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## RESEARCHING THE PLACES OF SPONTANEOUS BURIALS OF DECEASED AND KILLED CITIZENS IN THE DE-OCCUPIED TERRITORIES<sup>1</sup>

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**Abstract.** The article highlights the peculiarities of organizing and conducting an investigation of spontaneous burial sites of deceased and killed citizens in the de-occupied territories. The algorithm of actions of law enforcement bodies after receiving a report on the presence of spontaneous burials in a certain territory is considered. The author draws attention to the issue of involving qualified specialists and experts in the investigation of spontaneous burial sites and providing them with specialized assistance. The author describes the actions of the investigator and the specialists involved during the working phase of the inspection of the spontaneous burial sites, the removal, examination, and recovery of the bodies, the fixation of the traces found, and the packaging of the material evidence. Attention is paid to the recommendations for drawing up a protocol for the inspection of the crime scene. The possibilities of using the modern laboratory equipment "ANDE 6C" for the analysis of human DNA profiles and the identification of the bodies of the dead are demonstrated.

**Key words:** criminal proceedings, war crimes, inspection, places of spontaneous burials, de-occupied territories.

**Statement of the problem.** The necessity of fulfilling the tasks of criminal proceedings outlined in Article 2 of the Criminal Procedure Code of Ukraine (Kryminalnyi protsesualnyi kodeks Ukrainy: 2012) (hereinafter – the CPC of Ukraine) in connection with the full-scale Russian aggression in the event of discovery of unauthorized graves obliges the employees of national and international law enforcement and judicial authorities to take all possible measures aimed at establishing the circumstances of each criminal offense resulting in the loss of human life, the identity of each victim of such offense and all those responsible for its acts.

It is impossible to fulfill the defined tasks at the stage of pre-trial investigation without qualitative investigation of the places of spontaneous burials of deceased and killed citizens in the de-occupied territories. Such an investigative action is carried out to ensure the collection and verification of evidence in the criminal case by carrying out other necessary and possible procedural actions (presentation of a person for identification, carrying out a series of forensic examinations, identification

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<sup>1</sup> In this article, the results of the author's research are partially used and further developed, as reflected in the following publication: "Review of the Scene of Natural Burials (based on materials from de-occupied territories): a guide for law enforcement Practitioners" by Tsutsqiridze M.S., Krymchuk S.G., Vitvitsky S.S., Kaverina T.P., et al. Kropyvnytskyi: Don. State University of Internal Affairs; Kyiv: Main Investigation Department of the National Police of Ukraine, 2023. 124 p.

of a person, etc.). At the same time, the effectiveness of these actions and the admissibility of the results obtained in proving the results depend, first of all, on a properly organized and qualitatively conducted inspection of the places of spontaneous burials of dead and deceased citizens in the de-occupied territories, which is becoming more and more important every day.

**Analysis of recent research and publications.** The works of V.K. Veselskyi, A.V. Ishchenko, R.L. Stepaniuk, H.K. Teteriatnyk, M.S. Tsutskiridze, K.O. Chaplynskyi, V.Y. Shepitko, and many others are devoted to specific issues of preparation and conduct of various types of investigative examinations. In their works, they mainly considered the general issues of conducting this investigative (detective) action, methods and stages of the investigation, and gave recommendations on typical places to search for certain types of traces depending on the type of crime and the way of its commission.

The relevance of the chosen topic is reinforced by the lack of thorough, general scientific works on the study of problematic issues in the organization of preparation and inspection of spontaneous burials of dead and deceased citizens in the de-occupied territories, which are considered in the context of war crimes.

**The article aims to** highlight the peculiarities of inspection and research of spontaneous burial sites of deceased and killed citizens in the de-occupied territories as an important stage of collecting evidence of war crimes.

