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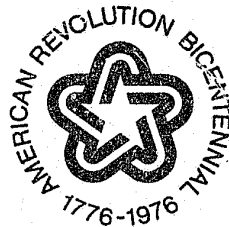
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FORENSIC PSYCHOLOGY

By

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GENERAL PART

SECTION ONE

INTRODUCTION TO FORENSIC PSYCHOLOGY

CHAPTER 1

SIGNIFICANCE OF FORENSIC PSYCHOLOGY TO THE ADMINISTRATION OF JUSTICE

A knowledge of the laws governing the mind and application of certain psychological methods to human activity facilitates the work of an individual and helps him to regulate and structure interrelationships with other people, to understand the real motives behind human acts more deeply, to recognize objective reality, to evaluate it properly, and to employ the results of cognition in his practical activity. "The idea that psychology is not an abstract science devoted to solving complex, delicate theoretical problems but rather that it is an important and necessary link in the education of every cultured specialist is gaining greater and greater recognition."* There is practically no sphere of human activity in which intervention by psychological science would not facilitate and order such activity.

Without knowing the laws governing the mind we cannot manage human activity. Among sciences rendering assistance to economic and cultural progress in our country, psychological science occupies an important place. It reveals laws which should be known to everyone who must influence people, direct their efforts, and educate them.

Of course the significance of psychological science to different forms of human activity varies. It depends on the goals of the activity, its conditions, and the paths for attainment of the goals. Considering these circumstances psychological science acquires extremely important significance

*Myasishchev, V. N., et al., "Osnovy obshchey i meditsinskoy psikhologii" (Fundamentals of General and Medical Psychology), Moscow, 1968, p 3.

namely to the administration of justice. This importance stems primarily from the goals of the administration of socialist justice. The goals of socialist justice have been worded in articles 2 and 3 of the "Fundamental Principles of Legislation on the Judicial System of the USSR and the Union and Autonomic Republics." Article 2 declares:

"Justice in the USSR is called upon to protect the following from all transgressions:

- a) the social and state structure of the USSR, the socialist economic system, and socialist property, confirmed by the USSR Constitution and the constitutions of the union and autonomic republics;
- b) the political, labor, housing, and other personal and property rights and interests of citizens of the USSR, guaranteed by the USSR Constitution and the constitutions of the union and autonomic republics;
- c) the rights and interests, protected by law, of state institutions, enterprises, kolkhozes, cooperatives, and other social organizations.

"Justice in the USSR has the task of insuring precise, unswerving execution of the laws by all institutions, organizations, officials, and citizens of the USSR."

Article 3 defines the tasks of the court:

"By all of its activity the court educates citizens of the USSR in the spirit of devotion to the motherland and communist affairs, in the spirit of precise, unswerving execution of Soviet laws, a thrifty attitude toward socialist property, compliance with labor discipline, an honorable attitude toward state and social duty, and respect for the rights, honor, and dignity of citizens, and for the rules of socialist society."

"Implementing measures of criminal punishment, the court not only chastizes criminals but also pursues its goal of correcting and reeducating them."

Summarizing the above, we can say that socialist justice must examine civil disputes and criminal cases, establish the truth in all of these cases, and make the correct decisions. It is also called upon to reeducate and correct persons who had committed crimes and infringements of the law, and to educate all citizens in the spirit of unswerving execution of Soviet laws and the rules of socialist society. Finally, socialist justice is called upon to prevent and irradicate crime and infringements of the law.

The cited goals of socialist justice persuasively attest to the significance of psychological science to this form of specific activity of the state.

A knowledge of psychological science is extremely important to establishing the truth in the administration of justice. In order to understand the

truth, to make the appropriate conclusions, it is not enough to know and comply with the laws of logic: It is also important to know the laws of psychology.

The process of cognition must be controlled. This control acquires special significance namely in the administration of justice because the conditions in which cognitive processes go on here are obviously and clearly unfavorable. This is why we must develop special measures by which to eliminate or diminish the action of objectively existing stimuli that hinder mental processes.

Continual communication with people having negative mental qualities and the need for revealing facts and circumstances that elicit negative emotions hinder the cognitive process and may lead to error in the administration of justice.

Only with the help of psychological science can we develop measures by which to eliminate or significantly diminish the action of unfavorable conditions for cognition and create such conditions for activity which would guarantee no error in perception and evaluation of facts by examining magistrates, judges, and procurators.

V. I. Lenin pointed out that "without 'human emotions' there had never been nor could there be a human search for truth."* But emotions vary. On one hand they may encourage a person to collect facts and analyze them, but on the other hand they can also result in passive activity and subjectivism in evaluation of facts, and hence in serious errors in establishing the truth. We can avoid these errors in the administration of justice only if we study all features of the activity and mental processes of individuals collecting evidence, evaluating it, and making decisions based on the results of their evaluation. Only by establishing these laws can we collect evidence and evaluate it properly and implement the necessary measures to reduce subjectivism and prejudice to the greatest degree possible when solving important problems--instituting criminal proceedings, making an accusation, selecting suppression measures, passing the sentence, and so on.

Each form of activity requires that persons involved in it have certain mental qualities. The specific conditions and goals of the administration of justice generate special mental qualities and states which must mandatorily be taken into account in this profession. Nurturing of mental qualities is by itself necessary in relation to every citizen in every form of work, every form of activity. In this regard a knowledge of the laws of psychological science must become the property of every conscious citizen. "A scientific understanding of mental phenomena permits each person to correctly evaluate his strong and weak personal qualities, determine his individual features,

*Lenin, V. I., "Poln. sobr. soch." (Complete Collected Works), Vol 25, p 112.

and properly and consciously direct his efforts at developing positive qualities and overcoming negative ones."* It is especially important to take all of this into account in the activity of the examining magistrate, the judge, and the procurator.

The special conditions under which workers administering justice must function require that they have significant mental resistance to harmful stimuli, that they have certain volitional and emotional qualities, in the absence of which they may make subjective errors in collecting evidence, evaluating it, and making and implementing decisions.

For this purpose we need to develop and nurture mental qualities in examining magistrates and legal workers that would fully exclude the possibility of subjective errors in their activity and insure fulfillment of the functions assigned to them by law to the greatest degree. It is very important to nurture an ability to evaluate one's own mental qualities and states. This is a necessary prerequisite for studying the psychology of other persons as well. N. G. Chernyshevskiy wrote: "He who had not studied the person within himself would never attain a deep knowledge of people."**

The specific features of the administration of justice make it necessary to go beyond studying the mental qualities of persons involved in legal proceedings and studying the conditions influencing their activity to the development of the scientific principles of organizing this activity as a whole. Scientific organization of labor has the goal of improving working conditions, accelerating work, and achieving a situation that would exclude subjectivism in any form in the performance of this highly important state function. None of these goals can be attained without application of the knowledge contained in psychological science.

Truth is established in investigation of cases and in their examination in court not only by direct perception of facts by persons performing the functions of the administration of justice. A significant number of facts become known through testimony by persons that had been witnesses of illegal acts or their victims, as well as through testimony of the violators themselves. In order to be able to establish objective facts with the help of such testimony, first of all we must know the mental processes occurring within all of these people when they perceive the events, prior to the time they are summoned by the examining magistrate or the court, and at the time of their participation in investigatory and court proceedings. The special conditions of perception produce specific features in the cognition of facts and unique features in transmission of these facts to examining magistrates and judges. To establish the truth we must not only know the changes that occur in the

*Kovalev, A. G., et al. (Editors), "Psikhologiya" (Psychology), Moscow, 1966, p 14.

**Chernyshevskiy, N. G., "Poln. sobr. soch." (Complete Collected Works), Vol 3, Moscow, 1954, p 426.

minds of these people, but we must also have the ability to influence these people in such a way that we can receive testimony from them objectively reflecting the event they had perceived.

To have an influence we must have considerable psychological knowledge. Without it we cannot determine the right way to influence the personality, we cannot evaluate the results of such influence, and we cannot make a change in the orientation of mental processes and the states of persons through whom we must establish objective truth.

The examining magistrate, the judge, and the procurator often encounter witnesses who cannot recall facts important to the case and defendants who intentionally give false testimony and try to confuse the inquiry in every possible way. In all of these cases we need psychological knowledge of the specific features in the process by which testimony by witnesses is formed, and of the specific mental features involved in false testimony. Only a knowledge of the appropriate psychological laws and methods of influence can help us to reveal false testimony and establish the truth.

It should not be thought that a knowledge of the ways of influence is required only by examining magistrates and judges during investigation and court examination of criminal cases. Truth is also established to a great extent in civil cases through testimony of the plaintiff, the defendant, third parties, and witnesses. Here as well they must study participants of the process and influence them in appropriate fashion with the purpose of establishing the truth.

Psychological knowledge is needed in every stage of the administration of justice because unique features exist in the activity, in the mutual relationships of the participants, and in the problems subject to solution within each stage.

Activity of the Soviet court is the decisive, fundamental factor of administration of justice in general. It is regulated by Soviet procedural law, which supports attainment of the goals of socialist justice. However, if we are to make a deep analysis of the essence of this activity we must study it from the standpoint of psychological science as well. First of all we must reveal the psychological structure of the Soviet court's activity, which would permit us to reveal and, consequently, analyze more deeply all of the unique features of the actions, processes, and interrelationships involved.

The administration of justice is hardly restricted only to establishment of truth. There must also be an educational influence upon both persons who had transgressed the law and all Soviet citizens. Considerable knowledge in psychology is also necessary for this function (which is highly multifaceted).

Court activity and the court situation themselves have a significant psychological influence on all participants, eliciting certain mental states in

them that must be taken into account mandatorily. Basing ourselves on known laws we can develop recommendations for creating such a situation in court, such a form of activity by the court under which the mental influence would serve the purposes of socialist justice to the greatest degree.

Psychological knowledge is also needed by workers involved in prevention, people who prevent commissioning of crimes and transgressions of the law, which is also a task of justice.

Finally, without a knowledge of psychological laws and methods it is also impossible for corrective labor institutions to function. The psychological essence of all processes and actions within corrective labor institutions must be revealed, and the psychological principles of the organization and procedures of correction and reeducation of persons that had committed crimes must be developed.

Only presence of substantial psychological knowledge would help in performing the important tasks faced by these institutions.

Of course the significance of psychological science to the administration of justice is not restricted to just the discussion above. But what has been said does persuasively demonstrate the urgent need for studying a special discipline--forensic psychology, which is extremely important to all legal activity, to all procedural functions.

SECTION TWO

PSYCHOLOGICAL STRUCTURE OF THE ADMINISTRATION OF JUSTICE

CHAPTER 8

PSYCHOLOGICAL FUNDAMENTALS OF EDUCATION IN THE ADMINISTRATION OF JUSTICE

§1. Education in the Administration of Justice and Its Goals

The administration of justice is not limited to establishing the guilty individuals and defining their punishment. One of the fundamental goals of socialist justice, as had been noted, is to correct and reeducate persons who had committed crimes as well as to educate all citizens with the goal of preventing violations of the law and criminality, with the goal of complete elimination of crime. Education is becoming one of the principal directions in the activity of the Soviet examining magistrate and the court, for which reason education is a mandatory, inherent component of the psychological structure of the administration of justice.

Presence of an educational function is universally recognized and regulated by law today: It is acquiring broader and broader significance. A large number of works now directly discuss not only presence of an educational function but also the need for developing its forensic psychological foundations.*

Education is a component of many forms of human activity. The activity of a teacher and a troop commander mandatorily includes education. However the goals, conditions, and the subjects of education differ in all of the enumerated cases. Despite the fact that there is a common goal--education of the individual, education in different occupations and under different conditions has significant differences. Education in the administration of justice also has its unique features. Such unique features are the

*See Ivanov, Yu. A., "Vospitatel'noye vozdeystviye sovetskogo predvaritel'nogo sledstviya" (The Educational Influence of the Soviet Preliminary Inquiry), Moscow, 1967, p 44.

product of the goals of justice, which is called upon to reeducate persons who had committed transgressions of the law and to educate all citizens in the spirit of respect for Soviet law and the rules of socialist society.

