

Tactics of Listening to the Suspect or Defendant

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ABSTRACT: The key to an end, more precisely, the process in which the confrontation between the accuser and the defendant is carried out, resulting in a final verdict of the judge, it is the success of a well-conducted interrogation. A well-conducted interrogation does not refer to well-trained staff because the interrogation is not an on-site investigation action or an action for the realization of the criminal case, so we can talk about staff in the present case. The interrogation is primarily an art, in which self-knowledge, investigation of the deed, going through the road that the suspect or defendant after his accounts, the inter-person relationship between the forensic psychologist and the suspect, the knowledge of the interviewee, make up the sphere of forensic psychology. We cannot define which is the most important piece of a pending criminal case because all paths leading to the completion of the investigation are equally important as the interrogation process, but we cannot consider a valid investigation if we have the perpetrator in custody. Of course, a criminal case can be completed by the court and in the absence of the defendant if his death was declared. However, we are therefore talking about the case where we have the suspect or the defendant in custody and are to be heard in the file opened against him. As a result, investigators may hope to find out the truth from him, but in this case, the result is divided into two categories, either he confesses or he will not confess and will be found guilty only after the investigators have gathered enough solid evidence proving his guilt. This is where the notion of art comes in, because investigators have the mission not to fail the process of questioning the suspect or defendant. Investigating specialists, more precisely criminal psychologists, consider the suspect or defendant the most important piece of the case. For specialists, the suspect is the only one who can answer the questions: When? What? How? etc.; this means the need for authorities to have him in custody. It is interesting that once in the custody of the authorities, they receive more special treatment, such as legal protection. Therefore, the questioning of a suspect or accused is a fascinating show between reason, feelings, experiences, logic and strategy, played by the two characters embodied in the good and evil, which made me discuss this subject in the scientific paper.

KEYWORDS: psychology, forensics, criminal trial, witnesses, suspect, victim, art

Introduction

In the specialized literature, from the common point of view, between civil law and criminal law, the interrogation, is encountered in the civil proceedings and not in the criminal proceedings, unless we refer strictly to the procedural.

The interrogation is defined in judicial practice as the statement of the suspect or defendant, with an important role in the criminal investigation. From the investigators' practices, a usual is observed in capitalizing on the suspect's statements in the construction of the evidence, in their term's *confession*, which determines the elimination of possible tracks that can lead to the finding of truth. The suspect's statements are vital in the criminal investigation, but there are numerous methods of misleading investigators that suspects use, but beyond this, this procedure is legally speaking, expressing the right to defense that can be done either independently or in the presence of the lawyer. The action of misleading investigators, does not fully represent a bad sign in the development of the investigation, as it can also be regarded as a utility, namely the more detailed knowledge of the suspect's typology.

Although the judicial research bodies choose to harm the suspect's statements, in the current regulatory code of the Romanian Criminal Procedure Code, there is no longer sustained by the corroboration of the statements of the suspect or defendant with the acts committed by all the evidence of the dossier. In the current doctrine, legal specialists consider the practice of investigators to corroborate the statements of the suspect or defendant with the finding of truth, and recommends that the confession be in line with the evidence of the file aimed at full analysis

of the evidential assembly. Whether the suspect or the defendant says or not the truth, the specialized doctrine does not encourage the adaptation of a naivety position from the investigator to interviewed, because truth can be voluntarily or involuntarily distorted at any time.

Investigators are accustomed to the interrogation's endowment, whether we are talking about the testification of the deed, whether we are talking about the refusal to recognize the deed or facts committed. There are also special cases where the suspect or defendant though not guilty, it recognizes the act in which it is incriminated in all that he did not. This topic is quite interesting and can be part of the judicial error, i.e. the condemnation of an innocent person. Often, this “loyalty” action of the interrogated to the “true perpetrator” is trained by various reasons for a psychic nature: fear, the existence of a material interest, hiding a more serious deed, etc. As a result, it is understood that confession is not a fundamental evident element, but more precisely has a conditioning character in the investigation. Accordingly, according to the allegation, conditioning must be corroborated with the other evidence existing in the dossier and to be given a special character in the sense that it can divide into two categories the investigation or the theory will be accepted in its entirety or in part.

The confession may also have a *retractable statement*, i.e. the suspect or defendant withdraws his previous statements. However, the declaration offered during or at the end of the interrogation, has a particular value, as it outlines the whole of the crime committed and placed it as an active or passive subject of the deed.

