

SPEAKING ABSENCE CLUES

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This study emphasizes that absence clues can also convey important messages about the circumstances of the crime and the identity of the perpetrator.

Keywords: *crime scene investigation, material remain, electronic data, absence clue.*

ВАЖЛИВІСТЬ ВІДСУТНЬОГО ДОКАЗУ

Чаба Фенівсі, Ванеса Фабіан

У цьому дослідженні підкреслюється, що зниклі сліди також можуть передавати важливі повідомлення про обставини злочину та особу злочинця.

Ключові слова: *розслідування на місці злочину, матеріальні залишки, електронні дані, відсутність доказів.*

PREFACE

In a 1980s Columbo investigation, a suspicious husband tried to confirm his alibi with tape recording. He wanted to prove that he was at home, in the living room at three pm when his wife was murdered, so he could not have been the perpetrator of the murder elsewhere. However, the inspector did not believe him, and he realized that the three gongs of the living room's standing clock were missing from the recording. This case inspired this presentation of speaking absence clues and material remains in real criminal cases.

1) The negative clue and the crime scene investigation

The absence of clues first emerges during crime scene investigation, as 60-70% of all crimes are committed at the crime scene. It is worthwhile to carry out a crime scene investigation where there is something to search for, examine, or „comb through,” where the elements of the identification pyramid, the clues, and material remains can be found [See in more detail Fenyvesi, Cs. – Orbán, J.: Electronic data as the building block of the 7-5-1

criminalistics pyramid model. Belügyi Szemle, 2019/2. 45-55.]. Forensic scientists worldwide value the primary crime scene as a repository of data and an open book to be read. To conduct an effective search for clues, a good criminalist, crime scene examiner, or crime scene investigator-CSI must „get under the skin” of the perpetrator [It is worth doing a “thought reconstruction”, on which several Hungarian authors have already expressed their views. The most recent of these is Gárdonyi, G.: Criminal crime scene investigation. Ludovika Egyetemi Kiadó, Budapest, 2023] and follow the suspected „path” of the perpetrator [On the “paths” that can be followed on site, see Kovács, L.: The Moor was done... Korona Kiadó, Budapest, 2009. 38.]. We can say the more thorough and attentive the perpetrator was at the scene, the more thorough and attentive the observer should be.

In our opinion, there isn't a crime scene completely devoid of clues or material remains; it is essential to find and investigate the often invisible alterations left at the crime scene, which must be associated with appropriate interpretations and meanings. Our study

focuses on the „negative clues” [Dobos, J.: Negative conditions on the ground. *Belügyi Szemle*, 1964/1. 54-59.], i.e. „what isn't there but should be, or what was there but is now missing”. The non-existent missing clue often says more than the „speaking” present one.

2) The lack of speaking material remain in a murder case

A murder case in Baranya county revealed a lack of material remains, highlighting the importance of a speaking clue.

On September 15, a 4-year-old girl, called Aniko O. disappeared from a playground in Komló. Despite extensive searches and interviews, no trace of her was found until September 19, when local resident B. Z. reported her body in the basement of their house [For more details, see Fenyvesi, Cs. – Kodba, F.: Investigation of brutal homicide of a young child. *Belügyi Szemle*, 1990/4. 106-113.]. The crime scene investigation uncovered that Aniko's body, with severe injuries including lobular lesions, cuts, and puncture wounds, was found in a pantry. The storage room was not locked, and no signs of forced entry were observed.

During the investigation, the absence of spilled blood was notable. Despite using luminol to detect bloodstains, the investigators found only red stains from other sources. They precisely searched the building, focusing on where items like paper bags, clothing, and the Transdanubian Journal found near the body had come from. Ultimately, investigators discovered hair and blood of the victim in the perpetrator's apartment, leading to the conviction of Eva V. for the crime, resulting in an 18-year prison sentence.

3) The evidentiary significance of material remain's absence in attempted homicide

The absence of human material remains in an attempted homicide case can reveal non-human origins.

In a village in Tolna County, a man poured flammable substance on his lover and set her clothes on fire. The victim was sitting on the terrace of her house. However, the Szekszárd

Court of First Instance (Tribunal) found that the pouring down could not have occurred on the terrace, as the crime scene investigation did not reveal any liquid remains. No liquid droplets, stains, or moisture were found, only a circular burn mark. Therefore, the spill alleged in the indictment did not occur there, and the woman identified as the victim did not come into contact with the gasoline in her clothing on the terrace [Number of the acquittal decision in 2023: Szekszárd Tribunal Court 20. B. 120/2022/44-II. Number of the upholding decision in 2023: Pécs Regional Court III. Bf. 50/2023/6/II.].

4) The importance of voice non-recognition

During our research, we also noticed that it is not only the lack of physical evidence or material remain that can be found in criminal cases. It is also possible that a lack of a „memory clue” can be part of the evidence.

