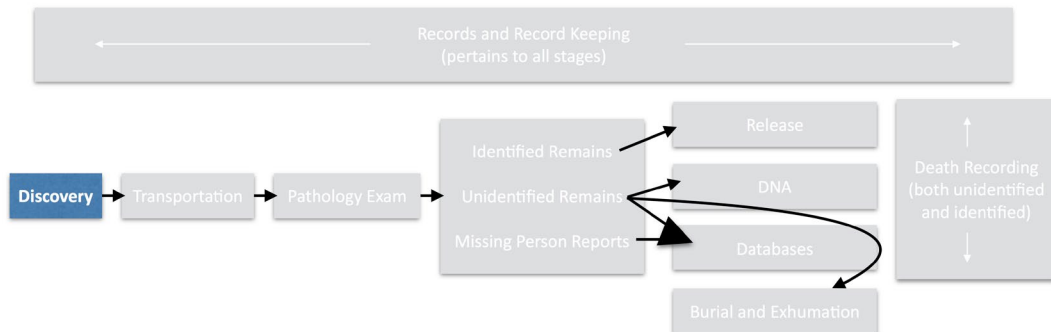


Section 2: Discovery of Remains & Evidence Collection



INTRODUCTION

Effective examination and identification of UBC remains will largely depend on piecing together evidence that is collected at the initial stages of recovery of those remains. Therefore, this section highlights issues related to UBC remains recovery and a set of best practices addressing well documented circumstances under which UBC deaths are known to occur. Many best practice suggestions are taken directly from other national and international best practice manuals related to body recovery and postmortem examination. Publications by organizations such as the International Police, the International Committee of the Red Cross and Red Crescent Societies, and the World Health Organization are considered. Other best practices have been derived from the data itself.

ISSUES

Issues surrounding body recovery when pertaining to UBCs fall into four categories which will be discussed here: (1) jurisdictional boundaries; (2) remoteness of discovered bodies and issues related to accessibility; (3) decomposition of bodies related to exposure; and finally, (4) multiagency involvement in the initial stages of recovery, creating issues related to interagency variations in protocol.

Jurisdictional Boundaries

1. Jurisdiction is a particular issue for UBC body recovery because of the proximity of an international border.
2. Depending on where a body is recovered, jurisdictional responsibilities may differ. If the body is found in the Rio Grande, it may fall under Mexican or United States' legal jurisdiction. In this manual, we only deal with local, state and federal procedures on the United States side of the border.
3. The federal government does not designate which federal agency has jurisdiction of bodies recovered in the federal border spaces. On the Rio Grande, the mid-point of the river is technically the international boundary. Because bodies may float back and forth, a loophole opens for both countries to avoid claiming jurisdiction, along with the financial, physical and bureaucratic obligations that body recovery requires.

- This loophole may affect investigations of criminal activity beyond the scope of migrant death investigation. If the body is in a questionable jurisdictional area, the existing loophole could be exploited for criminal purposes.
4. The determination of the border is not always clear. As per the latest treaty in 1970 addressing this issue, the International Boundary and Water Commission of the United States and Mexico has ultimate authority to determine the exact boundary. However, this is still debated, leaving a legal vacuum.
 5. A similar jurisdictional issue exists at county borders. When a search and rescue group from one county finds a body in an adjacent county, there is often a legal question of who should ultimately be in charge of the remains. Given budget constraints and other rationale, some officials interviewed reported that they often tried to avoid claiming jurisdiction over the body.

Remoteness / Accessibility

1. The remote, sparsely populated terrain in the border regions where most UBC decedents are found, challenge the initial phases of body recovery.
2. The process of transporting a body is made difficult when facing rugged terrain accessible to, and often only by a four-wheel-drive vehicle.
3. Managing for the needed personnel to get to the scene often entails coordination of multi-agency efforts, as well as special equipment.

