

DOI: <https://doi.org/10.32353/khrife.1.2019.035>

UDC343.98:159.9

O. Herasimenko,

Senior Researcher at KhRIFE,

ORCID: <https://orcid.org/0000-0002-1447-6101>

E-mail: olga_gerasi993@ukr.net

T. Kharina,

Researcher at the KhRIFE

Kharkiv, Ukraine

ORCID: <https://orcid.org/0000-0002-8482-2639>

E-mail: larinatatiana111@gmail.com

T. Savkina,

Department head at KhRIFE

Kharkiv, Ukraine

ORCID: <https://orcid.org/0000-0002-9903-7393>

E-mail: tsavkina55@gmail.com

FORENSIC FORENSIC PSYCHOLOGICAL EVALUATION REGARDING CRIMES COMMITTED BY A GROUP OF PERSONS

Analyzed the achievements of scientists and practitioners on the conducting of forensic psychological examinations of crimes committed, by a group of persons. In cases where a crime is committed by a group of persons (from two or more persons) and the defendants give conflicting information about the role of each of them in the commission of the act incriminated to them (leader of the group), a forensic psychological examination of social and psychological characteristics can be appointed on crimes committed by a group of individuals. The object, tasks and subject of the forensic psychological examination of the crimes committed by a group of persons are defined. The features of the study of the socio-psychological characteristics of the suspects (accused) during the forensic psychological examination of criminal cases of crimes committed by a group of persons.

The purpose of the article is to analyze the developments of scientists and practitioners for further use in the development of scientific and methodological recommendations for conducting forensic psychological examinations of crimes committed, by a group of individuals.

The concept of leadership in the group of persons who committed a crime is disclosed and the types of leaders in the group are indicated. The issues that are put to the resolution of the examination during this type of research and the limits of the competence of the forensic psychologist when performing this subject type of forensic psychological examination are identified. The list of materials of the case (initial data), necessary for carrying out psychological research is indicated.

Keywords: crimes, forensic psychology, crimes committed by a group of individuals, group members, socio-psychological qualities, leadership in a group, individual psychological characteristics, defendants, personality, personality characteristics, individualization of responsibility, imprint, psychological research.

Formulation of Research Problem. The objective need for the use of professional psychological knowledge in criminal law and criminal procedure regulation, as well as in the investigation of crimes, initiates the interaction of pre-trial and judicial investigation and psychologists. First, it concerns the appointment and conduct of forensic psychological examination. Especially in cases where the crime is committed by a group of persons and the accused give conflicting information about the role of each of them in committing the act they are charged with.

Crimes committed by a group of individuals always represent a greater public danger than similar acts committed by individuals.

Statistical reporting shows that among all crimes registered in Ukraine annually, 14.2% are committed by a group of persons¹. In fact, every sixth crime in Ukraine is committed by a group and is characterized by the group behavior of its participants. The joint criminal activity of several persons has certain socio-psychological characteristics. Therefore, to effectively investigate and solve crimes committed by a group of persons, it is necessary to apply special knowledge in the field of psychology (assigning and conducting forensic psychological examinations on crimes committed by a group of persons, regarding the socio-psychological characteristics of members of this group).

In recent years, there has been an increasing need for the use of professional psychological knowledge in criminal law and criminal procedure regulation, as well as in the investigation of crimes, initiating the interaction of pre-trial and judicial investigations and psychologists.

First, it concerns the appointment and conduct of forensic psychological examination, which according to Art. 84 of the Criminal Procedural Code of Ukraine of Ukraine² is the main procedural form of the use of special psychological knowledge in legal proceedings.

Taking in account the above, in the period of pre-trial and judicial investigation, it is advisable to carry out examinations of the social and psychological characteristics of the members of such a group. This type of forensic psychological examination, in accordance with Art. 27, 28, 29 of the Criminal Code of Ukraine, is appointed for the purpose of determining the leader of a group of perpetrators of a crime, the specific role of each participant in criminal episodes; the degree of influence of the group on the individual participant; typical forms of interaction between members of the group, both in the commission of crimes and in the process of

¹ *Beschastnyi V. Kryminolohichniy analiz stanu zlochynnosti v Ukraini* [Criminological analysis of crime in Ukraine]. URL : <http://pgp-journal.kiev.ua/archive/2017/1/40.pdf> [in Ukrainian].

