

Forensic Tactic for Hearing of Victims

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ABSTRACT: This paper analyzes aspects of the tactical activity of hearing to the injured person, mentioning the importance of conducting the work of the judiciary and the working techniques for conducting a hearing that would lead to finding out the truth in the criminal case. The tactical rules that must be observed are mentioned, which means the importance of preparing to hear to the injured person, forensic psychology playing a special role in this case. The study of the case file implies, first of all, the identification of the persons to be heard, the problems considered, the nature of the crime and the persons involved and, last but not least, the state of health of the victim. A special concern of the judicial body, in view of the hearing, is the knowledge of the personality of the person to be heard, the mental and behavioral features, the possible criminal record. The actual hearing is made up of the free hearing stage which will be initiated by the criminal investigation body and the hearing by asking questions.

KEYWORDS: hearing, injured person/victim, hearing plan, crime, tactical rules

Introduction

The probation activity reveals the importance and usefulness of the statements of the participants in the criminal trial, among them being the injured person, especially in circumstances where the criminal act was committed with violence (Nedelcu 2019, 93).

The quality of the injured person in the criminal process is not acquired automatically, but by expressing the will in this sense or by performing specific acts to support the criminal side, acts that reveal the desire to participate in the criminal process in this capacity (Neagu 1997, 108).

In the special situation of the injured person, the perception and memorization are done against the background of intense emotional disorders that explain the gaps in the statements and the unconsciously distorted presentation of the perceived ones.

The phenomena of illusion and suggestion, previous experience, visibility, audibility and duration of perception are some of the factors that produce errors or alter the perception of the criminal act and must be taken into account by the body investigating the case (Nedelcu 2019, 93). From the perspective of forensic psychology, the victim is the person who suffers the consequences (physical, material or moral) of a criminal act.

Forensic tactics help the act of justice, by deciphering the individual causes of human manifestations, as well as the factors involved in triggering psychic trials of victims, suspects or witnesses that will lead to the successful resolution of the criminal case.

The observance of the forensic tactical rules offers the guarantee of hearing to this category of persons in a legal framework, optimal for obtaining sincere and complex statements, which will really serve to find out the truth (Stancu 2015, 446).

Preparing to hear the victim

Before any legal action, it is preferable for the investigator to allow a reasonable amount of time to study the material in the case file. In the specialized literature, it was shown the importance of preparing to hear to the injured persons in the criminal process, being considered the activity absolutely necessary to find out the truth, an aspect that requires its performance in all circumstances, regardless of the difficulty of the criminal case and how the researched fact (Olteanu and Ruiu 2009, 181).

Preparing to hear to the injured person is an absolutely necessary activity, which must be directed in directions typical of any hearing, fitting with that of the witness (Stancu 2015, 460).

This activity requires the criminal investigation body to study the material of the case, to know the persons to be heard and to draw up a hearing plan, examining the existing evidence in the case file.

The study of the material of the case implies the establishment of the persons to be heard as the injured party, civil party or civilly responsible party and also if they can have this quality and on what grounds (Buzatu 2013, 114).

The materials studied by the follow-up body differ in relation to the particularities of each case: the minutes of the on-site investigation, the photographic drawings, the sketches, the expert reports, the informative reports, the statements of the witnesses.

By studying the mentioned documents, it can be established:

- the persons to be heard;
- issues to be considered;
- the nature of the crime committed, the persons involved and the values concerned;
- if the victim knows the perpetrator;
- the state of health of the victim;
- the nature, extent of the damage caused and the possibilities for its recovery;
- the determination of the civilly responsible person to be introduced in the criminal process (Grofu 2019, 85).

Knowing the people to be heard is another tactical requirement of hearing preparation. We mention the fact that the judicial body must show a special concern for knowing the personality and the psychic features specific to the parts to be heard.

The data regarding the identity, training, profession, workplace, must be completed with those regarding the behavior of the injured persons before and after the crime, the psychological profile, the nature of the possible relations with the persons involved in the criminal act (Ciobanu and Stancu 2017, 162).

The elaboration of the hearing plan aims at the problems that can be clarified by hearing to the injured person, the probative material that will be used during the hearing and the order in which it will be used, a plan that will be different from case to case (Buzatu 2013, 115).

The elaboration of a hearing plan, in the case of the injured person, will follow:

- the conditions under which the parties have become aware of the facts or circumstances in respect of which they are being heard;
- the position of the injured party or of the civil party towards the other parties, their interest to declare in a certain way;
- the nature and value of the evidence to be used in the hearing (Stancu 2015, 461).

The hearing plan is placed at the end of the hearing preparation activity and is based on the elements resulting from the study of the file and the knowledge of the persons to be heard, ensuring that framework conducive to obtaining complete and accurate statements (Pletea 2003, 135). Knowing the personality of the person to be heard is another tactical guideline for preparing for the hearing, the judicial body must show a special concern for knowing the personality and mental traits of the parties to be heard.

The judicial body must know:

- if the victim directly perceived the film of the criminal activity;
- the personality of the injured person;
- mental and behavioral traits, possible mental or physical illnesses of the injured person;
- the relational circle of the victim;
- possible contraventional or criminal antecedents of the victim (Grofu 2019, 85-86).

The injured party possesses particularly valuable information about the perpetrator and the circumstances of the act, physical and mental traumas. Victims may intentionally distort reports of

fact, either to shorten their contribution to the genesis of the conflict or to obtain greater compensation (Ionescu 2007, 186).

