CONSIDERATIONS ON THE MAIN TACTICAL PROCEDURES USED IN INTERVIEW OF THE ACCUSED/DEFENDANT IN CASES OF HOMICIDE

Ioan-Liviu TĂUT

Abstract

The interview of suspects in cases of homicide investigations are often the most important pieces when referring to evidence gathering. The investigator has the opportunity to exploit the knowledge of the suspect and can put pieces together in order to obtain the most reliable image of what really happened at the crime scene.

Keywords: suspect interrogation, interrogation procedures, suspect, crime scene.

Introduction

The accused/defendant is the source of the most reliable evidence related to criminal activities and those prior to the committance of the crime, because in most of the cases the inner mechanism relates to personal MO\(^1\).

The interview is the procedural act where the offender is asked to give statements or explications before the criminal investigation officers or courts according to the legal provisions and the rules of criminalistic tactics\(^2\). The aim is to establish probational evidence necessary to find the truth in the respective case.

In cases of homicide, due to their complexity, the interrogation may be of high importance in finding the truth.

1. Preparation

It means to establish an adequate setting for carrying out the interrogation: to establish the issues that are to be cleared, to establish the procedure and the probation material that shall be used, taking into account the particular characteristics of each individual, the MO, the personality and psychology of the accused/defendant. Lack of preparation may lead to negative results like poor or incomplete statements, repeating the interrogation, postponing the criminal proceedings. Within this stage there are performed activities related to research of materials, good knowledge of the accused/defendant, establishing the procedure for the activity, the interrogation plan and the legal framework. The preparation activities have to comply with the


http://www.ijci.eu
eISSN: 2247-0271
general rules of criminalistic tactics which will be adapted to the type of the crime and offender. For instance, when establishing the interrogation plan for a sexual crime the following issues shall be considered in formulating the questions:

- the activities carried out in order to commit the crime;
- how the offender spend the time before and after the committance of the crime;
- the place and the activities performed, the witnesses;
- why he was in the how he explains the fact that he was in the place the homicide has been committed or in the neighbourhood – or how he explains the fact that he was seen at the crime scene ;
- the clothing and shoes he was wearing, with focus on the detailed description of each item;
- whether or not he knew the victim, for how long and where they have met;
- the criteria used in choosing the victims, how the victims were lured, sexual intercourse, the motive for murder, what is the signification of the position the victim was found;
- what tools he used to avoid victim’ resistance (for example Ramaru hit his victims from behind with an axel), what was the victim reaction and how they tried to defend themselves;
- the tools, objects, weapons used and the injuries;
- objects, valuables, documents they took from the victims;
- the actions taken to hide the weapons or the corpse, the means of transportation, who helped him;
- the route, map of the scene, places where he stopped, people he met, possibly the grounds he relied on his to explain his presence (clothes torn, stained, scratches);
- the reasons given to family members or other relatives;


4 American literature has examples of signatures of serial killers. Thus, Albert DeSalvo always placed the bodies of his victims in a grotesque and humiliating position. Kenneth Bianchi placed the body in a degrading position, always on the same side. William Bonin strangled his victims with the shirts they wore and abandoned their internal organs on the highway. Ronnie Shelton, a serial rapist, committed at least 30 rapes between 1983 and 1988, in the Cleveland area. He was sentenced for 28 of them with 1,000 years in prison. He raped young women and then ejaculated on their stomachs or breasts, then asked the victim to masturbate after using their clothing to remove the semen. It also forced the victims to orally stimulate him and insisted that they swallow his sperm. The combination of these acts was a relevant “signature”. He always wore a ski mask, a sock or a scarf, threatening victims with a knife.
• destination of goods, values taken from the victim, and the objects;
• the "alibi" used to escape responsibility for the murder.

2. Interaction

The dispositions of the criminal procedure code (art. 70-74) show that interview of the accused / defendant is performed in three phases:
  • identification of the accused / defendant;
  • the free narrative phase;
  • the questions and answers phase

2.1. Identification of the accused/defendant

According to art. 70 Criminal Procedure Code, the accused/defendant is asked the name, nickname, date and place of birth, parents name and surname, citizenship, education, military status, job, occupation, address, criminal history and other data necessary to establish his personal situation.

