

DOI: 10.33766/2524-0323.96.238-250

УДК 343.98: 343.611(477)

*Kovalenko V., PhD in Law, professor Professor in the Chair of Criminal-Law Disciplines  
Luhansk State University of Internal Affairs named after E. Didorenko  
(Sievierodonetsk, Ukraine)*

**e-mail:** kvvkrimludv@ukr.net

**ORCID iD :** <https://orcid.org/0000-0001-5310-2092>

*Kibenko V., Master's Degree applicant Luhansk State University of Internal Affairs named  
after E. Didorenko (Sievierodonetsk, Ukraine)*

**e-mail:** kibenko04@gmail.com

**ORCID iD :** <https://orcid.org/0000-0001-9492-8157>

### FORENSIC CLASSIFICATION OF INTENTIONAL MURDERS, COMMITTED IN CONDITIONS OF OBSCURITY

The article is devoted to the study of the problems of forensic classification of intentional murders committed in conditions of obscurity. It is noted that the detection and investigation of intentional murders is complicated by a large number of their varieties, each of which has its own characteristics: specific methods, traces, motivation of the offender, the nature of his connections with the victim, and so on.

It is emphasized that the structure and content of the basics of the methodology of investigation of intentional murders committed in conditions of obscurity should be dictated by the place of such a crime in the forensic classification of premeditated murders.

It is proved that the division of non-obvious murders into ones with sudden intent, and ones, intent to committing which arose in advance is the most significant for the proposed study. These subtypes of non-obvious murders differ in the typical features of the victim, the situation and methods of commission, the motivation of the offender. By the motivation of the offender, most often in conditions of non-obviousness, murders are committed for selfish, hooligan motives, murders for revenge, to satisfy sadistic (sadistic-sexual) needs, contract killings, and so on.

It is concluded that intentional murder, committed in conditions of obscurity is a specific type of premeditated murder. It is proposed to define intentional murder, committed in conditions of obscurity as a murder committed in the absence of eyewitnesses, commitment of which resulted in a small number of traces (due to their concealment by a criminal or for other reasons), and the initial stage of the investigation of which characterizes by the lack of information a crime and the absence of signs that directly indicate the offender. It is stated that the "non-obviousness" of the murder is a characteristic of both the event of the crime (primarily the circumstances of its commission) and the initial stage of its investigation. Such murders can be further divided into subspecies (contract killing, murder with dismemberment of a corpse, disguised by staging, etc.). Each subspecies has its own specifics of disclosure and investigation.

**Keywords:** intentional murder, conditions of obscurity, forensic methodology, forensic characteristics, forensic classification.

© Kovalenko V.,  
Kibenko V., 2021

**Formulation of the problem.** Intentional homicide is one of the most serious crimes under the current Criminal Code of Ukraine. Unfortunately, such criminal offenses are often committed on the territory of our state. According to the Office of the Prosecutor General, in 2020, 3,783 cases of premeditated murder under Art. 115 of the Criminal Code of Ukraine were accounted. At the same time, the effectiveness of investigation of such crimes remains low: in 2020, only 32.7 % of criminal proceedings in this category were notified of suspicion and only 22.8 % of proceedings were sent to court under par. 2, 3 art. 283 of the Criminal Procedure Code of Ukraine [1].

Detection and investigation of intentional murders is complicated by a large number of their varieties, each of which has its own characteristics: specific methods, traces, motivation of the offender, the nature of his connections with the victim, and so on. Traditionally, the most difficult to detect and investigate are intentional murders, committed in conditions of obscurity, ie in the absence of eyewitnesses and clues that directly link the crime to the perpetrator. It is such criminal offenses that most need methodological forensic recommendations for their investigation.

**Analysis of recent research and publications.** Problems of forensic classification of crimes were investigated by R. Belkin, A. Volobuev, V. Zhuravel, V. Karagodin, O. Kolesnychenko, V. Kolmakov, O. Lyubchynskii, G. Matusovsky, G. Mudyugin, O. Oderiy, O. Pchelina, M. Saltevsyky, R. Stepanyuk, V. Shepitko, B. Shchur and other scientists. The problems of forensic classification of premeditated murders were directly considered in the works of I. Borysenko, L. Vidonov, F. Glazirin, M. Kitayev, A. Kovalenko, V. Konovalova, I. Kubarev, E. Tikhonov, O. Sainchin, L. Soya-Serko, V. Sinchuk, A. Shulga, etc. However, despite a number of formulated provisions in the domestic forensic literature, the issues of forensic classification of intentional murders, committed in conditions of obscurity, remain insufficiently researched or debated given the realities of today.

**The purpose of the article.** The purpose of the article is to improve the forensic classification of intentional murders, committed in conditions of obscurity based on the study of special literature, for the needs of forensic methods of investigation of this type of crimes.

**Research results.** Recommendations for determining the typical algorithms (schemes) of the investigator's actions during the pre-trial investigation of a certain type of crime are developed in the form of separate forensic methodics. According to V. Shepitko, separate forensic methodics of investigation are based on criminal law, criminological, and criminal procedural data; scientific provisions of the theory of forensic science, data of other sciences, results of the generalized experience of investigative and judicial bodies and norms of the corresponding legislation and other regulations [2, p. 417].

