

# SCIENTIFIC JOURNAL

Published by the decision of the Scientific Council  
of Khachatur Abovian  
Armenian State Pedagogical University



Department of Philosophy and Logic  
named after Academician Georg Brutian



# W I S D O M

3(16), 2020



*WISDOM is covered in Clarivate Analytics' Emerging Sources  
Citation Index service*

YEREVAN – 2020

## METHODOLOGICAL PRINCIPLES OF INVESTIGATORS TRAINING ON EXAMINATION OF MISSILE-ARTILLERY CRIME SCENE

### Abstract

The article analyzes some destructive factors that cause objective difficulties in the examination of the crime scene in the areas of armed conflict, including in the process of investigating war crimes committed by the opposing sides of an armed conflict with the use of missile-artillery and aerial missile-bomb weapons. These difficulties are primarily connected with the committing crimes by representatives of the opposing side in the armed conflict, their obstruction of the activities of military justice bodies, including by mining the area, the use of small arms, mortar and missile-artillery weapons, the presence of significant casualties and destruction, which generally complicates the examination of the scene. The analysis carried out by the author makes it possible to propose scientifically grounded recommendations for the examination of the crime scene in areas of an armed conflict when investigating war crimes committed by the opposing side of an armed conflict using missile-artillery and aerial missile-bomb weapons, which will help to minimize the consequences of these factors significantly and in general, to increase the efficiency of the inspection of the places of incidents in the areas of armed conflict.

*Keywords:* missile-artillery and aerial missile-bomb weapons, the examination of the crime scene during the investigation of war crimes, international crimes, international criminal law.

*“Anyone who has ever looked into the glazed eyes of a soldier dying on the battlefield will think hard before starting a war.”*

Otto von Bismarck

The investigative staff occupies an extremely important place in the system of state law enforcement agencies since it is directly related to the implementation of the criminal prosecution of persons who have committed a crime.

The work of an investigator is one of the main links in such a complex process. Law enforcement practice shows that a successful fight against crime can be carried out only by comprehensively professionally trained employees,

provided that they are perfectly organized and cooperated in the process of performing their duties.

- In this regard, the problem of professional training of investigators, instilling special practical skills related to special knowledge and the specifics of the scene of the incident is extremely urgent.
- For that purpose, the systematic improvement of professional knowledge is essential

for the correct organization and implementation of the investigation of war crimes and crimes against the security of humankind (Grigoryan, 2020). The goal of this article is to draw special attention to the crimes committed with the use of rocket-artillery and aerial weapons.

- Thus, for the prompt, effective and high-quality achievement of the goal in the fight against crime, it is necessary to improve in every possible way the scientific organization of the work of military investigative bodies, to create a professional corps of investigators with a high educational and intellectual level.
- Correct formation of the staff, recruiting it with specialists, to the maximum extent suitable for military law enforcement in terms of their socio-psychological, personal and business qualities, since a candidate for the position of an investigator of military investigative bodies must correspond to a certain set of socio-psychological characteristics: developed social and volitional qualities, the professional orientation of the individual, stress resistance, honesty, conscientiousness, efficiency, intellectual ability and stability of the nervous system to the effects of extreme factors, high intellectual level, good communication properties, organizational skills, increased efficiency, reading and speech culture. Also, he must have good health, since the disclosure and investigation of crimes in the conditions of military service is intense and is closely linked to the daily life of the troops, including combat training.
- It has already become an axiom to assert that “the war suddenly” interrupts “the peaceful, legal order and completely suspends