If from the identification documents or statements the identity is not clear or there is suspicion the investigator may use the existing databases to the Ministry of Administration and Interior.

This stage is not a simply a technical act, but a good opportunity to study the behaviour of the accused/offender, establishing the tactical procedures for interrogation.

After verifying the identity of the person interrogated, this is informed on the crime and is asked to declare everything he knows about the facts and charges. The accused/defendant is informed and he shall notify in writing within three days, any change of residence during the criminal investigation.

This first stage aims not only to identify the accused/defendant but to create a favourable psychological contact for interrogation.

The complexity of interview, the importance it has in the entire criminal process provides an important part of the first contact between the two opponents: judicial body and the accused/defendant.

"The advantage of position" the judicial body has as a state authority with powers in prosecuting those who break the law. The position of the accused / defendant is the opposite because by committing the crime he has broken the law and is subjected to criminal liability.

Hence the difficulty in creating a favourable environment of communication and sincere recognition of the facts, the

---

5 Romanian Criminal Procedure Code, art. 70, par.2.
6 Romanian Criminal Procedure Code, art. 70, par. 4.
CONSIDERATIONS ON THE MAIN TACTICAL PROCEDURES USED IN INTERVIEW OF THE ACCUSED/DEFENDANT IN CASES OF HOMICIDE

accused / defendant seeing an adversary in the judicial body, which, at the first "mistake", will punish the offender. The American literature emphasizes the need to preserve a state of balance between the perception of the investigator on the interrogated person and the perception of the defendant towards the police officer. Any imbalance appeared during the hearing may result in failure of the procedure.\(^8\)

Establishing psychological contact between the judicial body and the accused/defendant, as shown in a previous chapter, is to create that atmosphere of relaxation, without hiding favourable communication, open communication between them.\(^9\)

Creating this environment depends primarily on the judicial body skills to alleviate opposition of interests between partners, its ability to induce the accused/defendant to cooperate with him, in other words, the ability to bring the accused/defendant in the position of a collaborator. In addition, the investigator possesses both better communication and persuasion procedures to make the accused/defendant speak, communicate, and thus he can more easily address the issues pursued by questioning of the accused/defendant.\(^10\)

It is very important to create an atmosphere of calm, confidence and respect, without arrogance which could lead to tension.

It was found that, often the accused/defendants gave up their attitude of denial and have confessed their crimes only because they had confidence in the investigator.

In this respect, the American literature speaks of building a good relationship between the investigator and the investigated, the former "sees" the investigation in terms of the investigator, sharing life experiences and understanding the differences that separate them.

At the same time the investigator avoids using a rough attitude and strong words.\(^13\)

Avoiding aspects of the offense and previous criminal activity often produces great psychological effect, especially when they expect to be treated harshly. This attitude of the judiciary is also likely to confuse, disconcert and alleviate the tension because the

\(^8\) J.M.Adcoc, *Death Investigations*, Jones and Bartlett Learning, 2012, p. 54.
\(^9\) A. Ciopraga, *op.cit.*, p. 182.
aggressive tactics adopted by the accused/defendant is no longer appropriate and therefore should be changed. Failure to create an atmosphere of calm has the effect of strained relations between the accused/defendant and the judicial body, marked by distrust, animosity, making the accused/defendant to resist and therefore not to cooperate.

It is estimated that in this stage it is beneficial to use biographical data (previous activities, concerns, social life, etc.) that make the defendant disconnect and subtle warning that the person is well known. Such issues are part disarming, causing him to believe that the judicial body has sufficient data to prove the guilt as long as he knows matters that are not related with the act\textsuperscript{14}.