R. Stepaniuk notes that any particular methodics of investigation must have two components - informational-referential, which include forensic characteristics of the crimes, and specific recommendations, which contains provisions on the direct process of investigation [3, p. 125].

Most modern scholars agree with the thesis that the forensic characteristics of the crime is the basis of the methodology of its investigation. According to A. Sheremet, forensic characteristics is a system of information about forensically important features of

crimes of this type, which reflects the natural connections and serves to build and test investigative versions to solve the main tasks of the investigation; it is an information model, which is a quantitative and qualitative description of the typical features of a particular type (group) of crimes [4, p. 340]. According to A. Starushkevych, the criminal-legal characteristic of a crime is a kind of "bearing framework" for forensic characterization [5, p. 6], which can be defined as a system of specialized scientific information about a certain type of crime, and at its center is the *corpus delicti* – a certain criminal law model formed on the basis of the law on criminal liability, practice of its application, theoretical analysis of the crime [6, p. 181-182].

A number of articles of the Criminal Code of Ukraine provide for liability for various subtypes of premeditated murder. For all these *corpus delicti*, the general norm is Part 1 of Art. 115 of the Criminal Code of Ukraine, which is used to charge for ordinary premeditated murders, ie cases of causing intentional wrongful death of another person [7].

Part 1 of Art. 115 of the Criminal Code of Ukraine presents the concept of murder as dealing intentional wrongful death of another person. In addition, in Art. 119 of the Criminal Code of Ukraine provides for liability for murder through negligence. Therefore, according to scientists, the general concept of murder can be defined as intentional or negligent unlawful infliction of death on another person [8, p. 17].

Part 2 of Art. 115 of the Criminal Code of Ukraine provides for criminal liability for intentional murder of: 1) two or more persons; 2) a minor child or a woman who was known to be pregnant; 3) a hostage or a kidnapped person; 4) committed with extreme cruelty; 5) committed in a manner dangerous to the lives of many persons; 6) for mercenary motives; 7) for hooligan motives; 8) a person or his close relative in connection with the person's official or public duties; 9) in order to conceal another criminal offense or facilitate its commission; 10) combined with rape or sexual violence; 11) committed as a contracted murder; 12) committed by a group of persons upon prior conspiracy; 13) committed by a person who has previously committed premeditated murder; 14) on the grounds of racial, national or religious intolerance.

In addition, special rules are Art. 116 of the Criminal Code of Ukraine (intentional murder committed in a state of strong emotional excitement); Art. 117 of the Criminal Code of Ukraine (premeditated murder committed by the mother of her newborn child); Art. 118 of the Criminal Code of Ukraine (intentional murder in excess of the limits of necessary defense or in case of exceeding the measures necessary to detain a person who has committed a criminal offense); Art. 112 of the Criminal Code of Ukraine (infringement on the life of a statesman or public figure); Art. 348 of the Criminal Code of Ukraine (infringement on the life of a law enforcement officer, a member of a public formation for the protection of public order and the state border or a serviceman); Art. 348<sup>1</sup> of the Criminal Code of Ukraine (infringement on the life of a journalist); Art. 379 of the Criminal Code of Ukraine (infringement on the life of a judge, lay judge or juror in connection with their activities related to the administration of justice); Art. 400 of the Criminal Code of Ukraine (infringement on the life of a lawyer or a representative of a person in connection with activities related to the provision of legal assistance); Art. 443 of the Criminal Code of Ukraine (infringement on the life of a representative of a foreign state) and others.

These *corpus delicti* are located in different sections of the special part of the Criminal Code of Ukraine and have both common and distinctive features of their criminal law characteristics.

Common to them is the object of the crime (direct object in the case of Articles 115, 116, 117, 118 of the Criminal Code of Ukraine, mandatory additional object for all other abovementioned articles) – human life; *actus rea* – socially dangerous consequences in the form of death of another person; *mens rea* – intentional form of guilt. The main direct objects of encroachment, signs of the subject, specific motive and purpose, etc. can differ.

It is obvious that the general forensic recommendations for the investigation of premeditated murders will be to some extent effective for investigation of all these crimes. Such scientific developments have been prepared by V. Sinchuk (Investigation of murders: ways to improve, 2005) [9], L. Cherechukina (Investigation of murders: Textbook, 2009) [10], O. Sainchin (Investigation of premeditated murders: theory and practice, 2012) [11], V. Konovalova (Murder: the art of investigation, 2001; 2013) [12] and other scientists.

At the same time, forensic scientists have developed a number of forensic methodics of investigation of certain subtypes of intentional murders: Methodics of investigation of murders with dismemberment of a corpse (I. Borisenko, 1999; 2021) [13; 14], Fundamentals of methodics of investigation of contract murders, (A. Shulga, 2003) [15], Methodics of investigation of murders hidden by staging (V. Semenogov, 2004) [16], Problems of the organization of investigation of murders committed by groups in conditions of non-obviousness (I. Kubarev, 2007) [17], Methodics of investigation of premeditated murders committed in a state of strong emotional excitement (A. Kuntiy, 2016) [18], Investigation of infringements on the life and health of journalists (A. Kovalenko, 2018) [19] and others.

