



The place of victims in "exceptional" criminal proceedings: the investigation phase

Pauline Jarroux,

Doctor of social anthropology and ethnology, research engineer at University of Paris Nanterre

Information sheet no. 1: **Identifying victims**

The last few decades have seen the judicial systems of European countries afford more and more recognition to victims and take more account of their rights. On 14 November 2012, the Official Journal of the European Union published [Directive 2012/29/EU](#) establishing minimum standards on the rights, support and protection of victims of crime. In so-called "mass" criminal proceedings, respect for victims' rights becomes more complex on account of the large number of victims, the multiplication of parties involved and the complexity of the cases to be examined.

The aim of this practical information sheet, focused on the question of the identification of victims in "exceptional" criminal proceedings, is to set out a number of good practices that can be implemented to ensure that victims' rights are better respected during this investigation phase.

Challenges

- To set up identification procedures that are both reliable and rapid when a large number of victims is involved;
- To organise the provision of information to families in a consistent and well-treating way;
- To organise the coordination between services and the practices of different professionals.

1. The work to identify victims

A. Outside of judicial proceedings

In certain cases, work begins on identifying victims before the justice system becomes involved or takes place independently of any judicial proceedings. In this case, whistleblowers, consumers' associations (in the case of health scandals in particular), commissions of enquiry, the media, victims' groups and victim support associations can play a key role in informing and identifying victims.

Challenges

- To identify potential victims several years, even several decades after the commission of the crimes;
- To guarantee victims' rights are respected and compensation mechanisms operate, even though, in certain cases, no criminal proceedings are brought

Good practices identified

1. The participants highlighted the need to **communicate via the multiple media outlets** available to disseminate information as widely as possible (whether it concerns the opening of a judicial investigation, the existence of a commission of enquiry, the serious danger posed by a certain medical device, etc.) and to limit as far as possible the **circulation of false information** in particular in order to avoid a media frenzy. If the case is then taken up by the justice system, the question arises as to who, within the judicial institution or outside it, should be responsible for initiating this communication.
2. In these cases where victims are being identified outside of judicial proceedings, setting up an **information one-stop shop** (such as a single phone number or an official website) is clearly a necessity. Victims' groups or victim support associations can be valuable intermediaries here.
3. In cases where there is no possibility of judicial action (especially for crimes subject to a statute of limitations) **alternative reparation mechanisms** – restorative justice for example – can be offered to victims and tend to be better accepted when they have been involved in developing or preparing them.

Good practices: FOCUS

- Effective communication via the multiple media outlets available;
- An information one-stop-shop;
- Alternative reparation mechanisms

B. Within judicial proceedings

The recent "exceptional" cases on European soil (terror attacks, industrial or public health disasters, mass accidents, etc.) have raised multiple issues in terms of the identification of victims, linked to the large number of victims (injured and dead) to be identified and the coordination needed between services to ensure the consistency of the actions taken.

Challenges

- To identify the dead within a reasonable timeframe for the families;
- To start drawing up an inventory of the injured (physical and psychological trauma);
- To centralise information to make it available in real time and coordinate the actions of the different professionals.

Good practices identified:

In the identification of the dead and injured

4. For **deceased victims**, the participants highlighted the need to set up **reliable victim identification protocols**, in order to avoid mistakes. [The Interpol DVI guide](#) serves as a reference in this area, even if the urgency of the situation can mean choices have to be made between the different identification techniques available (in shooting cases, visual identification using photographs may be envisaged; DNA may be prioritised over dental data; forms used for collecting ante-mortem data can be simplified, etc.).
5. **Autopsy practices will differ** according to the situations and technical choices made by the judicial authorities. In certain cases (the November 2015 and July 2016 terror attacks in France; the flight MH17 crash for the Dutch authorities), it was decided to carry out autopsies only in certain specific cases (when an external examination did not allow the cause of death to be determined; for unidentified bodies; when the victim died in hospital, etc.). However, all the bodies underwent CT scanning first. **Limiting the number of autopsies** saves time and means the bodies can be returned to the families sooner, even if this requires some concessions on the other identification techniques normally used in criminal proceedings. In all cases, **families must be informed of the protocols chosen** and what they imply: more time until the bodies are returned, potentially the removal of organs, etc. (see box a).
6. For **victims who are physically injured and/or suffer psychological trauma** and the deceased, the **digital information systems** designed to list and track victims set up by several countries (such as France with the SINUS system (Standardised Digital Information System) or Belgium with the BITS (Belgian Incident Tracking System)) are extremely useful tools, even though they sometimes need to be adapted (see box b).

