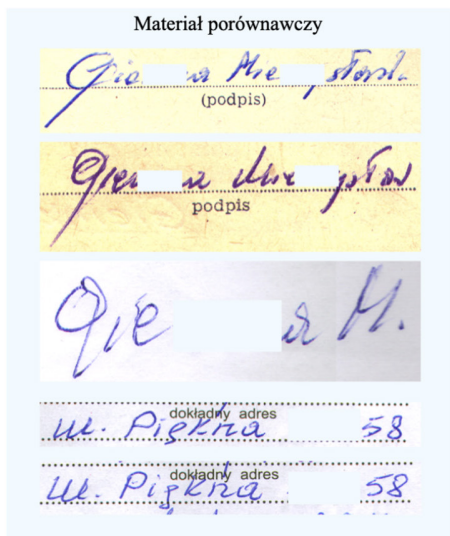


Fig. 2. Examples of comparative material



Source: Forensic expert report on December 27, 2016, in the case numbered I Ns 622/12, District Court in Lomza, 1st Civil Division.

⁴ Forensic expert’s report dated December 27, 2016 in the case under reference I Ns 622/12, District Court in Lomza, 1st Civil Division.

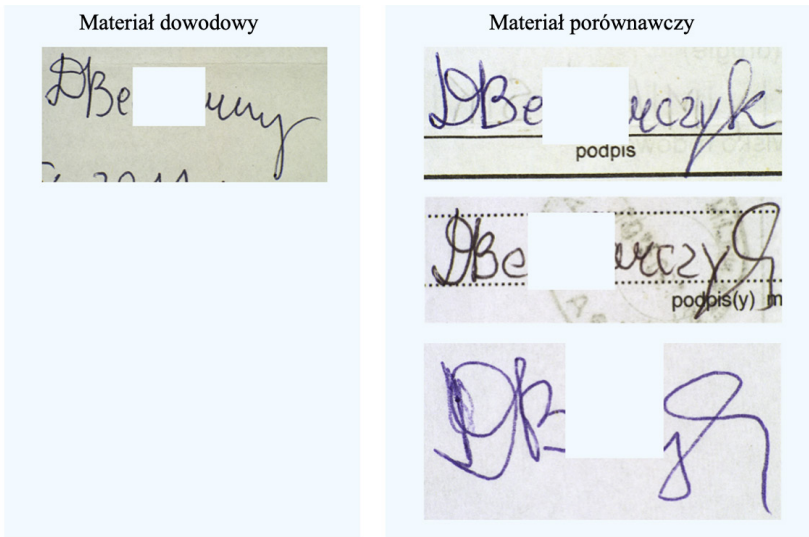
It was found that the image of the evidentiary handwriting falls neither within the comparative pattern represented by samples from earlier in the life of the presumed testator (higher dynamics and class of handwriting, no signs of uncooperative drafting), nor within the pattern representing manuscripts from the last period of the testator's life, when he was supposed to make a will (slow drafting speed, degradation of writing leading to fading legibility of letters). Thus, the expert examination conducted confirmed that the will was forged.

In a subsequent opinion, the expert, based on an analysis of the evidence and comparative material, confirmed the forgery of the will by drawing up the long-form text along with a legible signature (Fig. 3) by a person other than the one whose comparative material was presented for examination (the assumed testator).

The subject of the study was one opinion, in which the scribal research discussed made it possible to formulate perhaps not as categorical conclusions as in the previous case, but at the same time no less interesting. In justifying his conclusions, the expert noted that: "The will is most likely not authentic, so it was not drawn by (name). It should be emphasized that the not fully categorical formulation of this conclusion is not due to the small range of differences found in the evidence and available comparative material or their evaluation as of little diagnostic value; on the contrary, numerous and valuable, often habitual, differences in measurement, topographical, motor and graphism characteristics were found between the materials studied. The only reason for the slight reduction in the categorical nature of the opinion's conclusion is the lack of access to broader comparative material from the last period of the testator's life, including, in particular, the period in which she is said to have made the contested will. This did not allow a full determination of the testator's graphic capabilities in the last days prior to the assumed date of the documentary evidence."⁵.

⁵ Forensic expert's report dated December 27, 2016 in the case numbered I Ns 527/12, District Court in Piaseczno, 1st Civil Division.

Fig. 3. Examples of evidence and comparison material



Source: forensic expert's report on December 27, 2016, in the case numbered I Ns 527/12, Piaseczno District Court, 1st Civil Division.