Such an educational influence is provided chiefly by the very system of the rules of law. Criminal, civil, and administrative law has the purpose of working out measures of influence applied to violations of the law. These measures are educational in nature as well. The science of criminal proceedings works out procedural rules for the educational function. Corrective labor law has the purpose of working out the rules and resources by which to perform this activity at special corrective labor institutions. However, in the administration of justice we must perform educational activity in the general meaning of this term as well. Education is "specific, purposeful, and systematic influence upon the psychology of the person being educated having the purpose of imparting qualities to him desirable to the educator."*

There are a number of sciences dealing with the problems of nurturing the personality of the Soviet citizen, particularly Soviet pedagogics. Soviet pedagogics is the science of educating the growing generation, setting as its goal the development of recommendations on ways by which to transmit all positive experience accumulated by mankind to this generation.

Obviously the principles of education are somewhat different in the administration of justice from those of conventional education. The premises of psychological and pedagogical science cannot be applied to this case without changes. The differences stem primarily from the special qualities of persons subject to education, the specific conditions of such education in the overall process of administration of justice. This activity is directed at extremely specific objects--persons who had violated the law, who must be not only educated but chiefly reeducated, since they are bearers of negative mental properties and, in a number of cases, bearers of antisocial sets. Education in the administration of justice must eliminate negative habits, mental qualities, and sets and, on this basis, develop the necessary personality traits that would guarantee to society that this person would no longer engage in criminal activity.

In this connection development of Soviet forensic psychology acquires important significance. It not only reveals and demonstrates the general psychological structure of this specific educational activity, but it is also called upon to develop the theoretical fundamentals of performing this activity with a consideration for the laws established by psychological and pedagogical science. In order to assist in the educational function, forensic psychology provides the necessary knowledge required for studying the personality, knowledge of the general ways that it develops and forms and the ways negative qualities arise in the personality, and, finally, knowledge of the conditions and methods of influence with which these negative qualities could be fully eliminated.

*Kalinin, M. I., "O kommunisticheskoy vospitanii i obuchenii" (Communist Education and Training), Moscow-Leningrad, 1948, p 57.

The principal direction of the educational function in socialist justice is reeducation of persons violating the law. This activity in the administration of justice is extremely important to socialist society. If some person fails to learn the skills of a particular occupation the society as a whole would not be endangered in any way by this solitary case. But if a person who had commissioned a crime and who possesses unfavorable mental qualities is not reeducated successfully, this would be a serious danger to society as a whole, since the possibility of repeated crime would not be excluded.

Education in the administration of justice can be conducted only on the condition that the goals of education and the ways of attaining these goals are known and if the ability to suggest and attain the posed goals in specific conditions and in relation to specific persons exists. Finally, such education can be conducted only if the particular laws governing personality development and the methods of educational influence are known. Forensic psychology is called upon to provide all of this knowledge to examining magistrates, judges, procurators, and so on for their practical activity. This makes it necessary to create a general theoretical, psychological-pedagogical scientific base, so that on this foundation we could develop specific procedures and methods and determine the ways for reeducating violators of the law.

The end goal of education in socialist justice is nurturing a personality in the Soviet person which would correspond fully to socialist society. Developing the theoretical fundamentals of education in the administration of justice, forensic psychology guides itself first of all by instructions from our party concerning the goals and directions of all education, worded in the CPSU Program: "The party believes that the chief point in ideological work at the present stage is educating all laborers in the spirit of high ideals and devotion to communism, a communist attitude toward labor and society, complete eradication of the vestiges of bourgeois viewpoints and morals, thorough, harmonic development of the personality, and achievement of true richness in spiritual culture."*

Harmonic development of the personality of the Soviet person is insured in our country by:

Overall development of socialist society along the path of communist construction;

a conscious attitude toward labor, a desire to work for the good of all society, a sense of joy and fortune from creative labor, presence of ideals and a world outlook directed at achieving the goals of communist construction;

an attitude of brotherhood, concern, cooperation, and mutual assistance both in the society as a whole and in particular collectives;

*"Programma Kommunisticheskoy partii Sovetskogo Soyuz" (Program of the Communist Party of the Soviet Union), Moscow, 1961, p 117.

a continual process of education and self-education by all Soviet citizens; the continually rising material standard of living and growth in esthetic and moral needs of Soviet society.

All of these general conditions are broadly capitalized upon by forensic psychology as it develops the theoretical fundamentals of reeducation.

Educational influence in the administration of justice can be directed at a specific person (the violator of the law), a collective, a group of individuals, and those present and participating in court proceedings.

Education is sometimes expressed not only through influence upon a specific person or group of persons. This influence can also be expressed in development of particular measures, collection of materials and information required for more proper, more complete organization of the educational process outside of the administration of justice, in the general educational activity of state and social organizations involved in formation of the personality of the Soviet person. This orientation in educational activity can be called the preventive function of Soviet forensic psychology.

The difficulties in developing the theoretical fundamentals of reeducation stem from the fact that this activity must develop in all stages of the administration of justice, for which reason the extremely diverse conditions in which reeducation goes on must be taken into account.

Persons who had commissioned crimes are encountered at all stages in the administration of justice. Such persons are subjected to educational influence in all of these stages as well. The specific conditions behind reeducation differ in each stage of the administration of justice.

When a sentence is passed the final phase of reeducation may be transferred either to corrective labor colonies (prisons) or to the collective of which the person had been a part prior to the sentence.

A significant proportion of people who had violated the law are sentenced to punishment not associated with imprisonment, or they may even be released on bail to the appropriate organizations. It stands to reason that correction and reeducation of a person who had violated the law in no way ends with prescription of punishment not associated with imprisonment. Such a decision is only a particular stage, a particular element of a complex, lengthy process of reeducation. Measures of educational influence intended at altering the person's mental qualities so as to fully guarantee that he would not violate the law in the future must be applied and, what is most important, systematically applied in relation to such persons remaining free. Educational influence applied in relation to punishments not associated with imprisonment and to conditional conviction "has its own specific--sociological and psychological--resources of influence."*

*Liyede, A. A., "Sociological and Psychological Fundamentals of Criminal Conviction of Juveniles," PRAVOVEDENIYE, No 4, 1966, p 121.

Agencies involved in the administration of justice are faced by the priority task of carefully developing effective measures by which to reeducate and monitor the activity and life of this group of convicts. Forensic psychology is precisely the science which must answer the question as to what ways and methods could be used to fully eliminate harmful habits and certain mental qualities that had led individuals to crime from such persons that are not under constant surveillance by colleagues of collective labor institutions.

In turn, differences in the conditions of reeducation and correction inescapably lead to a need for employing various methods of educational influence. Finally, we must also consider the circumstance that education must be conducted with the purposes of preventing violations of the law and crime. In this connection not only those who had commissioned the crime but also a significantly broader circle of persons are subjected to this educational influence. These two aspects of educational influence are mutually related and mutually dependent.

All forms of educational influence imposed upon persons who had commissioned crimes for the purposes of reeducating them can be divided into the following groups.

1. Educational influence in the stage of preliminary inquiry. This influence is rendered by the examining magistrate, the procurator, and persons and collective summoned by them for such influence. The specific conditions and the procedural laws governing preliminary inquiry are mandatorily taken into account.
2. Educational influence in the stage of court examination. This influence is rendered by the court and by other participants of the court examination under the conditions of court examination and in the course of the fulfillment of appropriate procedural functions.
3. Educational influence in special corrective labor institutions.
4. Educational influence in labor collectives of which the person sentenced to punishment not associated with imprisonment is a member. In these conditions we foresee joint activity by administrative agencies, the labor collectives themselves, and persons involved in the proceedings of inquiry and court examination of a specific criminal case (examining magistrates, procurators, judges) in achieving the educational goals.

Taking account of the existing differences in different stages of the administration of justice and, to put it another way, taking account of the unidentified possibility for performing the educational function, we must distinguish between the general goals of educational activity in the administration of justice and the specific goals of educational activity in the given stage of administration of justice. In turn, the specific goals in particular stages of the administration of justice are characterized by the procedural conditions of the given stage, by the specific tasks in this stage of the

administration of justice, by the length of contact with the person being educated, by the conditions of this contact, and by a large number of other circumstances.

Educational influence can be imposed in each stage of the administration of justice personally, by other persons, by a summoned collective, and by capitalization upon specially generated environmental conditions (including those of procedural law).

Irrespective of the stage of the administration of justice in which the educational function is being performed, in all cases it must be based on the fundamental premises and principles of educational influence applicable to the administration of justice. The educational function varies in scope in relation to different officials, but we must remember that in all cases it is mandatorily present, in all cases it is a necessary component of the administration of justice. In this connection all agencies and individual officials called upon to perform particular functions in the administration of justice must possess knowledge on the conditions, possibilities, and methods of purposeful influence having the goal of correction and reeducation, as well as other goals of educational activity.

§2. Basic Information on Reeducating Persons Who Had Commissioned Crimes

In developing the fundamentals of reeducating persons who had commissioned crimes, Soviet forensic psychology bases itself firmly upon the premise that every person can be reeducated. Even when the personality traits are most unfavorable, even when the unfavorable changes in these traits are most profound, the possibility always remains for reeducating such a person, for eliminating unfavorable traits, and for nurturing the necessary positive traits in the person.

Summarizing his theoretical research, I. P. Pavlov wrote about the human personality in particular: "The most important, strongest, and most persistent impression I have gained from research on higher nervous activity by my method is the extreme plasticity of this activity, its tremendous possibilities: Nothing remains motionless and unyielding; instead, everything can always be achieved and changed for the better if only the appropriate conditions are present."*

Research by I. P. Pavlov and other physiologists working on higher nervous activity creates the necessary foundation for reeducating persons having negative mental qualities which had led them to crime and which afford them a possibility (if these qualities are still present) for such crimes in the future.

*Pavlov, I. P., "Poln. sobr. trudov" (Complete Collected Works), Vol III, Moscow-Leningrad, 1949, p 454.

This research by physiologists and psychologists is in full correspondence with theoretical research on this issue by Marxist classicists. Marx wrote the following in this regard: "...people are the product of circumstances and education...consequently altered people are the product of other circumstances and altered education."*

This is what predetermines the basic orientation of all activity in reeducation. If arising of negative mental qualities and habits is a result of a particular set of conditions and educational circumstances, then we would first have to change these conditions and circumstances of life, association, and education.

Even criminal activity of especially dangerous recidivists is not a congenital property of the particular person. This personality orientation is acquired through particular living conditions and education. In correspondence with this, by changing the living conditions enjoyed by this person and by attaining a different orientation in education we can change the orientation of activity and behavior.

However, the fact that personality traits depend upon living conditions and education should in no way encourage the premise by which criminal activity of persons living in conditions promoting crime is justified. V. I. Lenin wrote: "The idea of determinism, which establishes the necessity of certain human acts and rejects the absurd fable of free will, hardly rejects either reason, or human conscience, or evaluation of a person's activity. Quite the contrary, only through a deterministic viewpoint can we achieve a strict and proper evaluation without blaming everything on free will. In equal fashion the idea of historical necessity in no way undermines the role of the personality in history: History is entirely the product of the activities of persons who doubtlessly play an active role."**

This premise is the theoretical foundation for punishment of persons commissioning crimes. The fact that they had received an incorrect or an incomplete education and that they live in surroundings and conditions promoting crime does not relieve them of their responsibility for their acts, though it does provide the groundwork for reeducating such persons.

Studying the psychological fundamentals of reeducating violators of the law, A. G. Kovalev concludes that "the possibility for altering moral-psychological traits of the personality depends upon a number of factors: 1) The dynamics of the environmental conditions and growth in demands, 2) age, 3) individual features, 4) the art of education, 5) the personality properties subject to alteration."***

*Marks, K., and Engel's, F., "Soch." (Works), 2d Edition, Vol 3, p 2.