all norms of law within the limits of its action” (Lenshin, 2009, p. 46). As Titus Livius said, “Laws made in times of peace – war generally repeals, those made during war – peace rescinds”. This ancient dictum fully applies to the procedure for carrying out certain investigative and other actions in areas of armed conflict. When investigating war crimes in areas of an armed conflict, the investigator needs maximum concentration of attention, appropriate investigative qualifications and experience in investigative work in the category of cases under consideration, as well as the availability of time for planning and operational production of investigative and other actions. However, the conditions of a combat situation, when the usual, normal, stable life activity of the society is disrupted, and with it, the infrastructure of society is disrupted (Mikhaylov, 1993, p. 185), are disorganized such systems as communications, power supply, mail, roads, the activities of government bodies, and other circumstances that negatively affect the quality of investigations and cause the complexity of the proof process. At the same time, the usual legal means, forensic methods, the usual forms of managing the processes of disclosing and investigating crimes are ineffective. Even in ordinary peaceful conditions during the investigation, it is difficult to avoid mistakes and omissions, albeit insignificant, but considered to be a violation of the requirements of the Criminal Procedure Code, of which can take advantage interested persons, having received a reason to discredit the results of both individual investigative and other actions, and the preliminary and investigation as a whole.

Thus, it is the extremely unfavourable conditions of the investigation caused by the combat situation that prevents the investigator from deeply delving into the problems of investigating war crimes, as well as collecting and comprehensively assessing evidence. In this regard, it seems necessary to develop work algorithms for investigators, according to the methodology for investigating certain types of war crimes and the tactics of performing certain investigative actions, since the efficiency, productivity and quality of the investigation of war crimes committed by the warring parties of an armed conflict are achieved by appropriate, rational, effective and legal means, actions, planning the investigation of crimes and correctly chosen tactical techniques for conducting certain investigative actions, collecting, researching, evaluating and using evidence, rationalizing the procedure for conducting investigative actions in order to neutralize or reduce the influence of destructive factors of an armed conflict on the process of investigating war crimes (Grigoryan, 2020<sup>b</sup>).

We fully agree with the opinion of L. A. Sergeev, that the effectiveness of the investigation always depends on how the activities of the investigator and the persons interacting with him correspond to the peculiarities of the crime and the situation in the investigation (Sergeev, Soyaserko, & Yakubovich, 1975, p. 7).

Taking into account the fact that the main evidence in the activities of international criminal justice bodies is confined to examination protocols, the testimony of witnesses, victims, accused, the documents<sup>1</sup> obtained as a result of

such actions as inspections of places of incidents, interrogations, expert opinions and examination of seized documents, and the scope of this article will not allow us to elucidate the features of the production of all these investigative actions properly, we will consider only the features of the production of such investigative steps as an inspection of the scene during the investigation of war crimes committed by the opposing sides with the use of missile-artillery and air missile-bomb weapons of destruction and problems arising in practice, as well as the possible ways of solving and increasing the effectiveness of their implementation in the areas of the armed conflict.

We share the opinion of S. V. Malikov, who believes that the process of collecting evidence in areas of an armed conflict can be optimized only by adapting to the conditions of an armed conflict the authorizing party of collecting evidence. Strengthening the certifying side of the evidence and at the same time providing a “shorter” and safer access to sources of evidence is possible only by using new technologies in the field of information recording (Malikov, 2008, p. 331). The widespread use of photo, audio and video equipment in investigative practice puts on the agenda the issue of alternative ways of recording evidence-based information. Video recording is finding ever more widespread use, which surpasses recording both in speed and in the universality of displaying circumstances, and most importantly, objectivity and visibility. However, not all investigative actions under the existing procedure, adapted to peacetime conditions, can be quickly and successfully carried out

<sup>1</sup> So, in paragraph 1 of Art. 93 of the ICC Statute are indicated most of the evidences: the results of identification and establishment of the location of persons or objects; protocols of interrogations of witnesses, specialists, experts; the results of the examinations carried out; interrogation records of the accused, as well as “any persons under investigation or prosecuted”; pro-

ocols of inspections of sites or objects, including exhumation and inspection of burial sites; court records and documents, as well as “official records and documents”; monetary funds, property and proceeds from crime; instruments of crime, etc.

in areas of armed conflict. To adapt them, some changes are required in the procedure itself in the direction of simplifying the production of individual investigative actions and getting rid of purely formal aspects of production, while in no way diminishing the semantic evidence side and the purpose of the production of investigative actions.

