

Objectives, Subject and Scope of Personality Study in Forensic Tactics

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ABSTRACT: The forensic study of personality should be understood as the acquisition of criminally relevant information about the offender, the victim of the crime, as well as the accused, the victim, and other participants in the investigation process. Thus, this information includes details about their inherent anatomical, biological, psychological, and social properties, which are necessary both for the identification of personality and for solving tactical tasks and establishing the actual picture of the crime event in the process of its detection and investigation, as well as for use in the implementation of forensic prevention. The criminalistic study of personality is one of the mutually conditioned, interrelated and important elements of the multidisciplinary and multidimensional study of personality as a subject of legal relations in the field of combating crime, which is disclosed in relation to the solution of criminal law, criminological, criminal procedural, operational and investigative, penitentiary tasks.

KEYWORDS: personality, tactical impact, tactical tasks

The central object of forensic activity as a cognitive process is the event of crime, displayed outwardly in the form of material and ideal traces. In turn, at the center of this event is always the criminal, the totality of whose properties decisively determines the nature of criminal activity and manifests itself in it. Detection and research of information about these properties is a necessary condition for the establishment of both the offender and the actual picture of the crime as a whole, including another important person - the victim of criminal offence with a complex of its personal properties (Lushechkina 2002, 65).

Thus, the first direction of personality study in criminalistics - the criminal and his victim - is outlined. It includes several independent tasks: firstly, to establish the identity of an unknown criminal and unknown victim; secondly, to establish the involvement of known persons in the investigated criminal-relevant event as a suspect, accused and victim. In turn, within the framework of these tasks, the task of identification, establishing the identity of a person by his or her externally displayed properties, is also solved.

The investigation process in relation to the event of the crime is retrospective in nature. Cognition of this event in the course of investigation is carried out indirectly, through the identification and study of traces that carry information about the factual aspect of the crime, including the perpetrator and the victim.

Analysis of the investigation process shows that the offender and his victim are, although the main, but not the only figures, the study of the personality of which is a necessary condition for the successful investigation of crime. In the process of detection, collection and research of information about the crime, the investigator has to study the properties of persons whose behavior is associated with the formation of sources of information about the crime: the suspect, the accused, the victim, the witness, knowledgeable persons, witnesses and others. These participants of the investigation process both within the framework of investigative actions and beyond them can by their behavior (intentional or careless), as well as by virtue of their condition and facilitate or hinder the acquisition of this information. Thus, for example, the accused may hide from the investigation, witnesses may forget facts known to them and give false testimony, witnesses may destroy important evidence, etc. In order to prevent or eliminate these "interferences" the investigator has to apply these measures of tactical influence to these persons. The choice of method for this impact will largely depend on the personality characteristics of a particular object of tactical influence.

Thus, the second direction of the criminalistic study of personality, pursuing the solution of tactical problems of investigation is determined. In relation to persons - objects of tactical influence, the process of studying their personal properties is carried out not only retrospectively and indirectly through other sources of information, but also through the personal perception of the investigator of their properties in the conditions of direct communication.

The process of detection and investigation of crime is inextricably linked with the solution of the problem of identifying the causes and conditions of its commission, with the performance of preventive functions within the framework of criminalistic activity. The range of objects of preventive criminalistic impact includes individual participants in the investigation process (Yablokov 1995, 124).

It seems that it is not only the accused, to whom the individual preventive impact is most often directed, but also individual victims characterized by victimistic behavior, unscrupulous witnesses, and other persons involved in the investigation process (Makhtaev 2001, 149-150). The role of forensic study of

personality is particularly important in the development of measures to suppress crimes that have begun and to prevent crimes that are in preparation, as well as in the course of overcoming resistance to the investigation. Criminalistic preventive means of direct impact on the listed objects used tactical techniques, selected with due regard for the characteristics of the personality of the participants of a particular investigative action. The very fact of disclosure of a crime and the establishment of its actual perpetrators, as a prerequisite for their punishment, has a general preventive effect on all persons involved in the case and their environment (Lushechkina 2002, 67).

The forensic study of personality for the purpose of prevention can be identified as the third specific direction. Criminalistic study of personality is a part of investigation as a cognitive process, during which the information necessary for disclosure of a crime and establishment of its full factual picture is collected. The effectiveness of the cognitive process in the investigation of a crime is ensured by the purposefulness of the search, firstly, for information reflecting the actual picture of the crime, secondly, for information on the factors affecting the investigation process itself, and its state. Such information, regardless of its nature and sources of origin, by virtue of its relation to the crime under investigation and the process of investigation acquires the character of criminally significant. Part of the forensic information, being clothed in a procedural form, will become evidence; non-procedural information will be used to obtain evidence (Lushechkina 2002, 68; Koldin 1985).