² *Kryriminalnyi kodeks Ukrainy* [Criminal Code of Ukraine]: vid 2001 r. (zi zminamy vid 27.06.2019 roku, № 2747–Viii). Vidomosti Verkhovnoi Rady Ukrainy, 2019. № 25–26 URL : <https://zakon.rada.gov.ua/laws/show/2341–14> [in Ukrainian].

investigation to individualize responsibility in accordance with Art. 29, 30 of the Criminal Code of Ukraine¹.

An expert psychologist can conclude what the impact of the group is on the individual participant, establish the informal leaders of the group of perpetrators of the crime, reveal the most common forms of interaction between the members of the group in the preparation of the crime, during its commission and in the process of disclosure.

Analysis of recent research and publications. In literature, attempts have been made to investigate the problem of criminal groups by such authors as B. I. Baranenko, V. M. Bykov, G. M. Biryukov, V. G. Glukashevich, I. Grishaev, N. Y. Guturov, O. M. Dzhuzha, A. I. Dolgov, V. Kartavtsev, V. T. Kontemirov, V. M. Kornienko, G. A. Krieger, V. I. Litvinenko, V. G. Lukashevich, Ye. Makarenko, I. V. Maximchenko, M. I. Melnyk, E. M. Moiseev, A. A. Music, V. D. Pakhomov, B. V. Romanyuk, D. Savchenko, I. V. Servetsky, I. V. Tarasyuk, T. A. Tretyakova, V. P. Filonov, A. G. Tsvetkov, V. M. Tsymbalyuk, K. A. Chaplinsky. The issues of the use of forensic psychological examination in the process of investigation of criminal offenses were reflected in the works of M. O. Osmansky, V. L. Vasilyeva, E. P. Volkova, O. M. Guseva, S. M. Knyazev, O. R. Onishchenko, F. S. Safuanova, T. M. Sekerazh, T. O. Smirnova, O. O. Tkachenko, T. Yu. Filate, etc.

The **Article Purpose** is to analyze the achievements of scientists and practitioners for further use in the development of scientific and methodological recommendations for conducting forensic psychological examinations of crimes committed by a group of persons.

Main content presentation. In the legal literature, the terms *collective crime* is used as a crime committed by a group of persons (two or more participants), *committing a crime by a group of persons*, *collective crime*.

In criminal law, a criminal group refers to the intentional involvement of two or more persons in committing a crime in the form of simple or complex complicity, which results in the responsibility for committing crimes of some kinds by a simple conspiracy group or group, a group of persons in the prior conspiracy, and organized group as well as criminal gang (gang).

Certain division of criminal groups contains criminal law. Thus, Art. 28 of the Criminal Code of Ukraine gives the definition of types of criminal groups depending on the nature of complicity and degree of organization:

- 1) committing a crime by a group of persons, if several (two or more) perpetrators participated in it without prior collusion;
- 2) committing a crime by a group of persons by prior conspiracy, if it was jointly committed by several persons (two or more) who, in

¹ Ibidem. .

advance, i.e. before the commencement of the crime, agreed to jointly commit it;

3) committing crime by an organized group, if several persons (three or more) who have previously organized themselves into a stable association for committing this or other (other) crimes, united by a single plan with the distribution of functions of participants, participated in its preparation or commission a group aimed at achieving this plan, known to all members of the group;

4) committing crime by a criminal organization, if it is committed by a stable hierarchical association of several persons (three or more), whose members or structural parts of which, by prior conspiracy, have organized themselves for joint activities for the purpose of directly committing serious or particularly serious crimes by members of that organization, or directing or coordinating the criminal activities of others, or ensuring the functioning of both the criminal organization itself and other criminal groups¹.

V. L. Vasilyev and V. M. Bykov distinguish between these types of criminal groups²:

– Random group, originally created for a non-social purpose, but in the process of communication, sharing alcohol, etc., which carried out dangerously social action through situational-random mechanisms. Such a group lacks an internal socio-psychological structure, an antisocial purpose, and a precise role distribution. They are connected by friendly, not business relations. However, such a group can analyze the distribution of roles in the specific situation of the incriminating act. A company into which a random group can turn into a systematic meeting. There is a constant theme for these meetings in an asocial orientation. Usually, there is a strong leader in such a group, and the roles of others are not clearly defined.

