

ASPECTS OF FORENSIC TACTICS AT THE CRIME SCENE INVESTIGATION OF MURDER CASES

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Abstract

Crime scene investigation is a procedural and criminalistics tactics activity aimed at a direct perception of the place where the crime was committed, at discovering, revealing, holding down, picking up and examining the clues, the evidence, indicating their position and their condition, in order to determine the nature and the circumstances in which the act was committed, as well as the data that are necessary in order to identify the perpetrator.

Specialist authors say that crime scene investigation is that initial action of criminal prosecution which is relevant in the whole of pursuits dedicated to solving an antisocial cause and it involves the immediate, direct and comprehensive knowledge of the place where the criminal act was committed.

According to the provisions of Article 192 of the Code of Criminal Proceedings, crime scene investigation may be reasonably required by the judicial body at any time this is deemed necessary in order to establish the facts about the situation of the place where the crime was committed, to discover and to hold down the clues related to the crime, to determine the position and the condition of the evidence and the circumstances in which the act was committed.

Crime scene investigation, as a procedure or an evidentiary activity, involves the direct perception by the criminal prosecution body or the trial court of the place where the act was committed so as to be able to draw conclusions about its nature, how it was committed, the number of perpetrators, and so on.

Keywords: *Criminal Law, Forensic Tactics, Judicial Body, Probative Activity, Criminal Field.*

1. Introduction

“Human being is the ultimate creation of the world who, with his restless spirit, is always striving for refinement¹.”

Life is the most precious asset of a person and at the same time the indispensable condition for the existence and perpetuation of an individual².

Defending one of the greatest values, which creates value itself, has a very special meaning. Endangering a human life is an action that jeopardizes not only the existence of an individual, but the aggregate of social relationships, man being the essence of these relations. Killing means suppressing the history maker, the beneficiary of the goods created together with his fellowmen. To defend this priceless value means that not only the human being is protected, but also the huge mass of social relationships³.

The acts which affect the life of a person create a danger not only to the existence of the isolated individual, but for all the people taken collectively, therefore the normal course of social relationships could not be possible without protecting this elementary and absolute value – life.

The first document concerned with the protection of human life was the “Declaration of Independence”

of July 4, 1776, which solemnly proclaimed the right to life for all people. The same ideas were also asserted by the “Universal Declaration of Human Rights”, adopted by the General Assembly of the United Nations on December 10, 1948. Article 3 of the Declaration says that: “Everyone has the right to life, liberty and security of person”. This right appears in other documents too, like the European Convention on the Protection of Human Rights and Fundamental Freedoms (Article 2) and the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE⁴.

In our country, this right is obviously a guarantee.

Article 22, paragraph (a) of the Constitution of Romania, adopted on December 8, 1991, provides that: “the right to life, as well as the right to a person’s physical and psychological integrity are guarantees”. With reference to the importance of protecting the social value represented by life, we need to underline that the criminal law materials obviously and certainly show that nothing is more important and more valuable than human life with all the attributes and implications resulting from its protection. We consider human life as a priceless, incalculable value, which cannot be compared to other goods or values defended by criminal law.

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¹ A. Boroï, “Infracțiuni contra vieții” (*Crimes Against Life*), Național Publishing House, Bucharest, 1996, p.5.

² T. Vasiliu, D. Pavel, G. Antoniu, and others, “Codul Penal comentat și adnotat – partea specială” (*The Criminal Code Commented and Annotated – The Special Part*), vol. I, Științifică și Enciclopedică Publishing House, Bucharest, 1975, p.68.

³ V. Dongoroz, “Explicații teoretice ale Codului Penal român” (*Theoretical Explanations of the Romanian Criminal Code*), vol. III, Academia Română Publishing House, Bucharest, 1971, p.7.

⁴ A. Boroï, cited work p.12–13.

2. The meaning of crime scene

Crime scene investigation is an important activity, which together with other prosecution actions contributes to the criminal aim, which is finding the truth.

Specialist authors⁵ say that crime scene investigation is that initial action of criminal prosecution which is relevant in the whole of pursuits dedicated to solving an antisocial cause and it involves the immediate, direct and comprehensive knowledge of the place where the criminal act was committed.

Crime scene investigation is a procedural and criminalistics tactics activity which is aimed at a direct perception of the place where the crime was committed, at discovering, revealing, holding down, picking up and examining the clues, the evidence, indicating their position and their condition, for the purpose of determining the nature and the circumstances in which the act was committed, as well as the data that are necessary in order to identify the perpetrator⁶.

According to the provisions of Article 192 of the Code of Criminal Proceedings, crime scene investigation may be reasonably required by the judicial body at any time this is deemed necessary in order to establish the facts about the situation of the place where the crime was committed, to discover and to hold down the clues related to the crime, to determine the position and the condition of the evidence and the circumstances in which the act was committed.

Crime scene investigation, as a procedure or evidentiary activity, involves the direct perception by the criminal prosecution body or the trial court of the place where the act was committed so as to be able to draw conclusions about its nature, how it was committed, the number of perpetrators, etc.

The term “crime scene” or the “scene of the crime” (criminal prosecution bodies also called it crime area in their practice) is understood not only as the actual place where a crime was committed, but also other close areas or other places from which data could be obtained about the preparations, the act that was committed and its consequences, including the perpetrator’s way in and out of the crime area. According to the provisions of Article 41, paragraph 2 of the Code of Criminal Proceedings, the “crime scene” is the place where the criminal activity took place, in whole or a part of it, or where its result occurred.