The diversity of situations arising in the course of criminal activity and crime investigation and the active role belonging to the persons involved in them create preconditions for the fact that information about any of their many human characteristics may be criminally significant.

Criminalistic theory and practice accept the use of the term “personality” in the broadest sense of the word, including in the properties of personality the whole totality of criminally significant human qualities: morphological, physiological, mental, and social. Thus, criminalists traditionally use the phrases “establishing the identity of the criminal”, “establishing the identity of the victim”, understanding under this and the identification of a person. For example, when we speak, for example, about the identification of a person by traces of fingers, toes, a verbal portrait, then in fact we mean not the identification of a particular person as a set of social relations (i.e., the actual person), but the identification of a person as a living being by its somatic features” (Tsvetkov 1973, 6). The same notes N.T. Vedernikov: “At the first stage of criminalistic study of the personality of the criminal, at the stage of collecting data on who committed this or that crime, the biological, physiological signs of personality come to the fore. It would be more accurate even to speak about the signs and properties not of a person, but of a person” (Vedernikov 1984, 74). Especially since in criminalistics, human identification is used as a rule not as the establishment of the identity of an abstract

person (although in the framework of forensic medical research it happens, for example, if it is possible to determine only that the remains belong to a person and not to an animal), but ultimately in order to establish a specific person, i.e. personality.

Data from forensic study of personality is a necessary basis for effective application by the investigator in necessary cases of methods of tactical influence on the participants of investigation. The subject and scope of the study of personality in criminalistic tactics are conditioned by the nature of tactical tasks of general (relating to the investigation as a whole, any investigative action or group of investigative actions) and local (relating to a certain type of investigative actions) levels.

The subject of the study of personality in criminalistic tactics is determined by those elements of its content, which consist in the study of *ideal* traces, i.e. information processes related to perception and memorization by potential interrogators and identifiers, as well as in the study of regularities of behavior of persons involved in the investigation process (Potashnik 1998, 18).

In this context, the study of the personality of participants in the investigation process is a cognitive tactical task, the solution of which creates a prerequisite for the use of tactical influence. For a brief description of this task and its significance, the statement of Filonov fits as well as possible: "... from the study of personality, through the impact on personality, to obtaining evidence" (Filonov 1979, 12). Tactical impact is "any legitimate impact on this or that object, carried out with the help of tactical techniques or on the basis of tactics of using other forensic means and methods - both forensic proper, and owed its origin to related areas of knowledge" (Belkin 1997, 163). For tactical impact on the behavior of participants of the investigation process in order to maintain or change their position in the direction necessary to solve the problems of detection and investigation of crime, tactical techniques of managerial type are intended, the object of the impact of these techniques is the personality of the participant of the investigation process, and the scientific basis of these techniques is psychology.

The subject of the criminalistic study of personality for tactical purposes is personality as the broadest set of elements that make up its psychological portrait. It seems that as a basis of this "portrait" for the solution of tactical tasks, the structure of personality proposed by Platonov, mentioned in the 1st chapter of the present dissertation, is the most suitable. Here it is necessary to present it in a developed form. According to the concept of Platonov's concept of personality structure consists of four elements - substructures: a) substructure of orientation (a set of socially conditioned qualities: worldview, beliefs, moral principles, value orientations, interests, ideals of personality); b) substructure of experience (knowledge, skills, abilities, habits-qualities formed both under the influence of social factors and under the influence of biologically conditioned properties-qualities); c) substructure of mental forms of reflection (mental processes, mental

states); d) substructure of temperament; e) substructure of mental processes (mental processes, mental states) (Platonov 1986, 24).

The diversity of tactical tasks, the solution of which is associated with the tactical and psychological impact on the personality, requires addressing all of the above elements of the psychological structure of personality. It is possible to distinguish two levels of tactical tasks solved taking into account the personal characteristics of the participants of the investigation: the 1st level - general tactical, relating to the investigation as a whole, as well as to any investigative action or to a group of investigative actions; the 2nd level - local, associated with the tactics of a separate investigative action.

Tactical tasks of the first level, solved taking into account information about the individual, include the determination of the place, conditions and time of the investigative action; the establishment of the sequence of investigative actions; the selection of participants of the investigative action; the prediction of the line of behavior of the main participants of the process (the accused and the victim) in the course of the investigation as a whole or at its certain stage; the prediction of the behavior of the participants of the investigative action within the framework of its conduct; and purposeful influence on the participants of the investigative action in order to change their behavior.

The latter, in turn, determines the solution of the following general tactical tasks: the establishment of psychological contact with the participants of the investigation as a prerequisite for subsequent acts of psychological influence; the distribution of duties between the participants of the investigative action; and the prevention and resolution of conflict situations in the process of investigation.

Tactical tasks at the local level arise from the content of a particular type of investigative action, such as interrogation, confrontation, search, or investigative experiment. For example, during an interrogation, the task may involve assisting in the recovery of the forgotten. In the case of a search, it may include observing the searched person and managing their behavior.

