

POSSIBILITIES OF JUDICIAL PSYCHOLOGICAL EXAMINATION OF THE RELIABILITY OR UNRELIABILITY OF THE INDICATIONS OF PARTICIPANTS IN THE INVESTIGATORY AND LITIGATION PROCESS

Makhmudova Hulkar Tilabovna

Associate Professor of the Department of Professional Skills, Higher School of Judges under the Supreme Judicial Council of the Republic of Uzbekistan, Candidate of Psychological Sciences

<https://doi.org/10.5281/zenodo.7958009>

***Abstract.** This article describes the actual possibilities of forensic psychological examination of the reliability or unreliability of the testimony of participants in the investigative and trial process. The possibilities of using the computer system The Observer XT to reduce subjective parameters in the assessment by an expert psychologist and the current research opportunities in this direction are revealed.*

***Keywords:** reliability, unreliability of testimony, verbal signs, lie, deceit.*

It is known that at present, in the judicial practice of foreign countries, forensic psychological examination of the "psychological reliability" of information reported by the participants in the process is actively developing. Accordingly, numerous research positions are being developed that are related specifically to the reliability of this type of expertise. In this case, we mean the study of the testimonies of participants in both an investigative action or an operational measure in a criminal process, and in criminal proceedings.

According to scientific data, forensic psychological examination to identify signs of reliability (unreliability) of information is in demand and involves the study of the characteristics of communicative activity and the behavioral characteristics of participants, whether it be investigative actions or operational measures recorded on video. At the same time, the features of oral speech, verbal and non-verbal behavior, features of the emotional state of the interrogated person in the process of communication are studied [1].

In the 19th century, G. Gross in 1898–1899 published a number of articles related to the need for a special study of witnesses and verification of the reliability of their testimony. In this context, he meant the possibilities of forensic psychological examination. The German psychologist W. Stern, continuing the ideas of G. Gross, noted that a forensic psychological examination of the reliability of witness testimony should be carried out only in difficult cases, if there is doubt about the veracity of these testimony. According to the author, "Every day it becomes obvious that even a normal indication is an extremely complex phenomenon, which is very difficult to understand correctly; for such a task, scientific knowledge is necessary, which is able to analyze any phenomenon in the best possible way. On the contrary, the assessment of testimony, guided by routine and "intuitive" guesses, very often reveals its complete inconsistency. Therefore, it is quite possible that in some cases where there is doubt about the credibility of the most important witnesses and their testimony, such hesitation will be eliminated, or at least significantly reduced, by the participation of psychological expertise" [2].

An analysis of scientific data shows that today, both in foreign countries and in the CIS countries, there is a fairly accumulated material devoted to the study of lies. The study of verbal signs of false statements can be traced in such works of scientists as S. N. Bogomolova, G. V. Grachev, M. I. Enikeev, M. M. Kochenov, A. A. Leontiev, A. R. Ratinov, O. D. Sitkovskaya, V.F. Engalychev and others [3, 4, 5].

Non-verbal signs of false behavior were studied by such scientists as A. Pisa, M. Steller, U. Undeutsch, O. Fry, V. Stern, P. Ekman, A. Megrabyan, A. G. Gelmanov, S. A. Gontarya, V V. Znakova, A. R. Luria, I. K. Melnik, E. L. Nosenko, V. A. Obratsov, A. B. Pelenitsyna, A. V. Dulova, A. R. Ratinova, O. D. Sitkovskaya, A. M. Stolyarenko, L. B. Filonova, etc.) [6, 7].

Also, achievements in this direction were described in the works of F. Arntzen, A. Trankell, U. Undeutsch (Undeutsch, 1967; Trankell, 1972; Arntzen, 1982). "A general assessment of the credibility of the testimony of a witness is made on the basis of the results of a court interview (processed according to the method of analysis of statements) and the personal profile of the witness, compiled on the basis of the results of a psychological examination" [8].