– Criminal group characterized by the stability of its personnel, the presence of its members criminal experience (criminal experience is not only the presence of criminal records and stay in a correctional institution), the distribution of roles. The boundary of permissible behavior is systematically deliberately sharply expanded, that is, a stable anti-social orientation of the group and criminal professionalism of its members.– The further development of the group leads to a criminal organization where relationships become rigidly formalized in nature, the role distribution is aware, there are strict standards of behavior, rigid discipline, a well-developed system of sanctions. Forensic practice shows that most often there is a demand to study the individual-psychological characteristics of persons who have committed a crime in a group without prior collusion.

¹ Ibidem.

² Bykov V. M. Prestupnaja grupa: kriminalisticheskie problem [Crime group: forensic problems]. Tashkent, 1991 [in Russian].

The general object of forensic psychological examination is the peculiarities of the psyche, its components and manifestations in the activity of a mentally healthy person as a carrier of procedural status in a legally significant situation, as well as the situation itself. The main task of psychological examination is to determine the individual subject: individual psychological characteristics, personality traits, leading personality traits; motive factors of mental life and behavior; emotional reactions and states; regularities of the course of mental processes, the level of their development and its individual properties.

The subject of such expertise is a retrospective assessment of a person's condition for the period of his various actions in the legal field. At the same time during the study period, the condition of the person may be influenced by factors of different nature: socio-psychological, psychogenic, homogeneous, psychiatric and others. Therefore, forensic psychological examination is considered one of the most difficult types of examination. In turn, S. D. Maksimenko emphasizes that the scientific study of personality psychology as a subject of study of uniqueness, uniqueness and integral system poses a rather significant problem. The scientist determines the composition of the mechanisms of the human psyche, which is based on reflection as a regulator of human activity and meets the adequate environmental conditions that affect the function of personality behavior.

On the other hand, every mental act is the result of the action of the objective through the subjective reflection, through the human individuality, which imposes a peculiarity on the mental life. Finally, during criminal activity, the mental reflection is constantly deepened, improved and developed¹.

The competence of a forensic expert psychologist in performing this subject type of forensic psychological examination includes establishing the individual and role status of the members of the group (leader, subject, led, etc.)². Research on the psychology of committing a crime within a group involves defining its concept. In the etymological sense, *group* is «set of people united by a common interest, profession, activity, etc.» or «a set of

¹ Maksymenko S. D. Henezys osobystosti [Genesis of personality]. Kyiv : KMM, 2006. S. 51–69 [in Ukrainian].

² Pro zatverdzhennia instruksii pro pryznachennia ta provedennia sudovykh ekspertyz ta ekspertnykh doslidzhen ta Naukovo-metodychnykh rekomendatsii z pytan pidhotovky ta pryznachennia sudovykh ekspertyz ta ekspertnykh doslidzhen : nakaz Ministerstva yustytzii Ukrainy [On approval of the instruction on the appointment and conduct of judicial examinations and expert studies and Scientific and methodological recommendations on the preparation and appointment of judicial examinations and expert studies: Order of the Ministry of Justice of Ukraine] vid 08.10.1998 № 53/5. Ofitsiyni visnyk Ukrainy. 1998. № 46. St.1715 [in Ukrainian].

persons united by a common purpose, idea, work, etc.»¹. In social psychology, a group is a limited community of people, which stands out from the social whole based on certain characteristics (nature of the activity performed, social or class affiliation, structure, composition, level, etc.). A social group is a relatively stable group of people who share common interests, values and behaviors that are formed within a historically defined society.

In psychology, a small social group is also distinguished – a relatively small community of people who are in direct personal communication and interaction. In relation to a person, a small group is seen as a social environment that rigidly determines the behavior and characteristics of the person, and for the whole society, the small group acts as an analogue, a kind of model of social relations².

In the literature, there has long been a debate about the lower and upper small group numbers. In most studies, the number of small group members ranged between 2 and 7 with a modal number of 2 (mentioned in 71% of cases). This calculation is in line with the widespread notion that the smallest group in the psychological sense is the so-called *dyad* that is two interacting individuals. About determining the upper index of the size of the group, the practice of known studies defines it as follows: 10, 15, 20 people. Some studies by Moreno, author of a sociometric technique designed specifically for use in small groups, mention groups of 30 to 40 people. Thus, if a small group under study exists, it is considered as a subject of activity. Therefore, it is logical not to set some rigid *upper* figure, but to accept it as existing³.