The forensic classification of premeditated murders was the basis for the construction of such separate intraspecific methodics of investigation. According to A. Kovalenko, in such cases the task of forensic classification is to organize a large number of *corpus delicti* within a single methodics of investigation of a high degree of generalization. The author of such methodics aims to sort and divide criminal acts into subgroups by forensically significant features and most effectively offer general recommendations for the investigation of these subgroups of crimes [19, p. 22].

Thus, it can be concluded that the structure and content of the basics of the methodics of investigation of intentional murders, committed in conditions of obscurity should be dictated by the place of such a crime in the forensic classification of premeditated murders. In this case, forensic characteristics of other similar criminal offenses can be the benchmark for determining the elemental composition of the forensic characteristics of non-obvious murders.

According to O. Dudorov, the classification of crimes is their division into certain groups depending on one or another criterion [20, p. 93]. O. Pchelina notes that in forensic theory, three approaches to determining the criteria for forensic classification of crimes have been formed. According to the first one, forensic methodics were classified exclusively on a criminal basis. According to the second, the basis for classification

should be forensically significant features. According to the third, forensic and criminal law criteria should be applied simultaneously [21, p. 305].

In order to classify intentional murders, committed in conditions of obscurity and to develop forensic characteristics of such crimes, we will investigate the criminal law characteristics of such crimes (on the example of the most common corpus delicti of premeditated murder, Article 115 of the Criminal Code of Ukraine).

Thus, the direct object of the crimes under Art. 115 of the Criminal Code of Ukraine is the life of an individual. A person's life is an ongoing biological process that is interrupted by his death. The authors of the scientific and practical commentary point out that the moment of death was also legally enshrined and clarified in certain acts of national law. A person is considered dead from the moment when the death of his/her brain was ascertained [22, p. 351-352].

The identity of the victim affects the qualification of premeditated murder only in certain cases. For example, the crime under Art. 348 of the Criminal Code of Ukraine, is to encroach on the life or health of law enforcement officers, their close relatives, members of public formations and military personnel. However, the intentional form of guilt of murders, committed in conditions of obscurity, indicates the existence of certain connections between the victim and the offender, which must be investigated in the framework of the forensic characteristics of such crimes.

The *actus rea* of premeditated murder is characterized by: 1) an act in the form of encroachment on the life of another person; 2) a consequence in the form of human death; 3) the causal link between the specified act and the consequence. Murder can be committed by either action or inaction. The obligatory sign of the completed corpus delicti of the murder is the occurrence of a criminal consequence – the death of a person. The absence of such a consequence precludes the possibility of criminal prosecution for a completed crime. In such cases, the perpetrator's actions may show signs of preparation for murder or attempted murder. In order to charge a person for murder, it is necessary to establish a causal link between the act of the perpetrator and the death of the victim. Such a connection should be necessary, not accidental [8, p. 18-19]. Scientists note that death can be caused to a person in any way, but the method of committing a crime may be important for its evaluation as a qualifying feature in accordance with a certain paragraph of Part 2 of Art. 115 of the Criminal Code of Ukraine [22, p. 353].

The subject of intentional murder, in accordance with Art. 22 of the Criminal Code of Ukraine is a sane person who has reached 14 years of age. This general rule is relevant for most types of premeditated murder provided by the Criminal Code of Ukraine. Certain types of premeditated murders can be committed only by a special subject, ie as provided for in Art. 117 of the Criminal Code of Ukraine (intentional murder of a newborn child by the mother). It seems that the forensic characteristics of the crime covers a much wider range of characteristics of the offender, compared with the criminal law characterization.

As for *mens rea*, premeditated murder can be committed with direct intent, when a person is aware of the socially dangerous nature of his act (action or inaction), anticipates its socially dangerous consequences in the form of another person's death and wishes it to occur, and with indirect intent – when a person, is unwilling to cause death to another

person, but consciously assumes its occurrence. While charging the perpetrator, the issue of intent is decided based on the totality of all the circumstances of the act, in particular, considering the method, instrument of the crime, number, nature and location of bodily injuries and other traumas, reasons for cessation of criminal acts etc. [8, p. 20].

The given criminal-legal signs of intentional murders are sufficient to form the general idea of this kind of crimes as a whole and on the contents of its forensic characteristics.

We support the opinion of V. Sinchuk that the basic criminal classification of premeditated murders is the following:

1) murders without qualifying circumstances (Part 1 of Article 115 of the Criminal Code of Ukraine);

2) murders with qualifying circumstances (Part 2 of Article 115 and other articles of the Criminal Code of Ukraine): a) murder of two or more persons; b) the murder of a minor child or a woman who was known to be guilty of pregnancy; c) murder of hostages; d) murder committed with extreme cruelty, etc.;

3) murders with mitigating circumstances: a) murder committed in a state of strong emotional excitement (Article 116 of the Criminal Code of Ukraine); b) murder by the mother of her newborn child (Article 117 of the Criminal Code of Ukraine); c) murder in excess of the limits of necessary defense or in case of exceeding the measures necessary to detain the offender (Article 118 of the Criminal Code of Ukraine, etc.) [23, p. 146].

