When Documents Tell a Different Story

Authority Publication DI-044
Published: August 12, 2026

Executive Summary

Witnesses remember events. Documents often record them as they occur. When those two sources tell different stories, the discrepancy can become one of the most important investigative leads in the case.

Documentary evidence can include personnel and duty records, financial records, medical records, access logs, receipts, emails, text messages, photographs, laboratory reports, official forms, business records, travel records, and other information created before anyone understood that an investigation would later occur. Such records can corroborate a witness account, contradict it, establish a timeline, expose an assumption, or identify an entirely new avenue of investigation.

But documents are not automatically correct simply because they are written. Investigators must determine who or what created the record, when it was created, why it was created, whether it is complete, whether entries can be changed, and what the record actually establishes. This publication explains how defense investigators use documents to test statements rather than merely collect paperwork.

Why This Article Exists

Investigations can become dominated by interviews. A witness gives a detailed account, another witness provides a similar version, and the emerging narrative begins to feel settled. Then a record appears that does not fit.

A timecard places someone at work. An access log shows a different entry time. A bank transaction establishes a location. An email predates the event a witness says caused it. A medical record contains a contemporaneous description inconsistent with a later recollection.

The professional investigator does not automatically choose the document over the witness. The investigator examines the conflict. Why are they different? Which source is more reliable for the particular fact? Could the record be incomplete or inaccurate? Could the witness be mistaken? Does another source resolve the discrepancy?

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The Fundamental Difference

Collecting documents asks: “What records are in the file?”

Investigative analysis asks: “What do these records establish when compared with the rest of the evidence?”

The Department of Defense itself recognizes documentary evidence as a distinct category within investigative and military-justice records. Army Inspector General guidance likewise identifies documentary evidence and statements as a major category of evidence and notes that investigations may require extensive use of documentary evidence.

The value of the document lies not in its existence but in what it can independently test.

Why Contemporaneous Records Matter

A record created at or near the time of an event may have an advantage over later recollection because it can preserve information before memory fades and before litigation or investigative theories develop. Routine business and administrative systems may create records automatically, without any person intending to produce evidence for a future case.

That does not make every contemporaneous record infallible. People enter incorrect information. Clocks can be wrong. Automated systems can fail. Forms may repeat information supplied by someone else. A record may establish that a transaction occurred without proving who personally conducted it.

Investigators therefore ask what process produced the document and what limitations accompany that process.

Actual Military Case — United States v. Swift

United States v. Swift provides a useful military example of documents telling a story independent of later testimony. The case involved a purported divorce decree that the accused had previously provided to military personnel officials for purposes of changing spousal enrollment under DEERS.

The Court of Appeals for the Armed Forces noted that the document had been voluntarily created before the later investigative request for its production and that personnel records reflected its earlier use to change government-benefit eligibility. The court treated the decree as a required record in addressing the Fifth Amendment and Article 31 issues.

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For investigators, the practical lesson is broader than the legal ruling. Administrative documents created or submitted before an investigation may preserve a version of events that can later be compared against statements made after the controversy begins.

Actual Military Case — United States v. Foerster

United States v. Foerster involved forged checks while a soldier was deployed to Iraq. After returning, the soldier sought reimbursement from his bank. Under the bank's ordinary internal procedures, he completed a forgery affidavit.

The Court of Appeals for the Armed Forces held that the affidavit was nontestimonial and admissible as a business record. The document was created through the bank's procedures rather than through law-enforcement involvement.

This illustrates an important investigative principle: records created for ordinary administrative or business purposes can later become significant evidence because they preserve information independently of the criminal investigation.

Documents Can Also Challenge the Government's Narrative

Documentary evidence should not be collected only to support an existing defense theory. Its greater value may be its ability to expose a conflict nobody anticipated.

A witness may be certain about a date that official records contradict. A report may summarize a communication differently from the original message. A laboratory report may depend upon chain-of-custody documents that reveal an unexplained transfer. A statement may describe repeated contact while telephone records show something materially different.

When the document conflicts with the narrative, investigators should not force either source to fit. Preserve the discrepancy and investigate it.

From the Investigator's Desk

During my investigative career, some of the most useful evidence has been paperwork that initially looked routine. A receipt, schedule, report, photograph, application, invoice, personnel entry, or other ordinary record may establish a fact more precisely than anyone's memory.

The important habit is comparison. Do not read the witness statement in one part of the file and the records in another. Put them together. Build the timeline. Identify every material assertion that a document can independently test.

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When they disagree, resist the temptation to immediately decide which one is wrong. Determine how each source obtained its information. Sometimes the witness is mistaken. Sometimes the record is incomplete. Sometimes the conflict reveals a third explanation that neither source identified.

Investigator's Guidance

Identify records early. Ask what systems, organizations, businesses, military offices, devices, and individuals would ordinarily create documentation relevant to the alleged events.

Obtain original or authoritative records whenever practical. Preserve complete documents and surrounding context rather than isolated excerpts. Record where each document came from and when it was obtained.

Determine whether the record is contemporaneous, retrospective, manually entered, automatically generated, copied from another source, or prepared specifically for the investigation. Those distinctions affect how the information should be evaluated.

Compare documents against statements line by line when material facts are disputed. Dates, times, locations, amounts, names, sequence, and communications frequently provide objective points of comparison.

Finally, corroborate the document itself. A record can support a witness, but other evidence may also be needed to establish who created the record, whether the system was reliable, and what the entry actually means.

Bottom Line

Documents do not remember. They record.

That can make them powerful investigative evidence—but only when investigators understand how the record was created and what it actually establishes.

When documents and witnesses tell different stories, the discrepancy should not be treated as an inconvenience. It may be the point where the investigation begins to reveal what really happened.

Important Information

This Authority Publication is educational and informational and reflects the perspective of an independent defense investigator. It is not legal advice. The discussions of United States v. Swift and United States v. Foerster are based upon published decisions of the Court of Appeals for the Armed

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Forces and are included to illustrate investigative principles concerning documentary and business records.

Every investigation presents unique facts. Documentary evidence must be evaluated for authenticity, completeness, reliability, context, and legal admissibility. Questions concerning evidentiary rules, discovery, compulsory process, privileges, constitutional protections, or admissibility should be addressed by qualified military defense counsel.

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