

CRIMINAL INVESTIGATIONS IN HOMICIDE CASES

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This study is part of a broad research program on homicide in France, and follows up on an initial series of publications on the content of tried cases¹. We have now shifted our focus to those cases which will never go to trial because they have not been solved. The idea was to understand the actual content of criminal investigations work here, using two series of data.

The first is the analysis of 102 cases tried by a *Cour d'Assises*² in the greater Paris Area in the 1990s for homicide, attempted homicide, infanticide or fatal assault, committed between 1987 and 1996 within that court jurisdiction³.

The second was derived from two stays in criminal investigations units. One period was spent in the "Homicide" unit of a *Section de recherches*⁴ of the National Gendarmerie, where we were able to consult the full records for five unsolved cases and also to have long talks with the investigators,

both on the cases themselves and on their profession in general. This work at the Gendarmerie was completed by reviewing seven other, older cases (dating as far back as 1994) that had not been solved and were archived in various gendarmerie units⁵. A second stay, took place in a National Police Crime Squad, where, with a student's help, we also studied records and conducted interviews. In all, 21 files on crimes (including 15 non elucidated) were analysed there, and in-depth semi-directive interviews conducted with 9 officers, completed by informal conversations before or after the formal interviews.

1. Offender's behaviour after the crime

We first drew up table 1, based on 102 tried cases. It shows the offender's attitude after committing the crime, and at the same time tells how the police was informed of it⁶.

	Homicide	Attempted homicide	Fatal assault	Infanticide	Total	%
Awaits the arrival of the police, called in by a third party	20	6	9	4	39	38.2
Calls in the police himself	4	3	4	4	15	14.7
Calls in someone else who calls the police	5				5	4.9
Police already present on the scene of the crime		1	1		2	2.0
Identified by witnesses, runs away	8	2			10	9.8
<i>then changes his mind and surrenders to the police</i>	5				5	4.9
<i>Runaway until arrested</i>	3	2			5	4.9
Tries to conceal the crime and lives a normal life until arrested	10		1		11	10.8
Simply conceals his guilt until arrested	10	4	4	2	20	19.6
Number of cases	57	16	19	10	102	100.0

Analysis of this table yields some important information. Firstly, in six out of ten cases the detectives were able to identify the offender(s) immediately, with no resistance. No comment is needed for the two situations (one attempted murder and one fatal assault, in which the blows were actually not intentional), for which police officers or gendarmes were already on the scene when it occurred and were able to arrest the offender on the spot. In all other cases the offender either surrendered to the police forces (in about 15 % of cases) or personally told a third person – generally a member of the victim and/or the aggressor's family – who then called in the police (in 5 % of cases), or again, waited on the scene until the arrival of police forces, which he knew or supposed were informed by one or several eye-witnesses (38 % of cases). If we add those 5 % of cases in which the offender, identified by eye-witnesses, had run

away but soon changed his mind and decided to hand himself over to the police forces, we come to the conclusion that *nearly two thirds of cases were practically solved immediately, thanks to the attitude of the offender*. Moreover, the latter, logically, did not resist arrest (3 did make a suicide attempt between the moment when they committed the act and the arrival of the police forces) and subsequently "confessed" when first interrogated. This first finding is essential. It indicates that in the vast majority of solved cases, the detectives did not need to do the slightest work to identify the offender(s). Their investigation consisted in checking the statements of the various protagonists, collecting any existing material proof and "putting the case file together" in conformity with the current procedural rules.

⁵ I wish to thank all the gendarmes who welcomed me at the *Section de recherches* and the *Département* Grouping for their kindness, their ready cooperation and the trust they placed in me.

⁶ What we are counting here is cases rather than individuals. A case may indeed involve several co-offenders as well as accomplices. In the latter case, the attitude of the main offender is considered. For example, in one case of fatal assault, an offender turned himself in and denounced his accomplice, but the latter ran away, to be arrested shortly thereafter, and confess his acts. In this case, we only counted the attitude of the main offender. There are actually few instances of offenders who do not have the same attitudes (3 in our sample).

¹ MUCCHIELLI, 2002a, 2002b and especially 2004.

² Major offences, *crimes in French* are judged by *cours d'assises*, in which a jury sits.