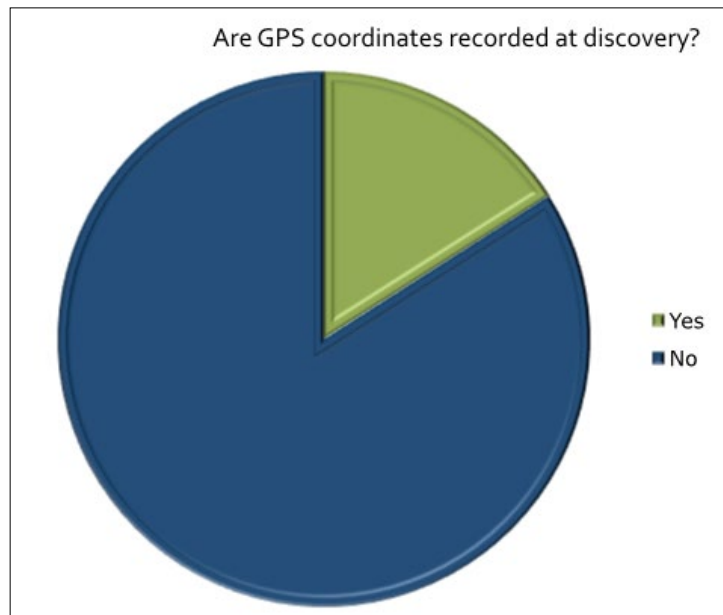


Figure 3: According to data gathered from officials involved in discovery, GPS coordinates are taken at the scene of a body's discovery only 16 percent of the time.

Recording the coordinates of discovered remains

The coordinates of discovered remains are seldom recorded (see Figure 3). This information is useful for statistics and records.

Body Decomposition due to Exposure

1. In the desert climates along the U.S.-Mexico border, decomposition of exposed human remains is accelerated compared to other places. Because of this, many times important identification markers on UBC remains are altered or destroyed.
2. This is often an issue for UBC death investigations where individuals are traveling clandestinely and anonymously through remote territories; as a result, they are often not discovered for some time, and then only by happenstance.

3. Because a body is highly decomposed, signs of the cause of death are obscured due to the state of body decay. Beyond the fact that a cause of death should never be assigned at the scene, decomposition makes such assignments more questionable. However, based on survey responses, 57 percent of respondents

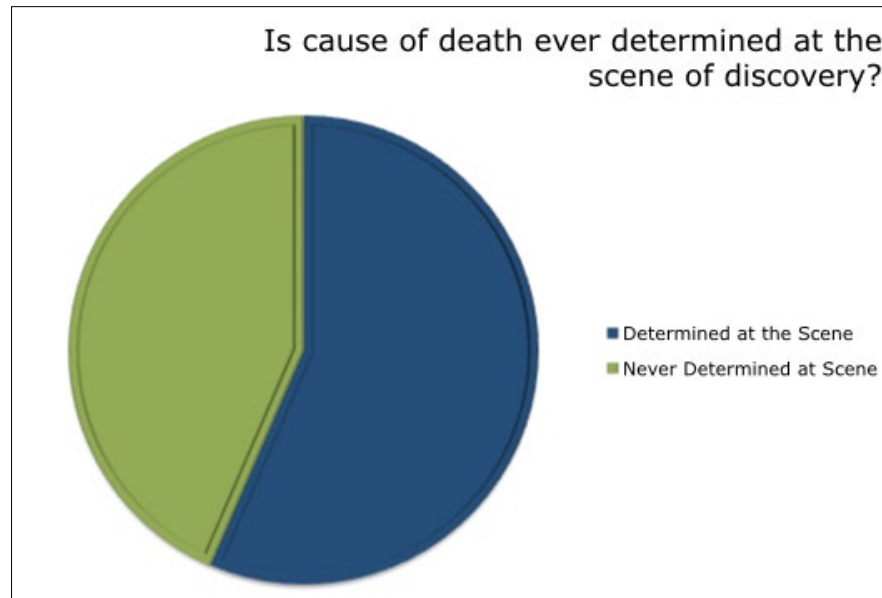


Figure 4: According to data gathered from officials involved in discovery who responded to the question, cause of death is determined at the scene of discovery 57 percent of the time.

reported that cause of death could be determined at the scene when unknown and exposed remains are encountered (see Figure 4). If cause of death is determined at the scene, a body is less likely to receive an autopsy.

Protocol Variation between Agencies

1. A host of agencies may become involved with the recovery of bodies, including but not limited to: Border Patrol, state police, sheriffs' offices, local police, justices of the peace, coroners, medical examiners, park rangers, and other wildlife officials (see Figure 5). With different sets of protocols related to decedent recovery and principles of scene preservation for investigation, this often becomes an issue. For example, some agencies may deem it acceptable to determine cause of death at the scene, and thus decide whether or not a body will be autopsied (see Figure 4).
2. Evidence obtained at the site gathered by law enforcement agency in charge but released piecemeal to various investigative units throughout the investigation process makes it difficult to account for all collected evidence.
3. Investigation forms vary among departments and bodies may be assigned different unique identifying case numbers by each investigative unit. This state of decentralized recording systems pose problems when tracking a particular case due to the lack of standardized case numbers.