**Lenin, V. I., "Poln. sobr. soch." (Complete Collected Works), Vol 1, p 159.

***Kovalev, A. G., "Psikhologicheskiye osnovy ispravleniya pravonarushitelya"

Soviet forensic psychology is developing the theoretical fundamentals of reeducation for persons who had commissioned crimes with a consideration for the above. Developing the psychology of correction, forensic psychology is studying the following principal issues:

- 1) Moral-psychological features of a violator of the law;*
- 2) the laws governing arising of deviations in the moral-psychological sphere of persons who had commissioned crimes, and the causes behind formation of a stably criminal type (recidivist);
- 3) the laws governing correction of violators of the law--analysis of all factors under which the psychological bent of the personality undergoes change, and the stages through which correction naturally passes.**

The theoretical fundamentals of reeducation must predetermine the basic ways for attaining the goal of reeducating violators of the law in the specific conditions of different stages in the administration of justice. In developing the psychological fundamentals of reeducation, forensic psychology bases itself chiefly upon the fundamental principles and laws governing education, developed by Soviet psychological science. It is only on this basis that forensic psychology is now developing specific recommendations for educational activity at different stages in the administration of justice.

The process of education, which is itself activity, can only generate activity as it goes on. It can go on only in the conditions of activity. The principal forms of activity used in general educational influence are study, labor, and communication.*** All of these forms of activity may and must be implemented in the administration of justice for the purposes of reeducation.

Developing the psychological fundamentals of reeducation, forensic psychology bases itself on the fact that this activity must proceed simultaneously in two directions intimately intertwined with one another: The first direction is elimination of the negative traits of the personality; the second is transmission of the favorable experience of mankind, the favorable habits, and the

(Psychological Fundamentals of Correcting Violators of the Law), Moscow, 1968, pp 94-95.

*This same circumstance was emphasized by V. N. Myasishchev as well: "...discussion and condemnation and, what is most important, reeducation cannot do without proper orientation in relation to the criminal's personality" (Myasishchev, V. N., "The Principal Tasks of Court Activity," in the anthology "Chelovek pered sudom" (The Person Before the Court), Leningrad, 1965, p 171.

**See Kovalev, A. G., "Psikhologicheskiye osnovy ispravleniya pravonarushitelya," Moscow, 1968, pp 6-7.

***See Anan'yev, B. G., "Man as a Subject of Education," SOVETSKAYA PEDAGOGIKA, No 1, 1965, p 30.

favorable needs to the personality for final infusion of the world outlook of a person in socialist society.

Beginning in the 1930's Soviet psychology started basing itself on the premise that "assimilation of human experience, which occurs in the process of training, is a form of mental development that is important and specific to man."* Education of a person is always a process in which he perceives a certain sum of knowledge, a particular aspect of human experience. The sort of information (positive or negative) on this experience which prevails as the given personality was formed and nurtured predetermines, to a certain extent, the essence of the given personality, the sum of its mental qualities, outlook, interests, needs, and so on. In correspondence with this we can always refer to a mind of a violator of the law as the result of incorrect or incomplete perception (transmission) of human experience, which had led to development of particular negative traits or to absence of certain positive traits necessary for restraint from actions violating the law.

In all cases the process of reeducating a criminal is a process of revealing to him the favorable human experience; it also consists of changes in the attitudes of the individual toward former positive living experience which he had not perceived formerly or ignored in view of the specific features of his associations and his incorrect understanding of the goals and interests of life. Positive experience is transmitted through training. In this connection training must be a mandatory element in reeducation. "Training is a way for educating and reeducating the personality if certain conditions are observed: 1) The information imparted to the individual is scientific and true--that is, it reflects the world and explains it correctly; 2) the knowledge is comprehensible to those perceiving it; 3) the knowledge affects not only what is intellectual but also what is emotional, eliciting the appropriate feelings and producing a readiness for action; 4) occupational orientation...assisting in occupational selection is achieved; 5) the person acquires the necessary knowledge and habits of work and behavior in the society; 6) the knowledge is used in labor."**

In transmitting positive experience and in training, the psychology of reeducation is based upon general training principles--consciousness, visibility, gradual development, systematic development, and an individual approach.

Thus reeducation and correction, in general form, must include raising the level of general education of the person who had commissioned the crime. Legal statistics persuasively show that crime is often associated namely with a low level of general education.*** It is a consequence of incorrect development of the person and absence of moral and esthetic needs that are

*Vygotskiy, L. S., "Izbrannyye psikhologicheskiye issledovaniya" (Selected Psychological Research), Moscow, 1956, p 33.

**Kovalev, A. G., "Psikhologicheskiye osnovy ispravleniya pravyonarushtelya," Moscow, 1968, p 113.

***The psychological structure of different crimes is far from identical; this is why we cannot interpret the relationship between a low level of

developed only through a systematic rise in the level of general education. When reeducating a criminal we mandatorily eliminate his tendencies and habits of utilizing only the negative experience. We also eliminate the tendencies present for incorrect satisfaction of needs. Reeducation must be a process of change in the needs of the given person.

A. S. Makarenko had long ago seen formation and development of needs as the principal problem in nurturing the personality.* The needs of each Soviet person must comply with the interests of socialist society as a whole and insure not only his existence in the society but also his active participation in creative labor and in social and cultural life. In this connection the nurturing of needs must embrace all aspects of the individual's personality. To develop proper needs in persons who had commissioned crimes it is very important to insure their inclusion in active labor. Nothing promotes development of proper needs and a proper relationship among these needs as does participation in labor, as does recognition of the goals of one's activity. This is precisely why measures for including persons subject to reeducation in active labor are implemented in all stages of the administration of justice.

Alteration of personality traits must always begin with elimination of harmful habits. "...The most persistent habits become so stereotypic that they assume a tendency for manifesting themselves and prodding the person toward particular actions in spite of human will."**

Hence it is entirely clear that reeducation cannot be successful if harmful, negative habits are not altered and eliminated. Moreover, criminal tendencies often have habits at their root. K. K. Platonov wrote the following concerning the nature of habits: "As an action, a habit unites both material and abstract phenomena. Its physiological mechanism is a neurodynamic stereotype, a system of conditioned reflex associations in the cerebral cortex, formed by exercising the habit. But every habit also has its psychological

general education and crime simplistically. A direct dependence does exist between these concepts in the overwhelming majority of crimes against persons. But this dependence cannot be abstracted from an analysis of such crimes as misappropriation of socialist property, bribery, and so on. Persons engaging in such crimes often have a high level of education. Moreover misappropriation and development of the plan for such a crime very often requires not only a sufficiently high level of education but also an extremely high specialized knowledge.

All of this once again attests to the extreme complexity of revealing negative mental qualities and establishing the causes for arising of such qualities, and to the extreme complexity of correcting and reeducating persons who had commissioned crimes.

*See Makarenko, A. S., "Soch." (Works), Vol 4, Moscow, 1957, p 39.

**Kovalev, A. G., "Psikhologicheskiye osnovy ispravleniya pravonarushitelya," Moscow, 1968, p 97.

structure, which includes the goal of the action, the intent of its attainment, interests, the experiencing of difficulties or, on the other hand, the easiness in performing the action, a certain organization of perception, attention, thinking, memory, and the relationships between sensory and motor components of movement, a certain degree of volitional effort, and so on."*

Thus in order to destroy harmful habits we must do a great deal of work in altering the interests of the person and the conditions of his activity, and to develop labor goals in the given personality useful to it. As harmful habits are eradicated, new, favorable habits are developed, creating a firm base for reeducating the personality. During reeducation we alter the psychological attitude of the transgressor toward particular facts, phenomena, and persons.

Nevertheless the principal factor in alteration of the psychology of a violator of the law and in eliminating negative mental qualities, presence of which had permitted the given person to break the law, is development or appropriate alteration of the social conditions under which the given person exists. No matter how active agencies involved in the administration of justice are, they would not be able to make alterations in the mental qualities of a person and, consequently, eliminate criminal behavior if they do not alter the conditions under which the given personality formed and the mental attitudes which promoted development of the negative qualities.

In all stages of the administration of justice, we must encourage in every way possible a reinforcement of contact between the person subject to correction and reeducation and persons who have positive mental qualities and who may actively influence, in the positive sense, the person who had commissioned a crime. Reeducation, alteration of the personality is based upon inclusion of this personality into new relationships. Reeducation and correction are assisted not so much by alteration of the external conditions of life as by alteration of the mental attitudes, their essence and their orientation. It is precisely these new attitudes which serve as the basis for transmitting positive knowledge, experience, and habits to the person who had commissioned a crime. In the end it is this sort of information which will shape his needs and outlook.

Reeducation mandatorily goes on with the given individual communicating with other persons, in collectives. N. K. Krupskaya wrote entirely correctly that the process of correction and reeducation is, in all cases, alteration "of the entire minds of people, transformation of people from individualists... to collectivists, capable of merging their ego with the collective, finding entirely new joys and new fortune in such a merger, and capable of approaching every problem from the standpoint of the whole."**

*Platonov, K. K., "Voprosy psikhologii truda" (Problems of Labor Psychology), Moscow, 1962, pp 13-14.

**Krupskaya, N. K., "Izbrannyye pedagogicheskiye proizvedeniya" (Selected Pedagogical Works), Moscow, 1957, p 518.

In this connection as we perform our educational function, the need arises for mandatorily including collectives in the reeducation of a particular person in all stages of the administration of justice. For this purpose we need to fully reveal all microcollectives in which the law breaker had associations prior to the crime, and we must carefully analyze the influences they had, have, and would have in the future upon the person who had committed the crime. Such research would permit us to decide whether or not the law breaker can continue to associate with these microcollectives and whether or not they would continue to have a harmful influence upon him. Depending upon the decision on this issue, steps can be taken to eliminate the harmful influence of individual microgroups or to eliminate such groups in general. The results of analyzing the influence of various microcollectives (the family, the work team) could be used to resolve the question of transferring the law breaker to another collective in which the educational influence would be more positive and more purposeful.

In cases where the possibility that microcollectives may have a favorable influence upon the law breaker is established, we would need to solve the problems of coordinating the educational efforts of agencies involved in the administration of justice with these collectives. The efforts and attention of the given collective should be directed at reeducating and correcting the personality of the law breaker. For this purpose the given collective should be informed as to the information established on the personality of the law breaker and on the nature of the crime he commissioned in greater detail. A joint plan of educational influence, which should subsequently be corrected and checked continuously, should be developed together with this collective, with its representatives.

New collectives are created with the purpose of producing an educational influence in the appropriate cases. This would require extremely careful and attentive work on the part of individuals performing the educational functions. The work of creating new collectives is especially elaborate in corrective labor institutions.

One of the mandatory principles of education in the administration of justice is combination of educational influence directly involved with the administration of justice with the educational influence of collectives of which the person subject to correction and reeducation is a member. This activity by these collectives must always be monitored and guided so that correction and reeducation would attain its goals in each specific case. This combination of educational influence must mandatorily be present in all stages of the administration of justice; however, this combination must vary in relation to the different conditions present in different stages.

The psychological fundamentals of reeducation must provide us with an answer as to the ways in which a collective can influence such a personality, and they must provide distinct recommendations by which to insure effectiveness of collectives reeducating a person who had commissioned a crime.

Every educational process consists of two mutually developing processes--the process of transmission of knowledge, habits, and experience, and the process of active self-education, of remaking and using the obtained knowledge, habits, and experience. Encouragement of self-education is especially necessary in reeducation. A desire for self-education is a process of creating a personal, conscious set for attainment of a particular goal, and upon recognition of the orientation of the educational influence toward attainment of the same goal--a conscious attitude of the personality toward education--it becomes a desire to internally perceive and accept the influence education has upon the personality. No education can attain its goals if it is not reinforced by self-education. Describing the process of education, many authors note that it is "an active process, and the person is not only the object but also, to some extent, the subject of education, participating in it as an active force."* If education is impossible without active participation by the person himself, reeducation is all the more impossible.