The criminal investigation body must gather evidence in favor of both the suspect and the defendant, even if he admits his facts (Buzatu 2013, 106).

Special notes on the psychology or the defendant

In the Romanian criminal doctrine, there have been some regulations on the notion of suspect, which is called on the old Romanian Criminal Procedure Code, but in the new Romanian Criminal Procedure Code, the accused takes the suspected quality under Article 77 which specifies the following “*person Concerning which, from the existing data and evidence, the reasonable suspicion results, that it has committed an deed provided by the criminal law*”. Once sufficient evidence has materialized, on the deed incriminated by the criminal law, against the suspect, it evolves to the qualification in accordance with Article 82 of the new Code of Criminal Procedure, ultimately becoming part of the criminal proceedings.

A criminal investigation aims at the prosecution of the perpetrator by the judicial research bodies and has the role of being in direct contact and directly with the suspect or defendant. This action is called a criminal legal relationship and has as the main characters the state represented by the judicial research bodies and the offense in charge of the deed committed.

Psychological particularities of the process of forming and rendering statements of the suspect or defendant

As regards the statements of the suspect or defendant, it is analyzed on the basis of the typology of the offender and the route aspects, the way in which the act was committed. This action passes through a phased psychological series that defines the suspected character and the course of the criminal investigation. We have three important steps, as follows:

- *The first stage*: provides a first aspect of the subjectivity of the offense by representing the act and the tendency of committing or the failure of the deed as well as criminal resolution. This first step connects with offenses committed intentionally.

- *The second stage*: the criminal activity is carried out which is divided into three phases as follows: the phase of the preparatory acts, the phase of the execution acts and the phase of the consequences.

In the second stage, the offender crosses a period with a strong impact on his psyche, which determines the loss of concertation on the act. Here's that there is a cerebral imbalance in his

psyche, which determines the sensory reception, more precisely the strong focus on the objective of the offense, although the offender would not want to lose any detail, however small it would be. However, the psychic chaos that the offender has may also be due to the lack of experience in committing crimes, such as the offender is at his first act incriminated by criminal law.

- *The third stage*: It is also called *post-criminal* and is subject to the occurrence of mental trials caused by the offender's fear of being responsible for the committed criminal offense.

Finally, it is important to understand how psychological processes are conducted, as it means the definitive of the subjective side of the criminal investigation (Bulai 2000, 97).

Psychology of suspect or defendant at the time of interrogation

At the level of the psyche of the investigated, there are some characteristics to be taken into account, especially in order to avoid misleading the judicial bodies by the suspect, through the three ways listed above, which can avoid criminal liability: *simulation*, *dissimulation* and *lie*. As I have already said, these actions are at the level of human psyche, and for the authorities it becomes a challenge, a test of attention to notify and interpreting the way in critically (Stancu 2015, 469).

Detection of the presence of emotions

This characteristic of the human psyche creates a fairly large problem in the criminal investigation tactics. We understand the state of emotions as defensive behavior against external factors we perceive as threatening, which is perfectly normal. The idea of being taken or received at the interrogation session, in front of the judicial research bodies, a defensive field characterized by emotions that extends. So, during the interrogation, the suspect manifests various uncontrolled actions such as: repeated legs, abundant sweat, panic, etc. From judicial practice it is known that not all suspects have such manifestations, some being very calm, quiet, and relaxed. In this case, we can talk about people who have been investigated, who "have experience" with judicial research bodies such as: recidivists or those familiar with criminal investigations.

The presence of emotions in the suspect can mean for investigators a factor that would make it difficult for not how the investigation takes place. For criminal psychologists, the suspect's emotions become a shield or a gun in finding out the truth, more precisely, being very emotional, the suspect triggers the state of fear, and then confesses the act committed, but the suspect can panic, and the struggle of truth is lost. Analyzing this, we understand, if the suspect is independent in the query session and triggers the state of panic, the research bodies are obliged to stop the investigation, otherwise violates the law-making use of the position they have. If the suspect is a lawyer, he can defend his customer and has the power to close at any time the interrogation session, if it is found by the violation of human dignity.

However, the intensity of the emotions caused by the defensive action of the suspect's psyche can cause investigators to draw conclusions on the sincerity of the heard and the validity of his allegations. These psychic actions can make the experienced magistrate recognize easily if the suspect is cooperative or not (Athanasiu, 1977, 2-5).