What was particularly interesting about this opinion was that the expert broadened the scope of his expertise, coming up with several possible hypotheses, which he noted as follows: “In light of the medical data, it can be concluded that the testator’s health condition affected her graphic capabilities at least in the last period of her life. On the other hand, it is not certain that he could have had an impact at the time the will was supposed to have been drawn up since it is likely that the stroke referred to in the medical records had already occurred later. However, it cannot be ruled out that the testator’s writing ability was impaired at the time, especially given the finding of numerous vascular-derived “old” foci in her brain by MR examination. If such a hypothesis were to be accepted, it would confirm all the more the impossibility of freely outlining the evidence manuscript to such a degree.”⁶.

An expert opinion prepared in this way can be described as a kind of alternative opinion; its main advantage is that it allows alternative scenarios to be presented, which can provide additional knowledge to the trial body, help resolve a problem, or suggest new theories and lead to the disclosure

⁶ Ibid.

of new facts. Often opinion practice is richer than theoretical assumptions, and an expert may find it necessary to take action outside the scope of the commissioned expertise⁷.

Concerning the analysis of the expert reports conducted, it was also interesting to interview experts who have been involved in the issuance of scribal opinions for more than twenty years. Since testamentary examinations are only one type of scribal examination, the conversation with the experts did not focus exclusively on discussing such cases, and was geared more towards the experts' general experience of conducting scribal examinations and subsequently issuing opinions.

Thus, given the methods of forgery that occur, the experts point out that signatures are most often forged, with the following frequency:

- In the first place, signing for another person, while maintaining your graphism;
- A frequently used method is visual imitation (unlearned). In addition, the forger may also introduce features of senile handwriting to suggest such an appearance, such as in the case of forged wills;
- another method is learned imitation (the forger has several specimens of the testator's signature and tries to make the evidence manuscript look like it);
- forgery using technical methods is also encountered, such as scanning a signature from one document and transferring it to another document using, for example, a scanner (a color printout is then made, which gives the impression that the signature is authentic).

On the other hand, self-forgery, i.e. deliberate alteration of one's graphism to challenge it later (through slowing down, enlarging/reducing letters, changing the ground, writing speed), is less common. Sometimes this is done in banks, public transportation, or when handing a ticket from the traffic police, so as not to directly refuse to accept the ticket, but at the same time avoid the obligation to pay the fine.

According to experts, the subject of scribal examination is most often the original document. It is understood that the conclusions of opinions based on the study of copies of documents cannot be categorical, unlike opinions with positive conclusions. However, also in those cases where the evidence differs significantly from the comparative material, an attempt can be made to categorically exclude the contractor of the comparative material.

⁷ T. Tomaszewski, *Śledztwo pismoznawcze*, „Człowiek i Dokumenty” 2022, no. 64, p. 45.

The solution to this issue may be to commission a supplementary opinion, but one that is already based on the original document provided for examination. A supplementary categorical opinion can be issued on this basis. Photocopy, photocopy, and scanned documents usually appear in out-of-court opinions, which is since the original is most often left in court files and unavailable to the authors of such opinions.

When asked whether experts give so-called private opinions, the answer was “yes.” Less often such an opinion is issued in testamentary cases, but when it does occur, in each case the opinion writer acts not as an expert (the opinion writer cannot sign as a court expert and, as such can only give an opinion when ordered by the court), but signs his opinion as an expert or gives an extra-procedural opinion on behalf of a forensic institution.

Regarding whether the opinion issued is the first or second in the case, this trend has been observed: if the court commissions an individual expert, it is more likely to be the first opinion. On the other hand, if the order is passed on to a forensic institution, it is generally a matter of drawing up another already expert report. It seems that the confidence of the courts in this regard is justified, since it is assumed that the forensic institution has greater research capabilities, has a wealth of modern equipment that allows it to carry out comprehensive examinations of documents, and in addition, due to the extensive experience of experts working in such institutions, who deal with a variety of cases of forgery on a daily basis, the confidence in the correctness of the conclusions of their opinions is higher than in the case of individual experts. It is also worth noting that an opinion issued by an expert from a forensic institution can be considered more objective and reliable since such an institution is usually subjected to regular inspections and audits, which ensures a high level of quality in the examinations conducted and opinions issued.

