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Ordway Hilton

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THE CARE AND PRESERVATION OF DOCUMENTS IN CRIMINAL INVESTIGATION

Ordway Hilton*

The proper care and preservation of documentary evidence, such as forged checks, anonymous letters, and comparison specimens ("standards") of a suspect's writing, is as much the responsibility of investigating officers as is the original investigation conducted for the purpose of obtaining or discovering these documents. Most officers realize the importance of securing evidence of this type, but many of them fail to thoroughly appreciate the necessity for careful handling and preservation during the time that these documents are in their possession. It is the purpose of this paper to outline for police investigators the best method of caring for and preserving such documentary evidence.¹

In order to best preserve a document it is imperative that the following precautions be strictly observed.

1. Do not mark.
 - a. Do not write upon documents.
 - b. Do not use pencils, pens, dividers, or erasers as pointers.
2. Do not mutilate by creasing, repeated refolding, cutting, or tearing.
3. Do not carry in pocket for a pro-

longed period of time or handle excessively.

4. Keep documents in envelopes or protective folders.
5. Keep dry and away from excessive heat and strong light.
6. Do not allow anyone except a qualified expert to make chemical or other types of tests.
7. Take documents to laboratory or expert at the earliest convenience.

These rules are primarily intended for the handling of questioned documents, such as handwritten or typewritten material about which there is some question concerning its author or manner of execution. However, they apply equally well to the preservation of specimens which are to be used for standards in handwriting and typewriting comparisons (i.e., specimens of handwriting or typewriting, the authorship of which is already established or admitted). In fact, any pieces of handwriting, typewriting, or printing which might conceivably form a link in the chain of circumstantial evidence surrounding an investigation should be given the same care as documents whose importance is already known and recognized.

* Examiner of Questioned Documents, Chicago Police Scientific Crime Detection Laboratory.

¹ Complete instructions in the care of documents, not only during investigation but also

while in the possession of the expert and of the court, are found in Osborn, A. S., *Questioned Documents* (2d ed., 1929) Chapter III. This excellent treatment of the problem should be consulted by all who have occasion to handle documentary evidence.

1. Do Not Mark

Documents become marked either because investigators deliberately write upon them or because in the course of handling someone uses a pen, pencil, dividers, or eraser to point out certain characteristics which appear in the document.

a. Do not Write Upon Documents.

Investigating officers should not write upon any documentary evidence except possibly as a means of subsequent identification. In such cases the identification marks should be restricted to initials or numbers placed, preferably, in a corner on the back of the document. Standards, especially request standards (i.e., specimens of handwriting or handprinting which are executed in the presence of the investigator for the specific purpose of being compared with some questioned writing), should usually be initialed by the officer who procures them.

Often investigators may be tempted to mark handwriting characteristics appearing in questioned documents or in a suspect's standard writings. This practice is to be avoided for several reasons. Sometimes these markings destroy some of the identifying evidence originally present in the document as, for example, underlinings used as emphasis marks by the author, which may be confused with similar marks indicating a particular characteristic that the investigator considers to be of importance. If these marks are placed on a document which later is to be introduced as court evidence, the fact that the document is marked might,

in some instance, prevent or hinder its admission. Although the officer marks what he considers characteristic similarities in two pieces of writing, it is entirely possible that these points may not be the most significant. But because the marks are placed on the original document in such a manner that they cannot be removed, they will attract the attention of subsequent examiners, especially members of a jury, even to the extent of emphasizing these points and detracting from other more significant characteristics.

Document examiners frequently encounter handwriting evidence which bears extraneous writing placed there by investigating officers or other persons who have previously handled the evidence and used some portion of it for jotting down their own notations. At times these notes are found written over the writing of the questioned document, thus covering portions of it. But even when these notes are added in such a manner as not to interfere with the examination of the questioned writing, these additions may produce a certain amount of confusion and tend to delay the laboratory examination. If a document is of sufficient importance to be treated as evidence in a criminal investigation, it definitely should not be used as a scratch pad or note paper.