2.2. The free narrative phase

Having checked the identity of the defendant/accused and setting a proper environment for the interview, the investigator shall go to the next stage. It begins with a theme question related to the charges the defendant is faced with, offering him the possibility to declare everything he has to say or to give evidence. The general question may be:

*You are charged with 1st degree murder, under art. ... par. ... from the Criminal Code, which is punished under art. ... par. ... from the Criminal Code, meaning that on ... you stabbed D.V. causing death injuries ... what do you have to say in your defence?*

The Judicial body shall inform the accused/defendant on the right not to make any statement, while drawing his attention that what he states can be used against him. If the accused / defendant gives a statement and is asked to declare everything he knows about the crime and the charge. If the accused/defendant agrees to make a statement, the prosecutor asks him to make a statement on the charges against him\textsuperscript{15}.

Free narrative is governed by certain tactical rules\textsuperscript{16} under the criminal procedure law as follows:

- reports of the accused/defendant cannot begin by restating or reading prior declarations;
- the accused/defendant cannot read a statement written before, but he can have some notes for details hard to remember;
- each accused/defendant is interrogated separately;
- the accused/defendant is first allowed to declare everything he knows.

The accused/defendant is able to present the facts in their logical sequence...


\textsuperscript{15} Criminal Procedure Code, art. 70, par. 3.

\textsuperscript{16} *Idem*, art. 71.
without being restricted in any way or interrupted by questions. Meanwhile, the judicial body has the opportunity to observe and record omissions, hesitations, contradictions so that to determine later which tactics will adopt.

While listening, the investigator shall avoid interrupting defendant's narrative, approval or disapproval, expressing satisfaction or dissatisfaction. Interruption of the story is an exception that is operable only when the accused/defendant drove away from the subject.

Regardless of the position of the person interrogated, the investigator should show self-control, patience, calm and generally, an attitude that would not externalize feelings towards the accused/defendant.

This phase is a good opportunity for the judicial body to find out and analyze the position of the accused/defendant, by comparing the existing evidence with the statements. All observations made during this phase will be the basis for establishing tactical procedures to be used further. Therefore, even when the accused/defendant denies the facts or distorts the truth the judicial body shall not have a rigid and hostile position; there is a possibility, later on, to demonstrate this position during the investigation.

The judicial body is forbidden to use threats or other means of coercion and incentives in order to get statements.

Judicial psychologists are of the opinion that free narrative is more sincere than interview, as the latter generates mixed reactions of the accused/defendant.

At the same time, starting with this phase the defendant/accused can be conditioned to give true statements. Thus, although the judicial body shall have to control the slightest reaction he has to establish a relation with the interviewee who is under psychical stress especially if he is arrested.

It has been noted that the accused/defendant can transmit information using nonverbal ways, contradicting or strengthening verbal statements them. The advantage of this way of communication is the impossibility of a conscious control of involuntary reactions likely to transmit information. Therefore the investigator should have a permanent visual contact with the accused / defendant, which will provide an important advantage position.


It is worth mentioning the statement made by Dirkget Mehnert, author of a murder committed in 2001 in Mures county, whose victim was a German citizen, Spanner Alois, who admitted during free statement that he killed his business partner, cut and packed him in boxes, then moved to another house parts of the corpse. The murder was discovered only after several months, in 2002, the fact that the author was given the possibility to admit the murder was a release of the pressure accumulated all this time. As an expression of the state of emotional stress, the time between action and its discovery, Mehnert Dirkget had two suicide attempts.

2.3. The questions

The third stage and the tensest one implies asking questions. It is estimated that for the success of interrogations by asking questions concur several factors including: how the questions are formulated, the evidence, when to use it, and the behaviour of the interrogated person.

Naturally the questions that will initiate dialogue are provided in the interrogation plan, but other questions derive from free discussion, according to the position of the accused/defendant during the story and according to other issues raised during the interrogation.

The questions the accused / defendant is asked are oral and if the accused/defendant states that he did not understand the question is repeated. After hearing the response he can ask some more detailed questions, and then both questions and answers are recorded in the minutes of the interrogation.

