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Yurii Pilyukov*

PhD in Legal Sciences, Associate Professor
West Ukrainian National University
46009, 11 Lvivska Str., Ternopil, Ukraine
<https://orcid.org/0000-0001-9952-3423>

Volodymyr Yusupov

Doctor of Legal Sciences, Professor
National Academy of Internal Affairs
03035, 1 Solomianska Sq., Kyiv, Ukraine
<https://orcid.org/0000-0001-5216-4144>

Serhii Banakh

Doctor of Legal Sciences, Associate Professor
West Ukrainian National University
46009, 11 Lvivska Str., Ternopil, Ukraine
<https://orcid.org/0000-0002-2300-1220>

Oleksandr Shramko

Doctor of Philosophy in the Field of Law
Ternopil Research Expert Forensic Center of the Ministry of Internal Affairs of Ukraine
46027, 48 S. Budny Str., Ternopil, Ukraine
<https://orcid.org/0000-0001-8294-8994>

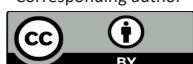
Peculiarities of the investigator's inspection of buildings and structures subjected to artillery shelling and bombing during the investigation of war crimes

Abstract. The relevance of the research topic is due to the modern requirements of the law enforcement practice of judicial and law enforcement agencies regarding the proper documentation of war crimes of the Russian Federation on the territory of Ukraine, in particular those related to damage, destruction or complete destruction of buildings and structures as a result of artillery shelling and bombing by the armed forces of the aggressor country. The aim of the work is to prepare the basic provisions and practical recommendations for conducting an investigative inspection of buildings and structures subjected to artillery shelling and bombing, determining its specific features during the investigation of war crimes. To achieve the goals of the article, the following scientific research methods were used: general scientific – observation; comparison; description; analysis and synthesis; generalization; special – historical and legal; dogmatic; sociological; statistical; systemic and structural; formal and logical. The article outlines the organizational and tactical measures for the preparation and conduct of an investigative review, provides substantiated recommendations on the selection of various specialists for the investigative review; specifies a number of modern technical techniques and methods of gathering evidentiary information at the scene of the incident. In order to effectively conduct investigative inspections of damaged and destroyed buildings and structures

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*Corresponding author



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during the investigation of war crimes, it is recommended to use forensic techniques for the search and disposal of explosive devices and substances; unmanned aerial vehicles equipped with photo and video recording devices and other modern forensic technical means. The scientific provisions and practical recommendations outlined in the article can be used in investigative and judicial practice regarding the investigation of war crimes, as well as in scientific activity and the educational process in the preparation of students of legal specialties in institutions of higher education

Keywords: military criminal offenses; incident scene investigation; specialist; special knowledge; physical evidence

INTRODUCTION

Russia belongs to the member states of the Geneva Conventions of 1949, which relate to the humane rules of warfare¹, supplemented by the Additional Protocol of 1977, that provides for the protection of victims of international armed conflicts². However, since the first days of the large-scale war in Ukraine that broke out on February 24, 2022, its armed forces have been massively committing war crimes, which are accompanied by shelling and bombing of military and civilian infrastructure facilities, murders and torture of the civilian population.

Pre-trial investigation bodies are faced with complex tasks related to the need for their qualitative investigation, most of which for the first time, in the absence of proven forensic methods. The main method of gathering evidence is conducting investigative (search) actions, which mostly take place under conditions of significant risk to the life and health of their participants. Investigators have to study the instruments of committing war crimes, which are little known to them and have not previously been investigated by forensic experts (Tataryn, 2022). One of the most important investigative (search) actions is an inspection, during which the material situation at the scene of the incident is recorded, the mechanism of the crime is clarified, material evidence is collected, and the most reliable versions are put forward.

The topic of the investigation of war crimes was reflected in the dissertation of V. Mironova (2008), who explored the issues of criminal liability for violations of the laws and customs of war. The scientific work of O.V. Chervyakova (2020) concerned the issues of responsibility for war crimes, the mechanism and process of restoring the sovereignty and security of Ukraine. M. Poddubna (2020), a similar topic, considered N.O. Madzhigon (2018). V. Batiuk & S.O. Dmytriv (2021) made an effort to study issues related to the organization of war crimes investigations. A similar topic was studied by O.O. Kravchuk & M.S. Bondarenko (2022).

Foreign scientists M. Klinkner and E. Smith (2020) have devoted scientific works to the problems of investigating war crimes. L. Fondebrider (2020) prepared a guide to the study of human skeletal remains. M. Nystedt *et al.* (2011) – a guide to providing assistance in international criminal investigations. The scientific work of A.H. Brown (2006) reveals the practical experience of removing dead particles of soil, plants and pollen from bodies and clothes.

However, nowadays it is extremely difficult to find scientific developments where the organizational and tactical features of conducting investigative (search) actions in the investigation of war crimes would be comprehensively covered from the standpoint of forensic science. The issue of investigative inspections of buildings and structures subjected to artillery shelling and bombardment remained understudied. This emphasizes the need to investigate their specifics and organizational and tactical features.

The aim of the work is the preparation of the basic provisions and practical recommendations for the investigative inspection of buildings and structures subjected to artillery shelling and bombing, the determination of its specific features during the investigation of war crimes.

MATERIALS AND METHODS

The conclusions of the article are reliable in connection with the application of scientific research methods, namely such general scientific methods as:

- ▶ description used to characterize the legal concepts of criminal activity and the practice of investigating war crimes;
- ▶ analysis and synthesis used to determine the features and basic scientific and practical provisions of investigative inspections of buildings and structures subjected to artillery shelling and bombing during the investigation of war crimes;

¹IV Geneva Convention "On the Protection of the Civilian Population in Time of War" (1949, August), as amended by the Law of Ukraine No. 3413-IV. (2006, February). Retrieved from https://zakon.rada.gov.ua/laws/show/995_154.

