Section 5: Identified, Unidentified and Missing Migrants

INTRODUCTION

The ultimate goal is to identify a decedent or human remains so that these can be released or repatriated to the proper authority or family member. In reaching this goal, three scenarios are considered (see Figure 9):

1. The human remains are identified, allowing these to proceed to their release and/or repatriation;
2. The identification of a deceased individual or human remains is not achieved; and
3. When identification is not achieved, investigators resort to the use of missing persons reports (MPRs) and databases.

*Figure 9*: A flowchart to illustrate the trajectory of remains if a body is identified or unidentified after an examination.

The identified

Identification may occur immediately. When identification of a UBC takes place, the medical examiner or coroner notifies the Consulate, who should contact the family and prepare for the body’s release. The protocols for release are detailed in the section on Release.
The unidentified

When identification cannot be readily ascertained, a set of procedures follows, which are outlined in this section.

The remains of UBCs represent a population of people who are consistently unidentified after death. In both Texas and Arizona, over a third of probable UBCs are unidentified. The numbers in Texas have only been systematically collected since 2010, where at least 47 UBC decedents remain unidentified since 2012, although this number has likely increased [33]. In Arizona, data has systematically been collected since the 1990s. From 1990 through 2012, over 760 UBC individuals remain unidentified [9]. In Arizona, most of these individuals died after 2001 [9][4][6].

The missing

Within the U.S., relatives of missing persons are routinely directed to law enforcement to file a missing persons report [34]. This standard process is disrupted when the relatives are undocumented immigrants fearing deportation, and thus, will not report to police. Many relatives are seeking answers from within their home country. However, missing persons reports continue to be one of several tools that may aid an investigation, resulting in the identification of unidentified remains. Additionally, most police agencies will not take reports for missing migrants because they are not US residents, or were recently deported.

Though the PCOME has fielded over 1,300 reports of missing migrants since 2001, it is not known whether these individuals died in other states, are among the unidentified, or have survived [9]. Hundreds of reports of missing UBCs have been taken in Texas since 2012 [33]. At issue here is being able to coordinate reports of the missing to unidentified dead bodies border wide. As the population of UBC remains represents a high number of missing and unidentified in border states, it is important that they be the focus of any efforts to coordinate unidentified remains and missing persons reports.

ISSUES

Decentralization

1. Relatives of missing migrants are reporting to various officials within their country of origin, to consulates and embassies, to humanitarian organizations, immigrant rights groups, Border Patrol, journalists, private investigators, academics, and to county medical examiner’s and coroner’s offices. This has created massive decentralization and disorganization of data regarding missing persons last known to be crossing the U.S.-Mexico border.

2. Even for non-migrants, there are over 40,000 unidentified persons investigations across the United States; and tens of thousands of people go missing under suspicious circumstances every year. Only 6,000 missing persons reports – an estimated 15% - have actually been entered in a national database. Meanwhile, state and private databases are being irregularly populated and there is no interface between agencies [35][36][34] (See the Databases section for an extended discussion on this topic).
Falsified Identity Documents are Used by Some Border Crossers

Identification documents are sometimes used to unilaterally identify individuals. But, this is problematic because people sometimes travel with false documents (see Figure 6).

Untrained personnel establish positive identification on unidentified UBC remains

As illustrated in Figure 10, law enforcement and others who are untrained in establishing positive identification are establishing the identification of unknown remains.

Lack of clear national guidelines for how to proceed with unidentified remains

National guidelines or procedures for identifying the unidentified are vague or nonexistent. There are no requirements that identifying samples be taken or that information on the decedent be uploaded to a database for future crosscheck with missing persons. There are many different local regulations for how unidentified remains should be disposed of after release [21].

Entering data into NamUs at this stage is not possible

1. Profiles of unidentified remains cannot always be entered into NamUs (see Discussion of NamUs in Databases section, and in Appendix F). This is because, up to this point, NamUs only allows law enforcement to enter information. However, medical examiners and coroners can be selectively approved to enter data.

2. Postmortem examinations do not always provide sufficient information for a submission into NamUs (see section on Databases for more information).
Identified, Unidentified and Missing Migrants

For families

For families, decentralization means that those who wish to report a missing loved one must often make this report multiple times: to several NGOs, various government agencies, and others. The issue is that these entities that take reports may not be sharing information with the coroner or medical examiner office if the missing individual is deceased, and/or if his or her body has been recovered. For families, this also means experiencing multiple traumas with each missing report and uncertain results.

BEST PRACTICES

The identified

There are three stages for identifying human remains (illustrated by Figure 11):

1. Establishing an identification hypothesis;
2. Circumstantial identification; and

Establishing an identification hypothesis

It is important that positive identification is distinguished from an identification hypothesis. An identification hypothesis links one or more details from an unidentified body to a missing person, but is not a scientifically rigorous form of identification and should be followed up with fingerprints, dental records, or DNA testing (see sections on Pathology Exams and DNA).