It should be noted that the most complex of the above tasks are predicting the line of behavior of the participants of the investigation and providing a targeted psychological impact on them. Successful resolution of many problematic investigative situations directly depends on the correct fulfillment of these tasks (Bayanov 1978, 136; Kovalev 1977, 18-22).

One of the most effective forms of tactical-psychological influence (and a way of solving a number of the above tasks) is, as is known, reflexive management. It consists of the "investigator's ability to think and make decisions for his *opponent*, taking into account these possible decisions when determining the line of his own behavior and making tactical decisions" (Yablokov 1999, 358). Reflexive management and forecasting are closely related in the practice of their application. However, the concept of prognostic activity is broader than the concept of reflexive management. The latter, as it is correctly noted in the forensic literature, is a

concrete realization by the investigator of the directions of the forecast (Boginsky 1983, 21).

Tactical influence on the personality of the participant of the process on the part of the investigator can be indirect, when the personality is influenced by the course of the investigation as a whole, its effectiveness, and direct, within the framework of personal communication. The first type is characteristic of the accused, who constantly evaluates the totality of the collected evidence and builds on this basis the strategy and tactics of his behavior. The second is for all participants in investigative actions. Within the framework of investigative actions, the main methods of psychological influence on personality are used: persuasion, coercion, prohibition, warning, threat, suggestion, setting and varying thought tasks (Chufarovsky 1996, 110-121). The mechanism of influence of the listed methods implies an appeal to the intellectual, emotional and volitional spheres of the person on whom the influence is directed.

One of the main influencing factors on the personality of the participant of investigation, which is used by the investigator, is the information communicated by him. However, it is important not only its content but also the form of presentation (oral communication on behalf of the investigator, disclosure of case materials, demonstration of objects and their images, demonstration of actions of other persons, etc.) The choice of the moment of presentation of information, and the sequence of presentation of its individual fragments is tactically significant. There is a tactical significance and demonstration by the investigator of his attitude to the presented information (impartiality, interest), as well as reaction to the behavior of the person on whom the tactical influence is directed. This reaction can be negative or positive, expressed in rejection, approval, regret, etc.

The ultimate goal of the tactical impact of the investigator on the participants of the investigation process is to change their position and behavior in the direction that contributes to the establishment of the truth in the case; intermediate - in the performance of specific tasks of a particular investigative action. Most often the impact is directed to overcoming the attitude to give false testimony, refusing to testify (in relation to the suspect and the accused); to the precise performance of procedural functions during the investigative action, compliance with the requirements of law and morality (for example, the investigator may suspend from participation in the criminal case the legal representative of a minor suspect or accused, if his actions are detrimental to the interests of the latter - art. 480 para. 3 from the Criminal Procedure Code of the Republic of Moldova (The legal representative of the minor may be removed from the criminal proceedings and replaced by another, when this is possible, if there are grounds to believe that his actions harm the interests of the minor. On the removal of the legal representative of the minor and his replacement with another representative, the body conducting the criminal investigation or, as the case may be, the court shall adopt a reasoned decision. Art. 480, para. 3, Criminal Procedure Code of the Republic of

Moldova. Law of the Republic of Moldova No. 122 of 14-03-2003. In Romania, the prosecution and trial of crimes committed by minors, as well as the enforcement of decisions concerning them, are carried out according to the usual procedure, with the additions and derogations expressly provided for in the Romanian Procedure Code (Chapter III - Procedure in cases involving minor offenders and in Section 8 of Chapter I of Title V of the General Part - Law no. 135 of July 1st, 2010). According to Art. 505 from the Romanian Procedure Code, during the criminal prosecution, the procedure in cases involving minor offenders is also applied to persons who have reached the age of 18, until reaching the age of 21, if at the date of acquiring the status of suspect they were minors, when the judicial body considers it necessary, taking into account all the circumstances of the case, including the degree of maturity and the degree of vulnerability of the person concerned. Whenever the judicial body cannot establish the age of the suspect or defendant and there are reasons to consider that he or she is a minor, the person concerned shall be presumed to be a minor. The results of the medical examination of the minor suspect or defendant on whom a preventive measure of deprivation of liberty has been ordered, carried out in the place of detention, according to the law on the execution of sentences and measures of deprivation of liberty ordered by judicial bodies during the trial, are taken into account to assess his capacity to be subject to the acts or measures ordered during the criminal trial. According to art. 511 of the same code, if any of the educational measures not depriving of liberty have been taken against the minor, after the decision has become final, a deadline is set for when the minor is ordered to be brought, his legal representative, the representative of the probation service for the enforcement of the measure taken and the persons designated to supervise it).