In a broad sense, in case of murder, the notion of crime scene is understood appropriately as follows:

- the lot of land, the road section or the room where parts of a human body, or human skeleton, were discovered, as well as their surroundings;
- the place where the primary episode of the act

happened, meaning the place where the victim’s life was suppressed;

- the place where the victim was abandoned or where the body was dismembered, including its surroundings;
- the place where the victim died, in case that it is not the same as the place of the assault;
- the route followed by the victim after the assault by the place where the victim’s body was discovered;
- the ways in used by the offender to get into the crime area, as well as the place he or she used to leave the area;
- the route followed by the offender after leaving the crime area in the direction he or she moved to⁷.

In case of dismembered bodies, crime scene investigation involves as many activities like the ones above (different from one another) as the number of body parts discovered, so as, eventually, the crime scene in all its meaning takes shape. In other words, the meaning of crime scene is a sum of the places that make it, where the main sequence is the place where the primary episode happened – the suppression of a life – and the body was cut out.

According to the provisions of Article 195 of the Code of Criminal Proceedings, all the conclusions of the investigation of the crime scene are recorded in a report, to which photographs, drawings, sketches etc. are added.

3. The importance of crime scene investigation

The importance of crime scene investigation comes from the possibility of the criminal prosecution body or of the trial court to perceive directly the circumstances in which the offender acted, the objects he or she used or touched, how they worked, the outcomes, etc. All this helps to get an overall picture of the act, which is available to the judicial body for the purpose of investigating criminal causes.

The specific literature says that crime scene investigation is an evidential procedure with a deep significance in finding the truth, and for some cases (murder, robbery, destruction, serious work accidents, road, railway, ship and air accidents, etc.) a solution is basically inconceivable without this activity. This is because the crime scene is the place with the most clues or data referring to the crime and the perpetrator⁸.

This activity of an utmost importance to the forensic investigation of a murder has some specific features such as:

- Crime scene investigation is an initial activity in

⁵ C.Suciu, “Criminalistica” (*Criminalistics*), Didactică și Pedagogică Publishing House, Bucharest, 1972, p.503; I.Mircea, “Criminalistica” (*Criminalistics*), Didactică și Pedagogică Publishing House, Bucharest, 1978, p.148.

⁶ V.Bercheșan, C. Pletea, I.E.Sandu, “Tratat de tactică criminalistică” (*Treaty of Criminalistics Tactics*), Police Academy Publishing House, Carpați, Craiova, 1992, p.26.

⁷ Collective work, “Tratat de metodică criminalistică” (*Treaty of Criminalistics Methods*), p. 32.

⁸ Collective work, “Tratat practic de criminalistică” (*A Practical Treaty of Criminalistics*), Volume I, M.A.I. – I.G.P.– Institute of Criminalistics, Bucharest, The Publishing Service, 1976, p. 25.

the investigation of a murder, which requires the existence of findings related to the situation of the crime scene, in order to discover and hold down the clues related to the crime, to determine the position and the condition of the evidence or the circumstances in which the crime was committed (Article 192 / Code of Criminal Proceedings).

- Crime scene investigation is not only a simple initial act of criminal prosecution and criminalistics tactics, but also an activity of an immediate nature⁹.

If the place where a murder was committed holds the most clues or data referring to the crime and the offender, the urgency of the crime scene investigation is required because any delay can lead to a change in its ambience, to a loss or destruction of clues and evidence with negative consequences for the forensic investigation.

- Crime scene investigation is an obligatory activity. This activity is obligatory because the direct perception of the situation at the murder scene cannot be replaced by any other criminal prosecution activity. Its obligatory nature results also from the provisions of the criminal proceedings law, from some internal norms – orders or instructions developed by the Ministry of the Administration and the Interior or by the Prosecution Office attached to the High Court of Cassation and Justice – and from the practice of judicial bodies.

- Crime scene investigation is an activity which, normally, cannot be repeated. The inappropriate crime scene investigation and the deficiencies in materialising the results of this activity cannot be fixed. Once the investigation of the scene where the murder was committed is completed, the scene suffers changes: the members of the team enter the crime area, objects are moved from their initial place, after the team has left those who remain clear up the place in order to return it to its current use.

We should not mistake the unrepeatable nature of crime scene investigation with its interruption, the latter being possible in certain circumstances, such as: the nightfall; the vastness of the scene or some peculiarities which need much investigation time; the sudden appearance of atmosphere events (heavy rain, heavy snowfalls etc); the incomplete knowledge of the land lots or the routes that are covered by the notion of crime scene; the discovery of some source of danger (explosion, fire, etc).

Tactically, the investigation should be resumed by the same team that initiated it, ensuring the continuity of the previous activities and a unitary image of these activities. However, during the interruption, measures will be taken to protect and preserve the clues that have been examined, including the security of the crime scene.

With regard to the tasks or the objectives of crime scene investigation, presented in the specific literature¹⁰, they are as follows:

1. A direct examination of the place where the crime was committed
2. Searching, discovering, holding down, picking up, examining the clues and other evidence
3. Marking the route followed by the criminal (*iter criminis*), the objects on which the criminal acted, as well as the instruments he or she used
4. Determining the places from where some sequences of the crime could have been noticed
5. Identifying the people who have a connection with the investigated crime (perpetrators, people who were threatened, assaulted, other than the murder victim, etc.);
6. Elaborating and checking the versions referring to the crime that was committed, the perpetrators, as well as other circumstances (place, time, motive, purpose, etc.);
7. Determining the causes, the conditions and the circumstances which brought about or were favourable to the crimes, and the necessary preventive measures
8. Taking some measures to limit the damage and to prevent other harmful consequences

An evaluation of the information gathered during crime scene investigation provides data regarding the object and the subject of the crime, the content of the crime (the objective and the subjective aspects), as well as the identification of the wrongdoers. The object of the crime – the judicial one and the material one – takes shape against the background of the social relationships which were violated and the values targeted by the perpetrator.

