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# Post-1991 Katyn Investigations in Poland

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## POST-1991 KATYN INVESTIGATIONS IN POLAND

*Janusz Cisek, Ph.D\**

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### I. INTRODUCTION

In 1989, the parliamentarian and actor Andrzej Łapicki presented the first post-Communist proposal concerning Katyn, based on a manifesto signed by members of the Katyn Family, in the new Sejm (Parliament) of the Republic of Poland.<sup>1</sup> The proposal was formulated so as to evoke a response from the Polish government, with a resulting exploration of all the facts involved in the Katyn Massacre and the responsibility of the Soviet authorities.<sup>2</sup> The new politics of the Soviet government in Gorbachov's era,

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<sup>1</sup> BOŻENA ŁOJEK, ZDZISŁAW SAWICKI, STANISŁAW MIKKE & JACEK TRZNADEL, *MUZEUM KATYŃSKIE W WARSZAWIE* 65–69 (2001).

<sup>2</sup> JACEK TRZNADEL, *POWRÓT ROZSTRZELANEJ ARMII* (1995) (containing the text of the proposal and its rejection); *see also* TELFORD TAYLOR, *THE ANATOMY OF THE NUREMBERG*

combined with the efforts of Memorial, led to the Russian admission—in a short communiqué issued by the Telegraph Agency of the Soviet Union (TASS)—on April 13, 1990, confirming Soviet responsibility for the Katyn Massacre.<sup>3</sup> However, final responsibility for the crime was placed at the doorstep of the People's Commissariat for Internal Affairs (NKVD). Russian historians began to unearth previously unknown materials that had been retained, filed in secret archives until that moment. Because of Polish demands, an official Soviet inquiry dealing with the Katyn Massacre was initiated in September 1990.<sup>4</sup>

In July 1991, the auxiliary Polish investigation was initiated, serving as an adjunct to the Soviet National Military Prosecutor's investigation and aided with both legal and specialist expertise.<sup>5</sup> Pursuant to a decision of the then Justice Minister Aleksander Bendkowski, Polish Deputy Prosecutor Stefan Śniezko was appointed coordinator.<sup>6</sup>

Notwithstanding the Soviet investigation that was underway, and in light of a decision dated September 2, 1993 by Justice Minister Jan Piątkowski, steps were undertaken to initiate an independent Polish investigation into the Katyn Massacre.<sup>7</sup> A number of individuals from the Warsaw Prosecutor's Office were designated to work in this unit; which was in receipt of materials previously in the possession of Mr. Śniezko, and they were charged with the responsibility of organizing and conducting the Rzeczpospolita Polska's Katyn Investigation.<sup>8</sup> The unit was headed by Prosecutor Aleksander Herzog.<sup>9</sup> This specific unit was dissolved shortly thereafter and the materials in its possession were transferred to the Instytut

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TRIALS: A PERSONAL MEMOIR 46–72 (1992) (discussing the Soviet's strategy at the Nuremberg trials to attempt to exonerate the Soviets guilt for the Katyn tragedy including a discussion of facts regarding the massacre).

<sup>3</sup> S. Con. Res. 118, 106th Cong., 2d Sess. (2000); Esther B. Fein, *Upheaval in the East; Gorbachev Hands Over Katyn Papers*, N.Y. TIMES (Apr. 14, 1990), <http://www.nytimes.com/1990/04/14/world/upheaval-in-the-east-gorbachev-hands-over-katyn-papers.html?page-wanted=all&src=pm>.

<sup>4</sup> See generally Benjamin B. Fischer, *The Katyn Controversy: Stalin's Killing Field*, CENTRAL INTELLIGENCE AGENCY, available at <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/winter99-00/art6.html> (last updated June 27, 2008) (discussing the 1990 investigation of the Katyn massacre through the opening of previously unseen official records and secret documents).

<sup>5</sup> KATYN: A CRIME WITHOUT PUNISHMENT 128 (Anna M. Cienciala, Natalia S. Lebedeva & Wojciech Materski eds., Marian Schwartz, Anna M. Cienciala & Maia A. Kipp trans., 2007) (describing the investigation conducted in July 1991 regarding previously undisclosed information about the massacre).