Questions are used only after free narrative; the purpose is to obtain information about the crime and penalty, to discover new data, to clarify certain details in connection with various matters of concern. It also seeks a full explanation of all facts that the accused / defendant is charged with, knowledge and control of all arguments that the accused / defendant asserts in his defense, to get details on certain aspects, necessary for checking the veracity of his statements, exposing the false statements, insincere, and anything else needed to solve the case.

The questions should be clear, with precise reference to some circumstance or problem that needs to be clarified. Also, questions are formulated clearly and concisely without a double meaning and without being suggestive.

To check the veracity of statements, after each answer you can ask questions of control. In case of contradiction between the statements of the accused / defendant the judicial body may present pieces of evidence from the
file. The order and time for presenting the evidence is chosen according to the material on the file and the personality of the accused / defendant.

The accused/defendant cannot answer questions (the answers cannot be taken into account) if under the influence of narcotics, drinks or in a hypnotic state.20

In the doctrine, the questions addressed by the investigator are grouped according to some criteria:

1. Types of questions:
   - open questions;
   - accuracy questions;
   - completion questions.

2. According to the problems the investigator seeks to solve:
   - general questions (thematic);
   - problem solving questions;
   - questions of detail and control.

Theme questions - are general and relate to facts or circumstances of the case as a whole. These questions give the accused/defendant the possibility to declare everything related with the case he is charged with. An example would be: "What happened on the evening of ... between you and the victim?"

Problem solving questions - have a less general character and are used to clarify some aspects of the offense, for example: "How did you come into possession of a gun?"; "How you handle the knife?"

These questions are used to clarify some issues raised during the research and are formulated so as to restrict the scope of possible answers given by the accused/defendant.

Questions of detail and control - are used to obtain details on the circumstances under which the crime was committed or to check explanations of the accused/defendant. These questions are used by the investigator in order to prove the accused/defendant that his statements are not reliable and to convince him to admit the crime.

Following the responses given by the accused/defendant gives the judicial body can tell the entire defence system of the accused / defendant, and can easily expose its simulated behaviour.

The case law has shown that these questions give good results especially for repeated defendants/offenders because they have prior experience and know how to prepare their statements carefully. However, they make some errors and logical inconsistencies. Thus, by asking these questions, these issues are exploited leading to providing the necessary data to find out the truth. Questions of detail are of several types: control, supporting or accuracy.

---

These questions should not be suggestive because they can negatively influence the entire interrogation. In the case of suggestive questions the accused/defendant either does not respond, or confirms something the investigating officer said, so that you cannot establish anything concrete related to the facts. For example, instead asking: "How many people were there when you arrived?" you can ask a suggestive question: "Is it true not that when you entered there were three people?" In this case, the influence of the interrogated person is not likely to contribute to finding out the truth but rather to distort it.

A type of suggestive questions is the alternative questions. Alternative questions are aimed at verifying the sincerity of the accused/defendant. These are not asked to clarify some issues at the beginning, but when the accused/defendant gave two contradictory answers an alternative question is asked. For example: "Did you wear shoes or barefoot?"

Questions of detail also serve to engage the process of associative memory, because, by emphasizing certain aspects the accused/defendant remembers facts better.

Selection of questions to be asked depends on the position of the accused/defendant towards the charges against him.

In judicial practice there are four types of attitudes taken by the accused/defendant:
- recognizes offense for which the accused/defendant is charged with;
- rejects the charges and evidence;
- hides the truth by recognizing other criminal offenses with low social risk;
- refuses to testify.

The accused/defendant may use any or all the above mentioned attitudes and the criminal sanction does not have incidence on him because until a final judgment is presumed to be innocent.

When the accused/defendant does not recognize or acknowledge the accusation, in addition to problem questions there will be asked detailed questions and used some tactical methods that have demonstrated effectiveness over time.

2.4. Tactical procedures used in interrogating the accused/defendant

The decisive role in choosing tactical procedures is the position of the defendant towards the accusations he is charged with as well as his mental structure.