The clues and the evidence may indicate the genetic profile, the blood type, the height, the weight, the gender of the perpetrator or possibly their identity. The manner in which the murder was committed may indicate some information regarding the transportation, the scatter of body fragments, changes of the ground ascertaining their dragging etc. – an aspect pertaining to the objective side of the crime, the number of perpetrators and so on. The findings allow the judicial bodies to determine the action or the inaction of the perpetrator, the consequence which is socially dangerous, the causality relation etc. With reference to the subjective side, the form of guilt with which the offender acted results from the materiality of the act, as the psychological position of the offender cannot be isolated from the activity by means of which it is accomplished¹¹.

⁹ C.Suciu, cited work, p. 503.

¹⁰ E.Stancu, cited work, p 9–10.

¹¹ C.Pletea, cited work, p 281.

4. Measures to be taken by the judicial bodies that arrived first at the scene

Pursuant to Article 324, paragraph 1 of the Code of Criminal Proceedings, the criminal prosecution in case of murders as well as other acts with a high degree of social danger provided by law is obligatorily carried out by the competent prosecutor.

According to the provisions of Article 288 of the Code of Criminal Proceedings, the prosecution bodies may take note of a murder that was committed through a complaint, a denunciation, or at their own initiative when they become aware by any means of a homicide or a suspicion of murder.

Practice has shown that in many cases the police bodies are the first approached in connection with: people who are missing from home, the discovery of a body showing signs of violent death, when body fragments or remains are found, including parts of a skeleton, the death of seriously injured people who were in a hospital etc.¹².

Among the urgent measures intended to ensure the preservation of the crime scene there are:

- a) Saving the victims and giving first aid. No matter the situation found at the crime scene – even if it is no longer necessary, before picking up the body parts, the officer or the under-officer present at the scene must write down and mark the place and the position of the victim at the time of their arrival. Marking is necessary because the discovery of one part of a body in a specific place requires the search for the other parts within the same perimeter, the forensic practice showing cases where all the parts of a dismembered body were thrown away at relatively small distances one from another¹³.
- b) Preserving the crime scene. The one arriving first at the scene must undertake some actions so as to exclude the possibility to change, by accident or intentionally, the initial aspect of the crime area. Therefore, he or she must ensure the security of the place where the act was committed and protect the clues and the objects existing in that place. It is possible that the perpetrators or their accomplices are among the strangers who enter the crime area, their purpose being to destroy any possible clues that remained after the act unfolded.

The officer or the under-officer must act tactfully and keep away from the body and the surrounding area all those who have no reason to be there (the “curious” ones and the “thrill seeking”).

It is absolutely necessary to observe the rules in force forbidding the police officers or under-officers and any other people, irrespective of their degree, position or capacity, to enter the crime scene if they have no tasks in connection with the crime scene investigation or with saving the victims.

In order to avoid the destruction, the deterioration, the disappearance or the change of the crime objects or clues, the parts of the body and the objects which may carry clues shall be covered with a cloth, with plastic foils, boxes, etc. Moreover, a safety belt shall be placed in order to keep strangers away, using the band with a specific indication, or, if there is no such band, ropes, wire and so on. The measures will be similar in case that the crime scene allows the use of a tracking dog for processing the clue of human scent.

- c) Identifying eye witnesses, suspicious people, identifying and arresting the perpetrators or taking measures to chase and catch them. The police officer who arrives first at the crime scene comes into contact with many people. Among those people, except for the curious ones, there may be some who perceived wholly or partially the circumstances of the murder, or who know some details about the perpetrator or the victim. These details which are provided by such people are very important to the cause, beginning with the identification of the victim or the information which can lead to the identification of the victim and the perpetrator, and continuing with their actions before and during the assault, the instrument which the offender used etc. and ending with the actions of the criminal after the killing, the direction to which he or she moved and possibly the means of transportation used to transport the body parts and which helped him or her escape the crime area. Other details may be concerned with the nature of the relations between the perpetrator and the victim, the reason of the conflict, the goods or valuables which were taken from the victim, other people who were present when the act took place and so on.

If the isolation of witnesses is meant to protect them from any foreign influence which might alter their testimony, isolating the perpetrators from the rest of people is intended to protect those concerned from any possible aggression by those who are present and who are revolted by the act, or by relatives of the victim.

If the perpetrator did not stay or was not identified at the crime scene, depending on the information provided by witnesses and the concrete possibilities existing at the crime scene, the officer or under-officer who first came there can take action to chase and catch the offender or to alert the police in the area where the offender headed to¹⁴.

Announcing the criminal prosecution body of the territory where the murder happened, who has the competence to carry out the crime scene investigation. The police officer who first arrived at the crime scene shall approach the criminal prosecution body that has the territorial competence in the area where the act was committed. The announcement must briefly indicate the nature of the crime, its main aspects, the localisation

¹² E.Stancu, cited work, p. 230.

¹³ V.Bercheșan, cited work, p. 375.

¹⁴ Collective work, “Tratat de metodică criminalistică” (*Treaty of Criminalistics Methods*), p. 32.

and the extent of the area where the murder was committed or where parts of the body were discovered, the measures taken and their outcomes, as well as other information that can be useful to the team carrying out the investigation.

The one who took the first measures has the obligation to stay at the scene until the investigation team arrive and inform the head of the team on the measures taken by that time and the measures which are under way, the initial aspect of the crime scene, the changes that intervened, who made them and for what purpose, the witnesses and the other people who were identified and the information obtained from them.