**Summary of the main material.** Beginning with the period of de-occupation of the Kyiv region, at the end of March 2022, a new stage in the work of the pre-trial investigation units of the National Police of Ukraine began with the documentation of the places of spontaneous burials of deceased (dead) military and civilian personnel. The first discovered mass graves in Bucha, Irpin, Moshchun, and Borodyanka not only shocked me with their brutality but also revealed many problematic issues related to the organization and rapid development of the algorithm of actions developed by the Main Investigation Department of the National Police of Ukraine to provide methodological assistance to local investigators.

Such work required taking into account the mistakes made in documenting the crimes of the occupying forces committed since April 2014, when law enforcement officers and forensic experts first encountered cases of mass deaths of civilians and soldiers as a result of mortar and artillery shelling, the inability to evacuate dead soldiers from the battlefield on time, the capture of Ukrainian soldiers, torture and death as a result of such enemy actions, and spontaneous burials. In addition, there was a need for rapid concentration of professional knowledge and skills, participation of many law enforcement officers, criminalists, doctors, forensic and judicial experts, and application of recommendations on the organization and tactics of priority investigative (search) actions. The interaction of various specialists and units has become truly crucial and has allowed investigators to more thoroughly document crimes that qualify as violations of the laws and customs of war, to avoid significant procedural errors, and to prevent inconsistencies in the identification of unidentified persons who died as a result of Russia's armed aggression.

Undoubtedly, technically and psychologically, the most difficult investigative (search) action was the inspection of the scene of the incident after the discovery of the place of spontaneous burial, namely, its organization and conduct.

Examining a crime scene is a crucial aspect of detective work, and there are numerous resources available for experts who specialize in the Criminal Procedure Code. However, the current circumstances, brought on by Russian aggression, require a fresh approach to preparing and conducting investigations of unplanned grave sites. These circumstances are considerably different from those typical of standard crime scene examinations.

According to departmental regulations, law enforcement agencies must register any reports of potential grave sites and dispatch an investigative team to the location to verify the information.

The Ukrainian Ministry of Internal Affairs provides professional support for preliminary investigations of areas mentioned in citizen reports, using explosive experts and military sappers. Before conducting any further investigative action, it is essential to explore the area and ensure mine safety in de-occupied territories. This should be standard practice for law enforcement units working in these regions.

If there is confirmation of a spontaneous burial in a particular area, investigators who specialize in criminal offenses against human life and health will perform further work (Pro zatverdzhennia Instruksii z orhanizatsii vzaiemodii orhaniv dosudovoho rozsliduvannia: 2017).

When working at unauthorized burial sites, it is important to uphold the principles of showing the utmost respect for the deceased and preventing any damage to the investigation process (Dufeniuk O.M., 2022: 373).

To properly investigate the scene, it is necessary to have municipal service employees or willing volunteers with technical expertise in excavating graves and moving bodies. Additionally, forensic experts, the National Police of Ukraine forensic specialists, experts from the Expert Service of the Ministry of Internal Affairs, and a specialized mobile laboratory team (Pro zatverdzhennia Instruksii pro poriadok zaluchennia pratsivnykiv orhaniv dosudovoho rozsliduvannia politsii ta Ekspertnoi sluzhby: 2015) should be present. It is also important to have representatives from foreign authorities who can document events for the International Criminal Court. In this case, the inspection of a spontaneous burial site, under optimal conditions, is carried out continuously from the moment the grave is opened until the last body is recovered. Before opening the grave, it is recommended to dig a test trench to establish the initial position of the outermost bodies without damaging them, and from there to begin gradually removing soil layers from the first to the last body.

Mine safety should also be considered before removing the bodies. The bodies may be mined by the occupying forces. To this end, a pyrotechnics, engineer, and demolition expert or explosives technician should examine the site of the unauthorized burial before the start of the inspection and, if necessary, take measures to quickly clear the burial site, taking into account safety measures. Explosive devices of various etymologies may be on the body, in clothing, under the body, between bodies (if they are lying on top of each other), etc.

An inspection is carried out at each burial site, covering the recovery of all the bodies located there, and is documented in a site inspection report. When excavating a grave site, it is necessary to determine whether it is a primary or secondary grave site.