<sup>6</sup> *Id.*

<sup>7</sup> GEORGE SANFORD, KATYN AND THE SOVIET MASSACRE OF 1940: TRUTH, JUSTICE AND MEMORY 218–219 (2005).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 219.

Pamięci Narodowej (IPN, or Institute of National Remembrance) in January 2000.<sup>10</sup>

In deciding to initiate the Polish investigation, it was agreed that by sanctioning the Katyn Massacre, USSR government officials involved had committed an illegal act that included a deliberate operation to execute thousands of Polish prisoners of war and civilians, which, as understood by international law and convention was a war crime and a crime against humanity.

There exist multiple goals of the above-referenced investigation, which include: a unified and comprehensive documented explanation of the circumstances of this matter, including, among other issues, a detailed listing of the names of all the Polish citizens who were victims of the Katyn Massacre (the Belorussian List is still missing); the determination of heretofore unknown massacre and burial sites of these victims, ascertaining the names of *all* those involved in making the decision dated March 5, 1940; the names of those who involved in executing the decision, and determining the scope of their responsibility; and finally bringing the still-living perpetrators to justice, insofar as it is possible. Another goal is the formation of a complete list of those who are defined as “injured” as a result of the loss of their family members, as based on Polish law.

## II. INVESTIGATORY PROCESS - CASE NO. S 38/04/ZK

An investigation was conducted by the Międzyodziałowy Zespół Śledczy (Interdepartmental Investigative Unit), which was dissolved by order of the Director of the Główna Komisja Ścigania Zbrodni przeciwko Narodowi Polskiemu (GKŚZpNP, or Chief Commission for the Prosecution of Crimes against the Polish Nation a division of the IPN) in 2008.<sup>11</sup> It was replaced by a three-member Zespół Śledczy (Investigative Unit), consisting of prosecutors from the Chief Commission working on case No. S 38/04/Zk.<sup>12</sup> The work of this specific unit is aided by the remaining ten Regional Commissions of the ŚZpNP in Poland, which aid the Chief Commission by conducting interviews of witnessing parties in their respective regions.<sup>13</sup>

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<sup>10</sup> *See id.*

<sup>11</sup> *See Decision to Commence Investigation into Katyn Massacre*, INST. NAT'L REMEMBRANCE (Dec. 1, 2004), [http://www.ipn.gov.pl/portal/en/2/77/Decision\\_to\\_commence\\_investigation\\_into\\_Katyn\\_Massacre.html](http://www.ipn.gov.pl/portal/en/2/77/Decision_to_commence_investigation_into_Katyn_Massacre.html) (noting the decision by the President of the IPN to investigate the Katyn Massacre and the appointment of the Interdepartmental Investigative Team).

<sup>12</sup> *Śledztwo w sprawie Zbrodni Katyńskiej (sygn. S 38/04/Zk) [The Investigation of the Katyn Massacre (ref. S 38/04/Zk)]*, INST. NAT'L REMEMBRANCE, [http://ipn.gov.pl/portal/pl/754/Sledztwo\\_katynskie.html](http://ipn.gov.pl/portal/pl/754/Sledztwo_katynskie.html) (last visited July 2, 2012).

<sup>13</sup> *Id.*

Documentary efforts in the investigative process concentrate primarily on interviewing witnesses, both in Poland and abroad, as well as locating archival material that refers to the Katyn Massacre. As a result, a total of 2,589 witnesses have been questioned with the greater majority being immediate family members of the victims.<sup>14</sup>

Among those recently interviewed, it is particularly relevant to mention the testimony of Henryk T. (witnesses surnames are not customarily disclosed in Poland); who related that he was transported as a forced laborer to Smoleńsk in February 1942 and, in the spring of 1943, was an eyewitness to the exhumations conducted in the Katyn Forest.<sup>15</sup> This testimony, as well as other items referred to in this presentation, is proof that despite the passage of seventy years, new materials and evidence continue to be discovered.