The specific literature underlines the special role played by the person who arrives first at the scene, as the subsequent unfolding of the forensic investigation depends to a large extent on their professionalism and how they accomplish their specific duties¹⁵.

5. Preparation for the crime scene investigation. The importance of having the murder crimes investigated

The preparations for carrying out the investigation cover two phases: at the office of the judicial body and at the crime scene.

Among the measures taken before going to the crime scene there are:

5.1. Receiving, recording and checking the announcement.

No matter if there is a complaint or a denunciation, the prosecution body must take down the date and the specific time when the announcement was received, who made the announcement and from where, including the means used to make the announcement. The person receiving the announcement has the obligation to verify the competence and if he or she finds that another body is competent, then he or she immediately has to inform that competent body to carry out the investigation of the crime scene. That body has to proceed to: identify the person who made the complaint or the denunciation; check the announcement to see if the things announced are real and also with regard to the place where the crime was committed, its amplitude and its consequences and so on.

5.2. The technical and material provision.

This activity involves the following: preparing the universal criminalistics tool kit; preparing the DNA testing kit; preparing the set for taking photographs (cameras, films, filters, lamps with blitz etc.); checking the forensic auto laboratory; providing the team with the necessary equipment for filming, video filming, audio recording; providing the members of the team

with the materials which are necessary for communication and keeping in touch; preparing other materials (body detectors, or metal or radiation detectors, equipment for filming or taking photographs under water etc.).

5.3. Ensuring the presence of experts, the presence of the lawyer and the assisting witnesses.

The multiple aspects covered by murders and the variety of the issues in various fields of activity require that other experts are also included in the investigation team. For instance, in the presence of the head of the team, they can carry out checks and research using some appropriate devices which are not available to the investigation team¹⁶.

In case of homicides, the investigation team at the scene is made of the prosecutor, the coroner, the criminalists, other police officers usually from the forensic forces and the officer with the tracking dog and specialists in other fields.

The established team shall perform the tasks assigned by the prosecutor, the prosecutor being the one who leads the activities for searching, discovering, holding down and picking up the clues and the evidence.

According to Article 89 of the Code of Criminal Proceedings, when the perpetrator stayed at the crime scene, was chased and caught by the police bodies that first arrived at the scene, or by witnesses, a lawyer must be present for this activity.

With regard to the assisting witnesses, the criminalistics tactic recommends that they are provided before getting to the crime scene.

5.4. Ensuring the operative movement of the team to the crime scene.

The movement to the crime scene must take place with the maximum of urgency, as any delay can create difficulties for the investigation, as well as for the result of subsequent activities¹⁷.

After the arrival at the crime scene and before starting the actual examination, the team must take some urgent measures. Depending on the peculiarities of each case and the consequences of the activities of the offender, the nature and the configuration of the ground that will be investigated, these measures consist in:

- the operative information about the event which took place;
- checking how the one who arrived first at the scene had acted by the time the team arrived, and the outcomes of his or her action, deciding either to continue the measures taken or to complement them by other activities of a maximum urgency, or to start them again;
- determining the modifications that intervened in the initial aspect of the crime scene;

¹⁵ E.Stancu, cited work, p. 231.

¹⁶ Collective work, "Tratat de metodică criminalistică" (*Treaty of Criminalistics Methods*), p. 37.

¹⁷ Collective work, "Tratat de metodică criminalistică" (*Treaty of Criminalistics Methods*), p. 36.

- appropriately marking the area to be investigated;
- identifying the eye witnesses and the people who have no reason to be present in that area or who cannot offer a plausible explanation about the actions taken after the murder was committed (moving parts of the body to another place, cleaning up the place where the crime was committed, being late in announcing the judicial bodies, etc.);
- organising or extending the security measures at the crime scene, including the measures meant to remove any imminent danger (fires, explosions, etc.);
- determining the concrete examination methods;
- all the participants putting on the sterile equipment for carrying out the investigation of the scene.

Marking the place to be investigated is the “key” of the entire activity, and it has the purpose of delimitating the area – the room or the open space where the episodes of the crime took place, as well as its surroundings. Only by acting like that a premise can be created for discovering all the clues and all the evidence that are connected to the cause¹⁸.

Irrespective of the situation at the crime scene, it is recommended that the limits set are broader, having therefore the certainty that no areas which hold clues are omitted.

So, if the homicide took place in a building in an urban area, the investigation must include all the rooms and the annexes (kitchens, hallways, bathrooms, stairs, balconies, lodges, garages, etc.), as well as the common premises. The investigators must not rule out the possibility that, depending on the clues that were discovered and the interpretation of the mechanism involved in their formation or the discovery of the so-called “negative circumstances”, as well as on the anticipation of the motive and the purpose of the crime, the investigation is extended to the neighbouring apartments and buildings. A tracking dog can be really useful for processing the scent clue.

In case of rural houses, besides the examination of all rooms, it is necessary to investigate the annexes of the household (the stable, the shed, the barn, the storehouse, the cellar, storehouses for construction materials, the garden, the orchard, slaking pits, etc.), as well as the buildings neighbouring the place where the body parts were discovered, the lands used for agriculture, forestry or fishery, belonging either to the victim, or to other people who are in a conflict with the victim.

If the investigated area is in a field, in the woods or in water, the surface to be examined must be extended so as to cover a distance as long as possible, including roads, paths, passing points (bridges, viaducts), by the bordering localities or highly circulated national or county roadways.

If there are parts of the body that were discovered in water, the investigators must not overlook the banks

of lakes, rivers, the roadways leading to them and away from them to the outskirts, the buildings or the establishments in the immediate neighbourhood (houses, motels, campsites etc.).