(a) The management of autopsies following the 14 July 2016 terrorist attack in Nice, France

On the evening of 14 July 2016, the French national holiday, a lorry was driven into a crowd gathered alongside the beach in Nice, killing 86 people.

The protocol defined by the judges in charge of the investigation and the Nice forensic institute (*Institut médico-légal*, IML) to manage the autopsies provided that they would only be carried out in certain specific cases (difficulty determining the cause of death; suspicion of bullet wounds; death after receiving medical treatment). 14 bodies, including those of 4 children, were concerned.

And yet certain families only found out much later that an autopsy had been carried out on the body of their family member.

In addition, while for the January and November 2015 terrorist attacks, forensic scientists at the Paris IML took samples of organs, those in Nice removed whole organs, which the judges did not know.

Several years on, this is a subject that still arouses a great deal of suffering and many questions on the part of the families concerned.

(b) Use of the SINUS system in connection with the November 2015 terrorist attacks in France

On the evening of 13 November 2015, several attacks were perpetrated virtually simultaneously in Paris and Saint-Denis.

The SINUS system was activated and as soon as they were taken charge of by the emergency services, the dead and injured were given a wristband with a barcode (stickers are available for the victim's belongings). A record containing personal and medical data is associated with the SINUS ID number.

Although the wristband is designed to withstand heat among in particular, the large amounts of blood from victims' injuries rendered some of them illegible.

In addition, the information contained in the records did not allow a distinction to be made between the eight crime scenes, which made the job of identifying the victims all the more complex.

7. Investigators must be sent to the hospitals to **list the unconscious victims**, in particular to avoid families having to search for their loved ones themselves.
8. It was pointed out that **in so-called "open" environments**, i.e. when there is no single time and place and/or when the perimeter in which the acts were committed is not clearly determined (in certain public health cases, such as "dieselgate"), **identifying victims is a slow and complex process**. Beyond the very large number of potential victims, there can also be legal issues impacting the recognition of the victims as victims. It can then be up to the victims to make themselves known to the justice system, which presupposes the existence of specific communication mechanisms (see point no. 1).

Good practices: FOCUS

- Reliable protocols for identifying the dead;
- Clear criteria for targeting autopsies and explanations to families;
- Effective digital information systems for listing and tracking the dead and injured;
- Investigators dedicated to the listing of unconscious victims;
- Effective communication via the multiple media outlets available.

In the management of information between professionals and coordination of services

9. In order to limit the **emotional impact on the experts** and teams working on identification, the ante-mortem and post-mortem modules may be dealt with by separate teams. In all cases, reports must be subject to **double, and even triple checking**.
10. **The victim identification committee** in charge of cross-referencing ante and post-mortem data can work as and when information arrives and the identification measures and autopsies are carried out, to speed up the process.
11. In cases involving a large number of victims, who may be identified over several months or several years, the **use of a single digital list of victims** shared between professionals and used throughout the criminal proceedings, is a definite advantage. Sharing this list with **victim support associations or agencies** also allows them to play a proactive role in helping and supporting victims and other people involved.
12. The **crisis units** activated after the event can be organised, like a general staff, into **separate themed workshops** (forensic medicine, telephony, international cooperation, etc.) one of which can focus on the question of the victims, to facilitate the centralising of information. To mirror this, the police can organise in a similar way, with a victims unit (see point no. 14).

Good practices: FOCUS

- Work correctly divided between the ante and post-mortem identification teams and the resources dedicated to control;
- An identification committee that meets as and when the work progresses;
- A single digital list of victims shared between professionals (including victim support agencies);
- A crisis unit organised into separate workshops, including one focused on the victims.