### III. COOPERATIVE ENDEAVORS WITH THE RUSSIAN FEDERATION

Because of its great import for the prosecution, the documentary evidence collected in the investigation recorded as Case No. 159 of the National Military Prosecutor of the Russian Federation with respect to the Katyn Massacre, the Regional Commission of the ŚZpNP in Warsaw, through the offices of the Polish Ministry of Justice, submitted a request that the Prosecutor General's Office of the Russian Federation extend all possible legal aid and assistance.<sup>16</sup> This included a request for verified photocopies or copies of the completed prosecutorial documentation found under No. 159 in the records of the National Military Prosecutor of the Russian Federation, and additionally for a verified photocopy or copy of the decision to suspend said investigation, and the transfer of all aforementioned documents to the Polish prosecutors so that they might be utilized in Case No. S 38/04/Zk.<sup>17</sup>

The response of the Prosecutor General of the Russian Federation dated June 28, 2005, which was transmitted through the offices of the Ministry of Justice of the Rzeczpospolita Polska, was received by the IPN on July 28, 2005.<sup>18</sup> The reply advised that the Russian side would make

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<sup>14</sup> *Id.*

<sup>15</sup> For a review of the prosecutorial records, see *Chief Commission for the Prosecution of Crimes Against the Polish Nation*, INST. NAT'L REMEMBRANCE, <http://ipn.gov.pl/portal/en/5/43/> (last visited July 2, 2012) [hereinafter *Prosecutorial Records*].

<sup>16</sup> *Janowiec and Others v. Russia*, Judgment, ¶¶ 39–45, App. Nos. 55508/07, 29520/09 (Eur. Ct. H.R., 2012), available at [http://actu.dalloz-etudiant.fr/fileadmin/actualites/pdfs/MAI\\_2012/CASE\\_OF\\_JANOWIEC\\_AND\\_OTHERS\\_v.pdf](http://actu.dalloz-etudiant.fr/fileadmin/actualites/pdfs/MAI_2012/CASE_OF_JANOWIEC_AND_OTHERS_v.pdf)

<sup>17</sup> See *IPN Hands over Documents about the Katyn Massacre*, INST. NAT'L REMEMBRANCE, [http://www.ipn.gov.pl/portal/en/2/488/IPN\\_hands\\_over\\_documents\\_about\\_the\\_Katyn\\_Massacre.html](http://www.ipn.gov.pl/portal/en/2/488/IPN_hands_over_documents_about_the_Katyn_Massacre.html) (last visited July 2, 2012).

<sup>18</sup> See *Janowiec and Others*, ¶ 41.

available sixty-seven volumes of case material, referencing Case No. 159 of the Military Prosecutor General's Office of the Russian Federation.<sup>19</sup> This correspondence did not clarify why all the material would not be made available, nor did it reference the possibility of the Polish side receiving a copy of the civilian Prosecutor General's investigatory materials and a copy of the determination which terminated investigation No. 159.<sup>20</sup>

At the invitation of the Military Prosecutor General's Office of the Russian Federation, and from October 9 to October 21, 2005, three prosecutors representing the IPN's Regional Commission in Warsaw, as well as the chief specialist of the Chief Commission of the ŚZpNP (a historian), visited Moscow.<sup>21</sup> During the course of their visit they were able to acquaint themselves with the materials contained in the sixty-seven volumes referencing Case No. 159 that had been made available and made appropriate documentary notations.<sup>22</sup> Nonetheless, this work did not lead to the acquisition of any essential information about the Katyn Massacre, nor did it increase the available information about the subject matter. The documents made available did not include the criminal edict of the Politburo of the Central Committee of the All-Russian Worker's Party (Bolshevik) dated March 5, 1940 concerning the murder of the Poles.<sup>23</sup>

The Russian side did not allow for photocopying of the documents that had been reviewed; nor was the entirety of the case material made available, with this decision being based on the statement that a portion of them were designated as Secret.<sup>24</sup> This designation was also applied to the decision, dated September 21, 2004, suspending investigation No. 159 and this designation precluded, despite the repeated request of the IPN prosecutors, its review.<sup>25</sup>

On September 30, 2009, the Regional Commission in Warsaw forwarded a second request through the Ministry of Justice, to the prosecutorial offices of the Russian Federation. It requested, once again, for legal assistance on Criminal Case No. S 38/04/Zk, by making the entirety of the National Military Prosecutor's case files referencing case No. 159, as well as the decision concerning the suspension of Case No. 159, the verified photocopies or copies of the entirety of the investigation of Case No. 159, as well as the decisions concerning the suspension of the investigation and

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<sup>19</sup> *Id.* ¶¶ 44–45.

