



ELSEVIER

Contents lists available at ScienceDirect

Science & Justice

journal homepage: www.elsevier.com/locate/scijus

The introduction of forensic advisors in Belgium and their role in the criminal justice system

Sonja Bitzer^{a,*}, Laetitia Heudt^b, Aurélie Barret^b, Lore George^b, Karolien Van Dijk^b, Fabrice Gason^b, Bertrand Renard^a

^a National Institute for Criminalistics and Criminology, Department of Criminology, Boulevard du Jardin Botanique 50, 1000, Brussels, Belgium

^b National Institute for Criminalistics and Criminology, Department of Criminalistics, Chaussée de Vilvorde 100, 1120 Brussels, Belgium

ARTICLE INFO

Keywords:

Triaging
Decision-making
Communication
Cost-effectiveness
Forensic generalist

ABSTRACT

Forensic advisors (FA) at the National Institute for Criminalistics and Criminology (NICC), generalists in forensic science, act as an advising body to the magistrate to improve communication between the various parties involved in the investigation: magistrate, police and crime scene investigators, and forensic experts. Their role is manifold, but their main objectives are to optimise trace processing by selecting the most pertinent traces in the context of the case and by advising magistrates on the feasibility of forensic analyses in particular circumstances in regards to the latest technical advances.

Despite the absence of a legal framework governing their role and involvement in judicial cases, the demand for their services has increased over the years. Initially, forensic advisors were called for complex homicide cases. Due to the proximity with the Public Prosecutor's Office, the types of offences for which their expertise was sought have become more diverse (mainly including robbery, burglary and sexual assault cases), leading to a diversity in the types of cases handled by the forensic advisors (complex, simple and review).

In many of the cases they are requested for, in addition to consulting on the best analytical strategy, forensic advisors also assume the role of case coordinator regarding the seized objects and their respective analyses. Indeed, in the majority of cases treated by the FAs, two or more types of expertise have been requested and performed, either at the internal laboratories of NICC or at external laboratories.

This paper explains the role of the forensic advisors in Belgium, the path that led to their current status and problems encountered.

1. Introduction

The investigation and prosecution phases of the criminal justice system are under pressure from multiple sides. Investigators and prosecutors, constrained by procedural rules, need to deliver rapid results (i.e. identify suspects, verify statements, specify the circumstances of the crime) while financial pressure restricts the resources available to achieve these results [1,2]. While providing a significant contribution to the judicial inquiry, the practice of forensic science is strongly affected by these constraints often resulting in costly and time-consuming stages of analysis [3,4]. Among the several decision nodes, the triaging decision – distinguishing traces that should be collected or analysed, and which not – is particularly important when handling large quantities of traces with limited resources [5–10]. The triaging step includes the distribution of personal and financial resources to the cases where forensic science can make the greatest difference. The contribution of

forensic science to the investigation is conditioned by different stages of the decision-making process, such as the decision to proceed to an investigation at a scene, to collect and to analyse traces [11–13]. As the question of efficiency and effectiveness of forensic science is increasingly of interest due to these pressures, this decision-making phase becomes the focus of trace processing.

At the National Institute for Criminalistics and Criminology (NICC) in Belgium, forensic advisors (FAs) act as an advising body to the magistrate in order to improve communication between the police investigators, forensic experts, magistrate and front-line forensic practitioners. Due to the increasing complexity of the scientific techniques applied to trace processing and the lack of knowledge of several personnel groups (and especially decision-makers) concerning these developments, it was considered necessary to add a multidisciplinary partner to act as mediator and translate the judicial needs to potential analyses and the scientific results to the magistrate. Forensic advisors

* Corresponding author.

E-mail address: sonja.bitzer@just.fgov.be (S. Bitzer).

<https://doi.org/10.1016/j.scijus.2017.11.002>

Received 24 June 2017; Received in revised form 18 October 2017; Accepted 4 November 2017

1355-0306/ © 2017 The Chartered Society of Forensic Sciences. Published by Elsevier Ireland Ltd. All rights reserved.

are generalists of forensic science, with a broad understanding of the potential contribution of traces and a sound scientific background. The aim is to provide assistance in developing the best strategy to support the investigation, with emphasis on the most useful traces to be submitted for analysis given contextual information [14]. The advisor can advocate and reject the need for analytical analyses [15], without the prejudice of commercial bias. This role allows the selection of traces to be analysed to be based on their potential usefulness in terms of information provided to the case [16,17].

This role of forensic advisor is innovative and unique in its structure (regarding the judicial system in Belgium) – full-time scientific support within the Department of Justice. It is assumed that this role improves the end-to-end process of forensic science practice (having an overview from the scene of crime to the production of evidence for court), especially the investigation and prosecution phases of the judicial inquiry. Forensic advice has always existed, but typically is assigned to the crime scene investigator at the time of the investigation and/or the forensic expert at the time of the analysis of the trace. The primary task of the forensic advisor, as implemented in Belgium, is to advise on the possibility of forensic analyses, without performing practical analyses or crime scene investigation first-hand. The forensic advisor has specific training to perform this function, covering a broad generalist knowledge in forensic science.