In practice, along with these cases is the situation when, although the accused/defendant is in good faith, he has
a memory gap or the question generates a direct suggestion.\textsuperscript{22}

This is a situation that can be removed with supporting detail questions, whose purpose is the reactivation of memory contents or by checking questions to determine the accuracy of the declarations.

Difficulties arise in cases of false statements, incomplete or contradictory, in case of rejection of the accusation, persistence in refusing to make statements or coming with new elements on previous statements. In these cases, tactical interrogation becomes very complex. For these situations, over time, criminology theory has developed some interviewing tactical procedures, methods whose effectiveness has been demonstrated by the best practice of judicial bodies.

One tactic method involves adapting general rules to each case, the personality of the person interrogated and the position of the accused/defendant to the charges brought against him.

Thus, in the literature there are known the following tactical procedures:

2.4.1. Repeated interviewing

This is used in case of incomplete statements, contradictory or false in which detail questions are very important.\textsuperscript{23}

This process is interviewing repeatedly the accused/defendant on the same facts and circumstances concerning the same details. Conducted between the statements of the accused/defendant there will appear inevitable contradictions, discrepancies, inconsistencies despite all attempts to reproduce what had been previously reported.

2.4.2. Cross interviewing

This is a tactic where the accused/defendant is interviewed by two or more persons (investigators) at the same time. The aim is to dismantle the defence system of the accused/defendant. The advantage is the fact that the accused/defendant is given the option not to prepare false answers, the questions being addressed by each investigator alternately.

Regarding this process of tactical interrogation we should emphasize the position of the two investigators that should be fronted and left or right side and slightly back, so that they are not visually observed by the accused/defendant, causing him not only to receive auditory the question and but also to turn to the sound source, an aspect that contributes to the

\textsuperscript{22} E. Stancu, Criminalistics, Actami Publishing House, Bucharest, 1997, p. 139.

disorganization of defence. This process is seen with some reservations because it can result in confusing the individuals with poor mental structure, causing inhibition. It may be that even the investigators confuse each other if they did not study attentively the file and did not prepare themselves for cross questioning. In the practice of the judicial bodies in the U.S., this kind of interview is often practiced, using a variant called "open doors", which involves asking successive questions by two investigators that leave the room alternatively.

2.4.3. Systematic interviewing

This procedure is used both for when the accused/defendant is sincere\(^{24}\) to help clarify the cause of all problems, especially in complex cases with high difficulty and if the accused/defendant is no sincere, reluctant to make him give logical, chronological explanations. In this process, by its questions, the accused/defendant is required to clarify systematically how he prepared the crime, people involved and how each acted. If the accused/defendant has committed several offenses, in relation to his personality and psychology, the judicial body will determine whether the interview will begin about the less serious offence or not. When there are multiple accused/defendants involved, everyone has to be interviewed on their own activities separately and about each other activity.

2.4.4. Random encounters tactics

This tactic is used when there are more offenders and is effective if during interviewing it is resorted to particular mental tension, specifically designed to obtain true statements.

The process is to address certain to the accused/defendant (e.g. "Who helped you buy the murder weapon?") after the accused saw that one of the accomplices entered in a nearby room (this is known as the "tactical unexpected encounters").

2.4.5. Using questions of detail

As their name indicates they quantify some aspects of statements obtained free, making them more rigorous, more reliable. Of legal practice we can conclude about the process efficiency, especially for experienced criminal defendants who appear before investigators with the "homework done", meaning that they repeat statements until they become stereotypes. Although the strategy seems solid, there are some errors, inconsistencies that do not support logical

arguments. These and other results are the foundation of the interrogation process. Some regard these questions as unbearable and make them tell the truth\(^{25}\).

### 2.4.6. The use of evidence

There is an investigation strategy headed almost exclusively to the accused / defendant who is insincere and uses all his possibilities offered unintended by the investigator to distort the truth or to hinder the investigation. About this group of defendants it is stated, with justifiable reason, that they recognize only when convinced about the evidence.

In the literature\(^{26}\) it is considered that the success of the process is ensured by compliance with certain requirements, among them:

- thorough knowledge by the investigator of all the evidence in the case file, the link between them and the illegal activity;
- determine the value of each evidence to be used the psychological moment fit for using it and the order;
- determine questions that will accompany the evidence presented.