<sup>20</sup> See Adam Bosiacki, *The Unfinished Business of Katyn*, HOOVER DIGEST, No. 1, 2012, available at <http://www.hoover.org/publications/hoover-digest/article/105461>.

<sup>21</sup> *Janowiec and Others*, ¶ 44.

<sup>22</sup> *Id.*

<sup>23</sup> Bosiacki, *supra* note 20.

<sup>24</sup> *Janowiec and Others*, ¶ 44.

<sup>25</sup> *Id.* ¶ 42.

concurrency for the transfer of all documentation concerning Case No. S 38/04/Zk available for review by the Polish investigators.

In May 2010, the Russian Federation transferred the sixty-seven volumes of materials, which had been previously reviewed, while in September an additional twenty volumes and in December a final fifty volumes were received.<sup>26</sup> In total, 137 volumes of materials concerning the investigation of Case No. 159 have been received; while another thirty-six volumes considered to be Secret or Top Secret have not been transferred.<sup>27</sup>

#### IV. COOPERATIVE ENDEAVORS WITH THE REPUBLIC OF UKRAINE

On August 18, 2005, the Regional Commission of the ŚZpNP in Warsaw also requested that the Prosecutor General of the Ukrainian Republic assist with legal efforts in the ongoing investigation.<sup>28</sup> Specifically, reference was made to the materials gathered by Ukrainian prosecutors in five cases, but particularly to Case No. 50-0092 “Bykownia” concerning the discovery of mass graves in the Bykownia Forest in Kiev Oblast, which the Polish prosecutors wished to review.<sup>29</sup>

The Prosecutor General of the Ukrainian Republic extended an invitation, and three IPN prosecutors, as well as the Chief Specialist (a historian) of the Chief Commission of the ŚZpNP, were able to work in Kiev from November 5 to November 18, 2006.<sup>30</sup> This visit enabled the group to familiarize themselves with twenty-two volumes of procedural documentation from the Ukrainian Military Prosecutor’s Office in the Kiev Region, numbered 50-0092 in the case of the “*Mass Graves in the Dnieper Forest of the Bykownia near Kiev*”; the investigation of which was suspended by decree on June 25, 2001.<sup>31</sup> They were also able to review the contents of thirty-five volumes of case matter of the “*Execution of Polish Officers and Polish Civilians in 1940-41 by the NKVD of the USSR*” gathered by the Ukrainian Military Prosecutor’s Office in the Northern

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<sup>26</sup> *Id.* ¶ 45.

<sup>27</sup> *IPN Received 11 Volumes of Russian Files on Katyn Massacre*, INST. NAT’L REMEMBRANCE, (July 7, 2011), [http://www.ipn.gov.pl/portal/en/2/508/IPN\\_received\\_11\\_volumes\\_of\\_Russian\\_files\\_on\\_Katyn\\_Massacre\\_\\_Warsaw\\_7\\_July\\_2011.html](http://www.ipn.gov.pl/portal/en/2/508/IPN_received_11_volumes_of_Russian_files_on_Katyn_Massacre__Warsaw_7_July_2011.html).

<sup>28</sup> Małgorzata Kuźniar-Plota, *Kwalifikacja prawna Zbrodni Katyńskiej – wybrane zagadnienia* [*The Legal Classification of Katyn Massacre – Selected Issues*], in 2 ZBRODNI PRZESZŁOŚCI: OPRACOWANIA I MATERIAŁY PROKURATORÓW IPN [CRIMES OF THE PAST: DEVELOPMENTS & MATERIALS OF THE IPN PROSECUTORS] 74, 81 (Radosława Ignatiewa & Antoniego Kury, eds., 2008).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

Region (not assigned a case number).<sup>32</sup> This investigation is *not* concluded. As advised by the Ukrainian Military Prosecutor's Office in the Central Region, it is conducting "preliminary procedures" in this case.<sup>33</sup>

In August 2007, through the office of the Embassy of the Rzeczpospolita Polska in Kiev, the Regional Commission of the SZpNP in Warsaw received a selection of the materials gathered in the twenty-two volumes, each volume consisting of several hundred pages.