³ For methodological details, see the previous paper in this journal: MUCCHIELLI, 2002b

⁴ A large criminal investigation unit operating in the jurisdiction of a Court of Appeal.

Now let us take a look at the remaining third or so of cases, in which the offenders did not immediately admit to their crime. In 20 % of cases there had been no witness to the crime and the person thought he might escape the law by going back to "living a normal life". In 10 %, the criminal went further, attempting to conceal the crime either by trying to eliminate the corpse or by removing any evidence of his presence on the scene of the crime. In another 10 % the murderer, who had been seen in the act, ran away (but we know that in half of cases he changed his mind and turned himself over to the police forces).

2. What makes a criminal investigation successful

Let us go beyond the initial question of the attitude of these criminals, to take a look at the criminal investigation in general. We are interested here in the requisites for successful criminal investigation work in homicide cases.

The professionals encountered in the course of this study emphasized the technical elements. They depicted the work of detectives and their auxiliaries, the forensic scientists, on the scene of the crime as the very basis of the criminal investigation, if not to say the crux of elucidation work. The search for fingerprints, and henceforth for genetic fingerprints, and of any other physical traces, with the help, if needed, of sophisticated machines detecting what is invisible to the naked eye

(such as traces of blood washed off a carpet or a wall), the consulting of records, ballistics and so forth, are all techniques which actually partake of the very designation by the detectives of their own activity as "professional". House-to-house inquiries and the search for eye-witnesses come afterward, and only then.

However, when practices are analysed through investigation records on solved and unsolved cases, ranking of the key elements of the investigation is reversed. As opposed to the order in which they are sometimes performed, their respective importance in solving cases is just the opposite⁷. This is shown by our analysis of solved cases within the series of tried cases. Table 2 sets aside the attitude of the offender(s), to compare the respective role of the three factors mentioned above (physical evidence found on the scene of the crime, elements collected through neighbourhood inquiries and last, direct witnesses to the crime) as well as other, equally important factors including the other material elements collected during complementary investigations (searches, bank monitoring, telephone statements or phone-tapping, cross-checking with other cases) and outside aid (signed or anonymous denunciations, belated confessions by the offender or one of them). In short, it answers the question: aside from the attitude of the criminal(s) involved, analysed above, what led to their indictment at the end of the investigation?

Table 2. Decisive factors in identifying the criminal

	Homicide	Attempted homicide	Fatal assault	Infanticide	Total	%
Initial examination of the scene of the crime	7	0	2	0	9	6.80
House-to-house inquiry*	29	3	7	4	43	32.30
Witnesses*	28	13	13	5	59	44.35
<i>Of which: indirect witnesses**</i>	<i>6</i>	<i>1</i>		<i>1</i>	<i>8</i>	<i>6.00</i>
Complementary investigations	10	4	1	0	15	11.30
Denunciations	3	1	0	3	7	5.25
Total	77	21	23	12	133	100.00

Note: in some cases two or more factors may be viewed as having played an equally important role. The table therefore includes some double counts. In all, 133 factors were found in 102 cases.

* In this case the neighbourhood inquiry includes questioning of the local gendarmes and police officers, who may have recorded some facts pertaining to the investigation on their docket or simply kept them in mind (establishing the existence of previous quarrels between the offender and the victim, in particular) when the suspect has no prison record.

** The term "indirect witness" applies to a person to whom the offender confesses his crime during a visit or phone call immediately afterward.

As we see, this count leads to a particularly clear conclusion. It essentially shows the massive preponderance of what we will call the "human elements" of criminal investigation (information given by witnesses and by the neighbourhood inquiry) as opposed to the "material elements" (information collected by analysing the scene of the crime and by other inquiries during the investigation).