The process is viewed with caution, because any error the investigator makes could compromise efforts for determining the accused/defendant from making truthful and complete statements. Therefore wisdom and experience are very important skills for the investigator to achieve its purpose reported continually to the personality and psychology of the accused/defendant.

There are two options for using evidence of guilt: frontal presentation and progressive presentation. The first option is the unexpected, sudden presentation, even from the beginning the evidence proving the guilt of the accused and asking direct questions about the offense committed. This method is objectionable in terms of finality, especially in cases where evidence of guilt is less quantitative and qualitative, because the accused/defendant can recognize only what is proved.

Also, the accused/defendant should not be presented any evidence at once, because in such a case the investigator will be tactically disarmed.

Timing is conditioned by the development of interviewing and the psychic state of the accused/defendant.

As a fundamental rule front presentation takes place only after discussion with the accused to establish his position on the charges. There is also a need for a prior verification of the accuracy of all evidence. Examples of evidence that can be presented in this way

---

\(^{25}\) Idem, p. 238.

to the accused/defendant: the expert conclusion, a witness statement, a letter found by police in which the suspect/defendant admitted the offense committed.

The second alternative - progressive presentation of evidence is frequently used in the investigation and represents a preliminary interview with the accused/defendant followed by gradually presenting evidence in supporting the guilt.

The legal practice states the complex character of this process, illustrated by presenting evidence to prove guilt to a lesser extent, continue with the most convincing ones, thus realizing a bottom line that culminates with the presentation of the most conclusive evidence.

Without a model to follow, progressive presentation can begin by in leaving the office for the investigation objects belonging to the victim, initially taken by the offender but recovered by the judicial body, watching the reaction of the accused/defendant.

2.4.7. The tactic of "guilt complex"

Such a tactic can easily lead to finding the truth in cases of sensitive people, melancholic.

The procedure is to address alternatively neutral questions (which have nothing to do with the case), with questions that contain critical words on the offence and its effects (name of the victim and others affected by the offense committed - children, husband, parents - the name of stolen goods, etc.) to obtain sincere statements it is necessary to observe the reactions of the accused/defendant because the procedure is based on the reaction to stimuli and the reaction they cause.

2.4.8. Interviewing the accused/defendant about the activity of the other actors involved in committing the crime

Knowledge of participants involved in committing an offence allows the investigator to identify the weak link to start the interrogation, asking them to report on the activity of others. Centred on such direction the accused/defendant may disclose the activities committed by other accused/defendants or, on the contrary, to show caution, inquiring what they said.

The procedure consists in an individual interview which requires the accused to mainly provide details about the others and secondly about him but the last aspect is not compulsory.

CONSIDERATIONS ON THE MAIN TACTICAL PROCEDURES USED IN INTERVIEW OF THE ACCUSED/DEFENDANT IN CASES OF HOMICIDE

This procedure has both advantages and disadvantages.

The disadvantage consists in the fact that the interviewed person is not always willing to disclose the activity of the conspirators due to the prior agreement but mainly after the crime has been committed regarding their behaviour in the event of crime detection. Given that none of the co-conspirators knows if and what the others have declared, each of them would hesitate but in exchange would show great interest in finding out from the criminal prosecution representative what is the position of the other accused/defendants.

By comparing the information collected via the statements of the defendants, even if these have not declared everything about the activity, the criminal prosecution representative may draw conclusions as to the honesty of the accused.

This method insures the collection of good practical results as each accused/defendant confronted with the information already known by the investigator and which he has declared nothing about previously, will be willing to denounce the other co-conspirators.

2.4.9. Interview related to the justification of critical time

Critical time represents the time interval which proceeds the illicit activity, its duration and the time interval subsequent to the completion of the crime solving.

In other words the illicit activity related to a time interval represents the main segment of the term critical time to which the previous or the subsequent time intervals are touched and whose span may be equal or smaller than the critical time.