During the course of the proceedings a request was sent in April 2007 to the Prosecutor General of the Ukrainian Republic, regarding legal assistance by sending a verified photocopy of what is referred to as the Ukrainian Katyn List, i.e., a list of the names of 3,435 Polish citizens who had been detained in prisons in what is referred to as Western Ukraine, and who had been executed as a result of the order dated March 5, 1940.<sup>34</sup> The subject list was submitted for use in the investigatory process referenced as S 38/04/Zk in August 2007.

#### V. COOPERATIVE ENDEAVORS WITH THE REPUBLIC OF BELORUSSIA

On September 20, 2002, the Ministry of Justice of the Republic of Poland submitted a request to the Ministry of Justice of the Belorussian Republic, wherein it asked for a determination as to whether the Prosecutor of the Belorussian Republic had conducted any investigation into the matter of the mass graves in Kuropaty near Minsk, and for a copy of the evidence thus collected. Based on the reply received in 2003 from the Belorussian Republic, it appears that during the course of conducting the case in the matter of "disclosing the identities of those individuals buried in the Kuropaty forest preserve in the Minsk region" the *nationality and citizenship of the exhumed skeletal remains was not determined*.<sup>35</sup> Thus, the

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<sup>32</sup> Małgorzata Kuźniar-Plota, *Informacja o stanie śledztwa S 38/04/Zk w sprawie zbrodni katyńskiej* [Information about the State S 38/04/Zk Investigation into the Katyn Massacre], in ZBRODNIA KATYŃSKA W OCZACH WSPÓŁCZESNYCH ROSJAN [THE KATYN MASSACRE IN THE EYES OF THE CONTEMPORARY RUSSIAN] 7, 9 (Marka Tarczyńskiego ed., 2007), available at [http://www.ipn.gov.pl/ftp/katyn/ZESZYTY22-Zbrodnia\\_katynska\\_w\\_oczach\\_wspolczesnych\\_rosjan.pdf](http://www.ipn.gov.pl/ftp/katyn/ZESZYTY22-Zbrodnia_katynska_w_oczach_wspolczesnych_rosjan.pdf).

<sup>33</sup> *Id.*

<sup>34</sup> See KATYN: A CRIME WITHOUT PUNISHMENT, *supra* note 5, at 136 (stating that the list of victims shot in Ukraine has been found that it indicates that 3,435 victims were executed pursuant to the March 5, 1941 order).

<sup>35</sup> See David R. Marples, *Kuropaty: The Investigation of a Stalinist Historical Controversy*, 53 SLAVIC REV. 513, 517, 522 (1994). Marples notes that the victims found at Kuropaty were not identified and that the most definitive conclusion that can be drawn is "both Soviet and non-Soviet victims were executed." *Id.* The Kuropaty site is known as an NKVD execution site, however, specific graves contain archeological items of a purely Polish nature. *Id.*



Belorussian side did not release any photocopies of the materials involved in this case.

In response to the Russian decision to terminate the Katyn investigation, the Polish Parliament, on March 22, 2005, adopted a resolution expressing regret that the Katyn crime became politicized in order to downplay its significance and to evade responsibility for the crime.<sup>36</sup> The resolution stated:

We expect from the Russian nation and from the Russian Federation the clear admission of the genocidal character of the murder of Polish prisoners of war, as defined by the Nuremberg trials. We also expect that all circumstances of this crime will be revealed, in particular the location of the burial of a large number of murdered prisoners whose graves have still been impossible to locate. We express our disappointment that the Katyn investigation has been terminated by the prosecutorial authority of the Russian Federation. We expect that all the documents from the Katyn investigation will be released. The Sejm of the Republic of Poland expresses its support of the Institute of National Remembrance to conduct the Polish investigation into the Katyn crime, and considers it necessary to continue activities so undertaken.<sup>37</sup>