To conclude, the area may be extended or restrained as appropriate, the final aim being not to overlook any section of land which could contain clues or evidence.

Besides the activities that have been presented, the head of the investigation team must take other measures too, such as:

- organising the data gathering activity which must take place at the same time with the crime scene investigation;
- ensuring that activities continue in the areas which are not affected by the crime;
- ensuring the places, the documents which are important to the cause (registers, records etc);
- removing the sources of danger and ensuring that the investigation takes place in a safe climate;
- informing the members of the team about the results obtained during the first measures and guiding the investigation depending on the information obtained;
- determining how the members of the team keep in touch and how they exchange information;
- ensuring the judicious use of human resources and the cooperation with other bodies;
- ensuring the presence of assisting witnesses, the presence of the lawyer or other people (specialists, interpreter, etc.).

The specific literature and judicial practice often refer to the “investigation of the murder by a team”. This is because the particular social danger associated with the crimes against life requires a concentration of all knowledge, expertise and skills of specialists from various fields of activity involved in fighting crime and serving justice.

In order to find out the truth in a particular cause, it is necessary to make a full and operative use of data and information about the murder that was committed. This cannot however be done by a single person, being necessary to corroborate the efforts of several specialists, each of them acting according to his or her speciality in order to achieve the final aim.

The factors called upon to clarify the specific issues of a homicide cannot act separately, inconsistently, as a mode of action like that leads invariably to an unjustified delay of the investigation and the occurrence of miscarriages of justice¹⁹.

Therefore, we can say that the investigation of a murder by a team is established as a methodological rule of forensic investigation, being imposed both by legal provisions and by practical necessities.

¹⁸ Collective work, “Tratat de metodică criminalistică” (*Treaty of Criminalistics Methods*), p. 35.

¹⁹ E.Stancu, cited work, p. 229.

6. The actual investigation of the crime scene

Crime scene investigation, being a laborious, lasting activity, which needs accuracy, calm, cautiousness, physical and intellectual efforts and even sacrifices, requires a lot of attention from those who carry it out. Without excluding the factors which disrupt attention (tiredness, the surroundings, a decreased interest in discovering other clues too etc.), it needs to be equally distributed throughout the duration of the activity. Irrespective of the condition in which it takes place, one must never have prejudices when going to investigate a crime scene. We should not neglect that all possible versions are worthless to the cause as long as they have not been checked and confirmed by the result of the activities carried out and especially by the crime scene investigation²⁰.

Carrying out the crime scene investigation involves, obligatorily, two phases, namely the static phase and the dynamic phase.

Investigating a homicide in the static phase starts with observing the place where the murder was committed, where the parts of the body were discovered or where a human skeleton was found. The static phase will also start with the preparation measures taken by the prosecutor who leads the investigation team, which are aimed at complementing or checking the measures taken initially by the judicial body that arrived first at the scene.

6.1. The investigation of the crime scene shall start with the following activities:

The coroner determines whether the parts that were discovered belong to a human body. It is obvious that this problem can be definitively solved only after the forensic tests have been completed in case that the external aspect of the parts is much degraded. At least, at a first sight, the following shall be determined: the species, the anthropologic type, the race, whether the body fragments belong to just one person, the existing clues (signs of trauma, prints or other kind of clues). These operations are carried out in the presence of the prosecutor.

Irrespective of the configuration or the nature of the crime scene, the first who enters the crime scene is the criminalist, followed by the head of the investigation team and the coroner. The coroner can formulate conclusions regarding the instruments used to take the human life, the wounds created by those instruments, the objects used by the perpetrator to hack the body, how the body was fragmented (either through cutting, or through breaking or tearing apart).

The clues or the evidence, encountered throughout the route taken by the criminalist and his or her companions, shall be marked with indication numbers and protected so as they are not destroyed by other members of the investigation team.

For the prosecutor to get an overall picture of the crime area, the investigators shall proceed to a general examination of the crime scene, being interested in the forensic and topographic orientation of the investigated perimeter.

By marking the clues and the evidence, the criminalist can have some direct contact, a real perception of the crime scene, which makes it possible to develop some versions regarding the number of perpetrators, the instruments that were used, the existence of micro clues and the places where they need to be looked for, etc²¹.

Getting some details about the victim, the act and the people who have knowledge of the murder and the perpetrator, eye witnesses being of a particular interest.

In case of the examination of dismembered bodies, the investigation methods are essentially the general ones, with some peculiarities determined however by the specificity of these cases.

Provided that all the parts making a body were found in the same place or in the surrounding areas, the coroner can estimate the size, the gender, the age, different morphologic particularities, the time of death, the means used to section the body.

If only a part of the body was discovered in the investigation process, the people who can provide information about how that part of the body was found will be interviewed, and the coroner is asked to determine, as much as possible, the age, the size, the cause and the approximate day of the death, the instruments that were used in fragmenting the victim. Another action consists in gathering information from the police units in other districts of Bucharest or other localities with regard to the missing persons and whether they found any body parts in their territory.

In case that the head of a victim was discovered and it is not disfigured, or if the upper limbs or parts of the body that have scars, prostheses, tattoos, warts, professional callosities, some malformations were discovered, all these will be considered when drawing up the report of the external particulars. The investigation task that follows immediately is to discover the other parts of the body, so as, based on them, to identify the victim.

The ascertainment of any possible changes that intervened at the scene, after the murder has been committed, is concerned with the position of the parts of the body and the condition of the objects in the context of the crime area, as well as the changes in the content of some clues.

In order to determine the changes in the surroundings of the crime scene, the investigation team shall call on the people who were present in that place and who knew its initial appearance. If there are no such people, the investigation team shall take a closer look at the crime scene throughout its activity.