²Additional protocol to the Geneva Conventions (1949, August), concerning the protection of victims of international armed conflicts: Protocol I. (1977, June). Retrieved from https://zakon.rada.gov.ua/laws/show/995_199#Text.

- generalization – for formulating research conclusions based on the results of studying the domestic and international practice of conducting investigative (search) actions, scientific literature and normative legal documents on the specified issues;

- special methods:

- historical and legal – to form an idea of the changes that took place in the norms of international humanitarian law after World War II and armed conflicts in the 20th and 21st centuries;

- dogmatic – for interpreting the terminology of international humanitarian law, sciences of the criminal law cycle;

- sociological – in order to study the opinion of 52 investigators of the investigative department of the Main Directorate of the National Police in the Ternopil region, the survey questionnaire contained questions about determining the most important investigative (search) actions at the initial stage of the investigation of war crimes, from the point of view of evidentiary information, where the subject of criminal offenses are buildings and structures damaged and destroyed as a result of artillery shelling and bombing. The issues that were brought up for consideration, in addition to the review, related to investigative (search) actions such as search, interrogation, investigative experiment, appointment of forensic examinations;

- statistical – when calculating the data of the conducted sociological research, as well as during the analysis of investigative, expert and judicial practice of investigating war crimes;

- systemic-structural – to define the concepts of “building” and “structure”, their classification by types, as well as types of special knowledge that can be used when conducting an inspection of damaged and destroyed buildings and structures during the investigation of war crimes;

- formal and logical – to clarify the role of specialists in the investigative inspection of buildings and structures subjected to artillery shelling and bombing during the investigation of war crimes.

RESULTS AND DISCUSSION

Definition and justification of certain concepts and terms

The concept of “war crime” does not exist in the current legislation of Ukraine, but it is used to denote criminal offenses committed by military personnel of the aggressor country. Articles that describe the composition of crimes, the specified criminal offenses, are contained in

chapter XX Criminal Code of Ukraine “Criminal offenses against peace, human security and international legal order”¹. In the conditions of the started war between Russia and Ukraine, the law enforcement agencies of our country most often initiate criminal proceedings under Art. 438 of the Criminal Code of Ukraine “Violation of Laws and Customs of War”.

Article 35 of the Additional protocol to the Geneva Conventions of August 12, 1949, concerning the protection of victims of international armed conflicts (Protocol I) (1977, June), the methods or means of conducting military operations prohibited by international law include: the use of weapons, shells, substances and methods of conducting military operations, capable of causing excessive damage or excessive suffering; which are intended to cause or can be expected to cause widespread, long-term and serious damage to the natural environment². Such means include weapons of non-selective action, -napalm, ball, cluster, phosphorus bombs, shells, and other types of prohibited weapons.

Modern armed conflicts are still conducted with the use of weapons systems that are intended for combat operations in open terrain. As a rule, when such weapons are used against military targets (objects) located in populated areas, their action is often indiscriminate. Artillery shelling and bombing with the use of various types of ammunition lead to significant destruction of civil infrastructure facilities and the death of people.

M.N. Chistyakov (1953) claims that the term “artillery projectile” means “an explosive device delivered to the detonation site by a shot from an artillery installation (cannon, mortar, rocket launcher, etc.)”. The concepts of “artillery shelling” and “bombing” are related to means of warfare. Artillery shelling means one of the types of fire damage, which is carried out from various artillery weapons of mortars, barrel artillery, rocket salvo fire systems, anti-aircraft missile systems, and bombardment is the application of rocket-bombing strikes by the Air Force or the Navy using aviation.

Since the beginning of Russia's armed aggression, many facts have been recorded about the enemy's use of means and methods of warfare prohibited by international humanitarian law. Thus, most of the regions of eastern Ukraine, where active hostilities are taking place, are regularly bombarded with anti-aircraft missile complexes (SAMS) of the S-300, S-400 type, bombardment using barrage munitions, which include kamikaze drones of the “Shahed type”, incendiary ammunition of

¹Criminal Code of Ukraine: Law of Ukraine No. 2341-III. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

²Additional protocol to the Geneva Conventions (1949, August), concerning the protection of victims of international armed conflicts: Protocol I. (1977, June). Retrieved from https://zakon.rada.gov.ua/laws/show/995_199#Text.

the “9M22S” type, fired from multiple rocket launchers (RSV). The enemy’s aviation and naval artillery actively use Kalibr, Iskander, Dagger, Kh-22, Kh-55 and other types of cruise missiles to fire strikes not only at critical infrastructure facilities, but also at the residential quarters of many cities and settlements of Ukraine, causing significant losses to the state’s energy system and the civilian population. Numerous cases of the use by the occupiers of OFZAB-500 high-explosive and incendiary aerial bombs, which, due to their power and often uncontrollability, are means of non-selective action, causing unnecessary damage and suffering to the civilian population and serious damage to the natural environment (Prohibited means ..., 2022). Despite the fact that since the beginning of the war, law enforcement agencies have already investigated several tens of thousands of war crimes committed by Russia, the occupiers continue to commit them, which will become the subject of legal proceedings later, after the liberation of these territories (Kaluzhna & Shunevych, 2022).

The concept of separate elements of the composition of the criminal offense provided for in Art. 438 of the Criminal Code of Ukraine

Correct interpretation of the concepts of individual elements in the composition of the criminal offense provided for in Art. 438 of the Criminal Code of Ukraine, gives a more complete understanding of the mechanism of its commission. The objective side of this crime consists of 1) cruel treatment of prisoners of war or the civilian population; 2) expulsion of the civilian population for forced labor; 3) looting of national values in the occupied territory; 4) use of means of warfare prohibited by international law; other violations of the laws and customs of war provided for by international treaties, the binding consent of which has been given by the Verkhovna Rada of Ukraine; 6) issuing an order to perform such actions¹.