However, we should also agree with V. Obraztsov, who believes that using only the criminal classification of crimes is not enough to solve practical problems of crime investigation, because the substantive law reflects only those features and properties that are significant in terms of criminal law and its use. These classifications do not take into account the situational aspect of crimes, necessary for the scientific development of differentiated guidelines [24, p. 15]. Therefore, a combination of forensic and criminal law criteria is optimal for forensic classification of crimes. Since different types (groups) of crimes are committed using specific set of tools and methods to achieve the criminal goal, each type of crime will be characterized by its specific traces and the means and methods of their detection, collection, examination and use. This determines the need to develop separate methodics of investigating certain types (groups) of crimes [25, p. 96].

According to V. Shepitko and V. Konovalova, there are different types of murders: obvious and unobvious, open and secret. Named authors believe that the greatest practical significance of the division of murders depending on the mechanism of their organization and committing: murders committed in hand fights, on contract, on a domestic basis, disguised by staging, combined with hiding (or dismemberment) of the corpse, occurs through sexual (sexual-sadistic) motives, etc. [26, p. 67].

The key to our study is the recommended by N. Gerge and other scientists division of murders into two groups: murders committed in the conditions of obviousness (obvious murders), and murders committed in the conditions of obscurity (non-obvious groups) [27, p. 407]. V. Konovalova points out that such a division affects the planning and organization of the investigation. According to her, in the case of obscure murder, the fact of committing a crime is not obvious and the person who committed it is un-

known. The task of the investigation is to establish the identity of the offender, the circumstances of the crime and the identity of the victim. Murder committed in the obvious conditions is characterized by the fact that the identity of the offender is known, the crime was committed in the presence of others. The task of the investigation is to establish the circumstances of the crime, to identify material evidence, to establish the identity of the victim and the motives for the murder [28, p. 23].

According to A. Volobuyev, murders committed under obvious circumstances are, most often, murders committed for family and domestic reasons (jealousy, revenge, domestic hooliganism, personal hostility). As a rule, such crimes are situational in nature – committed without prior preparation under the influence of conflicting relationships between acquaintances. They are characterized by the fact that the place of their commission is most often housing (premises, yard), there are eyewitnesses and, as a rule, at the time of detection of the crime a suspect is known. Most murders in this category are committed in the evening and at night, often in a state of intoxication, so the discovery of a corpse with signs of violent death in the home is already enough grounds for the version that the killer is a person close to the victim [29, p. 23].

Obscure murders, according to the quoted author, are killings committed with the subsequent concealment of the victim's identity, the destruction of traces, and sometimes the corpse. This category of murders includes those characterized by the following circumstances: the corpse or its parts were found outside the home (on the street, in a field, forest, etc.); the identity of the victim is unknown; there are no eyewitnesses, there is no information about the identity of the murder suspect [29, p. 23].

According to V. Polschikov, murders committed in the conditions of non-obviousness are ones, in the situation of which there is no ideal component, ie there are no persons who perceived the event of the crime and can then reproduce it from memory [30, p. 46].

L. Cherechukina defines obvious murders as those committed by a known person openly – in the presence of other persons, or in their absence but without trying to hide the crime and his guilt. Non-obvious murders, from her point of view, are murders committed in the absence of witnesses, and which are accompanied by active attempts of the criminal to hide his guilt [10, p. 50].

Thus, intentional murder committed in conditions of obscurity can be defined as murder committed in the absence of eyewitnesses, resulting in a small number of traces (due to their concealment by a criminal or for other reasons), and the initial stage of the investigation of which is characterized by non-obviousness of crime, insignificant amount of information about its commission, the lack of signs that directly indicate the offender. The "non-obviousness" of the murder is both a characteristic of the event of the crime (primarily the circumstances of its commission) and of the initial stage of its investigation.

Within the forensic classification of murders committed in conditions of non-obviousness, one can distinguish subtypes of such criminal offenses. Thus, I. Borysenko proposes to divide the murders united by dismemberment of a corpse (most of which are committed in the conditions of non-obviousness) into varieties depending on the purpose of the criminal for dismemberment of a body:

- the first group: dismemberment as a way to cover up the murder. Here the cited scientist distinguishes subgroups: domestic murders, sexual murders with rape and murders covert by staging;

- the second group: a situation when dismemberment is not a way to hide the murder, but only satisfies certain perverted needs of the crime. I. Borysenko names the following subspecies: sexual and sadistic murders (the criminal satisfies his sexual perversions), sadistic murders (the criminal satisfies the sadistic perversions);

- the third group: the goal of the victim's body dismemberment is the use of organs or tissues. The author identifies the following subspecies: murder for transplantation of human organs (tissues); cannibalistic murder, ritual murders, etc. [14, p. 22-23].

Out of serial murders, which are always committed in conditions of non-obviousness (up to a certain error of a maniac, that allows to expose him) M. Keptene singles ones committed by a maniac-hunter, serial murders committed by a situational (impulsive) maniac. Based on the maniac's motivation, the scientist proposes to single out serial murders committed on sexual grounds, with hedonistic-game motives, with motives of domination and self-affirmation, and with motives of revenge and substitution [31, p. 189].