Seems to be reasonable the proposal of V. N. Grigoryev (1993) to fix in the Criminal Procedure Code such a measure of accelerating the production of certain investigative actions - as replacing, in the absence of positive results, protocols of such investigative actions as search, examination, seizure, presentation for identification, - with a brief statement about the fact of their conduct, the participants involved and the negative result (p. 16).

According to M. S. Strogovich (1943), in a combat situation in areas of armed conflict, the effectiveness of the inspection of the scene of the incident is largely ensured due to the timeliness of its conduct, since in the conditions of the conduct of hostilities, if you do not immediately begin to inspect the scene, it can change beyond recognition – as a result, bombing, artillery or mortar shelling, the seizure of territory by the enemy, etc. (p. 14).

When investigating war crimes committed by the warring parties to an armed conflict, in areas of an armed conflict, the following algorithm of the work of criminal justice bodies is preserved. So, upon receiving a message about a committed war crime, the head of the investigative unit is obliged to promptly request the necessary information about the alleged crime area, the presence of enemy forces there, to ensure the safety of investigative and other actions, and to protect the scene. Where necessary, the inspection of the scene should be started after demi-

ning, with the results reflected in the inspection report. However, among other things, in practice, a timely and effective inspection of the scene of the incident is hampered by (a) lack of well-established communication between the military command and control bodies of the Republic of Armenia, (b) non-observance by the commanders of the order of reporting to the military justice bodies of the Republic of Armenia about the crimes committed, (c) arbitrary actions of officers of the command to change the situation of the scene of the incident, undertaken by them before the arrival of the investigative-operational group, (d) long time spent on the formation of an investigative-operational group, finding fuel and transport for its delivery to the scene of the incident, as well as agreeing with the military control authorities the route and issues of its armoured support to the scene, etc. (Grigoryan, 2009, p. 150). As a result of such delay, the traced picture and the situation at the site are violated, destroyed. Since enemy positions are often located at relatively small distances from the scene, the participants in the inspection of the scene must take into account the real danger of their being hit by enemy fire and take appropriate security measures. Also, the situation is further complicated by the fact that in a combat situation, all servicemen constantly carry personal small arms and ammunition issued to them for official use, and sometimes “trophy” weapons and ammunition, through which some of them, who are involved in criminal cases, may attempt to assassinate members of the investigation team out of revenge.

It seems that if it is necessary to conduct a detailed inspection of the scene, even with the risk of being exposed to enemy fire, the command should ensure the safety of the participants in the investigative actions and create conditions

for them to work to detecting and fixing traces of the crime while organizing constant monitoring of the environment and the defence of the area with the help of armoured vehicles and defensive fire at the places where the enemy is likely to be located. In all cases, it is necessary to use military units with armoured vehicles to protect investigators. During investigative actions in mountainous terrain, it is advisable to use intelligence units. In turn, participants in investigative actions should carry out all their movements, if possible, under the protection of armoured vehicles, i.e. the risk to life when examining the scene of the accident must be justified and reasonable. Otherwise, it is necessary to postpone the inspection of the scene until the most appropriate moment.

Specialists in the use of artillery, aerial, as well as sappers and explosives technicians, must be involved in the inspection of the scene of the occurrence of missile -artillery or aerial missile-bomb strikes. Inspection is carried out using a compass, but for accurate fixing of coordinates, it is necessary to use a GPS receiver on the ground, which will save investigators from inaccuracies, a mine detector and a magnet. Inspection begins from the centre of the inflicted artillery or missile strike, having previously determined the assumed centre of the explosion. This can be evidenced by a funnel, places of the most intense destruction in the form of holes, ruptures or openings on the surface, soot, traces of thermal effects (melting), and other signs. After determining and designating the territory and boundaries of the inspection of the scene of the incident with landmarks, the inspected place must be divided into sectors or sections, outlining the nodal sections for further inspection. The territory and boundaries of inspection are determined by the range of action of the damaging factors of shells and missiles. For fragmentation, this is the scat-

tering range of the fragments, and for high-explosive, it is the distance at which the shock wave still retains its damaging effect. Before carrying out an inspection, it is necessary to clarify whether the situation at the scene of the accident has changed and to organize initial safety measures, such as; organization of medical assistance to the victims; checking the protection of the scene of the incident, and, if necessary, strengthening it; taking measures to prevent other possible dangerous consequences (new explosions, fires, landslides, etc.); reconnaissance of the place of inspection in order to find dangerous places and their collapse, fencing or strengthening. Besides, it is necessary to clarify which sanitary and medical institutions the victims were delivered to, their personal and contact details.