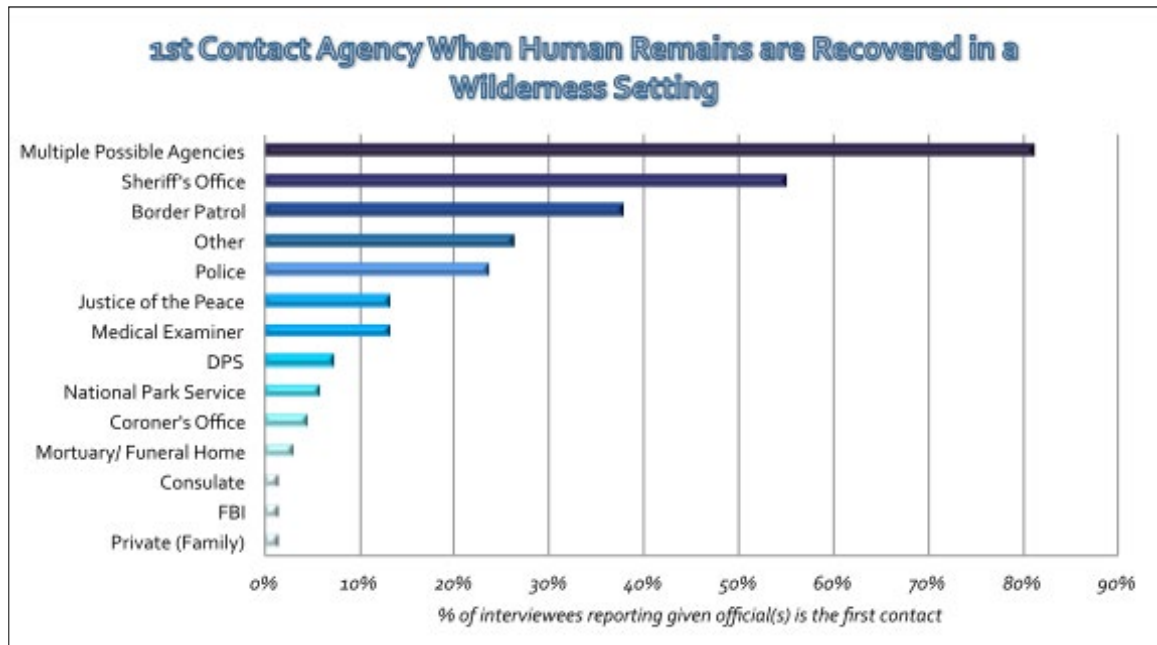


Figure 5: Our survey asked participating officials to name the first agency point of contact when a body is discovered in the wilderness. Many times, the agency contacted varied depending on circumstances. Almost 80 percent of the time, multiple points of contact were named. This graph is meant to highlight the multi-agency complexity that exists in the body recovery stage.

BEST PRACTICES

Criteria for Identifying a UBC

1. For bodies discovered in areas where UBC deaths are known to occur, there must be some evaluation of whether or not the body is a UBC.
2. Identifying a body as a presumptive UBC must be evaluated through a preponderance of evidence, where a combination of the following criteria are common indicators:
 - The decedent lacks a U.S. Social Security number, permanent U.S. residency card, or evidence of lawful U.S. immigration status.
 - The decedent is of Hispanic ethnicity.
 - The decedent is foreign born, of a foreign nationality, or has a foreign residency. The decedent may have foreign next-of-kin, and died while in transit from Mexico to a U.S. destination.
 - The body was discovered in a well-known migrant corridor.
 - The body was found with or reported by other UBCs.
 - Associated with a body were personal effects or documents typical of UBCs (e.g., water jugs, U.S. and foreign currency, hygiene products, extra clothing, phone cards, phone numbers or addresses of contacts in a foreign country, and a backpack).