In the 20s of the XX century A.R. Luria noted: "It is usually accepted to think that there is nothing more random, capricious and not subject to any laws than a lie. However, this view is incorrect. A lie, like any thinking built on a different basis, has its own forms, its own rules, its own examples. A person who lies always resorts to certain forms of thinking and certain forms of logic.

P. Ekman defined a lie as "an act by which one person misleads another, doing it intentionally, without prior notice of his goals and without a clearly expressed request from the victim not to reveal the truth" [10].

According to V.V. Znakov, a lie is determined by the deliberate transmission of information that does not correspond to reality. The concepts of lie and deception differ in that a lie is based on a verbal or non-verbal intentionally false statement, where it deliberately presents false information. In this case, the goal of the liar is to convey a false message, misinform the partner using verbal or non-verbal means of communication [11, 12].

Thus, deception is a deliberate act of concealing the truth with the vision of the counterparty being misleading. Expanding the concept of "deceit", it is necessary to keep in mind the silence of the truth, which is contrary to good conscience and legal civil norms. Deception is understood as the deliberate misrepresentation of the other party in order to incline to one's own advantage. From a psychological point of view, "deception" is characterized by the conscious creation of a false idea about certain circumstances of reality in the mind of another subject. Deceitful, acts intentionally, i.e. not only conveys false information, but also hides its true intentions.

Currently, in legal psychology, psycholinguistics and forensic psychological practice, it is customary to attribute differences and contradictions in testimony to verbal signs of unreliable information; harmony and smoothness of statements; emotional poverty; role position of an outside observer; stereotyping and appeal to the typical; repetition of expressions (repeated repetition of the same statements); evasion; a large number of minor details; indications of forgetting significant information; creating a positive self-image.

Accordingly, the psychological verbal signs of reliability are the absence of contradictions, a greater volume of statements, the presence of returns in the testimony, the probabilistic nature of

expressions, emotionality, the presence of both positive and negative information of the interrogated person about himself, personal role position.

Psychological signs of unreliability can be traced in the features of the non-verbal behavior of the subject of the study. At the same time, attention should be paid to specific psychophysiological manifestations. In this case, these very false testimonies in the subject begin to manifest themselves in gestures, facial expressions, and postures.

One of the main problems in conducting a forensic psychological examination of video recordings obtained by operative means, or a video recording of the process of investigative actions (interrogation, confrontation, etc.) is the objectification of the results of observation of the behavior of the subject of the study. As we know, the process of observation itself is based on the simultaneous fixation of both non-verbal and verbal behavior of the person being studied. Although the precedents of the modern psychological and legal study of the first of them were obtained several decades ago, and subsequently were significantly refined and described [13, 14].

In this context, we are talking about the problem of the expert psychologist's lack of data on objective indicators of the psychophysiological state of the subject, whose behavior was recorded on video. Practice shows that in the production of a forensic psychological examination, along with observation, methods of experimental psychological examination (tests, projective techniques, etc.) are also used. The possibility of an objective study disappears if the data obtained using experimental methods are unreliable.

In view of the foregoing, it should be noted that the results of a forensic psychological examination for making fair judgments, which are directly related to legal certainty, must be strictly consistent with the validity of the study. In this context, the subjective idea of the objects of research of the psychologist-expert is excluded, and the incompetence of research positions is also excluded [15].

In recent years, the computer system (program) The Observer XT, developed by the Dutch company Noldus Information Technology [16], has become increasingly popular among European and CIS psychologists. This system allows an expert psychologist to program a variety of methodological procedures, which increases the reliability of the study. At the same time, the role of an expert psychologist, taking into account the traditional psychodiagnostic method as an observation, remains fundamental. The experience of the computer system The Observer XT is based on a rich research position, which is united by the diversity and achievements in the field of behavioral analysis [17].