In reeducation, the essence of self-education lies chiefly in development of a conscious negative attitude in the person toward his former behavior and a recognition of his harm to society. Arisal of a desire to become someone else, to follow the path hinted by the educators is a necessary development of this process.

The law breaker must be persuaded of the need for altering some of his traits. He must be persuaded with facts that the qualities inherent to him had done harm and may do harm to the society in the future, that these qualities had brought harm to himself.

It is important for the person being reeducated to feel for himself the way negative habits and qualities hinder him. It is important that in working toward his new goals he sense the need for altering his negative habits and qualities.

The person must also be persuaded that he could become better, that he could change or eliminate certain habits and qualities. If an internal desire to change is not elicited, an external influence would not lead to the required results. In the absence of an internal desire for change, during his reeducation the person would seek only the ways for avoiding influence. He would seek possible ways for lightening this influence. This in turn would lead to development of hypocrisy, in which we would see subordination to particular requirements externally while the true mental processes of the person being reeducated would be directed at seeking ways to bypass the sanctions imposed against him.

It is precisely for this reason that meticulous explanations must be afforded concerning the real nature of the acts of the given person, their danger to society, and the causes which led to the crime by the given person in all

*Medynskiy, G., "Trudnaya kniga" (A Difficult Book), Moscow, 1964, p 14.

stages of the administration of justice. The person being educated must himself morally condemn his acts, recognize the unlawfulness of his actions, and properly understand the causes that led him to these actions.

An atmosphere of social moral condemnation of the unlawful actions is especially important in this case. We cannot persuade a person that certain traits of his personality are harmful if manifestations of these traits and the behavior and actions of this person are not met by condemnation on the part of surrounding individuals. Unfortunately we can still encounter cases in which clearly criminal acts are sometimes met with sympathy and acquittal. This persuades the law breaker that his personality traits, his acts, and his actions are fully compatible with the society, that there is no need to change his habits and way of life. We must impose rigid requirements for compliance with particular rules of behavior and for constant discipline in acts and behavior.

The need for self-education arises under the influence of external circumstances, the principal ones being the demands of the society, the collective, and the educator. Hence the role of continually rising demands becomes understandable. Reeducation must always contain an element of exactingness. Moreover as the educational influence intensifies the element of exactingness must continually grow.

It is precisely in the absence of exactingness that we very often find the cause of the basic error in reeducation of persons who had commissioned crimes. We often encounter reports in our periodical press of cases in which administrations, social organizations, and labor collectives to which violators are released on bail display even greater liberalism toward the violator than he had experienced prior to the crime, believing that a "good" relationship is the only thing required for reeducation. Such an attitude does not help the person who had commissioned a crime feel and recognize his guilt or recognize presence of unfavorable traits and the need for reeducation. Liberalism and a forgiving attitude toward the law breaker are unable to alter his negative qualities. They can only create the conditions for their enforcement, for persuading him that his actions and behavior are irreprachable.

We distinguish between the goal of reeducation and the resources by which it (the goal) is attained. First of all the goal must be specific, and it must be recognized as fully attainable by the person being educated. If this is not so, then the person being educated develops serious doubts as to attainability of the assigned goal and the wisdom of working to attain the goal. Such a goal would not elicit activity. Instead, self-education would essentially be absent, rather than being encouraged.

In setting the goal in any stage of the administration of justice, we should encourage an interest in persons subject to reeducation toward widening their knowledge, toward mastering an occupation, and toward altering their way of life in a certain way. In all cases this educational activity must provide a specific goal, be it even the most modest, to the person being educated.

When the desire for self-education, for achievement of a particular goal is present, we must provide help in developing the plans for the specific ways for attaining the goal. Only the person being educated can perform the actions along the way to the assigned goal. But in performing these actions he must always be provided with explanations as to the difficulties and specific features of particular ways for attaining certain goals, and the results of attaining these goals should be explained. In any stage of the administration of justice, education includes creation of particular conditions, their regulation, and (when necessary) providing help in attaining intermediate goals in the plan for alteration of the personality and for alteration of the living conditions. Depending upon the circumstances the person being educated may not even know that he had been given concrete assistance, that the examining magistrate, the procurator, and the judge had removed excessive difficulties from his path, and that conditions facilitating attainment of the specific goal had been created for him. After intermediate goals are attained (or even if such goals are not attained) the subject's actions in attaining the goals should be discussed with him, and help should be given in analyzing the causes of failure. The educator must know how to reassure the person after he achieves particular results and how to help him find new ways to correct errors or attain new goals.

Reeducation must also always include reinforcement of the volitional qualities of the person being reeducated. All independent activity of the person in changing or attaining particular goals must be constantly monitored and checked. Change itself in choice of goals, in choice of ways for attaining these goals, and in plans for behavior persuasively demonstrate the direction in which the given personality is changing. Depending upon the specific circumstances the results of such monitoring can be brought to the attention of the person subject to reeducation in different ways.

All of this says that reeducation is to a significant extent the active, conscious work of the person being reeducated himself. Only when he is active, when he himself develops certain plans for attaining particular goals can we get results in altering his mental qualities. In this case we should keep in mind that the very process of planning attainment of results, the activity itself in attaining these results is by itself a process of developing positive mental qualities in the overwhelming majority of cases. The process of personal activity is at the same time a process of eliminating the negative qualities present.

Determining the specific features of self-education in the administration of justice, we must keep in mind all factors which may make such self-education difficult. Self-education goes on under the specific conditions of criminal proceedings and in corrective labor institutions. It goes on during the time in which the fate of the person is being decided or during his time of isolation from society. All of this can produce negative mental states in the personality and requires an especially careful approach to encouragement of self-education, to determination of the goals and the ways for attaining them.

Criminal proceedings and condemnation often lead to a sharply depressed state and hence to extreme passivity of persons who had commissioned crimes. They look at their future as one of total absence of promise for themselves. Educational influence must be directed toward alleviating this passivity in all stages of the administration of justice.

There are also positive aspects in self-education during criminal proceedings and in corrective labor institutions: First of all development of the process of self-education and its practical implementation are monitored to a significant extent by examining magistrates, procurators, and educators at corrective labor institutions. In view of their positions and authority these persons always have a possibility for intervening in this process and stimulating it in appropriate fashion.

We can now conclude by defining some principles of reeducation in the administration of justice.

1. Influence for the purposes of reeducation must be planned and carefully prepared.
2. Reeducation must include observation over mental alterations of the personality. Such observation must be accompanied by revelation and analysis of causes leading to the particular mental alterations of the personality. The question as to intensifying the influence of these causes or eliminating their influence, and the question as to making appropriate corrections in the general plan of educational influence are always resolved on the basis of an analysis of these causes.
3. Educational influence must be integrated throughout the entire process of administration of justice, it must be purposeful and constant in all stages, and it must develop on the basis of the principle of continuity upon transition from one stage of the administration of justice to the next. When planning and implementing educational influence we must always take account of the influence that had been rendered at the previous stage in the administration of justice, and for this purpose we must always transmit information on the methods that had been employed and the results of educational influence to the next stage. Continuity and constancy of educational influence are mandatory conditions for attainment of the goals of reeducation.
4. Reeducation must always go on in the presence of the active educational efforts of collectives of which the law breaker is a permanent member. The plan for reeducation must include this purposeful activity of collectives as well.
5. Reeducation is possible only if a set for self-education is developed. Creation of the conditions for arising of such a set in the law breaker is mandatory in all stages of the administration of justice.

Considering the principles described above, the result of the totality of educational influence must be that every person subjected to reeducation

clearly and deeply assimilates a basic program of life: Work in a collective for the benefit of society and to attain the resources by which to satisfy one's own needs, proper mutual relationships in the family and in the collective, and systematic self-education with the purpose of developing one's own spiritual and esthetic needs.

Reeducation of the personality cannot be restricted to developing some particular habit or eliminating some particular habit. The goal of reeducation is to create an integral personality structure* (this encompasses reproduction of mental processes, their level, and their properties) which would make unlawful actions by the given person impossible. "Formation of structures insures relative independence of behavior in relation to chance influences and alterations in a situation; we should interpret structures as signs of maturity and distinctness of the human personality, displaying itself to be wise and practically independent."**

In all cases correction of a law breaker must be examined and performed in combination with the general tasks of communist education of all Soviet citizens. As the general level of communist education rises, the demands imposed upon the end goals of reeducation of persons who had committed crimes will grow constantly as well.

*"Structures are the highest level of regulation of activity and behavior in correspondence with the demands of the situation and the object of labor" (Kovalev, A. G., "Psikhologicheskiye osnovy ispravleniya pravonarushitelya," Moscow, 1968, p 28).

**Kovalev, A. G., "Psikhologicheskiye osnovy ispravleniya pravonarushitelya," Moscow, 1968, p 28.

SECTION THREE

THE METHODS OF FORENSIC PSYCHOLOGY

CHAPTER 11

METHODS OF FORENSIC PSYCHOLOGY FOR STUDYING THE PERSONALITY

The Goal of Studying Personality

Court proceedings cannot go on and the tasks of the administration of justice cannot be performed without studying the personality. Practical workers of the police, examining magistrates, and judges always encounter the need for studying the personalities of the defendant, the victim, and other participants of the process. Not only the tactics of investigatory or court actions but also establishment of the truth in the case as a whole and the possibility for correcting and reeducating the offender depend upon the completeness and correctness with which they study the personalities involved.

The need for studying the personality is encountered in the administration of justice in regard to the most diverse problems. By studying the personality we can understand the person's actions, reveal the causes behind changes in behavior, correctly structure the relationship with him, and determine the ways and means of influence. We must study not only the mental processes and state at the time the action was performed but also the deeper, more persistent mental qualities of the personality. This pertains first of all to persons who had commissioned crimes.

The personality of the defendant is studied to determine:

The system of viewpoints and impressions characterizing this person, and the moral criteria by which the person guides himself in his acts;

his level of intellectual development, volume of knowledge, broadness of viewpoints, and so on;

other specific traits of his personality imparting an individualistic coloration to reactions to situations that may arise.*

*See Yakovlev, A. M., "Bor'ba s retsidivnoy prestupnost'yu" (The Fight Against Recidivist Criminality), Moscow, 1964, p 99.

The goal of studying the personality of an offender is to develop practical recommendations for altering his mind during the investigation and examination of the criminal case (change in his attitude toward crime with the purpose of gaining recognition, and so on). Finally the criminal's personality must also be studied so that his punishment could be determined properly and the ways for correcting and reeducating him could be revealed.

Persons who had commissioned crimes are studied in all stages of the administration of justice. Personality study has special significance to investigation of a criminal case. In order to establish contact with the person being interrogated and determine the methods for influencing him, we must first of all study his personality and know all of its unique features. Personality study makes it possible to foresee the defendant's line of behavior during the investigation, the tactics and procedures of his defense, alteration of his behavior in response to certain external stimuli, and so on.

Personality study in court helps to solve the same problems arising during the preliminary inquiry; in addition, however, the court must resolve the issue of punishment, the need for isolation from society, determining the conditions, and so on. After sentence is passed the court must often continue studying the personality if the sentence involves punishment not associated with imprisonment. In these cases the court must continue studying the personality, observing the individual, and collecting information in order to clarify facts of alteration in his line of behavior and facts demonstrating that the convict had truly assumed a course of correction. The courts also return to personality study in resolving the issues of release from punishment, early release, reduction of the punishment, and so on.

The personality is also studied carefully at places of imprisonment. The administration must first of all determine the ways for reeducating the convict, and for this purpose it carefully studies his personality. Personality study continues during reeducation. It affords a possibility for revealing whether or not the convict's behavior had changed, whether or not this change in behavior is associated with change in his attitude toward certain facts, revealing precisely which measures led to change in the personality, the results of the measures of influence used, and the changes that must be made in the person's reeducation. It would be impossible to reeducate the personality without analyzing these issues constantly, and therefore the process of personality study is constant.

