

UKRAINE: 2 May 2014 tragedy: Predictable judicial outcomes

Odessablog (18.09.2017) – <http://bit.ly/2htbtXL> – This blog has often lambasted the woeful criminal investigation into the events of 2nd May 2014, and rightly so.

In summary however, as the events of 2nd May unfolded physically around your author, thus witnessing the tragedy from beginning to end.

Leaving to one side the policing during the events of that day as the violence and murder in the city centre, and later at Union House, for the observant it was immediately clear that the most basic post event crime scene protocols were simply not visible – and therefore not followed.

Evidence was thus contaminated, removed, lost, or otherwise not recovered.

There have also been numerous Senior Investigating Officers for several different enforcement units at one time or another in charge of, or carrying out the investigation – including those from Kyiv. That, meaning evidence has been hauled between Odessa and Kyiv – and eventually back to Odessa – as the investigation was passed around.

Naturally further questions regarding the integrity of the evidence chain would be raised by any defence lawyer if looking to weaken a case.

About [the best public report](#) (and partial investigation) comes from the journalists of Odessa. It is certainly better than any police and prosecutor efforts – if serious efforts were actually made.

That many key suspects allowed to disappear immediately

following the incident, be they heading to Crimea, the occupied Donbas, Russia, or Transnistria, is yet another policing catastrophe.

Fortunately from an evidence point of view, there are thousands of phone-made videos, photographs, and hours of local TV footage spread across the social media and local media – preserved in cyberspace and other modes of storage.

Despite this, witnesses must naturally identify offenders. The “cop TV line-up” scenario.

Before that however, on occasion photo-ID’s sometimes occur to provide a positive ID for the purposes of arrest – rather than physical line-up ID parades for the purposes of prosecution.

Certainly it does not negate the plentiful social media evidence, however there are processes to follow with witness (rather than *ad hoc*) downloading of social media footage/coverage. There are rightly preferred methods and processes of identification.

Unsurprisingly even the photo-ID process was flawed due to stupidity or deliberate sabotage.

If a suspect is a white male with brown hair and glasses about 30 years old, a selection of (normally a dozen) similar photographs are presented to a witness for them to (hopefully) identify the offender. If a witness can positively ID a suspect from a photo line-up, then they are likely to be able to do so from a physical line-up which is deemed to have far more weight in evidence.

It follows therefore, if your suspect has a bald head, ginger beard, bucked teeth and one eye,, placing that photograph in among a dozen nubile young women with long blonde hair presents certain clues to a witness as to whom they should pick. A bias that makes a lowly regarded photo ID simply inadmissible as evidence – an issue returned to below.

Only in 2016, more than two years after the tragedy, when the investigation had been taken by Kyiv from Odessa, and then returned to Odessa by Kyiv, and with another new SIO and new investigation team, did those public figures involved in both preparatory shenanigans, and post event naughtiness, even get interviewed – as witnesses (when one or two would qualify as suspects).

Having decried the police investigation, the tale relating to the Prosecutor General's Office and its handling of the investigation is no better.

Without going into detail, for it would be possible to write a short book, the entire investigation and subsequent prosecution is nothing short of a disaster – and it spectacularly fails the victims, and general public, and may yet fail defendants. In the decades your author spent dealing with counterterrorism and latterly organised crime, never has such an investigative debacle been so apparent from the very first day of an investigation.

Why mention this now?

The investigation, or perhaps more accurately the prosecution and thus court case relating to 2nd May has been split into two parts. The first relating to the deaths and violence in the city centre. The second relating to the subsequent deaths and violence at Union House.

While the Union House events are due to be heard in court very soon (almost four years later), the court case relating to the initial deaths and violence in the city centre is under way for 20 defendants – and given the above, a reader will not be surprised to know that the court returned the only verdict possible following such an investigative abortion.

Returning to the issue of witness identification of suspects, would a reader be surprised to discover that suspect identification by witnesses occurred only by photograph (not

required line ups) and that the photo ID selection placed before witnesses included Hollywood celebrities and international sports stars? Sadly this is no joke – for that is what happened. Needless to say the Chernomorsk Court simply found such ID evidence inadmissible – and rightly so.

The court also found as inadmissible photograph and video evidence submitted as copies and not originals were presented.

Another very basic evidence issue. This despite the fact, having spoken with several journalists that captured these events on video and/or camera, indeed submitted originals with their testimony.

The question is whether the ID evidence was deliberately sabotaged, or whether it is incompetence in the extreme – bordering upon criminal negligence and/or an attempt to pervert the course of justice?

Further, it is stated only one, but whatever the case, certainly only a few of the police officers on duty at the scene in the city centre was interviewed – or at least only one officer's testimony was submitted to the court.

There is no need to go on and on. Suffice to say that the Chernomorsk Court returned the only verdict possible when presented with such a dire attempt at investigation and prosecution – Not Guilty.

In fact the Chairman of the panel of judges, Philip Zhuravi stated in open court *"There is not a single piece of evidence to support the prosecution. Moreover, the prosecution did not even try to prove guilt."*

Apparently the Prosecutor General's Office intends to appeal the verdict – perhaps they intend to attempt to try and prove guilt during an appeal hearing?

Two of the defendants, Sergei Dolzhenkov and Yevgeny Mefedov, following their acquittal were immediately held on other

charges (encroachment upon the territorial integrity and inviolability of Ukraine). Perhaps the quality of evidence, evidence chain integrity, investigation and prosecution will be something better than “amateur hour” this time?

There are however issues relating to those others found not guilty when it comes to their safety. Naturally they are known faces after public trial. Many will feel that justice, has not been done – despite justice arriving at the only outcome possible based upon what was presented to the court if we are to believe the judicial verdict and public statements of Judge Zhuravi.

Further, the standard of evidence submitted by the prosecutors via the investigation will no doubt be equally poor for the forthcoming trials relating to Union House. Thus there is a high likelihood of the same outcome. It is after all simply an administrative decision to split the incident into two trials.

All the same evidence flaws will be present as it was conducted by the same individuals, and also suffered the same transfer of investigative and prosecutor jurisdiction issues.

A repeat of the farce presented at the Chernomorsk Court on 18th September seems almost assured.

To add further insult to injury with regard the rule of law, those ideologically opposed to the defendants found not guilty, clashed with police outside the court – injuring 20 police officers. Once again the perception of the weak grasp of rule of law in Ukraine has once again been highlighted.

.....

If you want to be regularly informed about different violations of human rights in the world, [click here](#) for a free subscription to our newsletters!

Also:

HRWF database of news and information on over 70 countries: <http://hrwf.eu/newsletters/human-rights-in-the-world/>

List of hundreds of documented cases of believers of various faiths in 20 countries: <http://hrwf.eu/forb/forb-and-blasphemy-prisoners-list/>