Thus, since a lie is a phenomenon of interpersonal communication, in which there are many human manifestations caused by a deliberate distortion of reality (for the purpose of disinformation), the study of this phenomenon is the most important factor in obtaining real information relevant to law enforcement agencies. From the analysis of scientific data, it can be seen that the forensic psychological examination of the assessment of the reliability of the information of the participants, both the investigation and the trial, is relevant. This problem, taking into account the methodology, is reflected in many research positions of the authors. This problem, despite being in demand in the Republic of Uzbekistan, remains unresolved and relevant. It should be noted that further improvement of this direction will make it possible to consolidate the scientific validity of research positions, taking into account the mentality and characteristics of the ethnic culture of the people.

REFERENCES

1. Енгальчев В.Ф., Кравцова Г.К., Холопова Е.Н. Судебная психологическая экспертиза по выявлению признаков достоверности/ недостоверности информации, сообщаемой участниками уголовного судопроизводства (по видеозаписям следственных действий и оперативно-розыскных мероприятий): монография. – М.: Юрлитинформ, 2016. – 328 с.
2. Штерн В. Изучение свидетельских показаний / пер. с нем. 1902. С. 51.
3. Еникеев М. И. Юридическая психология: краткий учебный курс (глава 4, § 7. Диагностика и изобличение ложности показаний). М.: Норма, 2003.
4. Кудрявцев В.Н. Криминология. М.: Юрист, 1997.
5. Ратинов А. Р. Судебная психология для следователей. М.: НИиРИО ВШ МООП РСФСР, 1967;
6. Корма В.Д., Образцов В.А. Криминалистическое распознавание: теория, метод, модели технологий. М., 2014.
7. Гельманов А.Г., Гонтарь С.А. Как установить участие лица в правонарушении? Эффективный и экономичный метод диагностики скрываемой причастности и получения признания виновного в отсутствие доказательств. М.: Можайский полиграфический комбинат, 1999; Филонов Л.Б. Психологические способы выявления скрываемого обстоятельства. М., 1979.
8. Образцов В., Богомолова С. Эксперт-психолог в суде Германии: оценка достоверности показаний // Законность. 2003. № 1. С. 52.
9. Лурия А.Р. Экспериментальная психология в судебно-следственном деле // Советское право. 1927. № 2 (26). С. 84–100.
10. Экман П. Психология лжи // Пер. с англ.; под ред. В.В. Знакова. СПб., 2000. 272 с.
11. Знаков В.В. Классификация психологических признаков истинных и неистинных сообщений в коммуникативных ситуациях // Психол. журн. 1999. № 2 С. 54-65.
12. Знаков В.В. Неправда, ложь и обман как проблемы психологии понимания // Вопр. психологии. 1993. № 2. С. 9-17.
13. Горелов И.Н, Енгальчев В.Ф. Невербальные компоненты общения на допросе // Ученые записки Тартуского государственного университета. Проблемы повышения эффективности применения юридической психологии / под ред. Л. Ауварта. – Тарту: ТГУ, 1988. – С. 124-133.
14. Комиссарова Я.В., Семёнов В.В. Особенности невербальной коммуникации в ходе расследования преступлений. – М.: Юрлитинформ, 2004. – 224 с.
15. Гусев А., Емельянова С. Реализация метода наблюдения с помощью компьютерной системы The Observer XT // Психология труда и управления в современной России: организация, руководство и предпринимательство: материалы Международной научно-практической конференции, посвященной 20-летию факультета психологии и социальной работы. – Тверь: Твер. гос. ун-т, 2014. – С. 391-394.
16. The Observer XT. Reference Manual. Ver. 10.5. Noldus Information Technology, 2011.
17. Енгальчев В.Ф., Махмудова Х.Т. Суд-психологик экспертизанинг замонавий турлари ва ривожланиш имкониятлари. – Тошкент: Ўзбекистон Республикаси ИИВ Академияси. 2020. – 288 б.