Today's law directly obligates the court, the examining magistrate, and the procurator to establish, for each case, not only the content of the crime but also the causes and conditions promoting it. These causes and conditions can never be revealed fully without a consideration for the unique mental features of the person who had commissioned the crime, without clarifying the conditions under which his personality was shaped. In order to establish a relationship between living conditions and the crime, we must carefully study all personality qualities of the person who had commissioned the crime.

The defendant's personality must mandatorily be studied if criminal proceedings are to be instituted, to determine the possibilities for release on bail, to select suppression measures, to establish the motive and causes of the crime, to determine the punishment and the place at which the sentence is to be served, to do the work of reeducating the person who had committed the crime, and if we are to solve many other problems.* All circumstances under which the crime had been commissioned must be examined with a consideration for the personality, since only this criterion would permit us to correctly establish the criminality or justice of the actions, the degree of responsibility of a specific person, and his danger to society.

The personality of the offender must be studied in all of the aspects listed above by practical workers, and it cannot be studied without development of special methods for studying the personality under specific conditions. In correspondence with this, forensic psychology must develop methods for studying the personality and analyzing and synthesizing the facts collected about the personality.

The need arises for studying not only the personality of the suspect or the accused but also the witness, the victim, and all persons who are encountered during the administration of justice. However, the volume of such research differs in relation to each person. As a rule the personality of a witness is studied to a lesser degree than that of the defendant. The volume of personality study differs in different stages of the administration of justice, and the possibilities for studying it vary. But personality study itself always occurs.

The volume of personality study and the practical activity of the administration of justice depends upon the concrete goals and the possibilities afforded by law for studying the personality. The goals depend upon the stage in the administration of justice and the legal position of the personality subjected to study. In turn, the possibilities for studying the personality depend upon the legal status of the person studying the personality, the stage in the administration of justice in which it is being studied, and on the technical resources used for the study. In this case we should also not forget the subjective possibilities of study, which depend upon the researcher's knowledge and practical ability for using the methods of studying the personality and the technical resources.

The Rules of Studying the Personality

Certain rules must be followed when studying the personality if the appropriate results are to be achieved. The principal ones are as follows.

1. Purposefulness. Prior to studying the personality we must think out the goal and determine the concrete tasks, questions, methods for collecting the material, and so on.

*See Korshik, M. G., and Stepichev, S. S., "Izucheniye lichnosti obvinyayemogo na predvaritel'nom sledstvii" (Studying the Personality of the Defendant During the Preliminary Inquiry), Moscow, 1969.

2. Correlation. The personality must be studied with a consideration for all of its ties with society and the collective. In the end, a person's personality is the social product of society. "Human nature is not something abstract that is inherent to a single individual. In its manifestation it is the totality of all social attitudes."* This leads to the necessity for studying the development of the personality and its ties with the collective and the society as a whole.

3. Dynamism. This rule presupposes constancy in studying the personality, a need for comparing information on the personality in different periods of time. When studying the personality it is important to combine two principles of research--historical and logical. Compliance with this rule would help reveal the tendencies in the overall process of personality formation. We must always remember that "behavior is understandable only when its history is known" (P. P. Blonskiy).

The results of studying the personality during court and investigatory activity must be supplemented by information on the behavior, the actions, and the mental processes occurring within the given personality in abstraction from investigatory and court activities. Without this, personality study would be one-sided and incomplete.

4. Study of the active personality. The personality must be studied as it performs, since only activity would provide a possibility for fully evaluating the occupational, moral, and other qualities of the personality.

5. Objectivity. This rule forces us to examine all information obtained with one-time use of a method only as one version of the possible presence of particular personality qualities. This rule necessitates mandatory testing of the data obtained.

6. Completeness. This rule necessitates mandatory comparison, analysis, and synthesis of all data obtained on the personality being studied.**

Only when we comply with all of these rules can we attain the desired results in studying the personality.

We compile a specific plan for studying the personality with a consideration for these general rules.

The Plan for Studying the Personality

In all cases the personality must be studied on the basis of a clear, pre-determined plan. The plan must foresee the principal goal of the study,

*Marks, K., and Engel's, F., "Soch." (Works, 2d edition, Vol 3, p 3.

**See Platonov, K., and Seynenskiy, A., "Methods for Studying the Personality of a Prisoner," K NOVOY ZHIZNI, No 9, 1964.

the questions subject to study, the specific ways and methods for studying the given personality, and the ways for checking the obtained results. Different ways and methods are used in different conditions, which depend upon the stage of the administration of justice and the specific features of each personality. However, in principle we must make use of all possibilities, all methods for studying the personality which are available in each case.

The personality study plan must include the following points: The conditions under which the given personality developed (his life in the family, upbringing, education, and so on); information on the present state of the personality; information on the behavior and actions of the given personality in different conditions and situations, and so on. Much attention should be devoted to analyzing the personality's relationships with the collective (behavior within the collective, attitude toward work, toward comrades, and so on). In each specific case the personality study plan must differ with a consideration for the circumstances of the case and the role of the personality in the process.

Planning presupposes preparation of all investigatory and court actions in such a fashion that they would afford a possibility for collecting all information on the personality being studied to the fullest extent. Planning also presupposes that the personality study would terminate with the writing of a personality description.

Specific Features of Personality Study Methods

The entire program of personality study utilizes an entire system of methods. The methods of general psychology developed for this purpose, though altered and adapted to both the conditions of criminal proceedings and the specific goals of these proceedings, are used to one extent or another in forensic psychology to study the personality. The methods of forensic psychology for studying the personality are based on methodological principles of personality study adopted by Soviet psychological science. In particular the methodological principles specify that personality study is not a goal in itself in Soviet psychology. Instead, it is interpreted as a necessary means by which to subsequently shape an active, harmonious personality. This also pertains fully to Soviet forensic psychology, in which personality study is interpreted as a necessary condition for subsequent influence upon the personality with the purpose of attaining the goals of socialist justice.

The methodological principles of personality study are unique in that the methods for studying the personality must be employed in their entirety, since acquisition of complete information on the personality and the possibility for considering all of the personality's manifestations in its evaluation can be guaranteed only if we comply with this principle.

The methods are also unique in that they are implemented during criminal proceedings, in the course of investigatory and court activities. The entire

process of investigation, court examination of the case, and reeducation of the offender is necessarily a process of personality study, a process in which new hypotheses are suggested and tested, and so on. The personality is dynamic and diverse; therefore it must be studied constantly. The usefulness of the results obtained with the methods of forensic psychology for studying the personality and the extent to which these results can be employed depend upon the completeness with which investigatory or court activities in which certain methods of forensic psychology for studying the personality had been employed are recorded. Thus use of the methods of forensic psychology for studying the personality is associated with the problem of broadening the methods of recording the results of investigation. As in many other cases, we encounter a direct dependence between development of the methods of forensic psychology on one hand and the form the proceedings take and the conditions of investigatory and court activity on the other.

Today, when one of the principal ways for recording investigatory and court activities is to make written records of the proceedings, the results of applying the methods of forensic psychology for studying the personality may often have no significance as evidence whatsoever. The more use we make of television cameras with filming attachments, tape recordings, and so on to record investigations, the greater would be the significance, as evidence, of the methods for personality study employed during investigatory and court activities.

During the administration of justice we study specific features of the personality under the conditions of the proceedings in different stages, during the conduct of different investigatory and court activities. If we consider these unique features, we would find it quite obvious that it is impossible to employ the methods of general psychology for studying the personality without appropriate changes. These methods must be modified and adapted to the conditions and possibilities of investigatory and court activities, to the possibilities for recording the results of the methods during the proceedings.

Forensic psychology possesses an entire system of methods for studying the personality, the totality of which permits a sufficiently full judgement on the personalities of the defendant and the witness during the preliminary investigation and in court within a short time.

Further development of forensic psychology will also lead to development of methods for studying the personality, to a broadening of their use in the administration of justice.

Let us list the principal methods for studying the personality.

The Observation Method

The observation method is defined in general psychology as specially organized perception of the mental phenomena being studied. As a rule observation

is performed in general psychology with the subject of observation being ignorant of the process. The observation method produces the best results when specific hypotheses in relation to the subject and his actions are suggested prior to the method's application and the hypotheses are tested in the course of observation. Hence followed the mandatory condition that the observation method must be purposeful and planned.

When using the method during criminal proceedings we must always remember that in this case the person is being observed in a situation unusual to him, and that he would have a certain tendency for shading and concealing his true qualities. There is another unique feature of the method that must be considered. Observation in forensic psychology has a broader base. The problem is that while in general psychology we study some specific, isolated problem during observation (behavior, reaction of the individual to a specific situation), in forensic psychology the goal of observation is to gain the fullest possible impression of the entire personality so that the greatest amount of information can be obtained on the personality. In forensic psychology, observation has the purpose of producing an impression of the person's external countenance, an impression of his speech (and hence his mental processes), actions, changes in facial expressions and gestures depending upon changes in the environment, and so on.* The person's clothing, his living conditions, and his working conditions--that is, the places in which he is always present and which consequently reflect to a certain degree his habits and qualities--are also objects of observation.

Observation goes on in forensic psychology both with the subject ignorant of the process and during communication with him. It all depends upon the stage in the administration of justice. Police agencies can collect information on the personality by observing it without the person's awareness. During investigations and court examination observation goes on during direct communication with the personality subject to study as a rule. Such differences in employing the observation method reflect quite significantly upon its results because the intellectual, volitional, and emotional processes of a person appear differently in direct communication with the person and when such communication is not involved.** When left alone, a person behaves differently from when he is communicating with other people. A person's behavior can even vary during the process of communication. When people he knows are present he would behave in one way, while if people he has never seen before are present he may behave in a different way. The person's behavior depends upon his interest in communication. All of this must be taken into account when we evaluate the results of observing the given person.

We should try to employ all possible forms of observation: Observation of a person left alone and unaware of observation; observation of the same

*See Bodalev, A. A., "Vospriyatiye cheloveka chelovekom" (Perception of an Individual By an Individual), Moscow, 1965.

**See Myasishchev, V. N., "The Problem of a Person's Relationships and Its Place in Psychology," VOPROSY PSIKHOLOGII, No 5, 1957, pp 142-155.

person during communication with other people, also without his awareness; observation during communication with other people in the course of investigatory and court activities. By comparing the results of these observations we can acquire rich material by which to gain a true understanding of the person being observed. During observation we also establish facts pertaining to the attitude of the person being observed toward persons with whom he is communicating, his attitude toward the facts reported to him, his actions, and so on.

As we had stated above, the observation methods of forensic psychology are distinguished by extreme diversity in the specific subjects of observation and the need for embracing them in their entirety and being able to synthesize and generalize data from all specific forms of observation. It is important to know how to observe both the personality as a whole (to perceive the personality synthetically) and particular details of the personality. Such specific details can include actions, facial expressions, gestures, speech, the combination of facial expressions and gestures during speech, change in facial expressions and gestures depending upon change in speech (rate, modulation, and so on), the hands, the clothing, and individual items of clothing. For example by observing the hands of a person we can obtain information on his occupation and on his emotional state at the given moment. By observing the way a person grasps a tool we can learn his occupation, his ability to use particular tools, his love for the occupation, his respect for the labor of other persons, and so on. Each of these objects of observation are very important in themselves, but analysis and synthesis of all of these observations with the purpose of producing one general conclusion has even greater significance.

We should distinguish between two forms of the observation method--direct and indirect. In the first case the person who is to conclude on the results of observation also does the observing. Such observation is performed by an examining magistrate or a judge during investigatory and court actions. Indirect observation occurs when information is obtained from observations made by other persons. This form of observation has a unique feature: Its results are always recorded in case documents--in the interrogation records of other people, in expert conclusions (we are referring chiefly to psychiatric expert examination), and so on.

Each of these forms of observation have their positive and negative qualities. In the first case the observation results cannot be recorded as part of the proceedings; they cannot be used as evidence. In the second case the observation results are incomplete as a rule: They reflect some single aspect of the personality being observed. We must try to combine the results of direct and indirect observation; this would allow us to obtain an evaluation of the personality that is more correct and more complete.