2. Providing information to victims and announcing deaths

At a time when victims' families expect to be informed quickly and reliably, and in a context in which the media and social media constitute parallel sources of sometimes incorrect information, the management of the provision of information to families and of its content are elements of the utmost importance.

Challenges

- To manage the contradictions between the need to inform families quickly and the necessity for investigators to have reliable information;
- To ensure that trained professionals are in contact with the victims in order to avoid re-traumatising them.

Good practices identified

13. The participants at the seminar highlighted the importance of **setting aside places and professionals dedicated to the families** and other people close to the victims in the period immediately after the event. As well as a **single emergency number**, victim **reception and support units** can provide information to families in the beginning and enable them to access basic counselling services. The places must be chosen carefully, able to cope with the number of people they will have to receive and take account of families' grief.
14. The setting up of "**victims**" **units or the appointment of key prosecutors** specially dedicated to the victims is something that should be prioritised. It allows the families and other people close to the victims to have an **identified, trained point of contact** who is in possession of the latest information (relating to identification in particular); it limits the dispersal of information and allows other professionals to concentrate on conducting the investigation. To mirror this, the **police** can be organised in the same way, with units or individual professionals dedicated to the victims for the aspects pertaining to the interviewing of families, the handling of evidence, etc. This buffer role can be organised **separately from the prosecution service**: in Belgium, the Judicial Victims Support Units have the same level of access to the judicial case file and act as intermediaries between victims and judges and prosecutors. **Approved victim support associations** brought in by the public prosecutor or any other judicial actor can also play a key role here.
15. Likewise, a unit made up of trained professionals must be put in charge of **announcing deaths**.
16. As well as just ensuring the smooth operation of communication channels, **the information** provided to families must also be **transparent**. It is important to keep in mind that families and other people close to the victims can have information from elsewhere, especially the media or open sources. **Explanations** by trained professionals of forensic acts carried out or the procedure for identifying human remains must take precedence over the anticipation of any suffering or frustration that it could generate.
17. Going to see the body at the forensic institute **mortuary** is a moment that crystallises a great deal of expectation and anxiety for families. They can be marked by the coldness of the protocols involved, which can be aggravated by disorganisation in the departments concerned due to the sudden influx of cases. Reinforcing staff numbers and **appointing one or more psychologists** can limit recriminations, when combined with efforts to **give more explanation** and allow **families more time with the deceased**.
18. Similarly, the **handling of victims' belongings** can be a **way of showing that body has been treated with respect** (see box c). Personal effects must be returned rapidly after the event, when requested by the family, either "as they are" or after cleaning.

(c) The case of the return of personal effects to the families of the victims of the MH17 crash by the Dutch judicial authorities

With almost 200 Dutch victims out of the 298 people killed, the MH17 plane crash was the biggest criminal investigation ever handled in the Netherlands.

Substantial resources were put into identifying the dead and informing families, as was illustrated by the question of the return of their personal effects.

In order to explain why the procedure for returning these items was liable to take a long time, a protocol aimed at the families, including a video explaining the cleaning process, was posted on the website for the families dedicated to the investigation.

A digitalised catalogue was created containing photographs of all the items found. To ensure that the items were returned to the right people and avoid conflicts between family members, an inheritance declaration was required with each request for the return of an item.

If any conflicts did arise, a police officer was designated to try and find an agreement between the parties.

Good practices: FOCUS

- Places and professionals dedicated to the families;
- "Victims units" or prosecutors acting as a point of contact;
- A unit with professionals in charge of announcing deaths;
- Clear, transparent information provided to families;
- Practices more respectful of families' grief in the forensic institutes;
- Particular care taken with the handling of the victims' personal effects.

Useful resources:

- [European Directive 2012/29](#)
- [The Interpol DVI guide](#)



**Funded by the European Union Justice Programme
Financé par le programme Justice de l'Union Européenne**

In partnership with:



The points of view and opinions expressed are those of their authors only and do not necessarily reflect those of the European Union or the ENM. The European Union and the ENM may not be held liable in this respect.