²⁰ Collective work, "Tratat de metodică criminalistică" (*Treaty of Criminalistics Methods*), p. 43.

²¹ C.Pletea, cited work, p. 283.

Determining the point where the investigation starts off; usually, it is recommended that the investigation takes place in a spiral, going from the parts of the body towards the periphery of the crime scene, if there are no other circumstances which require the method of centripetal investigation²².

On this occasion, all the changes that intervened because of the crime shall be examined, taking care not to destroy any clue. Considerable attention shall be paid to the ways in and out the perimeter of the crime scene, because this offers the most numerous possibilities to discover the clues left behind by the offender. Therefore, only the prosecutor and the coroner shall enter the crime area, avoiding the possible destruction of any clues and the change of the position of the objects found with the body.

This rule must be strictly observed because the so-called positional clues (cardboard boxes, strings, plastic bags, buried, dumped in rivers, woods, a turned up car, a drain clogged up with organs, etc.) are especially relevant in clarifying how the crime was committed. As the number of officers entering the crime area increases, so does the risk of degrading the clues and drawing erroneous conclusions with regard to the circumstances in which the act was committed.

Selecting the witnesses who assist in the crime scene investigation. If there are many people holding information, it is possible to select the witnesses based on the quality of the data they have, their personality, their objectivity and position in relation to the investigated cause, thus avoiding useless, collateral data, which have no significance or can slow down the investigation.

Another activity which is specific to the static phase is the processing of human scent with the tracking dog. This operation starts with the clothing on the parts of the body (if any) and the clothes of the offender. We think however that this activity has the value of a rough guide for the subsequent investigation.

Additionally, the use of olfactory clues can also encounter some difficulties due to the entry of numerous people in the examined area.

For a correct evaluation of the existing situation, the investigators shall write down the time they enter the scene to be investigated, the condition of the doors, windows, lighting devices, appliances, the visibility, the atmospheric conditions, the persisting smells, the condition of the ways in, the location of different objects, the position of the body, etc²³.

The investigation in the static phase ends with holding down the positions in which the body fragments were found, their location in relation to different objects in the crime scene, as well as of the other instruments in the crime area. These are held down by taking photos, filming or video recording.

For a full and operative retention of the picture of the entire crime scene it is useful to hold it down using

the video devices with which the judicial bodies are provided. In practice, there are cases when video recording serves directly to carefully examine the crime scene and the elaboration of a realistic version with regard to the perpetrator.

Holding down the positions of the body fragments, and of the most relevant picture or objects of the crime scene, corroborated with the data obtained from tactical - forensic investigations carried out by the investigation team, lead to some conclusions with regard to the nature of the act, the time and the circumstances in which the murder was committed, the place where the criminal hacking happened, and possibly, the motive or the purpose of the crime.

The photographs taken in this phase have a guiding role, a sketch, and when there is a danger of disappearance or degradation, photographs of the main objects or of the clues are taken.

In conclusion, in the static phase of the investigation of the body parts, the following are ascertained: their place and position, which parts of the body they come from, the gender, the age and the approximate size, whether the remains belong to the same human body, the kind and the colour of clothes, the objects and the clues in their immediate surroundings.

6.2. The dynamic phase of the investigation is a continuation of the static phase, with specific methods however (a thorough and multilateral examination of each clue, as at this stage the objects carrying any clues are moved and construed (scientifically), this being the most complex stage in which all the members of the team participate.

Determining the scene of a crime is an important step of the dynamic phase, because in the practice of the prosecution bodies there are situations when the crime scene is not always the place where the victim was found. Therefore, a lack of clues or very few clues left behind determine the appearance of negative circumstances. The ascertainment of the crime scene leads to conclusions referring to: the nature of the relationships between the perpetrator and the victim, whether the victim was taken by surprise, whether the victim resisted, finding the circle of suspects, etc.

In case of dismembered bodies, the crime scene is the lot of land on which every segment of the body is discovered, the place where the main episode unfolded being the basis of the crime scene²⁴.

The investigation starts with the parts of the body (their clothing, other clues, etc.) and the area beneath them, and then the area around them will be examined.

The examination of the body parts involves analysing the clothes, the packing, the components,

²² I.Mircea, cited work, p. 177.

²³ C.Pletea, cited work, p. 283.

²⁴ C.Pletea, cited work, p. 285.

how the packing is made, the bonds, the footwear and their body²⁵.

If the fragments of the found body show traces of clothing, these will be examined in a predetermined order, usually starting with the articles at the exterior of the upper part of the body and continuing with the underwear, the pants and the shoes.

During this operation, the following will be described:

- the existence of every single item of clothing, their size and measure, whether they are typical of the victim's gender and appropriate for the season;
- their position and how they are placed on the body remains;
- the individual characteristics of every item of clothing (for example, is it an item of mass production or tailor-made, the type of cut, the kind of fabric, the lining, the colour, the logo, the brand, any possible monograms, etc.);
- signs of dragging, any recent dirt (dust, mud, etc.) or other signs of violence present on clothing; these clues shall be described in point of: number, location, form, dimensions, the aspect of their edges, lack of substance, the aspect of violence signs imprinted in the fabric they are made of (cutting, tearing, unpicking, perforation, attack with corrosive, caustic substances, burning, pulling apart, etc.);
- the presence, the condition and the position of buttons and other fixing accessories (zippers, bands, strings, straps, belts);
- the socks (the type, the fabric they are made of, the form, the size, the colour, the presence of adhering foreign bodies or substances, whether they were mended or patched up);
- articles of footwear; they will be examined in point of: their kind, their type, the model, the size, the colour, the materials they are made of, the brand, the degree of wearing, the configuration of the sole (the geometry of insertions), characteristic deformations, deposits of foreign substances or bodies, painting, re-painting, the kind of laces, repairs, signs of violence (breaking, friction, scratching, punching, pulling apart).