The inspection process may take several days, and a detailed record will be maintained of any pauses or resumes. While the inspection is on hold, the location is monitored to prevent any damage or theft. Additionally, the actions of the investigator and the team are recorded via video. The inspection report should contain the current GPS coordinates of the site where the unauthorized burial was discovered. This is particularly useful when inspecting locations like forests or fields. When removing the bodies, each one is assigned a unique identification number based on the order in which it was taken from the grave. Any objects found in or around the grave are also numbered for identification purposes.

When handling bodies, it is important to pay attention to their condition, as decomposition changes can lead to the disruption of anatomical integrity. Each body should be placed in a separate transportation package, which is labeled with an anti-vandal marker while attaching a tag with explanatory text simultaneously. The tag includes information about the location of retrieval, date, time, brief circumstances of the event, body number, and other data necessary for further body identification and maintaining the order of its examination, concerning the details outlined in the crime scene examination protocol. If there are signs of binding, limb immobilization, blindfolding, or other indications of violence inflicted on the body while alive, or if there are objects that can help identify the deceased, such items are not removed from the body during the retrieval phase. Instead, they are carefully

described and photographed from various angles. Subsequently, they are placed in a special transportation package. In case of discovering body fragments, they are either placed in a single package if there are objective grounds to believe that they all belong to one individual, or in separate packages if there is doubt regarding their association.

The investigator should take all necessary measures to properly document and direct each bone fragment discovered during the excavation of a grave for molecular genetic analysis. This will help determine whether these fragments originate from a single body and provide reliable information about the number of bodies or body parts present in the grave at the time of burial.

After removing the last body from the burial site, it is necessary to recheck the grave using ordinary rakes. First, rake along the length of the grave, and then across its width. Additionally, a manual check can be done using hands covered with tight rubber gloves to sense the presence or absence of contents. This process is done exclusively to ensure that no item or fragment of bone remains in the grave that may have fallen out during the retrieval of bodies. Moreover, it allows for the identification and retrieval of items that may carry the DNA of the person who conducted the burial or committed the crime, especially in cases involving shootings.

The retrieval of material evidence is also motivated by the anticipated cause and timing of death, as well as the potential determination of whether the bodies were placed in the grave while still alive or after their death. This is done to gather evidence that can shed light on the circumstances surrounding the deaths and potentially aid in identifying any perpetrators involved.

In the case of discovering skeletal remains of unidentified bodies, all remaining clothing and footwear are also retrieved from the burial site, including partially decomposed fragments, buttons, belts, buckles, religious items (icons, medallions, etc.), jewelry (rings, earrings, chains, or their fragments), personal belongings, and other items that, considering the circumstances of body retrieval, could not naturally be present at the place of body discovery. This also includes separated hair, nails, teeth, and dental crowns.

If there are signs of body packaging before burial, it is mandatory to document it in the crime scene examination protocol, and the packaging item itself is seized for further investigation. In such cases, attention should also be paid to the presence or absence of adhesive tape that may have been used to secure the person or the bag in which they could have been placed.

Following the examination of the body, the crime scene examination protocol is prepared at the scene by specialized investigators. The examination is conducted using video recording, capturing the body and the surrounding area.

*In the examination protocol of the body, the following details are recorded:*

date, time, GPS coordinates, the name of the locality, address, and other relevant location information;

weather conditions at the time of discovery;

the location of the body marked on a map of the locality;

the position of the body about stationary objects and the overall surroundings;

the condition of the body, visually identified bodily injuries, postmortem changes, distinctive features, and clothing;

detailed descriptions of any traces of torture or signs of physical abuse on the body;

possible causes of death such as gunshot wounds, asphyxiation, and cuts (including dismemberment);

personal belongings discovered with the body, including mobile phones, are collected as material evidence;

documents found with the deceased individual or close to them are also collected as material evidence;

The examination of a body typically involves two stages: a general overview and a detailed examination.