The admissibility of psychological influence techniques on the part of the investigator on the participants of the investigation process is a problem that has received considerable attention both in practice and in the legal literature. Let us limit ourselves to referring to one of the latest works - the study of Silnov. Calling the issue of admissibility of measures of influence in the investigation of crimes one of the most complex, acute and debatable both in the field of international law and in domestic jurisprudence, tracing the history of its development, the author, in our opinion, comes to the right conclusion, stopping at a clear criterion of legality of tactical techniques. He formulates this criterion in relation to interrogation as ensuring freedom of choice of behavior of the interrogated person, which is necessary for the unrestricted exercise by the participants of the process of their rights and legitimate interests, including the possibility to choose a particular position in the interrogation (Silnov 2001, 51-53). It should also be added that observance of the rights and interests of the participants in the process is facilitated by the investigator's knowledge of psychological regularities as a basis for distinguishing permissible methods of influence from impermissible ones (Smagorinsky 1994, 141-146).

The techniques of tactical influence on the participants of the investigation process, which meet the criterion of admissibility, based on the criminalistic study of personality, provide effective solutions to tactical problems only if this study is carried out methodologically, correctly, and in full.

The scope of forensic study of personality, i.e., the totality and depth of the study of the information to be established about the personality is determined in each specific case based on the tasks to be solved with the use of this information and taking into account the procedural role of the object of study. It is difficult to create a universal and exhaustive list of forensically significant personal data due to their diversity. It is more expedient to single out groups of data that bear the most significant forensic load in relation to the tasks of forensic study of personality. These are:

Personographic data: surname, name, patronymic, date and place of birth, place of residence, nationality, language, citizenship, social, material status, social environment (microenvironment), education, profession (specialty), place of work, attitude to military service, awards, honorary titles, etc. give information about the conditions of formation of individual-psychological image of a person, factors influencing his outlook and behavior.

Mental processes: perception, memory, thinking, speech. Peculiarities of perception and memory are taken into account in interrogation tactics when analyzing the process of formation of testimony, as well as when presenting for identification. The speed of thought operations, the level of mastery of types of thinking (concrete and abstract, logical and intuitive) are taken into account by the investigator in assessing the intellectual development of the individual and in the tactics and methods of investigation, for example, when studying the method of committing a crime by a particular person. Of particular interest to criminologists is the speech of a person. Being closely connected with the mentioned mental processes, being accessible for direct perception, it carries a lot of information about the properties of the speaker's personality: age, nationality, level of intellectual development, belonging to a certain social group, predominant place of residence, education, profession, level of culture, mental health, etc. By functional properties of speech (speed, clarity of pronunciation) in conjunction with facial expressions, pantomimics and voice features (strength, timbre, tone) it is possible to diagnose the mental state and mental properties of the speaker.

Mental states: expressions of feelings, attention, thinking, will. Emotional states (anxiety, fear, mood, stress, etc.); mental states manifested in intellectual activity (attention, concentration, interest and their opposite - absent-mindedness, indifference, apathy, etc.) and in the sphere of volitional activity (decisiveness - indecisiveness, confidence - uncertainty, struggle of motives, etc.) are most often criminally significant. Mental states have a sufficiently pronounced external picture of expression, which makes them available for direct perception. Criminal situations (committing a crime) and the situation of investigation often cause

similar, i.e., typical mental states in people falling into them. The tactics of each investigative action should identify and take into account the mental states of all its participants.

Human temperament is a biologically conditioned property of the psyche, reflecting the dynamic aspects of behavior (intensity, speed, rhythm of mental processes and states) depending on the strength, poise and mobility of nervous processes. The advantages and disadvantages of temperament properties affecting human behavior should be taken into account in psychological interaction in the process of communication: when establishing psychological contact, the choice of methods of purposeful influence on mental states, when analyzing the process of forming testimony.

Worldview as a set of views of a person on the surrounding reality, interhuman relations, is manifested in his life position, beliefs, and value orientations. Data on the character of a person as habitual for him stable forms of behavior in activity and communication help to reveal the motives of his actions, to predict his behavior in a particular situation, which is necessary for establishing the actual picture of the crime, and in the choice of tactical methods of psychological influence.

Conclusions

In conclusion, the forensic study of personality should be understood as the establishment of criminally significant information about the perpetrator, the victim of a crime, as well as the accused, the victim and other participants in the investigation process, including information about their inherent anatomical, biological, psychological and social properties, which are necessary for the identification of the person, the solution of tactical problems and the establishment of a factual picture of the crime event in the process of its detection and investigation. The subject of criminalistic study of personality for tactical purposes is personality as the broadest set of elements constituting its psychological portrait. The scope of the criminalistic study of personality for tactical purposes includes, in general, the whole range of psychological, psychophysiological and socio-psychological properties of personality, i.e., practically all the data of this series characterizing personality in the sphere of crime control.

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