In cases where the crime is committed by a group of persons (from two or more persons) and the accused give conflicting information about the role of everyone in the commission of the crime they are charged with, the forensic and psychological examination of the socio-psychological characteristics of the crimes may be assigned to the leader of the group committed by a group of persons.

The following issues are addressed in the research process:

What are the individual and psychological characteristics of an individual?

What is the individual-role status of the individual in the criminal group (leader, subject, led, etc.) and is it due to his / her individual-psychological properties and peculiarities of the social-psychological structure of the criminal group (criminal group)?

¹ Tolkovyj slovar [Explanatory Dictionary] S. i. Ozhegova / pod redakciej N. Ju. Shvedova (21-e izdanie). Moskva : Nauka, 2002 [in Russian].

² Bekh V. Teoriia hrup [Group theory]. Politychna entsyklopediia. Kyiv : Parlamentske vydavnytstvo, 2011 [in Ukrainian].

³ Andreeva G. M. Social'naja psihologija [Social Psychology]. Uchebnik dlja vuzov. Moskva : Aspekt Press, 2001 [in Russian].

In accordance with the circumstances of the case, the psychological issues that are resolved shall be agreed, as appropriate, by the body (s) who appointed the expert, in consultation with the expert for arranging them into blocks that are appropriate for the case¹.

Nowadays, diagnostics of relationships within a group is becoming more urgent to identify the motives of individual members of the group, their social and psychological role in the overall criminal activity. This type of examination is assigned by a judge to individualize criminal liability, the degree and forms of punishment. In addition, the personal diagnosis of group members, the identification of those traits that give a *difficult prognosis*, a high likelihood of recurrence, also has legal significance.

Research on small groups has as its prerequisite the characteristics of some «static» group: determining its boundaries, composition, composition. But it is natural that the main task of social and psychological analysis is to study the processes that occur in the life of the group.

A. G. Kovalev notes that in the process of communication people interact with each other. During the interaction, the emotions of one decrease or increase under the influence of the thoughts or experiences of the other. Personality more influences other people and the group as a whole, the more authoritative it is in the eyes of others².

Group leadership is important. Leadership is a purely psychological characteristic of the behavior of certain members of the group, whereas leadership is more a social characteristic of group relations, primarily in terms of the distribution of leadership and subordination roles. Leadership is understood to mean one of the processes of organizing and managing a small social group, which contributes to the achievement of group goals in the optimum time and with the optimum effect determined in society by social relations. Leadership implies the existence of a figure (several figures) as a leader.

The leader is a member of the group, according to which she recognizes the right to make responsible decisions in significant situations, that is, the most authoritative person who really plays a central role in

¹ Pro zatverdzhennia instruksii pro pryznachennia ta provedennia sudovykh ekspertyz ta ekspertnykh doslidzhen ta Naukovo-metodychnykh rekomendatsii z pytan pidhotovky ta pryznachennia sudovykh ekspertyz ta ekspertnykh doslidzhen : nakaz Ministerstva yustytzii Ukrainy [On approval of the instruction on the appointment and conduct of judicial examinations and expert studies and Scientific and methodological recommendations on the preparation and appointment of judicial examinations and expert studies: Order of the Ministry of Justice of Ukraine] vid 08.10.1998 № 53/5. Ofitsiinyi visnyk Ukrainy. 1998. № 46. St.1715 [in Ukrainian].

² Kovalev A. G. Komandnye i social'no-psihologicheskie problemy liderstva [Command and socio-psychological problems of leadership]. Moskva : Politizdat, 1998. 58–59 [in Russian].

organizing joint activities and regulating relationships in the group. The leader is a small group member who is nominated because of the interaction of the group members to organize the group when solving a specific task. He demonstrates a higher level of activity, participation, influence in solving this task than other members of the group. Thus, the leader moves in a specific situation, assuming certain functions. The rest of the group members take leadership, that is, build relationships with the leader that suggest that he will lead, and they will be known.