The attitude of the experts to the issue of attaching the review documentation to the executed opinion was unequivocal. In the absence of such a requirement from the legal side, all the experts support the necessity of attaching the view documentation to the expertise performed. They only point out that when it comes to attaching view material to the opinion produced, there are two approaches. According to the former, the inclusion of such material comes at the end of the opinion, while proponents of the second approach place the review documentation immediately next to the description of individual features. It is difficult to assess the validity of one or the other of these two views since it is more a matter of the expert's long-standing habits of his own way of formulating the content of the opinion layout.

For the sake of readability and clarity, from the researcher's perspective, it seems a bit easier to include review documentation directly in the text. Nowadays, view documentation is naturally an integral and indispensable part of the justification of the conclusions, through which all the evidence and extensive examples of comparative material are presented.

Concerning the research method used in conducting the handwriting examinations, an analysis of the opinions, as well as interviews with the experts, showed that the graphical-comparative method supported by computer programs (the most common was SCANGRAF or GRAFOTYP, or a combination of both) was commonly used.

In response to the question "What, in the opinion of the expert, is the most difficult thing in giving an opinion?" the experts unanimously pointed to the lack of good comparative material, especially when there is not enough such material or when there is a long time gap between the time when the will was made and the date when the comparative material was outlined. Experts also find it difficult when the writings are similar to each other or the research material is presented in the form of copies of documents. In the case of non-categorical opinions, this was handled by involving two people working on the opinion in the study, who "help" each other, so it is then easier to avoid confusion. At the same time, respondents indicated that when the graphism is unsTab., there is difficulty in giving a categorical opinion, and the same applies to the paraffin examination (if the paraffin is very simplified, even giving a probable opinion is difficult).

Summary

The research conducted was aimed at obtaining more detailed knowledge of forensic handwritten documents and the practical experience of expert handwriters. The intention of the analysis conducted was also to systematize knowledge of methods and ways to effectively use forensic writing research in practical activities. Scribes' opinions are an important part of the judicial process, especially in testamentary cases where there are disputes over the authenticity of documents. Forgeries of holographic wills were found in the cases analyzed, which underscores the need for thorough and careful research. As a result of the analysis of forensic expertise presented above, taking into account both the available capabilities and certain limitations that experts encounter in the course of their examinations, it can be concluded that the quality of the handwriting opinions issued is at an appropriate level in the court practice analyzed.

The focus of scribal research is mainly on analyzing original documents to determine their authenticity and identify the maker of the text or signature. In the case of copies, the purpose of the expert opinion is to determine whether the evidentiary writing contains the characteristics of comparative writing. Opinions based on copy studies are more limited in scope. It is understood that the basis for the issuance of a scribal opinion is to conduct tests on original documents. The examination of copies, especially in testamentary cases, is a last resort, so it would seem that in a situation where the first examination was done on a copy of a document, it would be better for the court to always order follow-up examinations and an opinion based on the original document - except, of course, when reaching such an original is not possible due to the lack of a document. The examples described in the paper are related to scribal expertise, especially the analysis of wills. They show various cases of forgery of wills and the methods used by forgers. The scribal experts involved in this type of expertise analyze both the authenticity of wills and the possibility of forgery.

In some of the cases reviewed, the experts presented alternative hypotheses that could have provided additional knowledge and helped solve the case. Thus, the scribal expertise may be alternative and allow different scenarios to be outlined.

Issues of signature forgery and the methods that forgers most often use are also addressed. The analysis of handwriting expertise indicated that signature forgery is the most common type of forgery, with various methods of forgery⁸, such as signing for another person with one's graphism, visual (unlearned), or learned imitation. Studies also show that expert scribes give private opinions, but usually then act as experts or on behalf of a forensic institution.

As a general rule, the analyzed expert's reports present professional workmanship, substantive and formal compliance with procedural requirements, and comprehensively implement the scope of the commissioned activities. On the other hand, some issues and questions related to the conduct of handwriting expertise remain without a clear and accepted research methodology, and with the development of forgery techniques, the need for newer and more effective research methods is becoming increasingly clear, including in forensic handwriting research. At present, such questions may include the question of determining both the absolute and relative time of

⁸ T. Widła, M. Lesniak, *Interdyscyplinarność współczesnej ekspertyzy dokumentów*, „Chowanna” 2011, vol. 2(37), p. 280.

making records in the document, allowing to clearly determine the time of making records. Nowadays, the proceedings in this regard boil down to the fact that experts are increasingly being ordered to perform tests and then issue an opinion, with the court asking the expert to, among other things, comment on the age of the handwriting or signatures submitted for testing.