The material elements

According to the records, in only 7 % of cases work on the scene of the crime yielded sufficient evidence to indict one or several offenders who would not have been uncovered otherwise (it should be stressed that what is considered here is the decisive factors in elucidation.) This does not exclude the possibility that important observations were made at this initial stage in the investigation, but they played a secondary role in the identification of the culprit: they merely contributed physical evidence to support the sequence of events otherwise reconstructed owing to the human elements. In other words, they are necessary but not sufficient contributions to the case, as will be otherwise confirmed later, by our reviewing of un-

solved cases. This observation requires qualification, however. Indeed, in some cases the initial examination of the crime scene becomes extremely important if the question put above is complicated as follows: "aside from the confessions of the offender(s), what were the elements that led to their indictment at the end of the inquiry *on the charge that was finally brought against them?*". The additional fact to be considered is: whereas in the immense majority of cases the guilty parties do not deny the fatal blows they dealt, their defence often consists in a denial of the intention to kill. What is at stake here is the qualification of the crime, a far from negligible issue since it determines the extent of the sentences dictated respectively for murder (punishable by 30 years of imprisonment) and fatal assault (15 years of imprisonment). The defendant's line of defence is easily comprehensible. In such cases some initial observations may turn out to be essential in establishing the intention to kill.

The same reasoning applies to the other dimension of what we have called the material elements: the technical work per-

⁷ Indeed, although the initial examinations come first by definition, and in spite of the fact that they generally establish the materiality of the facts, this does not mean that they yield elements of evidence against a particular individual, and therefore that they are decisive in solving the case.

formed during the investigation independently of the house-to-house inquiry. It was all-important in about 11 % of cases, a higher figure than for initial examination from the scene of the crime. The panoply of means available to detectives is quite considerable, ranging from the use of all available data bases to phone-tapping, and including all of the confiscations and verifications authorized during searches. These elements may turn out to be decisive in cases where the perpetrator of a fatal assault attempts to avoid conviction by concealing his responsibility. When the initial, on-crime-scene examination does not yield any decisive proof, the criminal may be confounded by listings of his phone calls, the content of his phone conversations, his bank account, objects and other clues discovered in his home or car, evidence of his presence at a given place and time, and so forth. Once again, however, it is clear that truly decisive evidence was only found by such means in one out of ten cases. This is not the main element, then, with the same reservation as for initial examination of the crime scene: these investigations may be important in establishing the exact charge, rather than the person's guilt.

The human elements

How can an offender be found if he does not turn himself in? The case of fingerprints on the scene, immediately matched by police files, is a cliché we never encountered, nor did we hear of any such case in our interviews: we therefore infer that it is most exceptional. Genetic fingerprinting is different and no doubt will be in the future, particularly in homicides attended by sexual assault. But the latter are also extremely rare instances among homicide cases. And again, if such evidence is found on the scene of the crime and often serves to prove the guilt of an arrested individual, how does the police know who to suspect and arrest when there is no way of designating one or several individuals immediately and nominally? To do so, they must enter into the *interpersonal* dimension of the case: start from the victim and his or her intimates, question the neighbours, the people he or she socialized with, colleagues at work, to find out what they saw and heard on that day and the previous days, who the victim was, who he or she was in contact with, etc. Gradually, then, some leads come up, hypotheses are formulated, the detectives may intuit reasons (and begin, then, to answer the trite but nonetheless basic question: "what is the motive?") imagine sequences of events, check each trail in detail and finally suspect one or several individuals who will then be investigated in the greatest possible detail until the body of evidence seems sufficiently convincing as to produce the decision to arrest, hold and interrogate the individual(s).

In many cases, then, these human elements are derived from house-to-house inquiries. But if we return to table 2 we find that well before this, it was the presence of witnesses that simplified and clinched the process. The element that comes last in the allegations of professionals actually comes first on the list when we examine the records. In about 45 % of cases – that is, in nearly one case out of two – the detectives were helped immediately or practically immediately by direct eye-witnesses and in a very few cases by indirect witnesses. Next, in about one third of cases, it was testimony and information collected during the house-to-house inquiry that provided decisive elements for the investigation (that is, leading to identification to the offender(s)). If we add the fact that in about 5 % of cases detectives were put on the trail of the presumed murderer by a denunciation (anonymous or not) we come to the conclusion that *in over eight cases out of ten, it is the offender, people close to the offender and/or the victim, people present or hearsay that*

guided detectives to the perpetrator(s) of fatal assault. This is a major finding, one which may seem surprising were we not cognizant, as well, of the close ties between offenders and victims (be they married, related, neighbours, co-workers or business relations) in over 80 % of cases as well⁸, and of the fact that the history and context surrounding fatal assaults are rarely anonymous.