Carrying out the actual hearing of the injured person

Identity verification is the first moment of the actual hearing.

At this stage, neutral questions have the advantage of familiarizing the victim with the atmosphere in which the hearing takes place and her conviction that the judiciary is well informed and may lead her to give up any attempt to mislead (Stancu 2015, 461).

The stage of the free hearing will be initiated by the criminal investigation body by asking a generic question (Grofu 2019, 88).

The main tactical rules applied are the following:

- hearing to the injured person carefully, calmly and patiently, without being interrupted by the judicial body;
- the injured person must be allowed to state the facts with his own means of expression, corresponding to his level of training;
- the intervention of the judicial body during the reporting is required only if the possibilities of expression of the injured person do not allow him to make a free and coherent presentation of the perceived facts and circumstances;
- the judicial body must avoid any gesture, reaction, expression by which the statements of the injured person are approved or rejected;
- during the free report, the judicial body will permanently study the psychology of the interviewed person and will note its significant aspects and possible contradictions or ambiguities in the presentation (Buzatu 2013, 115-116).

The free hearing allows the injured person to present what happened to him, as well as other aspects that he considers necessary for the investigation. Through this, the investigator can study the interviewed person, can receive from him a series of unknown data until that moment or even data about other facts that can lead to the extension of the research (Grofu 2019, 88).

Guided hearing or hearing by asking questions

The formulation of questions is done in order to clarify some aspects that are unclear, confusing, inconsistent with reality. The concrete content of the questions depends on the nature of the deed, on the consequences of the deed, on the personality of the victim, his state of health (Buzatu 2013, 116).

Asking questions becomes mandatory in the case of victims who are suspected of their sincerity and good faith.

Completion questions are necessary in cases where the injured person relates less than what he actually perceived (Stancu 2015, 463).

The clarification questions concern those aspects to which the injured person referred, but the lack of clarity requires some details.

The helpful questions are intended to reactivate the memory and remove distortions such as transformations. The tactical process is the recollection through the association of ideas, which represent those connections between objects and phenomena (Ciobanu, Stancu 2017, 166-167).

The control questions are intended to verify statements in terms of accuracy and veracity. We mention the fact that this kind of question is useful because it allows the verification of the position of fidelity or insincerity that the injured person adopts (Suciu 1972, 585).

Questions will be asked regarding:

- a) The previous relations with the offender, whether or not he was known, the conduct before the communication of the deed;
- b) The actual moments of the events. These questions come to complete the data from the free report on the place, time and manner of committing, the number of participants, the blows applied, their order, the discussions captured. Details of the stolen goods will be required

c) Elements subsequent to the crime: the offender's attitude towards the consequences of the crime, other persons who appeared at the crime scene after transporting the victim to the hospital, following the perpetrator, trying to limit the damage (Ionescu 2007, 186).

Questions must be addressed in accordance with tactical rules. They must not contain elements of intimidation or distress of the person heard (Buzatu 2013, 117). The tactics of hearing the injured person are also used in the case of hearing the other parts of the criminal process, respectively the civil party and the civilly responsible person (Grofu 2019, 89).

Fixing the results of the hearing of the injured person

The statements of the injured person in the criminal process are recorded by the criminal investigation body on standardized forms.

The statement must include:

- identification data of the interviewed person;
- description of the facts and circumstances in which the crime was committed;
- the person of the perpetrator;
- the mention of notifying the possibility of acquiring the quality of civil party:
- the amount of damage caused by the crime;
- the amount with which the civil party is constituted in the criminal process;
- the signature of the person heard on each page of the statement;
- signature of the interpreter, representative of the guardianship authority, parent, guardian, curator.

During the criminal investigation, the hearing of the injured person is recorded by audio or audio-video technical means, when the criminal investigation body deems it necessary or when the injured person has expressly requested it. If the injured person is a minor, the recording of their hearing by audio or audio-video technical means is mandatory in all cases (Grofu 2019, 89).

The verification and appreciation of the statements of the injured person is necessary for the establishment of the truth and the correct appreciation of the testimony. The verification will be made by comparing the statements of the injured person with the other means of evidence administered in the case, as well as by performing criminal prosecution activities, such as: hearing to witnesses, suspects (defendants), confrontations, findings, expertise, reconstitutions, investigation of the place deed (Ciobanu and Stancu 2017, 168).

The evaluation of the statements can be done by performing other activities in addition to criminal prosecution, such as: studying documents issued by the person heard, verifying the activities carried out during the period in which he claims to have been at the crime scene.

The evaluation of the victim's statement requires a content analysis, based on which the criminal investigation body or the court scientifically interprets the information material gathered to determine the extent to which it serves to find out the truth (Stancu 2015, 464)

Conclusions

The hearing of the injured persons is a very important activity in the judicial process. Regardless of the degree of difficulty, the investigator must pay a lot of attention to solving the case to find out the truth. First of all, the team of investigators must consider the knowledge of the personality and the psychic features that are to be heard.

From the information obtained, the judicial body can notice the interest of the injured person regarding the settlement of the case and the real possibility to report the committed deeds correctly.

Forensic tactics are an aid tool for justice, thus discovering the causes of human manifestations and factors that lead to the onset of behaviors of individuals, successfully contributing to criminal cases.

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