V.P. Bazov (2009) believes that “the common object of war crimes is a certain group of identical and homogeneous social relations protected by the criminal law, which ensure peace and compliance with the generally recognized rules of warfare and other armed conflicts”.

Most objects of war crimes are multiobjective, that is, along with the main direct object, there are optional ones. The direct object of the criminal offense provided for in Art. 438 of the Criminal Code of Ukraine, is the procedure for waging war established by relevant international acts. Its additional mandatory objects are the life and health of a person, property” (Melnyk & Havronyuk, 2010).

It is known that the subjects of a criminal offense are

things and objects of the material environment (material values), affecting which harm is done to social relations protected by law, which, among other things, should include buildings and structures. Land plots on which buildings and structures are located can be located in settlements and outside them, in forest zones, forest strips, fields, road right-of-ways and other areas.

The concepts of “*building*” and “*structure*” have common features, but also differ significantly from each other. L. Rabchynska (2010) believes that “the building is intended for the permanent presence of people in it for the purpose of living or working, while the structure serves exclusively technical purposes, and people are temporarily in it. “In turn, under the buildings I.D. Kuzmina (2004) understands “building systems that stand on supporting or protective structures and form a ground closed volume, which is intended for the residence or stay of people depending on the functional purpose, as well as for the performance of production processes”. Therefore, the buildings can include: residential and administrative buildings of institutions, including hospitals, children’s and educational institutions, railway stations, administrative buildings of airports, bus stations, river and sea ports, buildings of plants and factories, manufacturing and agricultural enterprises, gas stations and other.

The scientist calls the building “the engineering and construction volume for providing technical functions” (Kuzmina, 2004). Therefore, the structures logically include nuclear, thermal and hydroelectric power plants, warehouses of tangible assets and raw materials, oil and gas storage facilities, pipelines, elevators and grain storage facilities, drilling rigs, highways, railway tracks, runways, bridges, overpasses, tunnels, dams, towers, heat and power supply networks, gasification, sewerage, wells, bomb shelters, monuments, sports, mass cultural and other architectural structures, etc. So, what buildings and structures have in common is their artificial creation and location on a plot of land or under it, and the difference is -in their intended purpose and their structural features.

Peculiarities of preparatory and rescue work before conducting an investigative inspection

The investigation of war crimes is accompanied by certain difficulties. They are related to the powerful intensity of hostilities and corresponding threats to investigative teams during the performance of their professional duties, lack of experience in investigating these crimes, lack of appropriate technical means. Meanwhile, it is

¹Criminal Code of Ukraine: Law of Ukraine No. 2341-III. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

necessary to conduct a high-quality and quick inspection of the place where a war crime was committed, including the destruction of buildings and structures as a result of artillery shelling or bombing, already at the initial stage of the pre-trial investigation (Stepaniuk, 2022).

One of the main features of conducting an investigative inspection of buildings and structures that have suffered damage and destruction is the existing danger of its participants being in the area of the investigative (search) action, since there remains a significant risk of further destruction of building structures, the possible presence at the scene of the incident of explosive objects, radioactive, chemicals and their residues. In such cases, the rescue services of the State Emergency Service, the Ministry of Internal Affairs, and the Armed Forces of Ukraine should be the first to work at the scene of the incident, which immediately search for the wounded, together with medical workers, provide them with emergency medical and psychological assistance and carry out their evacuation.

Meanwhile, the work on extinguishing the fire, searching for explosive objects, radioactive, chemical substances and their remains is carried out, after which the rescuers begin to analyze the rubble of building structures and identify the bodies of the dead. M. Koval, & I. Koval (2022) note that when an explosive device is detected, the actions of law enforcement officers should be based on the main principle, which is reduced to minimizing the risks of harming people. First of all, the device with explosives is neutralized, if this is not possible, then it is eliminated. This work is carried out only by explosives specialists. When conducting rescue operations, it should be borne in mind that if the object is located in the zone of active hostilities, there remains a significant risk of repeated artillery fire and bombing by the aggressor.

During the period of Russian aggression, explosives specialists of the State Emergency Service, the Ministry of Internal Affairs and the Armed Forces of Ukraine gained considerable practical experience in the search for and disposal of explosive devices and explosive substances, both when inspecting the area and during the inspection of buildings and structures. International experience, the provision of logistical, methodological and practical assistance from foreign partners, which consists in the supply of modern equipment for the search and disposal of explosive devices and substances, personal safety equipment and conducting training on their use, is of great importance for the performance of this important work.

During the war, the United States of America and the

countries of the European Union actively provided military aid to Ukraine and continued to increase the supply of modern weapons, ammunition and various special equipment. Thus, in December 2022, Great Britain transferred to Ukraine a significant number of VALLON metal detectors and special kits for demining territories, civilian buildings, buildings and critical infrastructure facilities as part of the aid provision. "This latest package of UK support will help Ukraine clear land and buildings safely as it reclaims its legitimate territory", – said the UK's Defense Minister Ben Wallace (UK military, 2022). Equipment to deal with explosive ordnance is one of the latest in a wide range of equipment that Britain has transferred to Ukraine to support the fight against the illegal invasion of Russia (Website "Ukrinform", 2022).

Nowadays, there are many other developments of such equipment, which are successfully used in various "hot" spots of the world and are being transferred today to the armed forces of Ukraine as military aid. One of these developments is the unmanned aerial vehicle (UAV) SpectroDrone of the Israeli company Laser Detect Systems (LDS) (World's First Explosive, 2022), which is equipped with special detectors to search for explosive devices and explosive substances from a safe distance. This UAV provides for the use of a laser system for detecting explosive objects and substances in the form of gases, liquids and powders. According to its tactical and technical characteristics, the SpectroDrone can perform these tasks, having an operational radius of about 3 kilometers (Movchan & Movchan, 2020). This device is quite expedient to use for search operations during investigative inspections of buildings and structures subjected to artillery shelling and bombardment. Models of navigation equipment such as Airborne radar, Surveillance radar, Tracking radar, Weapon control radar, etc. (Borrion et al., 2019), can also be used to perform similar functions.