The research also encountered another problem that has yet to see a clear solution. The issue is the lack of a method to accurately determine the age of the manuscript. Available techniques make it possible to estimate the period during which a text may have been produced, but they require certain conditions to be met, which is not always possible. This makes it much more difficult for specialists to accurately date documentary evidence. The field of this research is developing gradually, as new concepts and theories are introduced that change the approach to technical document analysis. Developments in information technology are making it possible to investigate and detect electronic and digital manipulation with increasing accuracy. At the same time, research into biometric technologies, chemical methods, and microscopic analysis is opening up new possibilities in assessing the authenticity of documents.

Thus, the conclusions drawn and comments made can be taken as a starting point for further research, especially in the context of evaluating the effectiveness of forensic methods in determining the age of documents. This is an important area of research that can contribute to the development of forensic science and provide more precise tools for identifying forgeries.

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mentów*, „Chowanna” 2011, vol. 2(37).

Expertise

Forensic expert's report dated December 27, 2016, in the case under refer-
ence I Ns 622/12, District Court in Lomza, 1st Civil Division.

Forensic expert's report dated December 27, 2016, in the case numbered
I Ns 527/12, District Court in Piaseczno, 1st Civil Division.

Conflict of interest

None

Funding source:

No

Appendix No. 1. Survey of expert opinions

| Ankieta do badań opinii biegłych | |
|---|--|
| 1. Data opinii - | |
| 2. Kiedy powołano biegłego (data)? - | |
| 3. Kto powołał biegłego? - | |
| 4. Jakie uzasadnienie powołania biegłego? - | |
| 5. Jakie są pytania do biegłego? - | |
| 6. Czy przedmiotem badań jest oryginał czy kopia dokumentu? - | |
| 7. Co dokładnie badał biegły? - | cały dokument podpis cały tekst tekst częściowo |
| 8. Przedmiot badań (określony przez biegłego)? - | |
| 9. Jakie metody stosowano podczas przeprowadzenia ekspertyzy (ile, jakie)? - metoda graficzno - porównawcza. | |
| 10. Czy w badaniach wykorzystano techniczne środki wspomagające? - | |
| 11. Czy stosowano programy komputerowe pod czas wydania opinii? (jakie?) - | |
| 12. Czy miał biegły dostęp do akt sprawy? - | |
| 13. Czy biegły wykorzystywał dokumentację medyczną? - | |
| 14. Czy cały dokument został sporządzony przez jedną osobę? - | |
| 15. Czy opinii biegłego zawiera uzasadnienie wniosków końcowych? - wykład TT - brak w kodeksie k.p.k. uzasadnienia jako elementu opinii | |
| 16. Wnioski opinii: | |
| - opinia prawdopodobna: | - pozytywna - negatywna |
| - wnioski końcowe kateryczne: | pozytywne negatywne |
| Uzasadnienie: | |
| 17. Metoda dokonania fałszerstwa stwierdzona przez biegłego? - nie stwierdzono. | |
| 18. Liczba stron, na których są materiał poglądowy? - | |

Appendix No. 2. Expert interview questionnaire

Ankieta
do wywiadu z biegłymi

1. Co najczęściej jest poddawane badaniom? -
pismo podpis cały dokument pewna część
2. Skąd są pobierane próbki porównawcze (jakie to są dokumenty)? -
3. Czy przedmiotem badań najczęściej jest oryginał czy kopia dokumentu? -
4. Czy zawsze jest dostęp do materiałów akt sprawy? -
5. Czy opinia biegłego jest pierwszą czy drugą? -
6. Czy często wydawana opinia uzupełniająca? -
|
7. Jakie metody fałszowania najczęściej są spotykane? -
8. Jakiej metody badania najczęściej stosowano podczas wydania opinii? -
9. Czy do wykonanej opinii zostaje dołączona dokumentacja pogłądowa? -
10. Co zdaniem biegłego jest najtrudniejsze w wydaniu opinii? -
11. Czy biegły wykorzystuje dokumentację medyczną? -
12. Czy biegły wydaje opinię kategoryczną? Jak często? -
13. Czy biegły wydaje opinii, wykonane prywatnie (opinię pozasądowe)? Jak często? -
14. Doświadczenie zawodowe biegłego obejmuje okres czasowy:
5 lat 10 lat powyżej 10 lat (ile _____) powyżej 15 lat (ile _____)