3. Lessons drawn from unsolved cases

According to the data published by the Ministry of the Interior, the national police and gendarmerie elucidate slightly over 80 % of homicides, attempted homicides and fatal assault cases known to them. However, this elucidation rate varies considerably with the nature of the case. It is below 50 % for gangland killings and almost 100 % for infanticides. Analysis of 15 unsolved cases (of which 14 are studied here) provides some specifics and explanatory elements for the interpretation of these extremely general findings. This material raises the question of those factors determining indictment, but in reverse: what did detectives lack to be able to indict one or several offenders (see table 3)?.

Unsurprisingly, there is, firstly, the absence of physical evidence on the scene of the crime, putting detectives directly on the trail of one or more culprits. In two cases fingerprints or genetic fingerprints were present but fruitless, without any match in national data bases. Actually, as mentioned above, such clues – "nominal", so to speak – are extremely rare. The truth is that work on the scene of the crime involves collecting clues that help to imagine possible scenarios, and will only turn into evidence once a definite sequence of events has been established *by other means*. This again corroborates the essential but not decisive nature of work on the scene of the crime. The fact remains that when such elements are totally absent the investigation is either blocked (as in the case of an unidentified corpse) or seriously hindered (as in the case of a corpse identified a year and a half later, preventing many complementary investigations, or a case in which the absence of a corpse enabled the killer to deny the crime and suggest that the supposed victims had disappeared for other reasons). Next, and conversely, the table immediately points up the predominant role of human elements. The crucial problem in these cases is the absence of any witness capable of designating one or more suspects. There was no exception to this rule. Then, when the work of the detectives led to the designation of one or more suspects, it was thwarted by the attitude of the latter, who did not confess while in police custody, sometimes even despite a very strong body of evidence, or left the country and could not be located for lack of efficient European police cooperation. The human dimension is also present in those cases where the most crucial flaw in the investigation was either the apparent absence of a motive (this is extremely rare, and probably indicates a poorly conducted investigation rather than truly incomprehensible doings) or the lack of any prior relationship between the offender and the victim. The latter is the most frequent case, and applies essentially to crimes committed during housebreaking or hold-ups. When there are no eye-witnesses, no CCTV recordings that might identify the person, no physical evidence and matches with other cases, these cases are often impossible to solve, as shown by the statistics published by the Ministry of the Interior: the elucidation rate for all homicides and attempted homicides committed in the course of or in view of theft was

⁸ MUCCHIELLI, 2002b.

only 63 % in 2000. This is 20 points lower than the overall rate for homicides.

Table 3. Key elements in the investigation	Number
No corpse	1
Permanent impossibility of identifying the corpse	1
Temporary impossibility of identifying the corpse	1
Insufficient physical evidence on the scene of the crime	14
No previous link between offender and victim	4
No apparent motive	2
Difficulty in conducting complementary investigations	4
<i>Of which: lack of cooperation from other services</i>	3
Lack of witnesses identifying offender(s)	14
No confession by suspect(s)	7
	2
Detectives lack time	3

Table 3 also points up the difficulty in conducting some complementary investigations and shows that in most cases these difficulties are connected with insufficient cooperation from other services (including two cases of poor European police cooperation). One general problem mentioned in many talks was the difficulty in working when the case dates back too far and some data (telephone statements, in particular) are no longer available.

Last but not least, there remains a problem evidenced by some unsolved cases, and which the gendarmes we interviewed admitted willingly: that is, the lack of time, leading them to drop one case to attend to another urgent one. This was the case, among the 14 studied here, for one infanticide (in which the decision to drop the investigation was clearly encouraged by the examining judge as well), and another, perhaps a family case, involving a totally isolated victim for which the detectives had no leads at the end of the first few days of the investigation.

In conclusion

The present study represents a contribution to the sociology of criminal investigation work. The main finding – reversal of the hierarchy of factors contributing to a successful criminal investigation – stresses the importance of give-and-take between the population at large and the police

forces, the former actually being the main informers of the latter. This finding is all-important, in our opinion. It no doubt partially accounts for the differences in elucidation rates in different areas. Above all, it encourages professionals and the administration to consider that improved policing is less a matter of better techniques and tools, and more one of establishing high-quality relations with the general public, or to put it otherwise, of the extent to which the latter spontaneously views them as legitimate.

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