Peculiarities of the preparatory stage of the inspection of the scene of the event

After the end of the rescue work, the investigator makes a decision to conduct an inspection. According to Art. 237 Criminal Procedure Code of Ukraine¹, there are the following types of inspection: locality, premises, things, documents and computer data. Examination of the corpse is regulated by Art. 238 of the Criminal Procedure Code of Ukraine¹, and examination of the body of a living person (examination) – Art. 241 of the CPC of Ukraine¹. A crime scene review is a type of review. The very concept of "event" means a system of processes and phenomena that are

¹Criminal Procedure Code of Ukraine: Law of Ukraine No. 4651-VI (Part 3 of Art. 214). (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#n1191>.

associated with a change in the situation in the area. The term “place of occurrence” refers to the place of preparation for a criminal offense, the place of its commission, the place of concealment of the crime, as well as the place where traces, objects and tools of a socially dangerous act were found.

During the inspection, the investigator directly perceives the situation at the scene of the incident, identifies and analyzes sources of evidentiary information – traces of a criminal offense. The investigator personally examines the signs and properties of the tracks, which are noted in the report of the inspection of the scene of the incident. It is known that the legal basis for conducting an inspection of the scene of the incident is the provisions of Part 3 of Art. 214 and Art. 237 of the CPC of Ukraine. This investigative (search) action must be carried out in compliance with certain principles, including: the principles of unified leadership, clear organization, planning and purposefulness, the use of special knowledge, technical forensic and other means of gathering evidentiary information, the use of the capabilities of operational and investigative units, interaction with by other law enforcement, state bodies (territorial military administrations) and the public (Volobuev *et al.*, 2018).

The inspection of the scene of the incident is carried out immediately, immediately after the commission of a criminal offense. In this regard, in agreement with the leadership of the Main Directorate of the National Police in the Ternopil region, an anonymous survey of 52 employees of investigative units was conducted using a specific questionnaire. One of the questions concerned the opinion of the investigators regarding the most important, from the point of view of obtaining evidentiary information, the investigative (search) action at the initial stage of the investigation of crimes related to shelling and bombing of buildings and structures. As a result of the survey, 48 surveyed respondents (92%) believe that the most evidentiary information can be obtained during the inspection of the scene of the incident. Documentation at the scene of the incident related to artillery shelling and bombing is a complex of actions, which includes the selection and systematization of eyewitness accounts, the production of photo and video materials, the compilation of diagrams, plans, topographic maps, and the collection of material traces of the event (Bogdanyuk *et al.*, 2019).

At the preparatory stage of the investigative inspection, it is important to obtain information about the object of the inspection, its purpose, and to take measures to prevent or mitigate the harmful consequences of the

event. At this stage, the specific goals and objectives of this investigative (search) action are also determined, security of the scene is ensured, proposals are made regarding the composition of the investigative-operational group and specialists who should be involved, the readiness of technical means is checked, orders are given to police officers to identify eyewitnesses to the shelling, other witnesses who can provide the necessary information about the circumstances of the event.

The purpose of the review includes the identification and recording of information regarding the circumstances of the committed criminal offense (Part 1 of Article 237 of the Criminal Procedure Code of Ukraine)¹. The main tasks of the inspection of buildings and structures that were damaged and destroyed as a result of artillery shelling and bombardment are to establish time, place, determination of the affected area; means and methods used by the enemy; the number of victims, their characteristics (age, gender, occupation, etc.); witnesses and eyewitnesses; the mechanism of a criminal event. For this purpose, the following actions are carried out: study and recording of the material situation of the scene; recording, extraction, research and assessment of traces of a criminal offence; restoration of the picture of a criminal event; identification of circumstances that contributed to or prevented the commission of a criminal offense; obtaining evidentiary data and guiding information for the purpose of building versions regarding a criminal offense, persons involved in it; planning of further procedural actions and operational investigative measures to identify and search for the perpetrators of the crime, persons who gave criminal orders, as well as persons who contributed to the transfer of orientation information to the enemy, etc.

In order to ensure the tasks of conducting investigative reviews, it is necessary to deploy a special logistics system that would ensure the supply and distribution of resources for the proper conduct of investigative (search) actions during the investigation of war crimes. Logistics of the investigation, O.M. Dufenyuk (2022) proposes to consider “the system of planning, organization, management and control of the processes of supply and distribution of resources (financial, technical, material), involvement of personnel, protection of objects (places of events, places of storage of physical evidence, etc.), ensuring the performance of functions by each unit in particular and establishing interaction between them, internal (departmental) and external communication, creating databases, implementing technological and operational processes, transportation, etc”. Of course,

¹Criminal Procedure Code of Ukraine: Law of Ukraine No. 4651-VI (Part 1 of Article 237). (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#n1191>.

Ukrainian law enforcement officers are only now gaining practical experience of such provision, so it is expedient for them to use international practice, which is described in a number of scientific works, standards and methodological recommendations prepared by foreign forensic scientists.

In this regard, O.M. Dufenyuk (2022) suggests ensuring the access of investigation participants to information of a methodological nature, conducting special briefings and trainings before the start of the work of investigative teams at the scene of events, taking into account international experience, scientific developments and methodological recommendations. Agreeing with the author, we believe that this issue needs a more detailed analysis during the discussion. The composition of specialists who should be involved to the investigative examination, determined depending on the target purpose of the object that was subjected to shelling, the nature of damage and destruction, the presence of other traces of a criminal offense, based on the source of their origin, present at the scene of the incident. According to some scientists, it is advisable to involve specialists of various professions to participate in the review, but the requirements of Art. 71 of the Criminal Procedure Code of Ukraine (Teplytskyi et al., 2019).