The division of non-obvious murders, into those, intent to commit which arose suddenly, and those, intent to commit which arose in advance is the most significant for the proposed study. These subtypes of non-obvious murders differ in the typical features of the victim, the circumstances and methods of commission, the motivation of the offender.

In addition, on the motivation of the offender, most often in conditions of non-obviousness, murders are committed for selfish, hooligan motives, for revenge, to satisfy sadistic (sadistic-sexual) needs, contract killings, and so on. The investigation practice also knows cases of domestic homicides in committed conditions of non-obviousness: these are situations when the perpetrator and the victim were alone at the time of the crime, the killer destroyed the traces and left the crime scene, which makes it difficult to establish his identity.

**Conclusions.** Summarizing the above, we note that intentional murders committed in conditions of obscurity are ones of the most difficult crimes to detect and investigate, which indicates the need to develop appropriate guidelines. Forensic characteristics of the murder is a mandatory element of a separate forensic methodics of investigation, which in turn is based on crime's criminal law characteristics and is determined by the place of such a criminal offense in the forensic classification of murders.

Intentional homicide committed in non-obvious conditions is a specific type of premeditated murder. It can be defined as murder committed in the absence of eyewitnesses, resulting in a small number of traces (due to their concealment by a criminal or for other reasons), and the initial stage of the investigation of which is characterized by non-obviousness of crime, insignificant amount of information about its commission, the lack of signs that directly indicate the offender. Thus the "non-obviousness" of the murder is both a characteristic of the event of the crime (primarily the circumstances of its

commission) and of the initial stage of its investigation. Such murders can be further divided into subspecies (contract killing, mutilated murder, disguised by staging, etc.). Each subspecies has its own specifics of disclosure and investigation.

We consider the improvement of the elemental composition of the forensic characterization of intentional murders committed in the conditions of obscurity, considering the realities of the present, to be a promising direction of further scientific search.

#### Used sources:

1. Офіційний сайт Офісу Генерального прокурора. Статистика. Назва з екрану. URL : <https://www.gp.gov.ua/ua/1stat>. (дата звернення: 07.10.2021).

2. Криміналістика : підруч. 5-ге вид. переробл. та допов. / В. Ю. Шепітько, В. О. Коновалова, В. А. Журавель та ін. : за ред. В. Ю. Шепітька. Київ, 2016. 640 с.

3. Степанюк Р. Л. Теоретичні засади методики розслідування злочинів, вчинених у бюджетній сфері України : дис. ... д-ра юрид. наук: 12.00.09. Харків, 2012. 475 с.

4. Шеремет А. Криміналістика : навч. пос. для студ. вищ. навч. закл. 2-ге вид. Київ, 2009. 472 с.

5. Старушкевич А. В. Криміналістична характеристика злочинів : Навчальний посібник. Київ, 1997. 41 с.

6. Борисов В. І. До питання про сутність кримінально-правової характеристики злочинів. *Вісник академії правових наук України*. № 3 (42). 2005. С. 180-190.

7. Кримінальний кодекс України : Закон України від 05.04.2001 № 2341-III / База даних «Законодавство України». *Верховна Рада України*. URL : <http://zakon.rada.gov.ua/laws/show/2341-14>. (дата звернення: 07.10.2021).

8. Кримінальний кодекс України. Науково-практичний коментар : у 2 т. Т. 2 : Особлива частина. 5-ге вид., допов. / Ю. В. Баулін, В. І. Борисов, В. І. Тютюгін та ін. Харків: Право. 2013. 1040 с.

9. Синчук В. Л. Розслідування вбивств: шляхи вдосконалення : Монографія. За ред. д-ра юрид. наук, проф. В. А. Журавля. Харків, 2005. 288 с.

10. Черечукина Л. В. Расследование убийств: Учебно-методическое пособие. Луганск, РИО ЛГУВД им. Э. А. Дидоренко, 2009. 247 с.

11. Саїнчин О. С. Розслідування умисних вбивств: теорія та практика : монографія. Одеса : СПД Бровкін О. В., 2012. 408 с.

12. Коновалова В. Е. Убивство: искусство расследования : монографія. Изд. 2-е доп. и перераб. Харьков : Юрайт, 2013. 320 с.

13. Борисенко І. В. Методика розслідування вбивств з розчленуванням трупа : автореф. дис. ... канд. юрид. наук: 12.00.09. Харків, 1999. 19 с.

14. Борисенко І. В. Методика розслідування вбивств із розчленуванням трупа : монографія. Харків : Право, 2021. 720 с.

15. Шульга А. О. Основи методики розслідування вбивств на замовлення: дис. ... канд. юрид. наук : 12.00.09. Київ, 2003. 219 с.

16. Семенов В. В. Методика розслідування вбивств, прихованих інсценуванням : дис. ... канд. юрид. наук : 12.00.09. Харків, 2004. 225 с.

17. Кубарев І. В. Проблеми організації розслідування вбивств, що вчиняються групою осіб в умовах неочевидності : дис. ... канд. юрид. наук: спец. 12.00.09. Нац. юрид. акад. України ім. Ярослава Мудрого. Харків, 2007. 221 с.