At the initial stage of the inspection of the scene, based on the analysis of visible traces, the interposition of objects and the testimony of eyewitnesses, the circumstances of the application of missile-artillery or air missile-bomb strikes are clarified, an orientation and survey photo and video filming of the scene concerning the surrounding area are made, according to the rules of forensic photography.

When inspecting the scene in order to prevent the irrecoverable loss of traces and objects, it is first of all necessary to select material evidence and samples for further research. At the stage of detailed examination, special attention is paid to traces of missile-artillery or aerial missile-bomb strikes, nodal and detailed photographs and video filming are made, with the participation of experts in the field of forensic medicine, external examination of corpses is carried out. Damaged civilian objects guarded under IHL (International Humanitarian Law) rules, the remaining craters from bombs (missiles) and their metal fragments are examined in detail. In-

spection and fixation of the changed elements of the environment should begin with an inspection of the craters from explosions, then measure its diameter, depth, ridge height and distance from the centre of the explosion to the nearest stationary objects.

In the process of inspecting the scene of the incident, it is imperative to inspect and indicate: a) rectangular (geographic) coordinates of the place where the shell burst (craters) - the so-called X, Y and Z coordinates (latitude, longitude, height above sea level); b) the characteristics of the funnel - its size, depth, elongation, condition and characteristics of the soil at the site of the fall of the projectile; c) the direction of the scattering of the fragments; d) the nature of damage to buildings and structures; e) if there are two or more damages from the projectile (craters, holes in fences, walls and roofs of buildings and structures, etc.) at the scene of the incident, describe their relative position - the so-called "ellipse". In this case, the direction and azimuth should be determined by sighting with the help of a compass.

With the help of mine detectors, it is necessary to detect the maximum number of fragments of an exploded projectile, which will allow in the future (with the appointment of a forensic ballistic examination) to establish the type and calibre of the exploded projectile and the characteristics of the weapon from which the firing was carried out.

The removal of fragments of shells and missiles is carried out with the obligatory indication of their size and conventional distinguishing marks that give a complete description of the shells (missiles) and their purpose.

When examining the burst site of an artillery projectile (mines), as a rule, the following signs of the action of the ammunition are present

(or may be present): a) the presence of characteristic parts included in the design of the projectile (mines) - ballistic tips, ready-made striking elements, parts of the head fuse, stabilizers etc.; b) the presence, shape and size of a funnel on the surface of the soil (asphalt road, etc.); c) the presence of fragments of crushing of the shell (mines); d) the presence of characteristic lesions of surrounding objects (traces of fragments and ready-made striking elements); e) the presence of destroyed and overturned objects (trees, vehicles, light structures) with traces of fire and dynamic impact.

Specialists in the field of the use of missile and artillery weapons, using individual indirect signs of fragments of artillery weapons found at the scene, can make an initial assumption about the type of artillery ammunition used. However, it is possible to determine the type of artillery shell reliably and in the future to identify the type of artillery system only based on special explosive technical expertise.