These include:

- forensic specialists of units of the National Police of Ukraine, including sappers and explosives technicians of the Armed Forces, the Ministry of Internal Affairs and the State Emergency Service. It should be noted that in order to comply with safety measures of inspection participants, the presence of explosives technicians must be mandatory during the entire investigative (search) activity;
- forensic experts of the Expert Service of the Ministry of Internal Affairs of Ukraine, scientific research institutes of forensic expertise of the Ministry of Justice of Ukraine, forensic medical expertise of the Ministry of Health of Ukraine and other state expert institutions of ministries and agencies of Ukraine;
- specialists who have special knowledge in various fields of science, technology, arts and crafts, which do not belong to the structures of law enforcement agencies, but the expediency of their involvement is necessary during the inspection. So, if the object of inspection is a building that has a special purpose, the investigator must involve specialists who have special knowledge in those fields of knowledge that determine the specificity of the object.

Article 237 of the Criminal Procedure Code of Ukraine contains possible auxiliary actions of specialists during

the examination, which should include their right, on the instructions of the investigator, the prosecutor, to carry out measurements, take photographs, sound and video recordings, draw up plans and schemes, make graphic images, prints and casts, inspect and seize things and documents relevant to criminal proceedings¹.

Peculiarities of the static stage of the working stage of the investigative review

At the static stage of the investigative inspection, the investigator, using the observation method, assesses the general situation at the scene, the degree of damage and destruction of the building or structure, the number of victims, determines the boundaries of the inspection, decides on the starting point of the inspection, the method and its sequence, chooses positions for conducting orienting and survey photography.

When determining the method of examination, the three main methods (techniques) existing in criminology are taken into account: concentric, eccentric and frontal. It should be noted that these methods can be used both separately and in combination with each other (Volobuev et al., 2018). When using such a method as a concentric one, the inspection is carried out in a circle, in a spiral, namely from the peripheral environment to the center. The center of the scene can be a certain important object (the place of the greatest destruction, hit; the body of a dead person), etc. With the eccentric method, the inspection is carried out in a circle, from the center to the periphery of the scene. If the object is long, then a linear or frontal inspection method is used i. e. studying the external area of the object from one border to the other.

It should be noted that there are no established recommendations for choosing one or another method of viewing the scene. The choice of the method and the sequence of actions during the inspection is carried out by the investigator depending on the situation and the available traces at the scene.

Photo and video recording of the scene of the incident is of important evidentiary value, since photographs and video recordings are documents that are sources of evidence in criminal proceedings. The destruction and collapse of building structures, the spread of fire and the consequences of its extinguishing, can significantly change the general picture of the scene from its initial appearance, which will make it difficult to achieve the goals and tasks of the inspection. In such cases, it is expedient to start taking photos and videos at the scene of the incident during the active phase of elimination of the

¹Criminal Procedure Code of Ukraine: Law of Ukraine No. 4651-VI. (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#n1191>.

harmful consequences of the incident by the rescue services. The information recorded in this way will reflect the dynamics of the development of the consequences of the event in time and space. For security purposes and in order to obtain the most complete picture at the scene, photo -and video recording is recommended to be carried out using UAVs and drones equipped with photo and video recording equipment.

In this aspect, Ukrainian specialists should refer to the positive experience of using unmanned aerial vehicles in the activities of law enforcement agencies of foreign countries. The use of UAVs in law enforcement was one of the first to be implemented by the US police. Thus, the Federal Aviation Administration (FAA), along with others, authorized 17 law enforcement agencies with the possibility of using UAVs in the country's airspace. The most famous among them are Montgomery County in Texas, Mesa County Sheriff's Department in Colorado and Grand Forks in North Dakota. This made it possible for US law enforcement agencies to legally use UAVs to investigate crime scenes, search for injured persons and wanted criminals (Volobuev *et al.*, 2018).

After the completion of work on the elimination of the consequences of the event, photo and video recording can be continued by forensic specialists of the national police who have relevant special knowledge in forensic photography, traceology and other fields of forensic technology already during the investigative (search) action. At this stage of the inspection, specialists record the general appearance of the object with its adjacent territory, discovered damage and destruction, the mutual location of individual material objects and other traces of a criminal offense. When conducting orientation and survey photo and video shooting, it is important to follow the basic rules of forensic photography, to apply the existing methods of circular, linear and tiered panoramas¹.

Features of the dynamic stage of the working stage of the investigative review

At the dynamic stage, material objects located in the inspection area are subjected to a detailed inspection, during which they are allowed to be moved, turned over, picked up, in compliance with the rules for handling physical evidence.

A detailed inspection is carried out with the aim of further fixing the material situation, identifying and fixing material objects, determining their condition, size and shape, location in relation to other objects, the

degree of damage, establishing classification, group and identification signs, presence on their surfaces traces of reflections. At this stage of the survey, measurement, establishment of the relative location of the detected material objects and traces, nodal and detailed photo and video recording using metric, micro- and macro photography methods are carried out. Taking into account the scale and large number of material objects at the scene of the incident, which are of evidentiary value for the investigation, such objects must be marked with special numbers, and photo and video shooting is carried out using large-scale rulers. In the future, the shooting materials will be added to the review protocol as attachments¹.

At the scene, it is important to establish the direct location of the hit and explosion of the ammunition, its type, type, tactical and technical characteristics, the presence and degree of damage and destruction in the environment, the likely location of the firing position, where the shot was fired from, etc. (Bogdanyuk *et al.*, 2019). In the premises of buildings and structures that have suffered damage and destruction, various material objects that have evidentiary value can be found. A typical trace picture of the commission of a crime should include: remnants of explosive devices, their details, various traces of the action of the explosion, things and clothes of the victims with traces of the explosion (Kurman & Bodnaruk, 2020).