18. Кунгій А. І. Методика розслідування умисного вбивства, вчиненого в стані сильного душевного хвилювання: монографія. Львів: ЛьвДУВС, 2016. 220 с.

19. Коваленко А. В. Розслідування посягань на життя та здоров'я журналістів : монографія. Севе́родонецьк : РВВ ЛДУВС ім. Е.О. Дідоренка, 2018. 268 с.
20. Дудоров О. О. Поняття злочину. Класифікація злочинів. *Вісник Асоціації кримінального права України*. 2013. № 1 (1). С. 82-102.
21. Пчеліна О. В. Криміналістична класифікація злочинів. *Право і суспільство*. 2014. № 1 (2). С. 304-309.
22. Науково-практичний коментар Кримінального кодексу України / за ред. М. І. Мельника, М. І. Хавронюка. 11 вид., переробл. та допов. Київ : ВД «Дакор», 2019. 1384 с.
23. Синчук В. Криміналістична класифікація вбивств. *Вісник академії правових наук України*. № 1 (32). 2003. С. 140-147.
24. Образцов В. А. Криминалистическая классификация преступлений. Красноярск : Изд-во Краснояр. гос. ун-та, 1988. 106 с.
25. Криміналістика у питаннях і відповідях : Навчальний посібник / А. В. Іщенко, В. В. Пясковський, А. В. Самодін, Ю. М. Черноус та ін. Київ : ТОВ «Видавництво» Центр учбової літератури, 2016. 118 с.
26. Велика українська юридична енциклопедія : у 20 т. Т. 20 : Криміналістика, судова експертиза, юридична психологія. Редкол. В. Ю. Шепітько (голова) та ін. 2018. 952 с.
27. Жерж Н. А. Початковий етап розслідування вбивств, вчинених в умовах неочевидності. *Актуальні проблеми держави і права*. 2014. Вип. 74. С. 406-412.
28. Криміналістика : підручник : у 2 т. Т. 2 ; за заг. ред. В. Ю. Шепітька. Харків : Право, 2019. 328 с.
29. Криміналістика : підручник у 2 т. Т. 2. За заг. ред. А. Ф. Волобуєва, Р. Л. Степанюка, В. О. Малярвої. Харків, 2017. 312 с.
30. Польщикова В. В. Особливості місця, часу, обстановки й слідів вбивств, учинених в умовах неочевидності. *Науковий вісник Ужгородського національного університету. Серія: Право*. 2015. № 34 (3). С. 44-47.
31. Кептене М. П. Поняття та криміналістична класифікація серійних вбивств. *Науковий вісник Міжнародного гуманітарного університету. Серія: Юриспруденція*. 2013. № 6-1. Том 2. С. 187-191.

#### References:

1. Ofitsiyniyi sait Ofisu Heneralnoho prokurora. Statystyka. Nazva z ekranu. N. d. N. p. URL : <https://www.gp.gov.ua/ua/1stat>. [in Ukrainian].
2. Kryminalistyka : pidruch. 5-te vyd. pererobl. ta dopov. (2016) / V. Yu. Shepitko, V. O. Konovalova, V. A. Zhuravel (Eds.) et al. ; V. Yu. Shepitko (Ed.). Kyiv. [in Ukrainian].
3. Stepaniuk, R. L. (2012) Teoretychni zasady metodyky rozsliduvannia zlochyniv, vchynenykh u biudzhetnii sferi Ukrainy. *Doctor's thesis*. Kharkiv. [in Ukrainian].
4. Sheremet, A. (2009) Kryminalistyka : navch. pos. dlia stud. vyshch. navch. zakl. 2-he vyd. Kyiv. [in Ukrainian].
5. Starushkevych, A. V. (1997) Kryminalistychna kharakterystyka zlochyniv: Navchalnyi posibnyk. Kyiv. [in Ukrainian].
6. Borysov, V. I. (2005) Do pytannia pro sutnist kryminalno-pravovoi kharakterystyky zlochyniv. *Visnyk akademii pravovykh nauk Ukrainy - Bulletin of the Academy of Legal Sciences of Ukraine*, 3 (42), 180-190. [in Ukrainian].
7. Kryminalnyi kodeks Ukrainy : Zakon Ukrainy vid 05.04.2001 № 2341-III. (2001) N. p. Baza danykh «Zakonodavstvo Ukrainy». Verkhovna Rada Ukrainy - Database "Legislation of

Ukraine". Verkhovna Rada of Ukraine. URL : <http://zakon.rada.gov.ua/laws/show/2341-14>. [in Ukrainian].

8. Kryminalnyi kodeks Ukrainy. Naukovo-praktychnyi komentar (2013) (Vol. 1-2; Vol. 2) : Osoblyva chastyna. 5-te vyd., dopov. / Yu. V. Baulin, V. I. Borysov, V. I. Tiutiuhin et al. (Eds.) Kharkiv: Pravo. [in Ukrainian].

9. Synchuk, V. L. (2005) Rozsliduvannia vbyvstv: shliakhy vdoskonalennia : Monohrafiia. V. A. Zhuravel. (Ed.). Kharkiv. [in Ukrainian].