Leadership should be a group phenomenon: the leader is unthinkable alone, he is always given as an element of group structure, and leadership is the system of relations in this structure. Therefore, the phenomenon of leadership refers to the dynamic processes of a small group. This process can be quite contradictory: the extent of the leader's demands and the willingness of other group members to accept his leadership role may not be the same. Finding out a leader's true capabilities means finding out how other members of the group perceive the leader¹.

The extent of the leader's influence on the group is also not constant, in some circumstance's leadership opportunities may increase and, in others, decrease (Krichevsky, Ryzhak, 1985). Sometimes the notion of leader is identified with the notion of *authority*, which is not entirely correct: of course, the leader acts as authority for the group, but not every authority necessarily means leadership capabilities of its carrier. The leader must arrange for the solution of a problem, the authority of such a function does not perform, he can simply act as an example, as an ideal, but not take the decision of the task at all. Therefore, the phenomenon of leadership is a very specific phenomenon that is not described by any other concepts².

In order to be promoted to the role of group leader, a person must have a certain set of personal socio-psychological qualities, in particular a sufficiently high level of initiative and activity, experience and skills of organizational activity, interest in achieving group goals; be informed of the group's affairs, as well as sufficiently sociable, and have a personal appeal, with a high level of prestige and authority in the group that matches these qualities.

In the psychological literature, the following types of leaders are distinguished:

1) in terms of content of activity (leader-inspirer, leader-initiator, leader-organizer, leader-executor);

2) by nature of activity (universal leader and situational leader); 3) by activity orientation (emotional leader, erudite leader, business leader, artisan leader)

¹ Andreeva H. M. Vkazana pratsia [in Ukrainian].

² Krichevskij R. L., Ryzhak M. M. Psihologija rukovodstva i liderstva v sportivnom kollektive [Psychology of leadership and leadership in a sports team] [in Russian].

3) by activity orientation (emotional leader, erudite leader, business leader, artisan leader)¹.

Experimental psychological research indicates that in the group people tend to be more risky in solving problematic situations than alone. People are more likely to take risks together than individually².

Committing crimes by a group of individuals brings some specificity to the mechanism and other components of criminal activity, and usually entails more serious consequences³.

In carrying out psychological examinations, psychological methods and those that have passed the state certification, as well as their author's modifications, which are selected taking into account the specifics of expert researches and specific questions raised before psychological examination, are used in scientific practice⁴.

An essential element of the purpose of forensic psychological examination is the formulation of questions to the expert.

These questions must meet the basic requirements: 1) not to go beyond the specialist knowledge of an expert and not to be of a legal nature;

2) be defined, specific and concise;

3) have a logical sequence.

For the study, the body (person) who appointed the examination (hired expert) provides the expert with the opportunity to psychologically examine the individual and the case file. To conduct a psychological examination (in view of the age of the individual and based on the questions posed to the expert), the expert must be provided with: medical documentation, personal case, school characteristics and characteristics from the place of work, testimonies of accomplices, teachers, colleagues, friends, acquaintances, relatives and other people with whom the individual has been in close contact. In the testimonies of loved ones should reflect the peculiarities of its development and behavior, living conditions, environment, inherent tendencies, hobbies, interests. If available, also diaries, letters, samples of creativity of the individual⁵.

¹ Andreeva H. M. Vkazana pratsia [in Ukrainian].

² Vasylev V. L. Vkazana pratsia [in Ukrainian].

³ Vasil'eva N. V., Gor'kaja I. A. Sudebno-medicinskaja jekspertiza i ee kliniko-psihologicheskie osnovy [Forensic medical examination and its clinical and psychological foundations]. Prakticheskoe rukovodstvo. SPb, 1997 [in Russian].

On approval of the instruction on the appointment and conduct of judicial examinations and expert studies and Scientific and methodological recommendations on the preparation and appointment of forensic examinations and expert studies: Order of the Ministry of Justice of Ukraine dated 08.10.1998 № 53/5. Official Bulletin of Ukraine. 1998. № 46. Art.1715.

⁵ Vasilev V. L. Yuridicheskaya psihologiya. SPb : PeterKom, (Seriya «Mastera psihologii»), 1998 [in Russian].

The body that appointed the expert should pay special attention to the testimony or information about the peculiarities of the behavior of the sub-expert in problem situations (conflicts, punishments, losses, etc.) and testimony of his/her peculiarities. emotional state in certain circumstances (immediately at the time of the event, at the time before the event, and after the event).