*During the general overview, the following aspects are examined and documented in the protocol:*

1) body position and posture at the scene, including:

assessing whether there are any signs of postmortem changes in the body's position and posture (as they may have diagnostic significance);

noting the location of the body and its relation to surrounding objects or fixed landmarks (e.g., the head facing south);

describing the position of the body (lying, sitting, on the side, etc.);

observing the position of the head and limbs (level, bent, inclined, etc.);

documenting any objects or items found on or near the body and their relationship to it;

noting the position and facial expression of the head.

2) the external condition of the clothing on the body;

3) any instruments of death found with the body.

*During the detailed examination, the following aspects are investigated:*

1) corpse bed (the area of the floor or ground beneath the body);

2) clothing of the deceased (the clothing worn by the deceased is examined layer by layer, starting from the top). Attention is given to the specific items worn and their sequence of placement; the condition of the clothing and footwear is noted, including any damage (tears, cuts, detached parts) and contamination (color, consistency); the configuration of damaged edges in the clothing is also documented (even, uneven, etc.); the contents of pockets are inspected and recorded.

3) the body of the deceased and any injuries present.

*During the examination of a naked body, the following aspects are recorded:*

1) completeness, skin color, stature, age, and gender;

2) postmortem changes: pallor and coldness of the skin (areas of warmth if present). Rigor mortis (the degree and distribution of stiffness) – it typically begins in the jaw muscles after 2–4 hours and progresses to the neck, shoulder girdle, and downward. It starts to disappear from the top down after approximately two days. Livor mortis (lividity) – the location and prominence of lividity marks are noted. The usual color is bluish-purple, while pink lividity may indicate exposure to carbon monoxide or hypothermia. Signs of decomposition – such as putrefactive odor, skin slippage, discoloration (greenish or darkening), and the presence of bloating or gas formation in soft tissues (facial swelling, distended abdomen, scrotum, protruding eyes, etc.). Presence of insects, egg masses, and larvae – any signs of insect activity, such as the type of insects, location, and quantity, are recorded.

3) appearance and characteristics of the abdomen;

4) individual characteristics and peculiarities (distinctive features);

5) injuries on the body: any injuries present on the body are described, including their nature (stab wound, incision, bruise, hematoma), location, size, shape, and other relevant details (color, edges, layering, contamination);

6) bloodstains, secretions, hair, and other traces and material evidence on the body or in its vicinity or objects associated with causing the injuries.

*The different parts of the body are described in the following sequence:* head → face → neck → chest → abdomen → back → arms → legs.

The body is photographed, a diagram is prepared, and impressions and casts of the fingerprints are taken during the examination. Samples such as hair fragments, nail clippings with subungual contents, and other potential traces found on the body are collected. Therefore, it is recommended to perform all actions related to the examination of the body and the collection of trace evidence as much as possible at the crime scene (the location where the body was discovered) (Furman Ya.V., Kotliarenko L.T., 2017: 12).

Upon completion of the examination, the protocol specifies the location (the forensic medical examination department) where the body will be transported.

The use of modern equipment obtained from the USA by forensic specialists significantly aids in crime scene investigation. One such piece of equipment is the RAPID DNA technology-based system called "ANDE 6C," which can generate interpreted genetic profiles from biological samples within 90 minutes. This "sample-to-profile" method involves DNA extraction, multiplex PCR amplification, and DNA fragment separation and detection using capillary electrophoresis. This laboratory establishes a person's DNA profile using 27 loci, which is more precise compared to the existing methods used in the forensic centers of the Ministry of Internal Affairs of Ukraine and the forensic bureau in the cities of Odesa and Dnipro, where profiling is conducted using 24 loci and 16 loci, respectively. However, there is a nuance related to a legal collision, despite the fact that the purpose of the study is to validate the Accelerated Nuclear DNA Equipment (ANDE) 6C system as a method for typing reference samples according to ISO/IEC 17025 standards (Identyfikatsiia zhertv, 2022; Spetsialisty-kryminalisty politzii dokumentuiut viiskovi zlochyny rf, 2022).

In this case, the actual analysis of micro-particles is performed by forensic specialists who carry out their duties within the provisions of regulatory documents that regulate the activities of pre-trial investigation bodies (Deiaki pytannia zabezpechennia vyluchennia, peredachi ta repatriatsii til, 2022).