Among such traces, there are following characteristics: parts and fragments (debris) of ammunition, their impressive elements; bodies of the dead and individual fragments of bodies with traces of the action of impacting elements; parts of destroyed building structures, fragments of concrete, brick, glass, metal and polymer materials; material values, remnants of household, computer equipment, furniture, dishes, food and other property and chemicals, as products of explosion before burning. Criminal explosions are characterized by a chemical nature, when the energy of the explosion transforms gaseous, liquid, solid substances or their mixtures into the energy of compressed gases as a result of a chemical reaction (Farion-Melnyk *et al.*, 2022).

In addition, at the site of the explosion, they may find *micro-traces*: textile fibers, paint particles; *traces of biological origin*: blood, human secretions, hair, skin epithelia. In the course of the inspection of the physical objects of the physical environment, it is also possible to detect reflection traces of various sources, which are formed as a result of mutual contact with other material objects,

¹Order of the Ministry of Internal Affairs of Ukraine No. 1339 "On the Approval of the Instructions on the Procedure for Involving Employees of Pre-Trial Investigation Bodies of the Police and the Expert Service of the Ministry of Internal Affairs of Ukraine as Specialists to Participate in the Inspection of the Scene of the Incident". (2015, November). Retrieved from <http://zakon.advice.gov.ua/laws/show/z1392-15>.

as well as traces formed as a result of the phenomena accompanying the explosion. A separate group consists of tracks of traceological origin: human tracks – fingers, toes, shoes; traces of vehicles – tire protectors, tracks, individual parts of vehicles and military equipment; traces of tools and mechanisms – tearing, cutting, cutting, etc.

Damaged military equipment, other military property and their separate parts may also be found in the area adjacent to buildings and structures; vehicles, railway transport, agricultural machinery, ships, aircraft. In order to identify, fix and remove traces of a criminal offense, the role of each of the involved specialists who have special knowledge in the fields of forensic technology and other fields of science and technology is important. One of these are the specialists of forensic institutions, who conduct research on explosive devices, explosive substances, artillery and missile weapons, ammunition for them and traces of the explosion, which help the investigator to determine the direct place where the ammunition hit an obstacle, to establish the epicenter of the explosion (M. Koval & I. Koval, 2021).

As a rule, the place of impact is characterized by the greatest destruction, where characteristic damage and destruction of building structures, their melting and charring are observed, the surrounding objects show traces of being hit by an explosive wave, fragments of ammunition, soot deposition, which, as they move away, lose their intensity.

The essential task of explosives technicians is to detect parts and fragments (debris) of ammunition, its impressive elements, objects with traces of fragmentation, shock and thermal action with signs of open flame (smoke), chemical residues, etc. In this part of the survey, it is important to accurately fix their location in relation to other material objects, describe their condition and characteristic features (Varfolomeeva *et al.*, 2011).

During the inspection, specialists can solve separate diagnostic and situational tasks related to establishing the direction and trajectory of the ammunition flight, the spread of its fragments, the propagation of shock and thermal waves, including questions regarding the preliminary calculation of the power of the ammunition charge. According to the existing method of calculating the power of the charge, it is necessary to record not only the thickness of the destroyed walls of the object, but also the degree and nature of the existing damage on the buildings or structures most distant from it.

In the future, according to the actual data established at the scene, a number of explosive and other types of forensic examinations will be ordered, during

which diagnostic, identification and situational tasks will be solved. Diagnostic tasks should include tasks that provide answers to questions about the type and type of ammunition used, the mass of its charge in TNT equivalent; the identification ones are those establishing a specific unit of a weapon from which a shot could be fired (only in the case of the presence of a specific copy of the weapon), belonging of individual fragments of ammunition to one whole; the situational tasks suggest the determination of the explosion mechanism, establishment of the likely place and direction from which the shots were fired (Bogdanyuk *et al.*, 2019).

While searching for tracks hands, shoes, blood, hair, forensic specialists must take into account that they can often hide under fragments of building structures, a layer of soil, dust and soot. When such traces are found, their removal must be carried out with extreme care in order to preserve their identification features. Before removing objects with traces of an explosion, you should make sure that there are no such traces on their surfaces, and if they are present, fix them and remove them together with the object. In the absence of such an opportunity, the indicated traces must be removed by copying with the use of appropriate technical means and forensic methods (Varfolomeeva *et al.*, 2011).

Examination of corpses and body fragments of the victims

Inspection of corpses and individual body fragments is important. The examination of the corpse must be carried out with the mandatory participation of such specialists as a forensic medical expert or a doctor. This type of inspection can take place in parallel with the inspection of the premises, housing of a certain person¹. At the general stage of the examination of the corpse, the place where it was discovered, the place where body fragments were found, their position and location in relation to the nearest immovable objects, the general appearance and posture, which plays a significant role in establishing the mechanism of the explosion and receiving bodily injuries, is recorded. At the detailed stage, the corpse or body fragments can be moved, turned over for a more detailed examination and description of bodily injuries, and measures can be taken to identify the tools that could have caused them. The most characteristic injuries caused by explosions are punctures, cuts, lacerations and lacerations, contusions from the action of the blast shock wave; burns caused by the effect of high combustion temperatures of the explosive substance and surrounding objects. Bodily injuries can also be obtained

¹Criminal Procedure Code of Ukraine: Law of Ukraine No. 4651-VI. (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#n1191>.

as a result of the destruction and collapse of building structures and from a combination of factors, accompanied by poisoning of victims with combustion products.

According to British scientists, in cases where the bodies of the dead or their fragments are discovered, it is advisable to conduct research on the soil, vegetation particles, and pollen that could have accumulated on the victim's body or clothes (Brown, 2006). This experience of the British colleagues is quite correct, but for the topic that is investigated in this work, it needs some clarification during the discussion of the research results.