#### VI. COOPERATIVE ENDEAVORS WITH OTHER NATIONS

A request for legal assistance was also issued to the Ministry of Justice of the Republic of Germany. As a result, the Regional Commission in Warsaw conducted research in the subject matter in designated German archives. Photocopies of documents were received from the Prosecutor General in Coblenz—Rhine Region—Palatinate, which originated in the Political Archive of the Foreign Ministry in Berlin and the Federal Archive in Coblenz.<sup>38</sup> Additionally, the German Foreign Office suggested that the archival material contained in the Political Archives of the Ministry of Foreign Affairs in Berlin be reviewed personally by the IPN prosecutors. The review was conducted from July 19 to July 22, 2005, wherein access was granted to twenty-six volumes of archival documents, containing four hundred pages each.<sup>39</sup> These documents were transferred as microfiche

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<sup>36</sup> *Katyn Resolution Adopted*, WARSAW VOICE (Mar. 30, 2005), <http://www.warsawvoice.pl/WVpage/pages/article.php/8069/article>.

<sup>37</sup> SEJM RZECZYPOSPOLITEJ POLSKIEJ [PARLIAMENT OF THE POLISH REPUBLIC], UCHWAŁA SEJMU RZECZYPOSPOLITEJ UPAMIĘTNIAJĄCEJ 65 ROCZNICĘ ZBRODNI KATYŃSKIEJ [RESOLUTION OF THE SEJM COMMEMORATING THE 65<sup>TH</sup> ANNIVERSARY OF THE KATYN MASSACRE] (Mar. 22, 2005) (Pol.) available at: [http://orka.sejm.gov.pl/Druki4ka.nsf/wg\\_druku/3819/\\$file/3819.pdf](http://orka.sejm.gov.pl/Druki4ka.nsf/wg_druku/3819/$file/3819.pdf)

<sup>38</sup> *Prosecutorial Records*, *supra* note 15.

<sup>39</sup> See *Komunikat w sprawie Zbrodni Katyńskiej oraz informacja o stanie śledztwa* [Communication on the Katyn Massacre and the Status of the Investigation], INST' NAT'L

copies by the Germans to the Regional Commission in Warsaw. With respect to conflicting information as to the contents in the Soviet documentation of Smolensk, which was captured by the Germans in the summer of 1941, and which was transferred by them to the Reich, and then was seized by the Americans, a decision was made concerning the necessity of conducting research on the issue of the Katyn Massacre in these materials.

Despite the passage of decades, the investigation continuously unearths new material about documents extant in foreign archives, whose contents may aid in determining all the disparate circumstances of the Katyn tragedy. In November 2007, detailed information was received from IPN archivists concerning Katyn from their research of the archives of the Polish Institute and General Sikorski Museum, the Polish Underground Movement (1939–1945) Study Trust and the Polish Library, all located in London.<sup>40</sup> Clearly, there was a large amount of material that might have significance in the investigation of Case No. S 38/04/Zk. The selected archives of the Polish Institute and General Sikorski Museum consisted of 321 items and over a thousand pages, mostly in Polish.

An important source of information for the investigation will certainly be the expansive documentation accumulated by the *Select Committee to Conduct an Investigation of the Facts, Evidence and Circumstances of the Katyn Forest Massacre of the Eighty Second Congress*, which was chaired by Congressman Ray J. Madden, and which is referred to simply as the Madden Committee.<sup>41</sup> Steps have been taken through the offices of the Embassy of the Republic of Poland in the United States, to determine the extent of the documentation and the possibility of reviewing it in the National Archives in the United States. In May 2009, the Polish Ministry of Justice, acting on behalf of IPN, submitted a request for legal assistance in the subject matter to the Attorney General of the United States of America. As a result of this request, authenticated photocopies of

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REMEMBRANCE, [http://www.ipn.gov.pl/portal/pl/245/135/Komunikat\\_w\\_sprawie\\_Zbrodni\\_Katynskiej\\_oraz\\_informacja\\_o\\_stanie\\_sledztwa.html](http://www.ipn.gov.pl/portal/pl/245/135/Komunikat_w_sprawie_Zbrodni_Katynskiej_oraz_informacja_o_stanie_sledztwa.html) (last visited July 2, 2012).