10. Cherechukina, L. V. (2009) Rassledovanie ubijstv: Uchebno-metodicheskoe posobie. Lugansk, RIO LGUVD im. E. Didorenko. [in Russian].

11. Sainchyn, O. S. (2012) Rozsliduvannia umysnykh vbyvstv: teoriia ta praktyka : monohrafiia. Odesa : SPD Brovkin O. V. [in Ukrainian].

12. Konovalova, V. E. (2013) Ubivstvo: iskusstvo rassledovaniya : monohrafiya. Izd. 2-e dop. i pererab. Harkov : Yurait. [in Russian].

13. Borysenko, I. V. (1999) Metodyka rozsliduvannia vbyvstv z rozchlenuvanniam trupa. *Extended abstract of candidate`s thesis*. Kharkiv. [in Ukrainian].

14. Borysenko, I. V. (2021) Metodyka rozsliduvannia vbyvstv iz rozchlenuvanniam trupa : monohrafiia. Kharkiv : Pravo. [in Ukrainian].

15. Shulha, A. O. (2003) Osnovy metodyky rozsliduvannia vbyvstv na zamovlennia. *Candidate`s thesis*. Kyiv. [in Ukrainian].

16. Semenohov, V. V. (2004) Metodyka rozsliduvannia vbyvstv, prykhovanykh ins tsenuvanniam. *Candidate`s thesis*. Kharkiv. [in Ukrainian].

17. Kubariev, I. V. (2007) Problemy orhanizatsii rozsliduvannia vbyvstv, shcho vchy niaitutsia hrupoiu osib v umovakh neochevydnosti. *Candidate`s thesis*. Nats. yuryd. akad. Ukra iny im. Yaroslava Mudroho. Kharkiv. [in Ukrainian].

18. Kuntii, A. I. (2016) Metodyka rozsliduvannia umysnoho vbyvstva, vchynenoho v stani synohno dushevnoho khyvliuvannia: monohrafiia. Lviv: LvDUVS. [in Ukrainian].

19. Kovalenko, A. V. (2018) Rozsliduvannia posiahan na zhyttia ta zdorov'ia zhurnalistiv : monohrafiia. Sievierodonetsk : RVV LDUVS im. E.O. Didorenka. [in Ukrainian].

20. Dudorov, O. O. (2013) Poniattia zlochynu. Klasyfikatsiia zlochyniv. *Visnyk Asotsiatsii kryminalnogo prava Ukrainy – Bulletin of the Association of Criminal Law of Ukraine, 1 (1), 82-102*. [in Ukrainian].

21. Pchelina, O. V. (2014) Kryminalistychna klasyfikatsiia zlochyniv. *Pravo i suspilstvo - Law and society, 1 (2), 304-309*. [in Ukrainian].

22. Naukovo-praktychnyi komentar Kryminalnogo kodeksu Ukrainy (2019) / M. I. Melnyk, M. I. Khavroniuk (Eds.) 11 vyd., pererobl. ta dopov. Kyiv : VD «Dakor». [in Ukrainian].

23. Synchuk, V. (2003) Kryminalistychna klasyfikatsiia vbyvstv. *Visnyk akademii pravovykh nauk Ukrainy - Bulletin of the Academy of Legal Sciences of Ukraine, 1 (32), 140-147*. [in Ukrainian].

24. Obrazcov, V. A. (1998) Kriminalisticheskaya klassifikatsiia prestuplenij. Krasnoyarsk : Izd-vo Krasnoyar. gos. un-ta. [in Russian].

25. Kryminalistyka u pytanniakh i vidpovidiakh : Navchalnyi posibnyk (2016) / A. V. Ishchenko, V. V. Piaskovskiy, A. V. Samodin, Yu. M. Chornous et al. (Eds.) Kyiv : TOV «Vydavnytstvo» Tsentru uchbovyi literatury. [in Ukrainian].

26. Velyka ukrainska yurydychna entsyklopediia (Vol. 1-20; Vol. 20) (2018) Kry mina- listyka, sudova ekspertyza, yurydychna psykholohiia. V. Yu. Shepitko (Ed.) et al. [in Ukrainian].

27. Zherzh, N. A. (2014) Pochatkovyi etap rozsliduvannia vbyvstv, vchynenykh v umo vakh neochevydnosti. *Aktualni problemy derzhavy i prava - Current issues of state and law, issue 74, 406-412*. [in Ukrainian].

28. Kryminalistyka : pidruchnyk (Vol. 1-2; Vol. 2) (2019) V. Yu. Shepitko (Ed.) Kharkiv : Pravo. [in Ukrainian].

29. Kryminalistyka : pidruchnyk (Vol. 1-2; Vol. 2) (2017) A. F. Volobuiev, R. L. Stepaniuk, V. O. Maliarova (Eds.) Kharkiv. [in Ukrainian].

30. Polshchikov, V. V. (2015) Osoblyvosti mistsia, chasu, obstanovky y slidiv vbyvstv, uchynenykh v umovakh neocheyvidnosti. *Naukovyi visnyk Uzhhorodskoho natsionalnoho universytetu. Seria: Pravo - Scientific Bulletin of Uzhhorod National University. Series: Right*, 34 (3), 44-47. [in Ukrainian].