Jurisdiction

1. There needs to be a clear determination where U.S. jurisdictional boundaries end, so that responsibilities are more clear. For this to happen, federal legislation must be clarified, and federal officials must be clearly designated to recover bodies in federal space.
2. Officials should be properly trained in the parameters of jurisdictional domains.
3. A significant number of UBC bodies are found unattended. Therefore, each medico-legal officer (medical examiner or coroner) should be familiar with practices within the officer's area to ensure that all cases falling within his or her jurisdiction are properly investigated. If there is any doubt as to jurisdiction, the medico-legal officer should assume jurisdiction [12].

Remoteness / Accessibility

1. Global Positioning System (GPS) coordinates should be recorded at the *discovery site* and before repositioning the body or remains [13]. These coordinates should be placed in the discovery report.
2. GPS coordinates should be recorded in a national database for missing persons.
3. Remains should be transported in a body bag and/or a stretcher wherever possible [15][13]. For additional information relating to the transporting of remains to a secondary site, please refer to the Transportation section of this manual.
4. A best practice is to set up an Open GIS (OGIS) system for recording where all suspected UBC remains were recovered (see Pima County and Humane Border's Open GIS website for recovered remains: <http://www.humaneborders.info/>).

Evidence collection to facilitate investigation, especially when bodies are found decomposed

1. Appropriate techniques for securing the scene should permit the association of material evidence and/or remains in a scientifically sound manner. This should apply to scenes of all scales, from a single body to motor vehicle accidents where multiple fatalities are involved [14].
2. Human remains should be collected by trained forensic specialists and/or criminologists and evidence gathered at this stage should be preserved in case it is needed to assist in identification at a later time [15][13].
3. Evidence should be secure, and a chain of custody should be established as a measure to preserve and secure this evidence [14].
4. Archaeological principles call for sound association based on provenience of evidence and remains relative to incident [14]. This is especially important in the case of skeletal, disarticulated, and co-mingled remains

- Forensic archaeological practices should include controlled searches of the area, aiding in location, survey, sampling, recording, and interpretation of evidence. Archaeological principles call for scene investigators to determine body taphonomy, and external processes related to body position, and decay. These principles aid in the conservation of evidence to determine the relevance of artifacts and identification of scene anomalies for investigation [16].
 - Personal effects and any related materials in the extended surrounding areas should also be documented and collected [17][18][13][14].
5. The recovery process is unavoidably destructive, so a clear documentation process is crucial [14].
 6. During the recovery period, law enforcement should not remove any objects from the individual's clothing and/or place items in their clothing [15][14].
 7. Photographs of the scene and close-up photos with and without a measuring ruler should be taken. Different angled views of the scene should also be taken as well as several close-up photographs of the discovery scene and remains [17][18][13][16].
 8. The discovery site should be well-documented in the forms of field notes, maps, unique identifiers of plotted specimens, and photos [16].
 9. Evidence found at the scene should be properly packaged, sealed, labeled and inventoried. Specific investigative protocols, procedures and techniques for evidence collection and storage should be followed [17][13].

Protocol Variation between Agencies

1. All entities involved in the recovery of UBC remains should introduce basic training programs and instruction on different aspects of evidence collection, including recovery techniques. This training should also consider social, cultural, religious, legal, and psychological aspects of recovering remains. For example, nothing should be done which would likely violate the religious beliefs of the decedent or his or her family, to the extent these are known or can be deduced. Also, officials must consider that the family will want to know that the body was treated with respect during recovery [13].
2. Forensic specialists should be at the scene to assist law enforcement in the investigation and preliminary determination of death [17][18][15][13]
3. Receipt/transfer of evidence between agencies (e.g., from sheriff's office in charge of body recovery to medical examiner in charge of pathology exam) should be recorded and signed by the receiving and transferring officials [15].
4. To aid the multi-agency recording of evidence collection, storage of any evidence and investigative documentation should be centralized.
5. The final cause of death should not be determined at the recovery site [17][15][13].

6. The cause of death should be determined *only* by authorized forensic medical experts after a comprehensive evaluation, and not at the scene [17][15][13].
7. Investigational reports should contain specific information relating to the recovery and investigation of UBC remains [18].
8. Tracking numbers should be used for remains to facilitate communication across all law enforcement and non-law enforcement entities [17]. For additional information relating to the records, please refer to the Records Section of this manual.

Notes for Families

1. The state of recovered remains may be important to family members' grieving process. NGOs specify that families as victims should ultimately have access to all recovery data. However, criminal investigators may cause delays.
2. Families should have access to GPS location of recovered remains, as well as the report on the search and inventory of basic items found.