The Conversation Method

The conversation method is used for personality study in general psychology. "Conversation is a source and way for understanding psychological phenomena

during verbal communication in a natural living situation."* Using the conversation method we can obtain detailed information on the personality that is reported by the person himself. Conclusions as to particular personality qualities can also be made from answers to questions.

The following requirements are imposed upon the conversation method: It must be planned; it must be purposeful; it must be selective; it must be individualistic; it must observe ethical-pedagogical tact.**

The conversation method permits us to acquaint ourselves with particular features of the personality and to reveal its true relationship to particular facts, its specific characteristics, and so on. The conversation method is used to determine:

- 1) The person's attitude toward particular facts, phenomena, and persons;
- 2) the person's level of education--general education, culture, occupational knowledge, interests;
- 3) the person's world outlook, his understanding of moral and ethical norms and rules of behavior, his attitude toward them;
- 4) the person's volitional qualities, temperament, character, and other psychological features;
- 5) the relationship between inhibition and excitation, the forms of reactions, and the degree to which they are pronounced in relation to individual stimuli specially offered in the course of conversation.

When the conversation method is used during criminal proceedings we can only approximate the natural living conditions. In all cases the conversation conducted by the examining magistrate or procurator is a very important event to the person to which this method is applied. In this connection application of the conversation method and the administration of justice always requires significantly greater preparation and creation of certain external conditions and a particular emotional state in the person with whom the conversation is to go on.

The conversation method is employed in its fullest form during the initial stage of interrogation when data on the personality of the person being interrogated is being collected. Significant expansion of this part of the interrogation in time (especially when juveniles are being interrogated) is recommended.

*Kovalev, A. G., "Psikhologiya lichnosti" (Psychology of the Personality), Moscow, 1967, p 51.

**See Kovalev, A. G., "Psikhologiya lichnosti," Moscow, 1967, p 51.

The need for creating a natural situation with the purpose of obtaining the best results in the course of the conversation leads to the conclusion that we must recognize it suitable to perform separate interrogations having the sole purpose of personality study--that is, interrogations that do not pertain to the specific facts and circumstances of the crime under investigation. Sometimes it is suitable to use the conversation method in conditions to which the person being studied is most accustomed. Therefore if the goal of interrogation is solely to gain a familiarity with the personality, it would be best to conduct it at the place of work, place of residence, or place of leisure of this person. When the situation is unofficial we can more fully reveal aspects of the personality which could not be displayed at all in an official situation.

As a rule the results of a conversation are recorded in interrogation records, but in a number of cases (depending upon the features of the conversation itself, the stage in the administration of justice) they need not be recorded in the procedural document, remaining in the form of notes by the individual who had conducted the conversation. Conversations are recorded in this way, for example, at corrective labor institutions.

The stage of acute conflict in the interrogation also provides a tremendous amount of material on the personality. The personality is revealed in all situations and manifestations. The way the defendant states his versions and explanations of the event and the way and the form in which he responds offer rich material for understanding his qualities. Attempts at placing guilt on others, apprehensiveness, arrogance, extreme embarrassment, and egoism would more likely manifest themselves in a conflict situation than in a calm conversation. The extent to which the offered versions had been sought out can be used to judge mental and volitional qualities.

Some psychologists distinguish the conversation by correspondence as a modification of the conversation method. In this case the subject reports information on his life and his relationship to particular facts, phenomena, and persons in written form.* It is assumed that in some cases it is easier for a person to provide information about himself in written form than orally. We can agree with the fact that obtaining written testimony is a highly suitable method for studying the personality, but we can hardly interpret it as a modification of the conversation method. The principal feature of the conversation method--obtaining information on the personality in the process of communication--is absent when testimony is written. The writing of testimony and its analysis and evaluation are an inherent part of the method for analyzing the products of activity, which will be discussed in greater detail below.

The conversation method is always combined with the observation method as well as the experimental method.

*See Platonov, K., and Seynenskiy, A., "Methods for Studying the Personality of a Prisoner," K NOVOY ZHIZNI, No 9, 1964.

The Experimental Method

Research on the actions of a person has priority significance in the study of personality for the purposes of forensic psychology. V. I. Lenin wrote: "...by what signs can we judge the real 'thoughts and feelings' of real persons? Understandably there can only be one such sign: The actions of the person; and since we are discussing only the social 'thoughts and feelings,' we should add: The social actions of the person--that is, the social facts."* This statement by V. I. Lenin has special significance to personality study in forensic psychology. It is precisely from the social actions of a person that we can conclude as to his qualities.

We cannot analyze actions of the personality by means of just the method of forensic psychological observation. We cannot wait until life places the individual in conditions under which he would display particular qualities of his personality through his actions. This would be especially difficult during the administration of justice. In this regard the experimental method can provide considerable help. Defining the difference between observation and experiment, I. P. Pavlov wrote: "An experiment in a sense takes a phenomenon in its hands and places into motion one factor or another and thus determines the true association between phenomena in artificial, simplified combinations. In other words in observation we collect that which nature offers, while in experiment we take from nature that which we want."**

Three types of experiments are employed in studying the personality--natural, psychological-pedagogical, and laboratory.

The natural experiment method was proposed for studying the personality and developed by the well known Soviet psychologist A. F. Lazurskiy. The essence of this method is that without his being aware of it, the person is placed in formerly studied or created conditions or situations in which he must act, and in which he displays particular qualities through his own actions, tested in the course of the natural experiment. The natural experiment method is used to check the ability to use instruments and objects, mental capacities, occupational skills, volitional qualities, attitudes toward particular persons and objects, and so on.

Every natural experiment mandatorily contains the following elements: Selection of the form of activity; preliminary analysis of this activity; observation of a person performing this activity; analysis of the results of the activity.

The natural experiment method is employed most broadly when the person whose personality is being studied is not in direct communication with persons involved in the administration of justice--that is, he does not know that

*Lenin, V. I., "Poln. sobr. soch." (Complete Collected Works), Vol 1, pp 423-424.

**Pavlov, I. P., "Poln. sobr. trudov" (Complete Collected Works), Vol 2, Moscow, 1946, p 357.

his actions are being observed. In this form, its most complete, the natural experiment method can be employed in the operations of police agencies and, especially frequently, in the activity of corrective labor institutions. During communication within the collective, during work, study, and fulfillment of particular orders the person is placed in formerly specified conditions, and the results of his activity, the course of his actions, are carefully analyzed. In the latter case the natural experiment combines within itself the functions of both study and correction of the personality. It is precisely in the course of the natural experiment that we can "test by means of trust," which is simultaneously a method for studying the personality and a method for educating it.

The psychological-pedagogical experiment method was developed to the greatest degree by the Soviet psychologist A. G. Kovalev. A typical feature of this method is that it mandatorily includes within itself the elements of training and education. It is unique in that it is implemented in the life and activity of a collective.

This unique feature of the method presupposes a possibility for using it the most fully in the activity of corrective labor institutions. Using this method we can impart work habits, new attitudes toward the collective and the society, new viewpoints on behavior, and so on to persons subject to reeducation.

The psychological-pedagogical experiment method contains the following elements: Preliminary study of the collective and all relationships within it; selection of the resources of educational influence to be implemented in the experiment, with a consideration for the goals and the study results obtained; implementation of the resources of educational influence chosen for the experiment; analysis and synthesis of data obtained during the experiment.

The laboratory experiment method is used in general psychology to study the personality chiefly to reveal its typological features and capacities. However, such an experiment can also be used to reveal specific features in the personality's orientation (needs, interests) and properties of character (confidence, self-evaluation, persistence).* A typical feature of the laboratory experiment method is that the person whose personality is being studied knows beforehand that he is a participant of the experiment. This of course makes an impression on the course of the experiment and its results.

Such an experiment can also be used in the administration of justice. It is an inherent element of several types of investigatory experiments. Using this method we can check occupational qualities and skills. If the individual did not have such skills, they would not arise in the course of the experiment; therefore his former knowledge that he is to be a participant of the experiment cannot have a negative effect on the results. This method is also employed in taking experimental signature samples.

*See Kovalev, A. G., "Psikhologiya lichnosti," Moscow, 1967, p 67.

A specific combination of psychological-pedagogical and laboratory experiments may be present in legal proceedings. As we know, in revealing the truth during an investigation we establish many facts through testimony of persons who report on events they had perceived in the past. Such testimony is sometimes incomplete and even erroneous: There may be errors in perception, defects in memory, and so on. These shortcomings may stem from the fact that the person's capacity for observation is not developed, that he does not have experience in restoring the whole out of individual details or singling out particular details from perception of the whole, he is unable to determine distance and time properly, and so on. On establishing presence of such defects in the witness, the examining magistrate must often reject his testimony.

However, we should keep in mind that the mental qualities of an individual can change and that training--numerous repetitions of particular actions or particular mental processes--plays a considerable role in changing these qualities.

Witnesses can acquire particular mental qualities even in the process of a criminal case's investigation, which permits them to present the facts with significantly greater completeness. We will explain this idea using an example from the practice of identification. Failure in this investigatory function can be explained by the fact that the person making the identification, who concludes that the person presented to him "looks the same," cannot at the same time state why he came to this conclusion. This happens because in identifying objects many people are unable to consciously and purposefully fragment the object being perceived into its individual parts and thus confirm their general conclusion by means of analysis.

Using a series of experiments we can teach a person to isolate particular details of an object being perceived (the shape of the nose, lips, chin, eyebrows, and so on), pick out the same details from the image retained by the memory, compare these objects mentally by analyzing the details singled out, and then synthesizing them.

Experiments conducted prior to identification can heighten the individual's possibilities for perceiving and identifying objects. This would also help him in remembering details of an object perceived earlier which had been forgotten.

The individual may not know how to properly perceive speed, distance, and so on. By performing a series of experiments we can teach him to perceive such phenomena correctly. This can be done, for example, by comparing data on speed in an experiment with the speed he had observed at the moment the crime was commissioned. The possibility for developing the skills in the witness required by the examining magistrate and the court through a series of experiments must always be taken into account in the investigation of criminal cases.

The Method of Generalization of Independent Descriptions

This method was developed and proposed by the Soviet psychologist K. K. Platonov and can be described as the collection and subsequent generalization of all oral and written statements of a number of different persons concerning the personality being studied. This method attains special significance and its fullest development in the court and in the inquiry, since the documents within the criminal case materials afford a broad possibility for studying the personality. When using this method it is important to take account of the completeness of independent descriptions, and the extent to which these descriptions embrace different aspects of the life of the person being studied (in the home situation, at school, at work), different periods of life, and so on.

When we study the documents we must try to see that they are produced by different persons at different times in relation to different incidents. The greater the number of incidents and individual descriptions reported at different times, the more objective would be the conclusions on the personality obtained through this method.

Testimony by other defendants, witnesses, and victims, the conclusions of experts, various sorts of reports reflecting facts and events out of the life of the person being studied, descriptions by various institutions and enterprises, the personal files of the personnel division, and so on can be used as material for generalization. It is necessary to keep in mind an important circumstance when employing this method: Certain descriptions at hand may be incomplete, one-sided, and to a significant extent subjective--they may reflect a subjective attitude toward the given person depending upon the conditions in which communication had gone on. All of this obligates us to use each description with extreme carefulness, subjecting it to careful preliminary analysis.

The Method of Analyzing the Results (Products) of Activity

This method is defined in general psychology as the study of embodied results of the activity of the person being studied. We commonly divide these results into the following groups:

The results of artistic creativity;

the results of production activity;

written documents.

All of these groups of results can also be used to study the personality during the administration of justice. In precisely the same way we can use these products to evaluate the interests of the person, his occupational skills, capacities, and so on. Such possibilities for studying the personality must always be taken into account in all stages of the administration of justice. In particular this must be kept in mind during investigatory actions such as search and inspection. In order that we can supplement the

tasks of a specific investigatory action we must also study the products of activity of the given person which can be revealed through search and inspection.