Any one or combination of the following criteria may be used in the establishment of an identification hypothesis, NOT a positive identification:

1. A possible match of the available evidence to records within the NamUs database, depending on the information;
2. Matching the available evidence to a profile of a missing person;
3. Evidence matching specific clothing, dentition, identifying tattoos, or scars;
4. The presence of identification documents matching the name of a missing person; and/or
5. The presence of phone numbers of relatives of a missing person.

In and of itself, an identification hypothesis, is not a sufficient form of identification. A preponderance of evidence is needed to establish an identification hypothesis.

Circumstantial identification

A circumstantial, or presumptive identification may be established if there are no unexplainable inconsistencies between the decedent and the missing person. Circumstantial identifications are not viable in a court of law, and must be agreed upon by the family and the
medico-legal personnel in charge. However, they are, in and of themselves, considered an acceptable form of identification. Positive identifications are always preferred, but circumstantial identifications may be preferable to the family for expediency and affordability.

Circumstantial identifications may be made through [37]:

1. Direct visual or photographic identification of the deceased (only if visually recognizable), or
2. A consistency of related factors, such as
   - time of death with time of disappearance,
   - age,
   - height,
   - presence of unique physical characteristics such as tattoos or dentition, and/or
   - clothing and/or identification media.

It is critical that all points of comparison are checked before a circumstantial identification is made. The presence of an identification card matching the name of a missing person should only be a factor contributing to the identification hypothesis, because some UBCs travel with false identification. A circumstantial identification is only warranted if all details match, and if there is a compelling reason not to pursue methods of positive identification.

Positive identification

Positive identification means establishing a one-to-one physical link between the missing person and a specific set of unidentified remains.

Positive identification can be obtained using three technologies:

1. **Comparison of DNA** taken from the decedent to DNA taken from immediate relatives (refer to the Databases section for further discussion of DNA and privacy);
2. **Comparison of fingerprints** taken from the decedent to fingerprints taken from the missing person during life; and/or
3. **Comparison of radiographs** (either skeletal or dental) taken from the decedent to radiographs taken from the missing person during life.

Those authorized to establish a positive identification must have specific training and authority in the technology of comparison being used. For DNA, a molecular geneticist has the authority to interpret DNA results. For fingerprints, law enforcement or medico-legal investigators with certificates in fingerprint comparison have the authority to establish a positive or negative match between sets of fingerprints. For the comparison of radiographs, the person with the authority to declare a match or an exclusion should be a forensic anthropologist or forensic odontologist (see Figure 10 for a representation of the range of people
able to authorize positive identification in a border context).

As stated, there are three categories for identification: Identification Hypothesis, Circumstantial Identification, and Positive Identification. Although positive identification or scientific identification is necessary for criminal cases, for UBCs, who may not be involved in criminal activity, circumstantial identification and identification hypotheses are acceptable.

The unidentified

After the stages for identification are followed, and a set of remains is yet unidentified, the remains must be stored. Refer to the section on Release for more information on storage.

After a person is classified as unidentified, a missing person crosscheck should be performed to match the decedent information with missing persons.

**Missing Person Crosscheck**

1. After all identifiable information has been obtained from the decedent, it is crucial to compare the complete profile to relevant missing persons (see profile reflected in Supplementary Autopsy Form for Unidentified Individuals, Figure 8). While there is currently no complete, centralized, and fully accessible database of missing migrants, there are ways to ensure that data about unidentified remains can be matched to profiles or reports of missing persons.

2. Missing person reports should be sent to the appropriate authorities (See section on databases).

The missing

Because so many agencies receive missing persons reports, resulting in decentralization, the best practice is that all reports be archived in a centralized system accessible to families, medical examiners and coroners across the border. See section on Databases for additional information.

**Taking Reports**

For relatives calling medico-legal offices directly, the following process is recommended:

1. Collect a basic missing persons report.

2. Send this basic missing person report to the consulate of the country of origin of the missing person and/or immigrant rights advocacy groups or human rights NGOs.

3. Because of the problems with NamUs referenced above, currently some NGOs have taken the initiative to create a new dedicated database for suspected UBCs.
1. Families of missing can report their loved one to appropriate authorities. A number of NGOs, including the Argentine Forensic Anthropology Team, Coalicion de Derechos Humanos, Colibri Center for Human Rights, and No More Deaths take missing persons reports.

2. Immigrant rights advocacy groups and human rights NGOs have informed the best practices outlined here to promote families’ victims’ rights. They are often the mediators between families and officials.