This procedure is used when the accused or the defendants deny or decline dialogue with the investigator due to the fact that the judicial practice reveals its occurrence even in the case of the reluctant or hesitating accused when giving statement.

The procedure consists in the explanations which the accused/defendant presents the investigator about what his activity during the time when the crime has been committed.

The details of the statement will be checked taking into consideration the hours, days, minutes, locations and persons that have been contacted.

The verification of the information collected gives the possibility to discover the accused/defendant’s dishonesty as in

---


his statements there are time intervals, locations, persons that do not correspond to the reality.

Based on the verification results and making use of the accused/defendant’s mental state, these could be compelled to admit the facts upon a new interviewing.

Apart from the fact that this procedure influences the accused/defendant position during the investigation its use has the advantage of expanding the investigation over other crimes and perpetrators.

2.4.10. Psycho-analytic interrogation

It is the solution which will replace the classical judicial interrogation in a more or less remote future.

It is believed that this interrogation is harmless clean and in accordance with human rights and presumption of innocence. It is an intelligence game played with psychological methods and it is occasioned by a discussion focused on the judicial event in which the suspect may defend himself by any methods or means including illegal ones.

Psycho-analytic interrogation is based on the statement „a person can hide from many things except from himself“.

The judicial practice has shown that during an interrogation the suspect is exposed to mental unbalance caused by excessive accumulation of energy determined by mental conflicts and materialized in behaviours that elude censorship of the consciousness, that further cause wrongful acts or gestures.

In the interrogation which focuses on the suspect, the latter will self-denounce under the ego embedded in his subconscious and also under the primitive and brutal ego, thus the lapses, symptomatic behaviour, distortion of some familiar names will be identified.

The psycho-analytic interrogation may be carried out in an intimate environment by inducing confidence in the suspect and allowing the social ego and the moral matrix to harmonize with the subconsciously embedded tensions through the acceptance of crime commission and penalty.\(^\text{30}\).

2.5. Interviewing a minor accused/defendant

Interviewing an underage accused/defendant differs from an adult who has the same quality in the criminal proceedings and the difference is based on the following aspects:\(^\text{31}\):

- the underage psychology is highly influenced by parental models which more often conflict with the law and the situation in which the accused/defendant finds himself is due to learning by imitation.

\(^{30}\) Idem, p. 241.

\(^{31}\)
CONSIDERATIONS ON THE MAIN TACTICAL PROCEDURES USED IN INTERVIEW OF THE ACCUSED/DEFENDANT IN CASES OF HOMICIDE

- the limited life experience makes it difficult for the underaged person to understand the depths of the actions and events which he perceives and sometimes he cannot get access and convey the essential aspects in the case;
- imagination, suggestibility, fear of authorities, bravery considerably influence the mental processes specific to perception, memorization and conveyance of audio and visual messages;
- An instructive process which is deficient or focused on violence and crimes make the underage person a strong partner in judicial interrogation because the minor would be stuck on denial, even if the evidence of guilt is evident.

Interviewing minors has to be carried out as soon as possible after the crime has been committed. This requirement is imposed by the continual and rapid development of the underaged person, which is characterized by the permanent replacement of the old feelings with new ones. Thus, the minor’s limited intelligence results in his failure to remember the act in its entirety, but some details, and to mistake some of the outer simple coincidences with inner mental processes, which leads to statements which are inconsistent with reality. Moreover, it is important that potential factors that have already influenced the minor’s perception of the act be taken into consideration.

The preparation of the interview of the underage accused/defendant has the same stages and, therefore, we will resort to explanations where necessary.

Subsequent to the analysis of the case file, the investigator has to identify the nature of the crime that has been committed, the existence of conspiracy, and aggravating circumstances, the minor’s role and involvement in the commission of the crime.

The process of learning about the minor represents the investigator’s main concern and how he manages to carry this out is crucial to the success of the investigation. The minor’s personality traits and psychology are discovered based on direct activities (interviewing other accused/defendants, carrying out searches etc.) or other activities (investigations carried out at the minor’s residence or school). A significant contribution to the process of finding information about a minor accused/defendant is made by the assessment report, which replaces the old social inquiry.