Written documents are analyzed especially often. In this case we study the style of writing, we reveal occupational, conceptual, and other features, and so on. The achievements of modern criminology in studying writing, especially signatures, are broadly employed in analysis of writing for the purposes of studying the personality. Criminological analysis of writing today permits us to resolve many issues concerning the personality of the writer and his mental states at the time the texts under investigation were written. Further development of Soviet graphology would doubtlessly provide even broader possibilities for learning about the personality of the writer on the basis of his writing.

In addition to the three groups of the products of activity listed above, we should recognize presence of another two specific groups pertaining to the administration of justice:

The implement of crime; specific features of the material clues of crime.

In court and investigatory practice we always inspect the implements of the crime--the material evidence; we inspect clues and the results of criminal activity--the situation at the place of the incident, especially changes which had arisen through the actions of the criminal; we inspect objects bearing traces of the criminal's actions, and so on. Questions by which specific features of the criminal's personality can be revealed are not always posed and answered in such inspections. As with the results of the criminal's actions, the objects listed above and the clues they bear can attest to some features of the criminal's personality, and they must be utilized in the collection of information on the criminal's personality.

Products of activity should also include various sorts of photographs, both those taken by the person whose personality is being studied and those in which the given person is shown at rest, during work, and so on. Such analysis of photographs would afford a possibility for significantly expanding knowledge on the given personality--the typical way the person spends his time, his interests, and so on. In some cases certain products of activity may be manufactured in the very process of investigation and court examination of the criminal case. Thus the defendant may be asked to show how he made a rubber stamp in the course of an investigatory experiment. In this case we must keep in mind that such activity may require the appropriate mental states. The fact that this activity would go on in the process of communication (in the presence of the examining magistrate and other persons) must also be taken into account when the results are evaluated--when these products of activity are analyzed.

Some authors of works on study of the personality during the preliminary inquiry and in the corrective labor institution sometimes provide a longer list of methods for studying the personality. For example V. T. Lashko

includes study of the personal file and correspondence with social organizations among methods for studying the personality;* M. G. Korshik and S. S. Stepichev include collection of questionnaire data, information on education and family status, and so on among methods for studying the personality.** We believe that the method concept is expanded unjustifiably in these and other cases similar to them. The method concept is substituted by a list of ways for collecting particular information and by the list of the information itself.

Methods for Studying Groups and Collectives

During the administration of justice we must study not only individuals but also individual groups and collectives.

First of all this must be done if we are to study the individual. In order to gain a complete evaluation on the mental qualities of a particular individual, we must study this individual in his communication with other persons. "Individual psychoanalysis must always be combined with psychosocial research."***

A special branch of psychology--social psychology--deals with such analysis of the personality through the collective. "Social psychology must study the specific features of a person's behavior in different social groups."**** However, forensic psychology must also involve itself in such analysis in order to solve the problems facing it. We must study groups and collectives in order to clarify the causes and conditions promoting crime, to gain a correct understanding of the conditions and causes for arising of particular qualities in the defendant, and to determine the influence of the collective on the personality.

We can gain an understanding of the personality only by studying the collective, the environment in which the given personality was shaped, in which it functioned, and in which it performed the particular crime. Unfortunately groups still exist today which have a negative influence on the personality and promote development of negative qualities leading to crime.

We must also study the collective with the goal of answering the question as to the possibility for leaving the offender in the given collective and the possibility this collective has for reeducating the given person. Only after studying collectives (be they the family, the plant, the school, or another institution) can we correctly answer the question as to releasing the criminal on bail and sentencing him to punishment not associated with imprisonment.

*Lashko, V. T., "The Problem of Studying the Personality of Convicts in Relation to Imprisonment," SOVETSKOYE GOSUDARSTVO I PRAVO, No 5, 1965, p 100.

**See Korshik, M. G., and Stepichev, S. S., "Izucheniye lichnosti obvinyayemogo na predvaritel'nom sledstvii" (Study of the Defendant's Personality During the Preliminary Inquiry), Moscow, 1961.

***Kovalev, A. G., "Psikhologiya lichnosti," Moscow, 1965, p 47.

****Kolbanovskiy, V. N., "The Subject, Method, and Pressing Problems of Soviet Social Psychology," in the anthology "Problemy obshchestvennoy psikhologii"

To study the psychology of a specific collective we employ methods developed in social psychology, the most widespread of which are: The questionnaire method (signed and anonymous questionnaires); analysis of documents describing life and activity in the collective; analysis of the collective's mental reactions; the natural experiment (the transforming experiment).*

Not all of these methods can be used within the specific conditions of the administration of justice. But they are used selectively in an altered form, adapted to the conditions and goals of criminal proceedings. We can point out the following methods for studying collectives.

The direct contact method for studying a collective: Examining magistrates, procurators, and judges establish direct contact with the collectives in which persons who had commissioned crimes had worked, studied, or lived. It is precisely through this contact that we determine the developmental level of the given collective, its interests, possibilities, activity, and its relationship to the person who had commissioned the crime.

Contact can be gained with the collective by means of conversations with the collective, presence at its meetings, and so on.

The Method of Studying Representatives of the Collective

We can judge the collective as a whole on the basis of its individual representatives. Therefore individual representatives can be the source of information on the collective, to include public prosecutors, defenders, and representatives of social organizations we encounter during investigation and court examination of cases during our visits to these organizations.

The method of studying documents describing the collective's activity: Analysis of documents describing the interrelationships between the given personality and the collective and the interrelationships within the collective in general, and analysis of documents pertaining to the offender's release on bail to the given collective in the past (if the question as to the possibility for correcting the offender in the given collective is being decided upon once again) have special significance. The minutes of meetings, correspondence in the collective's name, and documents describing the activity and reactions of the collective in relation to different issues are subjected to study.

(The Problems of Social Psychology), Moscow, 1965, p 144.

*Kolbanovskiy, V. N., "The Subject, Method, and Pressing Problems of Soviet Social Psychology," in the anthology "Problemy obshchestvennoy psikhologii," Moscow, 1965, pp 149-151.

The Psychological Description Concept

Any analysis, including analysis of the personality, mandatorily presupposes a stage of synthesis--generalization of all materials obtained and arrival at a conclusion as to the essence of the given personality. In correspondence with this, personality analysis must conclude with the writing of a description.*

By comparing descriptions we can orient ourselves in the collected material, determine the trends in development of the personality, reveal existing conflicts (and hence establish the ways for eliminating these conflicts), find a way for approaching the personality more easily, and reveal the causes of the crime. Research by psychologists has established that "the psychological description of the personality is at the same time a prediction as to how the person may behave under given (particular) conditions."**

Comparison of descriptions must always be preceded by careful study of the collected material, analysis of each fact, and the testing of these facts by all available official (and, in a number of cases, unofficial) resources.

The specific goal of writing a description and even its foundation varies in different stages of the administration of justice. Two variants of writing a personality description exist in relation to the procedural laws pertaining to the administration of justice.

In one variant the description is written only on the basis of data recorded in the case materials as part of the proceedings--in records, in acquired documents, and so on. The description written on the basis of these documents is also included in the documents of procedural law--decrees pertaining to selection of suppression measures, decrees pertaining to issuance of the indictment (if the facts collected on the personality may influence selection of the suppression measures or indictment of the defendant in relation to a particular article of the Criminal Code), decrees pertaining to termination of the criminal case (if the information collected on the personality affords the grounds for termination of the criminal case), the indictment, and the sentence.

In addition we can also write a broader description based on all facts collected both officially and by means of resources not pertaining to the criminal proceedings, particularly on the basis of personal observation and other actions of the person writing the description. Such a description

*Questionnaires for the defendant recommended by some authors are a specific form of such descriptions (see the anthology "Voprosy metodiki izucheniya i preduprezhdeniya prestupleniy" (Problems in the Procedures for Studying and Preventing Crime), edited by A. A. Gertsenzon, Moscow, 1962, pp 62-63).

**Merlin, V. S., "Ocherk psikhologii lichnosti" (Essay on Personality Psychology), Perm', 1959, p 23.

cannot be included within the legal proceedings because the facts collected by the examining magistrate or the court through application of the methods of forensic psychology are not documented in the proceedings themselves (personal observations, and so on) and cannot be used as evidence in resolving particular issues.

However, even if the collected facts cannot be used as evidence, it would be a good idea to write a description of the personality under analysis. Such a description must contain information on the upbringing and education of the given personality, on the family, the volitional, typological, and characterological data, information on attitudes toward work, the collective, particular persons, and the facts of the case under investigation, information on habits, skills, and interests, and so on.* This information is used to set up a hypothesis and a plan of investigatory and court action, and to define a particular line of behavior to be followed during communication with the given person. The personality description of a juvenile offender must be of even greater detail.**

Such descriptions, which are the result of studying the personality at a particular stage in the administration of justice, would best be recorded in written documents to be used in the following stages of the administration of justice. Thus the description containing information on the personality written by the examining magistrate would be of considerable help to studying the personality in court and at the corrective labor institution.

Special attention should be afforded to writing the description at the corrective labor institution (even a special term is used there--"psychography"). The description written here helps us to determine changes occurring in the personality and the effectiveness of the measures of educational influence, to modify these measures, and so on. The description written at the corrective labor institution is a document serving as the grounds for examining the issue as to altering the form of imprisonment and conditional early release.

The description written at the corrective labor institution should reflect:

- 1) Characterological features--interrelationships with the collective, attitude toward one's self and work, interests and leanings, ethical qualities;
- 2) the level of mental development--specific features of speech and thinking, volitional qualities, memory, attention;

*For greater detail on the description plan, see Kovalev, A. G., and Myasishchev, V. N., "Psikhologicheskiye osobennosti cheloveka" (Psychological Features of the Individual), Vol 1, Leningrad, 1957, pp 254-256.

**See Alemaskin, M. A., "Psikhologo-pedagogicheskaya kharakteristika lichnosti nesovershennoletnego pravonarushitelya" (Psychological-Pedagogical Description of the Personality of a Juvenile Offender), Moscow, 1965.

3) temperament--type and its manifestation, emotional features, dominant emotions;

4) the qualities of psychological structure--equilibrium, depth of reactions and experiences, the relationship between the form and content of behavior.*

By writing a description of the personality being studied we can determine not only the future plans for studying the personality but also the subsequent ways of reeducating it and the methods for influencing it in order to develop habits and correct the mind.

Psychological descriptions also have significance to the activity of comrades courts, commissions for juvenile cases, and so on.

*See Lashko, V. T., "The Problem of Studying the Personality of Convicts in Relation to Imprisonment," SOVETSKOYE GOSUDARSTVO I PRAVO, No 5, 1965, p 100; "A New Type of Corrective Labor Institution," SOVETSKAYA YUSTITSIYA, No 1, 1965, p 15.

CHAPTER 12

THE METHODS OF FORENSIC PSYCHOLOGY FOR INFLUENCING THE PERSONALITY

The Goals of Employing the Forensic Psychological Methods of Influence

The most diverse methods of influence are employed in the administration of justice. The very goal of justice is to influence the person who had commissioned the crime and unstable persons who may commission a crime. In the broadest meaning this influence also includes the concept of mental influence.

Socialist justice has clearly pronounced educational goals and educational functions. These goals may be attained only with the help of special psychosocial influence imposed through the methods of influence of forensic psychology, which have the purpose of altering personality qualities and habits which had or may become one of the causes of crime, and of reeducating and correcting persons who had commissioned crimes.

However, the goals of forensic psychology are not restricted to just reeducation of the personality. As had been noted, forensic psychology must offer practical assistance to investigation of criminal cases and their examination in court.