Considering that the Criminal Procedural Code still provides for the involvement of a specialist in conducting a crime scene investigation, the results obtained through the use of the "ANDE 6C" mobile system from start to finish are fully documented in the crime scene examination protocol, legitimizing them as lawfully obtained evidence. This methodology allows for a more selective approach to the appointment of molecular genetic expertise to identify the deceased person, using only the samples that are predetermined to be used during the molecular genetic examination.

It should be noted that the use of the mobile system "ANDE 6C" is necessary only in cases where more complex and rapid preliminary body identification is required. Its extensive utilization in Ukraine was first observed after a missile strike on the "Amstor" shopping center in Kremenchuk, Poltava region. During the crime scene investigation at the incident site, simultaneous efforts were made to dismantle the technogenic debris, and search for and retrieve fragmented remains of the deceased individuals, which were difficult to identify or had become fragmented due to the high temperatures resulting from the fire.

It is crucial for the investigator and forensic specialist to understand that during the examination of the crime scene in both natural burial sites and technogenic debris resulting from missile and bomb strikes that caused extensive building destruction, fires, and explosions, all possible body fragments should be collected and surface swabs should be taken from surviving structures where remnants of biological traces from individuals present at those locations before the catastrophe might have been left. Observations during cleanup operations and personal involvement in search missions in such scenarios provide ample evidence that due to aggressive actions, the bodies of the deceased can not only be distorted but can also be fragmented into micro-particles, contaminating each other. This complicates their identification, even with the utilization of advanced resources such as the "ANDE 6C" system.

After the retrieval of bodies from natural burial sites and their preliminary examination, a more detailed examination is conducted in forensic institutions, under the requirements of current legislation, for further molecular-genetic identification, using sampling techniques as necessary.

Advanced technologies have made it possible to extract fragments of bone tissue from partially burned samples, from which DNA profiles can be subsequently established. This significantly changes and enhances the process of identifying the deceased. This process takes place during the dissection of the body and the direct conduct of the forensic examination.

Currently, European specialists are being involved in investigative (search) actions in the liberated territories, as reported by the Office of the Prosecutor General of Ukraine (Kostin A, 2022). Since the early days of the liberation, alongside investigators and forensic specialists of law enforcement

agencies, experts from the Institute of Criminalistics Research of the National Gendarmerie of France have been participating in the examination of crime scenes. They utilize not only their own mobile DNA laboratory but also actively participate in the examination of bodies in morgues, employing their technical capabilities, such as portable X-ray machines for determining the direction of gunshot channels and deep drills for collecting DNA material from bone tissue using anti-vandal methods, and so on. Recently, these specialists have been working in the liberated part of the Kharkiv region.

Currently, the de-occupation of Ukraine is ongoing. Units of the National Police are enhancing their skills by gaining practical experience in the de-occupied territories. From interacting with the population to obtaining evidence of crimes against humanity committed by Russia, this is the main focus of the challenging and necessary work of the police units at this stage.

**Conclusions.** Therefore, the organization and conduct of the examination and investigation of makeshift burial sites of deceased individuals in de-occupied territories have certain differences compared to crime scene investigation in regular situations. It may be characterized by rapidly changing conditions at the scene of the criminal offense, the need to involve a significant number of specialists from various fields, the use of forensic techniques and methods, and the presence of explosive hazards posing risks to the lives and health of the examination participants.

Further scientific research is seen as promising in the following areas: organizational and tactical peculiarities of exhumation, the appointment of forensic examinations in criminal proceedings based on reports of makeshift burial sites; implementation of advanced international practices and standards for collecting evidence of war crimes; expanding the practice of establishing joint investigative teams and involving ad hoc foreign experts; development of action algorithms in the areas affected by rocket attacks, massive destruction, mass killings, and makeshift burials, where special skills and forms of interaction among investigators, experts, specialists, and representatives of competent foreign authorities are required.

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