



## Physical Anthropology Section – 2006

### H51 The Accuracy of Ante-Mortem Data and Presumptive Identification: Appropriate Procedures, Applications and Ethics

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After attending this presentation, attendees will have gained an awareness of ante-mortem data collection procedures in mass fatality situations, mass disasters, and mass disappearances relating to violations of human rights. Methods for tailoring the ante-mortem data questionnaire to individual circumstances will be discussed. The presentation will emphasize transparency and the need to provide a realistic understanding of expected identification outcomes to both relatives of the missing and other concerned parties.

This presentation will impact the forensic community and/or humanity by increasing awareness of problems with presumptive identification, particularly in relation to mass disasters, mass fatality incidents, and mass disappearances related to human rights violations. It is hoped that after attending the presentation, participants will be able to make more

informed and ethical choices regarding both employing standardized methods of presumptive identification and presenting identifications to victims' families in a transparent manner.

Increasingly during the last ten years, forensic anthropologists have been members of teams of forensic scientists working to identify victims of mass disasters, mass fatality incidents, and mass violations of human rights. Traditional forms of ante-mortem data (including the individual's biological profile as well as details of their clothing and personal effects) have been considered useful in the identification process. Presumptive identification is not usually conducted in a particularly systematic manner. Codifying the procedure for matching ante-mortem and postmortem data has rarely been attempted and "identifying" an individual via this method, particularly in post-conflict situations, has seldom come under close scrutiny. It is even rarer that quality assurance procedures are employed to assess the outcomes and provide feedback as to the advisability of the process. Yet, presumptive identification for repatriation of remains has been utilized extensively as "identification" in post-conflict situations throughout Latin America, in the Balkans, and in East Timor (e.g., Gruspier 2001).

Recently however, significant questions have arisen concerning reliance on traditional antemortem data for identification and the advisability of conducting presumptive identification at all. Figures for regions from the former Yugoslavia, including Kosovo, obtained by the International Commission on Missing Persons (ICMP) indicate that 3038% of those individuals exhumed by various agencies, or government authorities involved in the exhumation and identification of victims from the conflicts between 1992 and 1999 have proved incorrect subsequent to comparative analysis with the DNA of purported relatives. These presumptive identifications were often based on clothing identifications made by families supplemented by consistent postmortem observations. The DNA-based system of identification, fully implemented by ICMP at the end of 2001 provides exclusion reports and prevents misidentifications based on 'presumptive' markers. Prior to this system, bodies exhumed in the former Yugoslavia were identified using presumptive markers and returned to authorities and families for burial. As is now known, a significant proportion of these may have been misidentified which presents a technical problem and an ethical dilemma to those involved with identification procedures, both then and now.

In 2000, the Organization for Security and Cooperation in Europe (OSCE) began an undertaking to presumptively identify those individuals in Kosovo exhumed by the International Criminal Tribunal for the Former Yugoslavia (ICTY) via a standardized and systematic approach of weighting variables and assigning agreement scores. This system operated in parallel with ICTY's data on presumptive identifications attested to by surviving relatives. It is unfortunate that, given the high failure rate of presumptive identification in regions of the former Yugoslavia as shown by the DNA, data are unavailable concerning which presumptive method was used to identify the victims in both the correctly and incorrectly identified cases. It would be important to know if a more standardized means of comparison improved the correct identification rate. If not, then the usefulness of conducting any presumptive identification might well be questioned.

Without universally applicable antemortem and postmortem databases (designed to allow the inclusion or exclusion of relevant and available data) and a rigorous and standardized system of comparison, presumptive identification should be approached with caution. If presumptive identification is to be employed, then all the stakeholders need to be aware of the potential for misidentification. It is imperative that the use of the word "identification" be qualified when identification is not done through accepted means of *positive* identification.

#### **Presumptive Identification, Ante-Mortem Data, Ethics**