Whenever there is any indication that an erasure has occurred on a questioned document, the importance of refraining from marking such evidence cannot be overemphasized. Any writing over the suspected area has a tendency to restrict the laboratory

examination and, in some cases, to render restoration impossible.

b. Do Not Use Pens, Pencils, or Erasers as Pointers.

Whenever a group of investigators gathers in a discussion of the writing characteristics and contents of a document, there usually is a tendency for some of them to use either pens, pencils, dividers, or a similar type of available instrument to point out identifying characteristics. Invariably when this practice is resorted to some marks or small holes will subsequently be found upon the document. At times these marks may interfere with some phase of the examination or with tests to which the evidence might be subjected. Or perhaps they may cast suspicion upon an otherwise genuine document. In any event, this practice should be avoided at all times.

An equally objectionable practice which is resorted to by some is the use of the eraser end of a pencil as a pointer. When the eraser or rubber comes in contact with the paper, it may either leave a small smudge, remove some of the writing in the case of a pencil written document, or disturb the paper fibers and cause the genuineness of the document to be questioned. Even when none of these changes are apparent to the eye, if the document is later subjected to chemical tests, smudges may appear at the points of contact.

Pointing at or touching the evidence with the fingers usually has a similar undesirable effect. If the fingertips are rubbed over pencil writing, it may be-

come smeared, and should the fingers be damp from perspiration, even ink writing may be blurred. Furthermore, there is always the possibility that smudge marks or fingerprints may be left on the document due to the dirt and oils which are present on the fingertips. Damage from these causes can be avoided if the investigator will pursue a practice of keeping documentary evidence in transparent envelopes, as subsequently described.

2. Do Not Mutilate by Creasing, Repeated Refolding, Cutting, or Tearing

The cutting or tearing of evidence tends not only to restrict the laboratory examination but also to lessen its value as subsequent legal evidence. While probably few, if any, investigators would wilfully cut or tear a document, it is not infrequent that due to carelessness or neglect some piece of evidence is damaged in this manner. If a document becomes torn, the investigator should not attempt to mend it himself, but instead should leave its repair to the laboratory examiner who can mend it so as to least interfere with subsequent examination. Under no conditions should a document be pasted on another sheet of paper or cardboard in order to repair a tear or to strengthen a worn fold. Such a procedure obviously interferes with an examination of the back of the evidence. Furthermore, examination by transmitted light (i.e., an examination conducted by shining a strong light through the document) will be seriously hampered, and, as a result, in some cases the expert will be unable to determine accurately the

conditions under which the document was written.

Documents which are to be subjected to laboratory examination should not be creased or folded, for whenever a fold crosses an ink line the ink stroke may be damaged. Thus, in the case of a suspected forgery if the document is folded, the resulting injury may occur in an area which is particularly indicative of forgery, with the result that some valuable evidence is lost. Again, in problems of determining which of two intersecting lines was written last, folding might possibly alter the appearance of the ink crossing to such an extent that the examiner will be unable to ascertain the sequence in which the lines were executed.

When paper is refolded a number of times along the same crease, there is a gradual wearing away or fraying of the paper fibers until finally they may actually break apart. Combined with this possibility is the tendency of the writing, especially when in pencil, to become obliterated along the folds. Consequently, even though a document may already have been folded, it is always best to open the paper out flat and to place it unfolded in a large envelope.

When the problem consists of the decipherment or reading of indented writing (i.e., indentations left on a sheet of paper laying under the sheet upon which some message was written), the paper should not be folded and must in all cases be handled with the utmost care. These indentations are usually very slight, and any fold or crease is apt to destroy a portion of the

writing traces. As one of the methods of deciphering the writing is to photograph with oblique illumination, folds in the paper make it difficult to flatten the sheet and illuminate it properly.

3. Do Not Carry in Pocket for a Prolonged Period of Time or Handle Excessively

Documents which are carried in the investigator's pocket or handled a great deal often become so worn, frayed, and dirty that they are seriously damaged. The repeated folding and unfolding, the rubbing of the unprotected surface against the sides and contents of the pockets, the exposure to perspiration—coupled with the handling by witnesses, investigators, and interested bystanders—all have their destructive effects. The time in which this deterioration occurs is often surprisingly short, and investigators should be continually on guard to keep evidence from being damaged or destroyed in this manner.