Particular attention is paid to the search and removal of fragments and other fragments of weapons of destruction for forensic ballistic or explosives expertise must be carried out with the obligatory indication of their size, marking and colour (Selivanov, 2008, p. 431)<sup>2</sup>. When select-

---

<sup>2</sup> Artillery shells have the following protective and distinctive colors: high-explosive, fragmentation, high-explosive and fragmentation, cumulative, armor-piercing, armor-piercing tracer shells - protective gray; armor-piercing projectiles - protective gray, distinctive blue; incendiary and armor-piercing incendiary-tracer shells - protective color gray, distinctive red color; smoke projectiles - protective gray, distinctive black; lighting shells - protective gray, distinctive white; bullet shrapnel - yellow protective color; rod shrapnel - protective color green, distinctive color green. There are the following letter designations that define a sample of artillery weapons bearing the index: U (hereinafter the letters are indicated in transliteration from Russian) - cartridge loading shot; V (Russian В) - a shot of a separate cartridge case or cartridge loading; O - fragmentation projectile; F - high-explosive projectile; OF - high-explosive fragmentation projectile; B (Russian Б) - ar-

ing material evidence, it is necessary to pay special attention to the list of means of injury prohibited for use.

Based on the results of the inspection of the scene of the incident, a plan is drawn up indicat-

---

mor-piercing projectile; BR (Russian БР) - armor-piercing tracer projectile; OR (Russian ОР) - fragmentation tracer; G - concrete-piercing shell; SH (Russian Ш) - shrapnel; SH (Russian Ш) - buckshot; BZR (Russian БЗР) - armor-piercing incendiary tracer projectile; BP (Russian БП) - cumulative projectile; Z (Russian З) - incendiary projectile; D - smoke projectile; S (Russian С) - lighting projectile; A - propaganda shell; Zh (Russian Ж) - charge in the sleeve; Z - charge in the cap; B - charge in the cap for insertion into the sleeve.

Soviet-made bombs have colored annular stripes around the cylindrical part of the body: high-explosive bombs do not have identification rings; fragmentation - have one blue ring; high-explosive fragmentation - two blue rings; incendiary - one red ring; luminous - one white ring; photographic - two white rings; smoke - one yellow; armor-piercing - one purple ring; concrete breakers - two red rings; anti-tank - two rings (purple and red). Explosive, representing the first letter of the name of an explosive, if they consist of one word, or the first letters of words with a complex name, are applied as follows. For example, TNT - T; RDX - G; ammonal 50/50 - A / 50; ammonal 60/40 - A / 60; ammonal 80/20 - A / 80; TNT-RDX-aluminum (alloy) - TGA; ammonite - AT; tetryl - no; melinite - no; Russian alloy - RS; French mixture - F; schneiderite 88/12 - SHN; ammonite 88/12 - AT; penthrite (PETN) - heating element. On one side of the body of an aerial bomb of 50 kg or more of Soviet production, stencil signs were applied in the following order: the weight of the aerial bomb; fuse name; abbreviation for explosive. On the other side of the body of the bombs: the number of the equipment factory; batch number; year of equipment; bomb number. Russian-made bombs are painted with special gray enamel paint. The following markings, inscriptions and stamps are applied on them: the conventional name of the bomb; type of equipment (code of the pyrotechnic composition); manufacturer's symbol; batch number; year of manufacture; ballistic performance data; explosive device data; hallmarks of quality control department and the customer's representative; an identification mark applied by impact on the end of the bomb, indicating the equipment code. Unguided aircraft missiles are painted with a special enamel paint in gray. On the outer lateral surface of the fuse, a stamping marking is applied, containing information: about the type of fuse; manufacturer's symbol; batch number and year of manufacture of that batch. On combat: the name of the unguided missile; warhead batch number; plant number and code; year of equipment; explosive code; fuse name. On both sides of the markings, below, the hallmarks of OTK and the military representative of the assembly base are applied with paint.

ing the locations of bomb (missile) explosions, the diameter and depth of the craters, their relative position and distance between themselves, as well as the presence of a soil side. The protocol of the inspection of the scene must be accompanied by a plan-diagram of the scene, which reflects the traces of explosions of shells (missiles) and objects found at the scene and is subsequently used in the interrogation of witnesses, victims, as well as military personnel of the opposing side of the armed conflict. According to the plan, it is necessary to interrogate a specialist in the field of using missile-artillery and missile-bomb aircraft weapons of destruction about the nature and calibre of the projectile, the type of weapon from which the shot was fired, the most likely direction of fire. It is necessary to attach a map of the area to the protocol of interrogation of a specialist in the field of using missile and artillery weapons, on which, taking into account the coordinates established during the inspection of the scene of the incident, mark the place where the projectile (missile) fell and the direction from which the shot (launch) was fired. At the same time, it would be advisable to request intelligence data on the deployment of artillery units and subunits of the opposing side of the armed conflict, which are armed with artillery weapons (systems) used during the shelling.