Simulation and dissimulation attempts

To begin with, we need to know that the notion of *simulation* means counterfeiting the information offered and *dissimulation* is the concealment of information, all by gestures, mimics of the face, etc. These suspect attempts to get rid of criminal liability are as follows: refusal to speak or recognize, "spontaneous" or created alibi presentation, recognition of minor facts, simulating a handicap behavior (deafness, blindness, memory loss, epilepsy crises etc.).

There are often cases where at the end of the investigation or even before the courts suspects or defendants to withdraw their statements on the grounds of the pressures to which they

were subjected. Although this action is really justified, judicial research bodies must take this into account and verify the validity of the statements several times (Stancu 2015, 470).

Tactical rules and procedures in the hearing of the suspect or defendant

The first rule in the case of interrogation tactics is to prepare obedience, which means there must be a thorough organization as follows:

- *Studying documents* that are attached to the file and proof of the prosecution. As a result, forensic tactics in this case is the knowledge of the joints in which the deed has occurred, the evidence collected from the spot, to the witness statements, the injured person, etc.

- *Knowledge of the personality of the suspect or defendant* serves as the subject of the subjective side of the offense committed, having the following elements defining the personality of an individual: the psychic features of the personality and the factors that have influenced the evolution of speech.

- *The organization of the way in which listening* is carried out, which aims to realize a general plan of prosecution against the data was conceived for a particular criminal case (Ciopraga 1997, 251).

The tactical framework of the actual obedience of the suspect or defendant

In the Romanian Criminal Procedure Code, the tactics of listening to the suspect or defendant is regulated under the empire of Articles 70-74, being structured on three main steps, as follows: *Creating a fabric atmosphere, adopting by magistrate or police officer of a worthy attitude and creation an atmosphere confession confession.*

- *Creating a favorable atmosphere* refers to the establishment of psychological contact with the suspect, becoming a principal activity that judicial bodies have at the beginning of the investigation. This stage is essential in achieving the results favorable to investigators, being more important if the suspect is at first hearing.

- *The adoption by the magistrate or police officer of a worthy attitude* is fundamental in the relationship between the citizen and the state in the present case.

The attitude of the judicial bodies by which the state expresses its authority must be close to the suspect or defendant, being an important factor in solving the investigation. Although we are different, the authorities have the mission of treating us equally when we appeal to the state's power. In the case of hearings, if we have an unfriendly situation between the investigators and interviewed, then we can say that the interrogation session is lost, and thus we do not obtain a statement from it, a positive attitude leads to statements favorable to the authorities or even the confession of the deed.

- *Creating an atmosphere of confession* is the proximity of the suspect investigator or the defendant. It is not at all advisable an arrogant, ironic, offensive, infatuating etc.

Finally, the attitude the auditor has to adopt is positive and, if possible, according to the doctrine, there should be a translation of characters, a game of imagination in which the investigator acts as a suspect.

The audio-video recording made with the help of digital or other technical means of the statements of the suspects or defendants is made according to the criminal procedural rules and with the application of the same tactical rules of listening. The suspect or defendant will also be informed that the statement will be recorded (Buzatu 2013, 112).

Conclusions

What I presented in this paper is a little theory in what is the forensic tactic tactics of listening to the suspect or defendant. It was understood in the above that a successful investigation is considered when a successful interrogation process was also successful. In order for the

interrogation process to have favorable results, there must be an inter-human friendship relationship between the investigator and the suspect. Although we are more than seven billion people on earth, we are all different, and the art of interrogation, of which we have specified in the work, makes sense with the help of the talent of the criminal psychologist.

In order to get the favorable statements, the criminal psychologist has the mission to translate into the skin of the main character, namely the suspect or the defendant. For the suspect or defendant, the psychologist must be a friend, an oasis of escape from the stress to which he is subject in criminal proceedings, so he must have sufficient confidence in the auditor. In this case, the suspects or defendants usually decide to confess the deed committed under the empire of conditions imposed by them. Therefore, the suspect, due to his naivety, expects the authorities to promise to meet the required conditions, mostly reducing the penalty.

The trial of questioning the suspect or accused can finally be regarded as a football championship, a chess championship, as a theater play, in which of course the investigator will win, even if the suspect is declared guilty or innocent.

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