Since photographs or photostats will in almost every instance serve the investigator equally as well as the original documents, it is strongly recommended that such copies be made whenever it appears as though the investigation will extend over some period of time. As a further precaution in protecting evidence, officers should make some arrangements to file or store documents at their headquarters whenever these are not needed in the current phase of the investigation.

Of the various types of documentary evidence, pencil writing is especially easy to damage by excessive handling. Since a large amount of handwriting

evidence involved in police investigations consists of pencil writing, officers should be particularly cautious as to how they handle it. In the case of a check endorsement written in pencil, this warning must be strictly observed, as the small amount of writing involved makes it imperative to preserve the document in the best possible condition.

Carbon or second sheet typing is also readily smeared by handling. If the carbon copy of a letter is all that is available, it should not be handled until a photograph has been made, for otherwise many of the identifying defects appearing in the typed impressions may be lost. In extreme cases the smearing may cause difficulty in determining the exact outline of the letters and, consequently, the make of typewriter.

Particular care must be taken with evidence which may contain erasures or traces of indented writing. Excessive handling may further obliterate the writing if the erasure is not complete, may soil the surface of the paper so as to hinder restoration, may destroy some of the small indentations upon which the decipherment of erased pencil or indented writing is dependent, or may leave deposits which will cause smudges to appear when chemicals are used to restore the erased writing.

4. Keep Documents in Envelopes or Protective Folders

As has been indicated in the preceding paragraphs, there is a definite need for documents to be kept in some sort of protective covering. The most satisfactory type of envelope or covering is a heavy weight, transparent, cellophane

envelope which protects the document from dirt, dust, and wear occasioned by handling. Once a document is placed in such a covering, there is no necessity for an investigator to remove it for purposes of later examinations. Various sizes of these envelopes are available in stationery stores, or they may be constructed from sheets of heavy cellophane. Any officer who has occasion to investigate cases involving documentary evidence should have several such envelopes available.

In the event that transparent envelopes cannot be obtained, heavy manila envelopes or folders are satisfactory substitutes. Here again the range of sizes is sufficient to accommodate without folding the usual sizes of paper or standard bank checks. The disadvantage of this type of envelope as compared with the transparent ones is that it is necessary to remove the document from the envelope in order to examine it. However, these envelopes form a relatively stiff covering which protects the evidence at all other times and greatly reduces the wearing effect due to carrying.

Whenever documents are to be filed they should always be unfolded and placed in protective envelopes or folders, which, if not transparent, should be clearly marked so that frequent rehandling is unnecessary in order to determine the contents. Stapling, pinning, or clipping several sheets of paper together is objectionable because of the tendency to damage portions of the documents. With any amount of handling the staples or pins very often cause tears, while the pressure of the

paper clips usually produces small creases or folds. The best method of grouping papers together without injuring the documents is to place each group in a single envelope or folder. This procedure protects the evidence as well as keeps it properly grouped.

5. Keep Dry and Away from Excessive Heat and Strong Light

Exposure to moisture, heat, or light may seriously injure documents. In extreme cases, when water causes ink writing to smear or become obliterated, or when paper is charred or burnt by fire or intense heat, or when sunlight fades the color of an ink, the changes are apparent to the eye. However, an investigator should remember that microscopic changes also occur in documents when they are exposed to much smaller amounts of moisture, heat, or light. These microscopic changes influence certain types of examination among which are the determination of the age of documents, development of latent fingerprints on paper, identification of inks, etc. While some of these problems may not occur frequently in criminal investigations, nevertheless, all documents should be kept dry and away from excessive heat and strong light so that no alterations or changes may occur in them which might modify the results of later laboratory examinations. The possible effects of moisture and heat should always be given special consideration whenever an investigator is filing or storing documents for some length of time, and storage spaces which are unusually damp or warm should not be used.