During the examination of corpses, one of the typical tasks is their identification. It can be based on signs of the person's appearance, things, mobile phone and documents of the deceased. Meanwhile, it is not always possible to carry out a visual identification of the corpse due to the lack of documents of the victim, as a result of the distortion of his appearance or the fragmentation of the corpse, as a result of explosive and other injuries. In such cases, after the corpse has been examined and sent to the morgue, it is photographed in accordance with the rules of signal (recognition) photography, dactyloscopy and selection of biological samples for the selection of a DNA profile, followed by the appointment of an identification molecular genetic examination. It is also important to collect information about missing persons who may have been in the explosion zone.

Establishing the sources and consequences of fires caused by explosions

Taking into account the fact that explosions caused by artillery fire and bombing are usually accompanied by fires, it is considered important to involve in the investigative review fire technicians and other specialists who participate in inspections of fire sites.

The general tasks of the inspection of the scene, where the fire occurs, are: analysis, study, recording of the place of fire, detection of the source of ignition; collecting traces of burning materials and structures that were caused by the explosion; planning of further procedural actions and operational search measures.

During the inspection, the investigative team gradually moves from the periphery to the center of the fire, using the concentric method of inspection. Meanwhile, an eccentric inspection method is possible, when the investigator and other inspection participants move from the most damaged objects to the peripheral environment. Upon completion of this stage of inspection, primary graphic documents are prepared, which record the condition of the burned premises. The direction of

burning and cells are fixed by using photo and video recording (Yusupov & Sakovskyi, 2022).

Next, the search, detection and collection of traces of the source of the fire, signs of the direction of burning, and the technical cause of the occurrence of this event are preliminarily found out. At this stage, it is allowed to disassemble the structures of the building or premises, which interfere with the detailed collection of evidence; survey participants remove the remains of burned materials, remove fire debris. They predetermine temperature indicators for changes in combustion in a room or building (Yusupov & Sakovskyi, 2022).

Features of the final stage of the investigative review

At the end of the dynamic stage of the review, during which various aspects of the explosion and its consequences caused by artillery shelling and bombing were comprehensively investigated, the investigator (a group of investigators) begins the final stage of the review. At this stage, the discovered material evidence and traces are carefully packed in special hermetic containers, special plastic safe-bags, after which the inspection results are processed, a protocol is drawn up and appendices are attached to it. Objects that have evidentiary value, but are impossible or impractical to be removed (for example, due to their bulkiness), remain under guard, and samples and copies are taken from them. According to Art. 71, 105 of the Criminal Procedure Code of Ukraine¹, written explanations of specialists, audio and video recordings, photo and illustrative tables, various casts, diagrams, etc. are allowed as appendices to the protocol. These documents and objects additionally explain the content of the review protocol, they can also reflect the process of clarifying the statements and reports of the participants of the investigative (search) action.

After the examination is completed, in order to establish the causes of death of the victims and determine the severity of the injuries inflicted on them, corpses and body fragments are sent to the morgue for forensic examinations, as well as their preparation for visual identification (recognition) by relatives and acquaintances. In parallel, issues regarding the appointment of a number of other forensic and special types of forensic examinations are being resolved.

Assignment of repeated and additional inspections of the scene

In some cases, a *repeated* or *additional* inspection of the building or structure may be conducted. The grounds for conducting a second inspection are identified

¹Criminal Procedure Code of Ukraine: Law of Ukraine No. 4651-VI. (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#n1191>.

deficiencies in the completeness of the initial inspection of the scene of the incident (for example, the threat of repeated shelling and bombing during the initial inspection, insufficient qualifications of the investigator or specialist, etc.), as well as in cases of discovery of new circumstances. The re-examination will make it possible to eliminate the identified shortcomings of the initial examination and fill the gaps in its results. When preparing for a re-examination, it is necessary to keep in mind that at the time of its implementation, the situation at the scene of the incident may undergo significant changes, as a result of which some evidence may be lost or altered.

An additional inspection is carried out in cases where, during the course of the investigation, circumstances have arisen in which it is necessary to inspect a section of the area, a room, a separate material object, which, for one reason or another, was not inspected before, or was inspected insufficiently thoroughly. One of the reasons may be the absence of a specific specialist at the initial examination. In such cases, not the entire area or premises are subject to inspection, but only their individual sections or objects.

Thus, in order to collect initial information about the nature and degree of damage and destruction in the premises of individual apartments of a residential building, an inspection is conducted with the participation of a group of specialists in the field of construction and design of buildings or structures, real estate appraisal specialists, representatives of housing and operation services and the public. The actual data collected during the additional survey about the nature and degree of damage and destruction will serve to prepare materials for conducting construction-technical, construction-evaluation and commodity expertise, etc. In the course of the research, a discussion of some of the provisions set forth in the scientific sources of individual Ukrainian and foreign forensic scientists, which were used in the preparation of this work, was carried out.

We agree with the opinion expressed by O.M. Dufenyuk (2022) regarding the need to use the practical experience of foreign specialists who have significant experience in the field of war crimes investigation and successfully use a number of developed standards and methodological recommendations for their logistical support in their activities. We support proposals for the creation of joint investigative groups from among Ukrainian investigators, specialists, experts and foreign specialists, conducting investigative (search) actions with their help, in particular inspections of the places of events related to shelling, bombing of buildings, structures and other objects. Today, such a practice already exists. Foreign specialists successfully assist in demining, identification of corpses, investigation of

explosive devices and substances, use of modern methods of investigation of war crimes. Thus, under the auspices of Eurojust (Eurojust, 2023), such a joint investigative group was created in March 2022, which, in addition to Ukrainian specialists, included specialists from Lithuania and Poland, and later Estonian, Latvian and Slovak colleagues joined them. Also, in April, a group of French gendarmes and forensics arrived in Ukraine (A detachment of gendarmes..., 2022). According to the General Prosecutor's Office of Ukraine, a group of French specialists examined bodies in places of mass burials, and in order to search for missing persons in Bucha, took genetic material from their relatives and compared it with samples of the DNA profile of unidentified corpses, conducted forensic medical examinations, worked in other places liberated from occupiers. We believe that this positive practice of cooperation should be continued and expanded.