31. Kieptene, M. P. (2013) Poniattia ta kryminalistychna klasyfikatsiia seriinykh vbyvstv. *Naukovyi visnyk Mizhnarodnoho humanitarnoho universytetu. Ser: Yurysprudentsiia - Scientific Bulletin of the International Humanities University. Ser: Jurisprudence*, 6-1, vol. 2, 187-191. [in Ukrainian].

Стаття надійшла до редакції 10.10.2021

**Коваленко В. В.**, кандидат юридичних наук, професор, професор кафедри кримінально-правових дисциплін Луганського державного університету внутрішніх справ імені Е.О. Дідоренка (м. Северодонецьк, Україна)

**Кібенко В. В.**, здобувач ступеню вищої освіти «магістр», Луганського державного університету внутрішніх справ імені Е.О. Дідоренка (м. Северодонецьк, Україна)

## КРИМІНАЛІСТИЧНА КЛАСИФІКАЦІЯ УМИСНИХ ВБИВСТВ, ВЧИНЕНИХ В УМОВАХ НЕОЧЕВИДНОСТІ

Стаття присвячена дослідженню проблем криміналістичної класифікації умисних вбивств, вчинених в умовах неочевидності. Зазначено, що розкриття та розслідування умисних вбивств ускладнено значною кількістю їх різновидів, кожен з яких вирізняється власними характерними ознаками: специфічними способами, слідами, мотивацією злочинця, характером його зв'язків із потерпілим тощо.

Акцентовано, що структура та змістове наповнення основ методики розслідування умисних вбивств, вчинених в умовах неочевидності, мають бути продиктовані місцем такого злочину в криміналістичній класифікації умисних вбивств.

Доведено, що найбільш суттєвим для запропонованого дослідження є поділ неочевидних вбивств на ті, умисел щодо вчинення яких виник раптово, та ті, умисел на вчинення яких виник заздалегідь. Названі підвиди неочевидних вбивств відрізняються за типовими ознаками потерпілого, обстановкою та способами вчинення, мотивацією злочинця. Так, за мотивацією злочинця, найчастіше в умовах неочевидності вчиняються вбивства з корисливих, хуліганських мотивів, вбивства через помсту, задля задоволення садистських (садистсько-сексуальних) потреб, замовні вбивства тощо.

Зроблено висновок про те, що умисне вбивство, вчинене в умовах неочевидності, є специфічним різновидом умисних убивств. Запропоновано визначати умисне вбивство, вчинене в умовах неочевидності, як убивство, котре було здійснене за відсутності очевидців, внаслідок чого залишено незначну кількість слідів (через їх приховування злочинцем або з інших причин), а початковий етап розслідування якого характеризується неочевидністю події злочину – незначним обсягом інформації про його вчинення, відсутністю ознак, котрі прямо вказують на злочинця. Указано, що «неочевидність» вбивства є одночасно характеристикою як події злочину (у першу чергу обстановки його вчинення), так і початкового етапу його розслідування. Такі вбивства можуть бути

й далі поділені на підвиди (замовне убивство, убивство з розчленуванням трупа, замасковані інсценування тощо). Кожен підвид має власну специфіку розкриття та розслідування.

**Ключові слова:** умисне вбивство, умови неочевидності, криміналістична методика, криміналістична характеристика, криміналістична класифікація.

*Коваленко В. В., кандидат юридических наук, професор, професор кафедри  
уголовно-правових дисциплін Луганського державного університета  
внутрішніх дел имени Э. А. Дидоренко (г. Северодонецк, Украина)*

*Кибенко В. В., соискатель степени высшего образования «магистр» Луганского  
государственного университета внутренних дел имени Э. А. Дидоренко  
(г. Северодонецк, Украина)*

### **КРИМИНАЛИСТИЧЕСКАЯ КЛАССИФИКАЦИЯ УМЫШЛЕННЫХ УБИЙСТВ, СОВЕРШЕННЫХ В УСЛОВИЯХ НЕОЧЕВИДНОСТИ**

Статья посвящена исследованию проблем криминалистической классификации умышленных убийств, совершенных в условиях неочевидности.

Предложено умышленное убийство, совершенное в условиях неочевидности, определять как убийство, совершенное при отсутствии очевидцев, в результате которого было оставлено незначительное количество следов (по причине их сокрытия преступником или по другим причинам), а начальный этап расследования которого характеризуется неочевидностью события преступления – незначительным объемом информации о его совершении, отсутствием признаков, прямо указывающих на преступника.

Установлено, что неочевидность убийства является одновременно характеристикой как события преступления (в первую очередь обстановки его совершения), так и начального этапа его расследования. Такие убийства могут быть и дальше поделены на подвиды (заказное убийство, убийство с расчленением трупа, замаскированные инсценировкой и т.п.). Каждый подвид имеет свою специфику раскрытия и расследования.

**Ключевые слова:** умышленное убийство, неочевидное убийство, криминалистическая методика, криминалистическая характеристика, криминалистическая классификация.