In other situations, these items of clothing may somehow be missing, because in order to hide and take out the parts of the body without being noticed, the perpetrator packs up these fragments. Therefore, the packing material which was found (bags, boxes, mats, bed sheets, blankets, tote bags, accompanied by strings, belts, ropes, etc.) needs to be examined very carefully, described in the report, photographed and kept as *corpora delicti* which are valuable and often help identify the killer or killers²⁶.

The articles of clothing and the accessories belonging to the wrongdoer or the suspect are examined in the same way as in the case of the body. There is also an additional activity aimed at discovering specific

clues, such as picking up any kind of biological clues: epithelial cells, secretions, blood, fragments of tissue, biological clues which may come from the victim or from the perpetrator, signs of violence due to the victim's defending himself or herself, papillary clues (digital – palmar and plantar), traces of saliva, cigarette ends, measures taken to remove any marks caused by the crime, etc.

The examination of each body segment shall be performed very carefully by the coroner, in the presence of the prosecutor, describing:

- any signs of violence (number, the location in relation to some anatomical points of reference, their kind, the exterior aspect of the wounds, the shape of edges, any adhering foreign substances or bodies, the inclination of wounds, etc.)
- any particular signs (their kind and type, their location, the form and the aspect, the dimensions, the tint, their congenital or acquired nature, etc.)
- other signs of the crime (deposits of substances, of normal or pathological biologic products, such as: blood, saliva, sperm, hairs, pus, nail fragments, etc., toxic or caustic products and so on).

For bodies of an unknown identity as well as for segments of such bodies, the examination and the description refer additionally to the following aspects: the gender, the apparent age, the size, the most important diameters, the type of body-build, the colour of hair and eyes, the condition of the teeth and the dental formula, the under nail deposit, any signs of putrefaction and its status, the smell (objects can be found inside the mouth cavity, which were used to suffocate the victim or to prevent crying), the position of the body (the inclination of the head, the position of the extremities in relation to the trunk, whether in water, in mud, in the ground, under debris, suspended in a halter etc), the colour of the skin and the mucous membranes, any leak of biological products, marks left by knots and bonds on the parts of the body, whether there are any eviscerations of different organs, etc.

Basically, the dynamic phase of the crime scene investigation is reduced to the following activities:

- a) taking detailed photos and filming the clues found on parts of the body and on the clothing, after they were first held down in topographic and forensic terms (describing their nature, form, colour, smell, formation mechanism, etc.), by measuring in relation to other clues, body fragments or other fragments found at the scene;

There are various ways to pick up the clues and the micro clues, as regards the marking of the clue or the carrying object. They can be picked up by wadding, scraping, photographing, with a standard sample in natural size, others with the help of sticky films like folio, and those which need processing in a laboratory are picked up together with their support, if their dimensions allow them to be moved.²⁷

²⁵ Collective work, "Tratat practic de criminalistică" (*A Practical Treaty of Criminalistics*) Volume I, p. 434.

²⁶ S.P. Mitricev and P.I. Tarasov-Rodionov, "Criminalistica" (*Criminalistics*), Part 2, translated into Romanian, Bucharest, 1954, p. 170.

²⁷ C. Pletea, cited work, p. 284.

- b) taking down the particulars of the body segments;
- c) examining the clothing and the footwear of the body;
- d) requesting the necropsy in order to determine the cause of death and take samples of blood, saliva, stomach content, secretions and excretions;
- e) examining the parts of the body in order to discover lesions, scars, malformations, putrefaction stages, any possible diseases, characteristics of the teeth, etc; taking prints, the toilet and the restoration of the body are performed by the criminalist and the coroner at the office of the forensic body;
- f) taking samples of hair and the under nail deposit.

If all the segments were found, the coroner shall proceed to assemble them, reconstructing the whole body, and afterwards the body will be shown to relatives or other people who used to know the victim.²⁸

We need to specify that each segment is photographed in the place where it was found (alone, then with its surroundings), then the entire reconstructed body is photographed. Previously, each item of clothing or the parts of clothing are photographed too, as well as the assembled clothing, in which the body will be dressed before taking a photograph.

In case that parts of the body are found buried, the photographs may indicate in succession the stages of exhumation, their aspect and position at each stage of the search, and also after being taken out.

The findings shall be recorded also in a report (with a thorough description of the place where each segment was found, the clothing and that segment, lesions, etc.) and a sketch (for each area where the body segments were found).

The investigation helps obtain the data that are necessary to determine the perpetrator's *modus operandi*²⁹, such as: ascertaining the manner in which the murder was committed (with cutting – splitting objects, mechanical asphyxia, physical factors, toxic substances, firearms or explosives, biological or psychological factors); determining the manner in which the clues were destroyed; determining the goods or valuables which belonged to the victim, those taken by the offender and how they were turned to profit.

An essential issue in finding out the truth in a criminal cause is to clarify the negative circumstances, which are characterised by an inconsistency between the condition of the victim at that time, the victim's lesions and the actual situation in the crime area (discovery of a body with deep cut wounds, when there is not much blood around it)³⁰.

Crime scene investigation is an activity concerned with the scientific investigation of the clues

and the objects existing at the crime scene in order to determine the route followed by the offender (the "*iter criminis*"), the traces left behind by the offender, for the purpose of determining his or her personality. It is known that when the perpetrator attains the purpose of his or her action, a relaxation occurs, called partial or total abolition of censure, an aspect which could be used by the investigation team who identify the clues created due to the invoked condition³¹.