Thus, for a prompt, effective and high-quality investigation of criminal cases of the death of civilians from the use of missile-artillery systems and missile-bomb airstrikes, in violation of the principles of selectivity and proportionality, it is necessary to know the tactical and technical characteristics of missile-artillery and aerial weapons, tactics of their use, the procedure for conducting combat, operational and technical documentation, which will make it possible to reasonably put forward and verify the most promis-



ing investigative versions of the causes of the death of civilians, to establish all the actual circumstances of the inflicted missile-artillery and air missile-bomb strike and draw a reasonable conclusion about the need to collect evidence for referrals in accordance with the established procedure to the ICC for the purpose of criminal prosecution of both representatives of the military-political leadership of the opposing side of the armed conflict and other military officials and specific perpetrators.

#### References

- Grigoryan, G. (2009). *Rassledovaniye prestupleniy sovershaemikh voennosluzhashimi Vooruzhennikh Sil Respubliki Armeniya v rayonakh vooruzhennogo konflikta* (Investigation of Crimes Committed by Servicemen of Armed Forces of the RA in Areas of Armed Conflicts, in Russian). Dissertation thesis of PhD in Law. Military University. Moscow: MU.
- Grigoryan, H. (2020<sup>a</sup>). The Doctrine of “Joint Criminal Enterprise”: Criminal Liability of the Military-Political Leadership of the Armed Conflict Opposing Party for Committing War Crimes. *Wisdom*, 15(2), 140-146. <https://doi.org/10.24234/wisdom.v15i2.345>.
- Grigoryan, H. (2020<sup>b</sup>). Aggression as a Crime in International and National Criminal Law. *Wisdom*, 14(1), 122-130. <https://doi.org/10.24234/wisdom.v14i1.329>.
- Grigoryev, V. (1993). *Rassledovaniye prestupleniy v chrezvichaynikh usloviyakh* (Investigation of crimes in emergency situations, in Russian). Dissertation thesis of PhD in Law. Police Academy of RF. Moscow.
- Lenshin, S. (2009). *Pravovoy rezhim vooruzhennix konfliktov i mezhdunarodnoe gumanitarnoe pravo* (Legal Regime of Armed Conflicts and International Humanitarian Law, in Russian). Moscow: Izdatel'stvo obshchestvennogo dvizheniya Za pravo voennosluzhashchikh.
- Malikov, S. (2008). *Voенно-polevaya kriminalistika* (Battlefield Forensic Science, in Russian). Moscow: Izdatel'stvo obshchestvennogo dvizheniya Za pravo voennosluzhashchikh.
- Mikhaylov, V. (1993). *Problemi i praktika rassledovaniya pprestupleniy, sovershaemikh na pochve mezhnatsional'nikh konfliktov* (Problems and Practice of Investigation of Crimes, Committed on the Basis of Ethnical Conflicts, in Russian). In *Materials of the conference “The Place and Role of Internal Affairs in Prevention and Solution of Ethnic Conflicts”* (p. 185). Moscow.
- Selivanov, V. (2008). *Sredstva porazheniya i boepripasi* (Munition Means and Weapons, in Russian). Moscow: MSTU after N.E.Bauman.
- Sergeev, L. A., Soya-Serko, L. A., & Yakubovich, N. A. (1975). *Planirovaniye rassledovaniya* (Planning of Investigation, in Russian). Moscow: Yuridicheskaya literatura.
- Strogovich, M. (1943). *Garantii ustanovleniya materialnoy istini po ugovonim delam v boevoy obstanovke* (Guarantees of Finding out the Material Truth in Criminal Cases in Battle Situation, in Russian). (Vol. 3). Ashkhabad: Works of VyuA.