During the psychological examination, authentic indications are examined, that is, those that are not dependent on any third-party influence or coercion. The sources of information for forensic psychological examination may be criminal case materials, other documents describing both a person's life path and his actions and behavior in a criminal situation.

External manifestations of motor and speech acts, behaviors and actions of the investigated person during the examination may also be informative.

The expert's opinion is based on: the analysis of the case file, in particular, the data on the distribution of the roles of the accused in committing unlawful acts; the results of mandatory experimental and psychological research of all members of the group, including data on intellectual characteristics, personal characteristics, the system of relations to different social values, interpersonal relationships in the group; on the results of the comparative analysis of the obtained data.

Conclusions. Thus, the results of the analysis of the researches of the scientists show that during the pre-trial and judicial investigation it is advisable to carry out the examinations of the socio-psychological characteristics of the members of the criminal group. Especially in cases where the crime is committed by a group of persons and the accused give conflicting information about the role of everyone in committing the act they are charged with. This kind of research is aimed at identifying the structure of a criminal group, determining the role of each of its participants and the peculiarities of the relationship between them.

An expert psychologist can conclude what the impact of the group is on the individual participant, identify informal leaders of the criminal group, reveal the most common forms of communication between members of the group at the time of the crime and in the process of disclosure.

References

- Andreeva, G. M. (2001). *Social Psychology*. Textbook for higher educational institutions. Moscow: Aspect Press [in Russian].
- Beh, V. (2011). *Group theory*. Political encyclopedia. Kiev: Parliamentary vidavnistvo [in Ukrainian].
- Bykov, V. M. (1991). *Criminal group: forensic problems*. Tashkent [in Uzbekistan].
- Criminal codex of Ukraine*: Information from the Verkhovna Rada of Ukraine (BPD), 2001, № 25–26. 131 [in Ukrainian].

- Kovalev, A.G. (1998). *Team and socio-psychological problems of leadership*. Moscow: Politizdat. 58–59 [in Russian].
- Krichevsky, R. L., Ryzhak, M. M. (1985). *Psychology of leadership and leadership in the sports team*. Moscow: Publishing House of Moscow [in Russian].
- Maksimenko, S. D. (2006). *Genesis of personality*. Kiev: LLC «KMM», 51–69 [in Ukrainian].
- On approval of the Instruction on the appointment and conduct of forensic examinations and scientific and methodological recommendations on the preparation and appointment of forensic examinations and expert studies: Order of the Ministry of Justice of Ukraine of October 8, 1998, № 53/5.* URL: <http://zakon2.rada.gov.ua/> (data zvernennia 26.06.2019).
- The Explanatory Dictionary of S. I. Ozhegov*, edited by N. Yu. Shvedova (21st edition) [in Russian].
- Vasiliev, V.L. (1994). *Psychological aspects of criminal groups and the investigation of crimes committed by them*. SPb: Textbook [in Russian].
- Vasiliev, V.L. (1998). *Legal psychology*. SPb: Peter Kom (A series of «Masters of Psychology») [in Russian].
- Vasilieva, N.V., Gorkovaya, I.A. (1997). *Forensic examination and its clinical and psychological foundations. A practical guide*. St. Petersburg [in Russian].

О. А. Герасименко, Т. Г. Харіна, Т. В. Савкіна

Оглядова стаття

СУДОВО-ПСИХОЛОГІЧНА ЕКСПЕРТИЗА ЗА ЗЛОЧИНАМИ, ВЧИНЕНИМИ ГРУПОЮ ОСІБ

Проаналізовано напрацювання науковців щодо проведення судово-психологічних експертиз соціально-психологічних особливостей за злочинами, вчиненими групою осіб. Визначено об'єкт, завдання та предмет даного виду експертизи. Розглянуто особливості дослідження соціально-психологічних особливостей підекспертних. Розкрито поняття лідерства у групі, зазначені типи лідерів. Визначено питання, які ставляться на вирішення, та межі компетенції експерта-психолога. Зазначено перелік вихідних даних, необхідних для проведення психологічного дослідження.

Ключові слова: психологічна експертиза, злочини вчинені групою осіб, члени групи, індивідуально-психологічні особливості, соціально-психологічні якості, лідерство, психологічне дослідження.

Received by the Editorial Board: 12.06.2019