<sup>40</sup> The Polish Institute and Sikorski Museum and the Polish Underground Movement (1939–1945) Study Trust have amalgamated, for more information on the two, see POLISH INST. AND SIKORSKI MUSEUM, <http://www.pism.co.uk/index.htm> (last visited July 2, 2012). For information about the Polish Library in London, see POLSKI OŚRODEK, <http://www.posk.org/> (last visited July 2, 2012).

<sup>41</sup> See generally 1–4 THE KATYN FOREST MASSACRE: HEARINGS BEFORE THE SELECT COMMITTEE TO CONDUCT AN INVESTIGATION OF THE FACTS, EVIDENCE AND CIRCUMSTANCES OF THE KATYN FOREST MASSACRE, EIGHTY-SECOND CONGRESS, FIRST[-SECOND] SESSION, ON INVESTIGATION OF THE MURDER OF THOUSANDS OF POLISH OFFICERS IN THE KATYN FOREST NEAR SMOLENSK, RUSSIA (1952).

the Madden Committee materials have been presented to the Prosecutor's Office.<sup>42</sup>

## VII. RESEARCH EFFORTS IN POLISH ARCHIVES ON THE KATYN MASSACRE

The following is a list of Polish archives and institutions in which research is conducted with the purpose of compiling documentary evidence which is as complete as possible.

### A. *IPN Archives in Warsaw – Ośrodek KARTA Archives in Warsaw*

Documentation made available by the *Rada Ochrony Pamięci Walk i Męczeństwa* (Council for the Protection of Monuments of Combat and Martyrdom), includes materials collected during the period 1994–96 of several expeditions.<sup>43</sup> These expeditions included subject-matter specialists, who conducted topographical analyses, archeological studies and selective exhumations, involved with the determination of the site size and terrain preparation work for the military cemeteries in Katyn, Kharkov and Mednoje.<sup>44</sup> Also included was an analysis that had been prepared for the Rada Ochrony for its needs in documenting the exhumations and archeological work, conducted in 2006 and 2007 by the Rada in the burial sites of Bykownia near Kiev.<sup>45</sup>

### B. *Archiwum Akt Nowych w Warszawie*

The Archiwum Akt Nowych (Archive of New Records) contains various collections that are of significance to the investigation.<sup>46</sup> The archives contain expansive materials on the Armia Krajowa (Home Army - 8 microfilms), the archive of General Władysław Sikorski, archives of the Polish Government in Exile in London, Janusz Zawodny archives, collection of TASS dispatches from 1943–46, collection of the National Police Command Centers in the Province of Silesia, collection of photocopies of documents from foreign archives as well as, the *Joint Commission of Party Scholars of the People's Republic of Poland and the Union of Soviet Socialist Republics Concerning the History of Relations Between Both Countries*. Several specific items were located as a result of this review,

<sup>42</sup> *Prosecutorial Records*, *supra* note 15.

<sup>43</sup> Andrzej Kola, *Badania Archeologiczne I Prace Ekshumacyjne*, in KU CMENTARZOM POLSKIM W KATYNIU, MIEDNOJE, CHARKOWIE [TO THE POLISH CEMETERIES IN KATYN, MEDNOYE, KHARKOV] 33–46 (Janina Snitko-Rzeszut ed., 1997), available at <http://www.ipn.gov.pl/download.php?s=1&id=22181>.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *The Central Archives of Modern Records in Warsaw*, ARCHIWUM AKT NOWYCH, [http://www.aan.gov.pl/index\\_en.php](http://www.aan.gov.pl/index_en.php) (last visited July 2, 2012).

among them a copy of correspondence from the Directors of the Headquarters of the Polish Red Cross, dated April 14, 1943, in which Dr. Jerzy Wodzinowski was delegated to travel to Smolensk, where he conducted exhumation work in Katyn; as well as copies of letters and cards written by him and sent from Smolensk and Katyn.

C. *National Digital Archive (Narodowe Archiwum Cyfrowe)*

A copy of the aural materials documenting the exhumation process of 1943 in Katyn was sourced from the National Digital Archive.