Among the problems solved by the crime scene investigation there are: the nature of the act that was committed, the place and the time when it was committed, the perpetrators and their capacity, the identity and the age of the person that was harmed; the motive of the act; the conditions and the circumstances which were favourable to the crime and the prevention measures which are necessary.

The determination of the nature of the act requires the identification of lesions, establishing which ones led to the victim's death and which was their succession. The presence of lesions and their morphology help determine the characteristics of the instrument used to commit the murder, which sometimes is abandoned near the victim or in other places far away from the crime area.

The day of the crime is considered a critical time which is determined approximately, depending on several factors, such as: the forensic findings, the aspects resulting from the examination of the crime scene and ascertained after having conducted several prosecution activities.

The factors that may be taken into account in order to determine the day of death could be: the occurrence of rigor mortis, the temperature of the body, the body changes, the examination of the stomach content, the status of decomposition etc.

Determining the identity of the victim is a central issue for the investigation team, an activity which starts at the time of the external examination and continues with the articles of clothing. The operations concerned with the identification of the body are: toilet making, the reconstruction, taking prints, taking biological samples, picking samples of the under nail deposit, making the dental chart, taking photos of the particulars, lining up for recognition etc.

The *modus operandi* is a faithful representation of the perpetrator's personality.³² The description of the *modus operandi* covers the following stages:

- the contact with the crime scene by gathering data about future victims, their routine, the goods they possess, the places where they store them, their family situation, etc.;
- drawing up, theoretically, an action plan and checking its viability, requiring the recognition of the

²⁸ M. Terbancea, I. Enescu, A. Simionescu, and others, "Ghidul procurorului criminalist" (*Guide for the Criminalist Prosecutor*), Volume I, Helicon Publishing House, Timișoara, 1995, p. 75.

²⁹ Collective work, "Tratat practic criminalistic" (*A Practical Criminalistics Treaty*), p. 436.

³⁰ E. Stancu, cited work, p. 235.

³¹ C. Pletea, cited work, p. 284.

³² C. Pletea, cited work, p. 287.

crime scene with a check of the data previously obtained from various sources;

- the manner in which the perpetrator acted to get in, the annihilation of the victim (hitting, immobilisation, use of white arms, firearms, drugs, etc.), taking goods, leaving the crime scene;
- turning the product of the crime to profit.

The motive of the crime is the internal impetus, as an exclusive psychological element, which influences the criminal to commit the act, while the purpose is the result pursued by killing³³.

It is obligatory to record all the findings, no matter whether it is possible to confirm a connection between the clues, the evidence or the various circumstances and versions regarding the manner in which the crime was committed. The results of the crime scene investigation are checked by requesting technical – scientific ascertainment or expertise, or through other specific activities.

6. Conclusions

The crimes against life, although different in point of their legal content, have many common features in forensic terms. Irrespective of the legal description, the body must be discovered and identified, the cause of death must be determined, as well as the place and the time of death, the circumstances which were favourable to the crime, the

motive and the purpose of the crime, the identity of the perpetrator and of the people who have useful knowledge for finding out the truth.

Criminalistics provides the judicial bodies with the methods and the technical – scientific means which are necessary for discovering, holding down, picking up and examining the clues of the homicide, and determining the identity of the perpetrator and that of the victim.

Murders are clearly different from other categories of crimes first through the social danger involved which is a special one and the circumstances in which they are committed.

Investigating a murder therefore involves carrying out some complex forensic and scientific investigation activities, under the coordination of a prosecutor.

The prosecutor, in cooperation with the police officers from the forensic service - the “homicide” work line and the criminalistics service, carry out the prosecution acts in order to determine the elements making the crime, the identity of the perpetrator and that of the victim, with the help of the methods of criminalistics.

An important role is also that of the coroner, who investigates the medical aspects and solves the problem referring to the cause and nature of the death, the causality link between the action and its consequences, identifies the victim reconstructing the body based on the discovered fragments, etc.

References

- A.Boroi, “Infrafracțiuni contra vieții” (*Crimes Against Life*), Național Publishing House, Bucharest, 1996
- T.Vasiliu, D.Pavel, G.Antoniu, and others, “Codul Penal comentat și adnotat – partea specială” (*The Criminal Code Commented and Annotated – The Special Part*), vol.I, Științifică și Enciclopedică Publishing House, Bucharest, 1975
- V.Dongoroz, “Explicații teoretice ale Codului Penal român” (*Theoretical Explanations of the Romanian Criminal Code*), vol.III, Academia Română Publishing House, Bucharest, 1971
- C.Suciu, “Criminalistica” (*Criminalistics*), Didactică și Pedagogică Publishing House, Bucharest, 1972
- I.Mircea, “Criminalistica” (*Criminalistics*), Didactică și Pedagogică Publishing House, Bucharest, 1978
- V.Bercheșan, C. Pletea, I.E.Sandu, “Tratat de tactică criminalistică” (*Treaty of Criminalistics Tactics*), Police Academy Publishing House, Carpați, Craiova, 1992
- Collective work, “Tratat practic de criminalistică” (*A Practical Treaty of Criminalistics*), Volume I, M.A.I. – I.G.P.– Institute of Criminalistics, Bucharest, The Publishing Service, 1976
- S.P. Mitricev and P.I. Tarasov–Rodionov, “Criminalistica” (*Criminalistics*), Part 2, translated into Romanian, Bucharest, 1954
- M. Terbancea, I. Enescu, A. Simionescu, and others, “Ghidul procurorului criminalist” (*Guide for the Criminalist Prosecutor*), Volume I, Helicon Publishing House, Timișoara, 1995

³³ Idem.