The proposal of British scientists, who had summarized the practical experience of investigating war crimes in Bosnia, suggested conducting research on the soil, particles of vegetation in their scientific work, and pollen that could have accumulated on the body or clothes of the victims (Brown, 2006) was valid. Having read the materials of the article, one can come to the conclusion that the authors relied on the circumstances in which the corpses and body fragments of the victims were found not in the premises, but in the open area.

Regarding the topic to be investigated, this experience is useful in the conditions of such an investigative situation, in which, as a result of the explosion and the action of the shock wave, corpses and fragments of bodies ended up in the territory adjacent to the house. In such cases, during the examination, it is necessary to pay attention to the presence of such particles on the bodies or clothes of the victims, and in case of their detection, to ensure their fixation and removal. In the future, during forensic examinations, the results of the study of soils, objects of plant origin, plant varieties, together with the conclusions of explosive and other studies, will allow to more accurately establish the circumstances of the explosion at the scene. Therefore, this practical experience of British colleagues can be used in the investigation of war crimes, the circumstances of which are investigated in this work.

CONCLUSIONS

One of the most important investigative (search) actions carried out during the investigation of damage and destruction of buildings and structures as a result of artillery shelling and bombing is considered to be an inspection, during which the material situation is recorded, the mechanism of committing a war crime is clarified, physical evidence is collected and put forward possible

versions to ensure the most effective directions for the organization of further investigation. It is proven that the investigative inspection of buildings and structures that were subjected to artillery shelling and bombing during the investigation of war crimes is characterized by the presence of factors that pose a danger to the life and health of its participants; accordingly, the methods and methods of their elimination are revealed. Taking into account the practical experience of other countries, the organizational and tactical features of the inspection, the list of forces and means used for its implementation are given.

The main feature of conducting such an inspection are factors that pose a danger to the life and health of its participants in the presence of explosive objects and substances at the scene, the existence of a threat of further destruction of building structures and repeated shelling. The work of the rescue services of the State Emergency Service, the Ministry of Internal Affairs, units of the Armed Forces of Ukraine supposes identifying the wounded people and providing them with emergency medical and psychological assistance and evacuation, carrying out work on extinguishing fires, searching for

and disposing of explosive objects, radioactive, chemicals and their residues.

International experience, the creation of joint investigative teams composed of Ukrainian and foreign specialists for the investigation of war crimes, the use of special knowledge and the use of modern forensic techniques are of great importance for improving the effectiveness of reviews on the subject under investigation. In the context of this problem, one of the promising areas of further research is the implementation of complex scientific developments, mainly of a monographic research nature, on the issues of organizational and tactical features of conducting investigative reviews and other investigative (research) actions carried out with the aim of documenting the consequences of artillery shelling and bombing of various objects and the use of special knowledge during the investigation of war crimes.

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CONFLICT OF INTEREST

None.

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Юрій Олександрович Пілюков

Кандидат юридичних наук
Західноукраїнський національний університет
46009, вул. Львівська, 11, м. Тернопіль, Україна
<https://orcid.org/0000-0001-9952-3423>

Володимир Висильович Юсупов

Доктор юридичних наук, професор
Національна академія внутрішніх справ
03035, пл. Солом'янська, 1, м. Київ, Україна
<https://orcid.org/0000-0001-5216-4144>

Сергій Володимирович Банах

Доктор юридичних наук, доцент
Західноукраїнський національний університет
46009, вул. Львівська, 11, м. Тернопіль, Україна
<https://orcid.org/0000-0002-2300-1220>

Олександр Михайлович Шрамко

Доктор філософії в галузі права
Тернопільський науково-дослідний експертно-криміналістичний центр МВС України
46027, вул. С. Будного, 48, м. Тернопіль, Україна
<https://orcid.org/0000-0001-8294-899>

Особливості слідчого огляду будівель і споруд, які зазнали артилерійських обстрілів та бомбардувань під час розслідування воєнних злочинів

Анотація. Актуальність теми дослідження обумовлена сучасними вимогами правозастосовної практики судових і правоохоронних органів щодо належного документування воєнних злочинів російської федерації на території України, зокрема пов'язаних з пошкодженням, руйнуванням або повним знищенням будівель і споруд внаслідок артилерійських обстрілів та бомбардувань збройними силами країни-агресорки. Метою роботи є підготовка основних положень і практичних рекомендацій з проведення слідчого огляду будівель і споруд, що зазнали артилерійських обстрілів та бомбардувань, визначення його специфічних особливостей під час розслідування воєнних злочинів. Для досягнення мети статті були використані методи наукового дослідження: загальнонаукові – спостереження; порівняння; опис; аналіз та синтез; узагальнення; спеціальні – історико-правовий; догматичний; соціологічний; статистичний; системно-структурний; формально-логічний. У статті окреслено організаційно-тактичні заходи з підготовки та проведення слідчого огляду, надано обґрунтовані рекомендації щодо вибору до слідчого огляду різних спеціалістів, зазначено низку сучасних технічних прийомів і методів збирання доказової інформації на місці події. Для ефективного проведення слідчих оглядів пошкоджених та зруйнованих будівель і споруд під час розслідування воєнних злочинів, рекомендовано застосовувати криміналістичну техніку з пошуку та знешкодження вибухових пристроїв та речовин; безпілотні літальні апарати, оснащені засобами фото- та відеофіксації та інші сучасні техніко-криміналістичні засоби. Наукові положення і практичні рекомендації, викладені у статті, можуть бути використані у слідчій та судовій практиці щодо розслідування воєнних злочинів, а також у науковій діяльності та освітньому процесі при підготовці студентів юридичних спеціальностей у закладах вищої освіти

Ключові слова: військові кримінальні правопорушення; огляд місця події; спеціаліст; спеціальні знання; речові докази