Similar practices have been developed in other countries: in England with the development of the National Crime Faculty [18], in France with the case coordinator [19], the Netherlands [20], Finland, Sweden and in Germany. In the Netherlands, an additional function of forensic consultants has been established at court level to improve the understanding of forensic science and the scientific reports of trial judges. To the authors' knowledge, few scientific publications exist about the role and usefulness of the case coordinators. However, during the first and second International Case Coordination meetings held respectively in The Hague, Netherlands in 2016, and Helsinki, Finland in 2017, bringing together case coordinators from these countries, it could be determined that their primary role is the coordination and monitoring of traces. Their involvement in a case does not necessarily arise from the request of a magistrate and the advice given is never the subject of an official expert report. In a subsequent study, the scope, role and function of these European forensic advisors will be determined. It has already been noted that the position within the judicial system affects these factors.

A preliminary study based on the assessment of forensic advisors of the impact of their duty and on the perceived benefits from magistrates and forensic experts has highlighted the usefulness of this role for the legal system [21]. The objectives of this paper are to present the role of the forensic advisor as devised in Belgium, to highlight the emergence and legal constraints of their implementation and to focus on the growing demand through descriptive statistics of their case requests.

2. Emergence of the role

Following the involvement of an expert who adopted the role of forensic advisor in a high media profile case of the disappearance of two girls, a working group was set up in 2008 to reflect on the definition and role of a forensic advisor for subsequent cases. This working group consisted of investigating judges and members of the Office of the Public Prosecutor of Brussels, the Federal Police (investigator and crime scene unit), forensic experts and a criminologist. Questions concerning the timing of the involvement of the forensic advisor and their potential tasks in specifying the content of the requisitions directed to the forensic experts or in improving the readability of the experts' reports were reflected on and discussed [22].

A pilot project was launched in Brussels in 2009. This involved the assistance of magistrates by a forensic expert from the NICC from the beginning of certain judicial investigations. The forensic advisor participated in the debriefing sessions of the magistrate, police

investigators, crime scene investigators, pathologists and experts in a total of fifteen homicide investigations with unknown offenders.

The general perception of the working group regarding the participation of the first forensic advisor was overall positive, taking into account factors such as better use of resources with emphasis on pertinent analyses and their priority [22]. It was recommended that magistrates be given access to forensic advice from the onset of a case investigation. In addition, the working group defined the role of the forensic advisors. The NICC opened a forensic advisor position in 2009. Due to the increasing demand and to meet the needs of the entire Belgian territory, the service further developed in 2012. In 2014, two additional forensic advisors were appointed. This time, the aim was to increase the proximity of the forensic advisors in the Public Prosecutors' Office. The forensic advisors were relocated to the offices of the Public Prosecutor in several judicial districts (Brussels, Antwerp, Liege). It should be noted that a judicial district may be composed of several divisions.¹ At present, the team consists of 5 forensic advisors: four full-time forensic advisors and the head of the team, supported by administrative staff (two full-time positions).

3. General framework

The criminal justice system in Belgium is an inquisitorial system. Initially, when an offence is committed, Public Prosecutors search for all relevant information with the help of both federal and local police. Where important means are to be used (e.g. seizure, telephone surveillance) the prosecutor may call upon an examining magistrate who then conducts an inquiry. The examining judge conducts investigations into serious crimes or complex inquiries. They are independent and separate from the Office of Public Prosecutions which is under the supervision of the Minister of Justice. The NICC is also part of the Department of Justice. The police work under the supervision of the magistrate but are part of the Department of Interior. As such, in judicial inquiries, the police have no autonomy. Crime scene investigators are requested by the magistrate and submit the objects and traces gathered at the crime scene at the magistrate's registry, who will determine whether to proceed with the analysis of the traces. If applicable the magistrate will send a nominative request to a specific expert.

During the initial intervention of the FAs, no legal framework existed and even to date, the legal status has not been clearly defined independently of the service's development. Several initiatives, however, can be highlighted, including respective amendments and a circular regarding DNA trace processing set up by the college of the General Prosecutors.

In the first amendment of the law governing the DNA identification procedure in criminal cases, the proposal was to place the forensic advisors under the direct supervision of the General Prosecutor and to allocate one in each judicial area, which is within the jurisdiction of a court of appeal [23]. It is stated further that the definition of the forensic advisors themselves lies with the King (executive authority) responsible for the adoption of the application rules. In the 4th amendment, it is suggested to make it a requirement on the Public Prosecutors to discuss with a forensic advisor when they need to designate a DNA expert (analysis of traces and references and sampling of references from suspect and non-suspect persons) [23]. Both amendments were not ratified due to several issues: (1) the responsibility for sampling of references lied with the magistrate and not with the forensic advisors, (2) the amendment only included the Public Prosecutors without considering the investigating judges, and (3) to oblige the intervention of the forensic advisors seems excessive, as the magistrates needed to keep their initiative and liberty to decide on their implication given the case and their assessment given their own experience. Contrary to the

¹ Forensic advisors were attached to a fourth district, Charleroi, but this service has been discontinued. In total, 6 divisions of the 4 districts are affected by this delocalisation.

Download English Version:

<https://daneshyari.com/en/article/6555890>

Download Persian Version:

<https://daneshyari.com/article/6555890>

[Daneshyari.com](https://daneshyari.com)