By learning information about the minor, the criminal prosecution

---

representative can establish the causes that generate a certain behaviour on the part of the minor during the inquiry and can predict the methods to be used to remove the causes that might hinder the gathering of sincere confessions related to the crimes committed.

The knowledge about a minor has to refer to the minor's mental state, his motivation for the commission of illegal acts, the persons who the minor trusts, the persons who bring him up and educate him, his residence or school schedule etc.

The interviewing plan has to take into consideration the minor accused/defendant’s degree of mental and intellectual development, according to which the questions have to be formulated so as to be understood by the minor and not cause his reluctant behaviour.

The location of the interview of the minor accused/defendant is the headquarters of the judicial authority as this way the minor becomes aware of the seriousness of his situation. Moreover, he is prevented from lying as he would have done if the interview was carried out in a familiar environment.

Special attention must be paid to how the minor is summoned to the judicial authority headquarters. It is essential that the time interval lapsed since the summons up to the presentation in front of the criminal prosecution authority be limited to a minimum, thus the possibility of a dialogue between the minor and his parents or the persons interested in the reason of the summons and its potential implications on the minor is removed.

It is compulsory that the minor be assisted during the interrogation. His defendant can be assigned by default and informed of the date when the interrogation takes place. It is believed that the defendant will efficiently represent the minor’s interests and thus helping the judicial authority to clarify a number of circumstances favourable to the defendant.

The legislation referring to the presence of an interpreter has to be enforced. The judicial authority has to invite to the interrogation the person who brings up and educates the minor, one of the parents, a guardian or a guardianship authority representative.

As to this tactical rule, the investigator will invite the person who the minor accused/defendant trusts, in whose presence the psychological contact can be carried out without difficulty. The invited person’s temperament and mental state has to be known so as to avoid bringing in persons who might exert an influence on the minor accused/defendant to admit the commission of the crimes in order for the major defendants to elude criminal prosecution. Interviewing the accused minor has the same stages as in the case of
an adult defendant or accused person. The difference between the two types of interviews is made according to the person’s age based on which the criminal prosecution is applied.

The behaviour of the minor accused of homicide is determined by the minor’s psychological features, his age, living environment, criminal record or behaviour, exposure to influences, the threats of very serious consequences of traitors when there are more criminals.

If the situation requires, some tactical interrogation procedures can be used in the case of a minor defendant/accused person. Their choice is made according to the minor’s behaviour in the inquiry, the influence exerted by parents or persons interested in distorting the minor’s confession, the psychological contact.

The check up of the identity information is focus not only on their discovery but also on the biographical or other details which show that the investigator knows the accused minor/defendant very well. Conversation should be made in a language accessible to the minor.

The detailed questions shall be used to determine the minor explain the activities he carried out. When the statement is recorded, the events will be put in the order they were told, using the words the minor used, without omitting the details and the persons that can confirm33.

After the statement has been recorded it is read to the minor and signed on each page and at the end by all the persons that took part in the interview.

**Conclusions**

Interrogating the accused or defendant in cases of murder is a very complex activity that takes place according to clear rules that often have to be adapted according to the act and personalities of the participants in this activity. The investigator’ skills can often play a vital role, furthermore the inspiration of the moment may be such an efficient way to extract the desired information or to exploit certain vulnerabilities of the interviewed. Prior preparation of the police officer and expertise in the field are absolute requirements for effective management of the situation, given the high degree of social danger and difficulties that arise in investigating such cases. In this respect, we find inefficient to approach this activity with police officers who do not have notable experience in investigating homicides. The investigator must, therefore, possess in addition to experience, the ability to analyze the

---

reactions of the accused or defendant, to understand these reactions and especially respond accordingly.

In some cases, the investigator's ability to empathize, be it apparent, may be capable of establishing a link between him and the person suspected of committing the offense.

References

Romanian Criminal Procedure Code