In a 2006 robbery case in Alkotmány Street, Pécs, a hooded man allegedly threatened a lottery worker with a crippled heroin addict [The details of the case leading to the discharge (quitting) can be found here: Fenyvesi, Cs. – Nagy, M.: Criminalistical and criminal procedural lessons of armed robbery case. *Magyar Rendészet* 2007/ 11. 106-121.]. The victim, who had placed a sum of 70.957,- HUF into a bag, did not recognize the suspect's hoarse voice, which was confirmed by others. The victim did not mention this in her interview or detailed testimony. These anomalies were noted by the local court and the appeal chamber, and the negative trail, which was not observed by the witness, was assessed as not establishing that the accused person had spoken the threatening words.

5) Conclusion to be drawn from the absence of electronic data

Electronic data is crucial in investigating crimes such as murder, kidnapping, robbery, and terrorism.

The disappearance of Malaysian Flight MH370 on March 8, 2014, remains one of the greatest mysteries in aviation history and it is

in connection with the absence of electronic data [For details, see security risks – forensic responses by the one of authors. Fenyvesi, Cs.: Security and forensic lessons from the disappearance of MH370. In: Studies from the conference “Security Risks – Law Enforcement Responses”. Border Guard Scientific Publications. XV. Pécs, 2014. 167-176.]. The disappearance of Malaysian Flight MH370 on March 8, 2014, remains one of the greatest mysteries in aviation history.

On March 8, 2014, Malaysian Flight MH370, a Boeing 777-200, took off from Kuala Lumpur bound for Beijing with 239 people onboard. Shortly after departure, the plane’s communication systems were deliberately disabled, and it began a series of unusual course changes. The last message from the co-pilot, “Good night MH370,” was calm and occurred after one of the communication systems had been turned off.

Several versions were considered:

- a) Hijacking: Initially supported, but lack of distress signals or claims weakened this theory.
- b) Terrorist action: No responsibility claims, attacks, or evidence of shoot-down ruled this out.
- c) Psychological issues: Two Iranians used stolen passports, but no link to the incident. The captain’s simulator and affiliations raised questions but didn’t prove involvement.
- d) Fire or technical failure: Ruled out due to lack of distress signals and deliberate course changes.
- e) Insurance fraud: No evidence of fraudulent intent.

In our opinion the most likely explanation for the disappearance of MH370 is that it resulted from deliberate human intervention. Flight attendants and passengers, might have posed a threat by noticing the change in the plane’s route or compass heading. To prevent this, they were likely neutralized, which explains why no signals were received from anyone on board during the more than 7-hour flight. The most possible explanation is that only one per-

son, likely the captain or first officer, remained alive in the cabin for the duration of the flight. The captain, with his extensive experience and simulator training, is considered the primary suspect. The co-pilot is less likely to be involved. The black box may provide further clues if it contains recordings from the last hours.

6) The psychological message of non-sale in a series of crimes against property

In 1988, a serial car burglar in Pécs, Hungary, was caught by police after he admitted to stealing. The suspect, Géza R., was arrested and held responsible for the crime. The police discovered a close bond between the man and his mother, Mrs. R. N., and conducted an urgent investigative search of Mrs. R. N.’s family home. The search resulted in the discovery of 454 items worth HUF 2.150.000,-, including cash, deposit books, gold objects, and public documents. The psychological message of non-sale in crimes against property highlights the importance of understanding the reasons behind non-sale actions in criminal cases. The case highlights the need for clearer explanations and correct sentences in criminal cases.

This unusual behavior prompted a psychological analysis by expert Györgyi Szarkássy. The analysis uncovered that Géza R. is a sensitive and intelligent person whose crimes emerged as a defense against insecurity and troubled relationships. His criminal behavior began suddenly and compulsively, giving him a sense of security but also increasing his anxiety. His behavior is marked by emotional immaturity and a lack of communication, with his crimes serving as an escape from inner tensions.

FINAL THOUGHTS

As a final reflection, Columbo was right. Sometimes, what isn’t immediately apparent can be more significant than what is. To borrow from a Hungarian movie analogy „a treasure that isn’t.” In criminal proceedings a good advice is: don’t just look at what you see, but think about what you don’t see. It may have a more valuable message.

References

1. Dobos, J. (1964). Negative conditions on the ground. *Belügyi Szemle*, 1964/1, 54-59.
2. Fenyvesi, Cs. (2014). Security and forensic lessons from the disappearance of MH370. In *Studies from the conference „Security Risks – Law Enforcement Responses”*, Border Guard Scientific Publications, XV, Pécs, 167-176.
3. Fenyvesi, Cs. – Kodba, F. (1990). Investigation of brutal homicide of a young child. *Belügyi Szemle*, 1990/4, 106-113.
4. Fenyvesi, Cs. – Nagy, M. (2007). Criminalistical and criminal procedural lessons of armed robbery case. *Magyar Rendészet*, 2007/11, 106-121.
5. Fenyvesi, Cs. – Orbán, J. (2019). Electronic data as the building block of the 7-5-1 criminalistics pyramid model. *Belügyi Szemle*, 2019/2, 45-55.
6. Gárdonyi, G. (2023). *Criminal crime scene investigation*. Ludovika Egyetemi Kiadó, Budapest.
7. Kovács, L. (2009). *The Moor was done...* Korona Kiadó, Budapest.