6. Do Not Allow Anyone Except a Qualified Expert to Make Chemical or Other Types of Tests

All types of tests on inks, typing, or composition of paper, and any attempts to decipher or restore obliterated and erased writing, should be made by a qualified expert. There are many persons, having read slightly and remembered less, who are only too willing to attempt to apply their "sure" methods if given a chance. Unfortunately, these methods often do more harm than good. This fact was well illustrated recently in a case of erased pencil writing. Here the effects of an amateur's unsuccessful attempt at restoration, plus the process of removing the traces of his efforts, precluded the possibility of a complete decipherment by a laboratory technician. If a qualified expert is available, investigators should depend upon him at all times for assistance of a technical or scientific nature.

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7. Take Documents to Laboratory or Expert at the Earliest Convenience

In practically all handwriting cases there are advantages in taking evidence to the laboratory as soon as possible. Whenever the expert has an opportunity to examine documents which have not been handled a great deal or carried on the person of the investigator for an extended period of time, or subjected to any of the other possible mishandlings previously discussed, he will usually be able to render a more comprehensive and definite report than in cases in which the evidence reaches him in a poorer state of preservation. In certain types of cases, as when

attempts are to be made to develop latent fingerprints on paper, or when an examination is to be made to determine the approximate age of documents (especially if it is suspected that they have been written very recently), the evidence should be taken to the expert with the least possible delay.

Even when the investigator does not have the writing of a suspect available for comparison the laboratory expert may be of assistance. In such instances there is always a possibility that either through files which the laboratory maintains on the same kind of cases or from the examiner's knowledge and experience with similar types of evidence, some information may be obtained which will lead to the apprehension of the writer of the questioned document.

Special Precautions in Handling Anonymous Letters

In anonymous letter cases, especially those in which the anonymous author writes a series of letters, the development of latent fingerprints on these letters may lead to his apprehension or identification. However, if latent prints are to be successfully developed, the following rules must be carefully followed.²

In order that the only prints found on the letter shall be those of the anonymous writer, no one must touch the contents of the envelope. If a letter is suspected as being from the anonymous author, the best procedure is to bring it to the laboratory unopened.

There it can be opened and the contents removed by a technician in such a manner that the latent fingerprints will not be destroyed. If necessary, a copy of the contents can then be made for purposes of further investigation. An alternative though less desirable procedure may be used if it is necessary to know the contents of the letter immediately upon receipt. Accordingly, the envelope may be slit with a knife, the contents removed with tongs or tweezers (in the same manner in which they would be removed at the laboratory), read, and without touching carefully replaced in the envelope.

Papers on which latent fingerprints may be found should be protected from rubbing and friction and kept away from excessive heat or moisture as the prints are easily affected by any of these factors. Moreover, because latent fingerprints on paper become indistinct or disappear entirely within a very short time, evidence should be brought to the laboratory immediately upon receipt. Fingerprint evidence in this type of case is important not only because it may be possible thereby to search through fingerprint files and identify the writer, but once a suspect is apprehended it forms identifying evidence in addition to the handwriting.

Conclusion

The previously mentioned examples of valuable evidence which might be lost by disregarding some one of the precautionary measures or rules do not, of course, constitute an exhaustive

² For a thorough discussion of the problems involved in the care and preservation of fingerprint evidence, see O'Neill, M. E., "Finger-

prints in Criminal Investigation," *J. Criminal L. and Crim.* 30 (6): 938 (1940).

list. On the other hand, these illustrations are cited merely to give the police investigators some idea of how such evidence may be preserved by care and effort on their part. In some instances, of course, violations of a particular rule may not alter the evidence sufficiently to affect the expert's findings, but investigators do not always realize or know the extent of tests and examinations which the expert may have to apply to a piece of documentary evidence. Therefore, unless all precautions are constantly observed, important evidence may in some cases be damaged or destroyed by mishandling.

Investigators should remember that in handwriting examinations the expert is interested in more than mere letter formations. Many important points which are found in an examination of documentary evidence may not necessarily be visible to the eye. Consequently, mistreatment of the evidence often does not seem to the non-expert to alter the documents because no visible changes occur, but, nevertheless, in many cases the invisible alterations and the loss of small writing details place definite limitations on the subsequent laboratory examinations which need not have been imposed had the proper precautions been observed.