D. *Movie Archives (Filmoteka Narodowa)*

The documentaries filmed concerning the Katyn Massacre that were sought by the prosecutors are found in the Movie Archives (No. 1 Chelmska Street).<sup>47</sup> Of particular significance to the investigation were four films from 1943 and 1944, as well as a series of documentaries created mainly in the period of the late 1980s and early 1990s.<sup>48</sup> Among them were interviews with several of the surviving internees of Kozielsk, Ostaszków and Starobielsk, as well as films documenting the exhumations conducted in 1991 in Kharkov and Mednoje.

E. *Information and Missing Persons Office of the Polish Red Cross (Biuro Informacji i Poszukiwania Zarządu Głównego PCK) in Warsaw*

The materials of the Information and Missing Persons Office of the Polish Red Cross, is where was discovered the existence of an “*Alphabetical Listing of the Corpses Exhumed in Katyn*”<sup>49</sup> as well as a document entitled “*Listing of Katyn Victims Exhumed Therein in the Spring of 1943*” containing 4,143 positions with the personal details of the individuals as well as German language comments appearing next to a number of the names have both been photocopied.<sup>50</sup>

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<sup>47</sup> *Id.*

<sup>48</sup> Filmoteka – WFDIF, located at 1 Chelmska Street in Warsaw, is the national film archive of Poland, where both feature films and documentary films are archived. Archived here are the 1943 films produced by the Propagandakompanie on the first exhumations in Katyn. Among the films produced there which deal with Katyn are Marcel Łoziński’s *Las Katyński*, Krzysztof Szmagier’s *Sikorski* and Antoni Staszkievicz’s *Emisariusze*.

<sup>49</sup> See generally *Katyn Files, 1940*, ALL WORLD WARS, <http://www.allworldwars.com/Katyn-Files.html> (last visited July 2, 2012).

<sup>50</sup> *Id.*

F. *Katyn Museum, Branch of the Museum of the Polish Army (Muzeum Wojska Polskiego Oddział Muzeum Katynskie)*

This is the institution that I direct. Our research has concentrated on completing the testimony of the English-speaking witnesses to Katyn, generally concentrating on seven individuals. Research at this point includes:

- four films and an audiotape, recorded between 1981 and 1995 which include interviews with the English-speaking witnesses to Katyn, and which were recorded in the U.S.;
- articles and reminiscences by these witnesses published in Great Britain and the U.S., the most significant being an article written by Colonel John H. Van Vliet, Jr. and published in December 1962 (in a press run of over 1,250,000 copies, which stands uncontested as the single largest English language printing about Katyn)<sup>51</sup> and that of Captain Stanley S.B. Gilder in 1984;<sup>52</sup>
- the discovery of a heretofore unknown report of the fourth officer present in Katyn, Colonel Frank Stevenson of South Africa, dated February 20, 1945 (whose existence was denied by English authorities as late as 2010), as well as his correspondence with the Madden Committee;
- confirmation of the existence of a typed manuscript prepared by Capt. Donald B. Stewart, U.S.; and
- confirmation of the identity, personal biographical details and photographs of Georg von Johnson, the German interpreter assigned to the English-speaking Witnesses to Katyn.<sup>53</sup>

The previously mentioned testimony of Henryk T., Colonel Frank Stevenson's heretofore unknown report, Captain Stewart's manuscript as well as other items referred to in this presentation are proof that despite the passage of seventy years, new materials and evidence continue to be discovered. Our institution continues to delve into heretofore un-explored

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<sup>51</sup> See generally KRYSZYNA PIÓRKOWSKA ENGLISH-SPEAKING WITNESSES TO KATYN: RECENT RESEARCH (2011) (a bilingual book published by the Muzeum Katynskie, dealing in detail with all of the materials described above).

<sup>52</sup> *Id.*

<sup>53</sup> See MUZEUM WOJSKA POLSKIEGO ODDZIAŁ MUZEUM KATYŃSKIE, <http://www.muzeumwp.pl/muzeum-katynskie.php> (last visited July 2, 2012) (explaining the museum, its works and artifacts).

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areas in an attempt to determine if additional materials exist and how they can expand our knowledge of the subject and recent research has documented that even previously explored archives include material that has previously not been appropriately analyzed.

It is hoped that the efforts of each of the entities involved in this effort, both in Poland and abroad, will allow us to determine the specific circumstances of the 1940 massacre as well as the institutions and individuals responsible for it.