A unique feature of establishing the truth in the administration of justice is that facts and actions pertaining to the past as a rule must be established. Moreover in many cases we establish these facts, these actions through the testimony of persons who had observed or participated in them during this time. Complex mental processes of recollection, recognition, and fulfillment of the tasks imposed by the examining magistrate occur in persons through whom these facts, important to solving the case, are established during reproduction of facts, judgements, and conclusions on the circumstances of the criminal (civil) case. Establishing the truth through subjective perceptions of other persons is an extremely complex process since such perception may be incomplete and distorted. In order that these mental processes would lead to reproduction of facts that actually, objectively exist, the witnesses and the victim must be provided a certain amount of assistance. This assistance can be nothing more than a certain mental

influence. The task of forensic psychology is to develop these ways for influencing persons attesting to facts in order to restore the objective truth about past events, mutual relationships, and cause-and-effect and other associations, which would help to activate the mental processes of these persons and guarantee completeness and correctness of the recalled facts.

However, the complexity of establishing the truth in the administration of justice is not limited to this. Criminal and civil cases often represent an intricate intertwining of the most diverse, sometimes conflicting interests of the persons through whom the inquiry and the court must establish the truth about events and facts. This conflict of interests sometimes leads to a situation in which some persons consciously, intentionally fail to report information known to them or distort it.

Thus in the administration of justice we must not only help in recollection of facts but also in attaining a change in obviously false testimony. In this case the methods of influence of forensic psychology generate conditions in which correct, complete information on facts and events of interest to the inquiry and the court could be obtained from all of these people, and they insure the necessary influence upon persons who intentionally try to conceal the truth from the inquiry and the court, transmitting false information. Such methods are specific namely to forensic psychology, and their course of development depends upon the specific goals of this applied psychological science.

Certain actions by many persons must be supported in performance of the functions of investigation and court examination of cases. For this purpose not only must we possess the legal authority to request these persons to perform the particular actions, but we must also have the appropriate mental influence upon them so as to insure their highest mental activity. Finally, influence is also necessary if we are to change the mental states of the participants of the process. The mental states, the moods of persons attesting to facts and participating in investigatory or court activities may significantly effect their memory, their solution of mental problems, and their recall of facts. This circumstance must be taken into account when establishing the objective truth.

The methods of influence of forensic psychology are employed in the administration of justice to fulfill the educational function, to establish the truth, and to achieve communication and organization. Thus the methods of forensic psychological influence are developed with the goal of insuring:

- 1) Complete establishment of the truth during investigation and court examination of a case (insuring recollection of forgotten facts by witnesses and victims, activating the mental processes of all participants, stopping all attempts at providing false testimony);
- 2) alteration of the defendant's attitude toward his behavior, particular facts, and persons;

- 3) education and reeducation of persons in whom negative habits and tendencies are revealed which could be the cause of crime;
- 4) reeducation and correction of persons who had commissioned crimes, during court proceedings, at corrective labor institutions, and in labor collectives.

Forensic psychological influence in a sense has strategic and tactical goals. By strategic (general) goals we mean educational influence (reeducation), while tactical goals are defined as the influence required for establishing objective truth in the case being investigated or examined in court. Tactical influence is also employed with the goal of altering mental states and the orientation of mental processes, which is a prerequisite for employment of influence in relation to more-general goals.

The Concept of Mental Influence

We must dwell on the very essence of the term "mental influence." Mental influence occurs whenever a person communicates with another person (nonliving objects can also have influence). Training, education, and joint activity mandatorily go on through mental influence. They are a process of such influence. The goals of communication also define the nature of the mental influence rendered.

All of this characterizes the uniqueness of mental influence in the administration of justice. In this case the orientation and content of mental influence are defined by the concrete goals of communication with particular participants of the investigation and court examination of a criminal case, and by the procedural conditions that must be complied with and taken into account when this influence is rendered.

The task of forensic psychology is to develop methods of forensic psychological influence which would afford a possibility for attaining all goals of socialist justice through communication with other persons; but at the same time in all cases these methods must insure psychological influence strictly in correspondence with the fundamental principles of socialist justice and legality. The methods of influence of forensic psychology must completely take account of and comply with all personal rights guaranteed by law during the administration of justice. With this purpose we must clearly define the limits and the extent of possible psychological influence. In particular we must distinguish psychological influence from psychological compulsion. A. R. Ratinov stated that "correct influence differs from mental compulsion by presence of free choice of a particular standpoint by the person subjected to influence."* To this we should add that not only should there be a freedom of choice of standpoint. The conditions for

*Ratinov, A. R., "Sudebnaya psikhologiya dlya sledovateley" (Forensic Psychology for Examining Magistrates), Moscow, 1967, p 163.

explaining one's standpoint and for its selection must be created as well. In all cases the person upon whom the influence is imposed remains a competent subject of the law, which mandatorily presupposes that he has a conscious relationship to all actions.

Influence must always be structured in such a way that the conditions for active participation of the person upon whom the influence is imposed in all activities pertaining to investigation and court examination of cases are not only fully preserved but supplemented as well.

Conditions for Employing the Methods of Influence of Forensic Psychology

There are a large number of conditions existing without which it would impossible to attain the goals of influence during the administration of justice.

1. First of all in all cases influence must be rendered with a consideration for specific features of the personality. In order that the influence could attain the desired results we must always consider that "the psychological impact of every external action upon the person is governed by the history of his development and his internal laws."*

An analysis of investigatory practice would persuasively show that the procedures of psychological influence have produced the expected result only when they were employed with a consideration for the specific personality, when this personality is first studied carefully.

Study of the personality must not only precede application of the forensic psychological methods of influence. It must also accompany the entire process of influence. The forensic psychological methods of influence would produce the required results only when all personality changes are constantly taken into account during their application, when influence is modified in appropriate fashion with a consideration for the results of continual study of the personality.

By studying the personality as we impose our influence (its reactions, changes in mental states) we can make sure of the correctness of influence, we can be sure of attaining the personality changes required through this influence, and we can resolve the issue as to the need for applying methods of influence.

The methods of forensic psychological influence provide the necessary results only in the event that we take account of not only the totality of the mental qualities of the personality in general but also the mental state of the person at a given moment in time.

*Rubinshteyn, S. L., "O myshlenii i putyakh yego issledovaniya" (Thinking and the Ways for Analyzing It), Moscow, 1958, p 9.

Finally, it is also important to study all factors which could be used to judge the way a certain form of influence is perceived (whether or not it is perceived at all), and whether or not the goals of its application are attained.

2. Influence must always be implemented with a consideration for possible adjustments, alteration, or stimulation of a particular emotional state in the person upon whom it is imposed. As V. N. Myasishchev noted, "influence that catches the attention, that agitates, astounds, and inspires is a highly complex, dynamic system of words and emotions."* Such influence is capable of having a tremendous influence on the personality.

The methods of forensic psychological influence must be structured with a consideration for maximum use of this highly complex effect of one person on another person.

3. The external conditions in which the influence is imposed are mandatorily taken into account. The external conditions must promote the influence. In all cases we must know, foresee, and create conditions that could promote good results in the use of the forensic psychological methods of influence. In this connection in a number of cases some conditions (distractive, hindering) must be eliminated, while others (assisting in creation of a particular state, creation of a particular orientation in mental processes) must be created.

4. The influence must be imposed with a consideration for the totality of specific facts, and circumstances that serve as the basis for the orientation in mental processes of the person upon whom the influence is imposed. The necessary results can be achieved only on the basis of such a practical foundation.

5. All other forms and subjects of influence must be revealed and taken into account. A multiple influence must always be imposed upon every person in the process of all relationships into which the individual enters. Depending upon the conditions of activity and communication, and upon the goals, interests, and mental states of the individual, this influence must vary in its intensity and its consequences to the given person. This influence may also be negative or positive. All of these circumstances should be taken into account when we plan influence in all stages of the administration of justice. Thus during the preliminary inquiry, in addition to the examining magistrate the members of the defendant's family and conspirators render an influence. The range of persons having an influence on the defendant enlarges significantly during examination of the case in court because he communicates mentally with many participants of the court proceedings simultaneously. Not only the educator but also the shop foreman as well as other persons serving their sentences have an influence in corrective labor institutions.

*Myasishchev, V. N., "Lichnost' i nevrozy" (Personality and Neuroses), Leningrad, 1960, p 377.

The efforts of the examining magistrate and the educator may be for nought if all influences imposed are not taken into account. In this case we must not only take them into account but also perform functions directed at adjusting--intensifying, weakening, or eliminating--particular influences.

6. Influence would produce the appropriate results only if it is actively perceived. Influence presupposes mental activity on the part of both the person imposing the influence and the person upon whom the influence is imposed. In correspondence with this stimulation of adequate mental activity in the subject of influence must be an indispensable prerequisite of attaining the goals of influence. This activity must at least insure perception of all information transmitted in the process of influence, mental consideration of this information, and an emotional reaction to it.

The following is the goal in the initial stage of mental communication for a particular influence: Stimulating a particular interest in communication so as to insure attainment of the goals of influence.

7. In addition to knowledge required for studying the personality of the subject of influence, in order to have an influence we also need knowledge on the general laws governing assimilation of information by the person and the specific features of perception of information during communication, causing activation of the process of assimilating information and affecting the course of thinking, and the effect of emotional processes on thinking, past experience, and the outlook of the person upon whom the influence is imposed. Thus by itself knowledge of the essence of particular forensic psychological methods of influence does not guarantee success in their application. For this purpose we would need to have knowledge on the mental laws manifested, in particular, in the administration of justice.

The Plan of Influence

To achieve the goals (end or intermediate) of influence, it must be carefully planned in all stages of the administration of justice. The raw data is taken into account in this plan prior to imposition of the influence. These data include information on the personality, behavior, and the person's state immediately before the influence; the goal of influence; facts and circumstances which can be employed in the course of influence; specific conditions of influence; information on the influences of other persons and collectives.

The plan foresees the need for creating or eliminating particular conditions during imposition of the influence, and intensification or elimination of influences by other subjects. Finally, the plan foresees a specific sequence and set of forensic psychological methods that must be implemented in the process of influence, as well as all prerequisites necessary for this. As is the case with methods for studying the personality, the methods of influence of forensic psychology are modified depending upon the stage of the administration of justice in which they are applied, and even depending upon the specific function within the proceedings. During the preliminary inquiry

the forensic psychological methods of influence are employed during communication of the examining magistrate and the given participant of the criminal process on a one-to-one basis or in the presence of a very limited number of persons. During the court hearing the same methods are employed in the presence of a broad range of people, both those participating in the court inquiry and also those present at the court hearing. This results in significant modification of the conditions and, hence, the state of the person being influenced. This necessitates alteration of the methods of influence and the set of methods employed.

Moreover an alteration of conditions may effect the very possibility of applying a particular method. Thus considering the incompleteness of the defendant's knowledge of all facts possessed by the examining magistrate, during the preliminary inquiry we can employ methods that could not be used during a court hearing.* All of these features are mandatorily taken into account when influence is planned.

The Fundamentals of Developing the Methods of Influence of Forensic Psychology

Development of forensic psychological methods of influence is founded chiefly upon methods of influence existing in general and pedagogical psychology, where they are employed with the purpose of educating the individual. These same goals (reeducation of the individual) also apply to forensic psychology. This similarity of goals creates a possibility for using these methods as the basis for developing the ways of influence in forensic psychology as well.

General psychology has two ways for rendering influence upon the personality--communication and example. In turn, the ways of communication are divided into information, persuasion, and suggestion.** In addition the educational measures of influence foresee methods of compulsion, inasmuch as education and, especially, reeducation always involve a battle. All of these methods (in particular modifications) are used as the foundation for developing the forensic psychological methods of influence.

The forensic psychological methods of influence must not fail to take account of specific conditions of activity by persons employing such methods in practice, regulated by legal rules. In this connection all forensic psychological methods of influence have a number of specific features distinguishing them from methods of the same name used in general and pedagogical psychology. These specific features lie in the fact that the methods of forensic psychology are employed in legal forms of investigatory and court activity with a

*The essence and all features of employing these methods are presented in the Special Part during examination of the psychological fundamentals of preliminary inquiry.

**See Kovalev, A. G., "Mutual Influence of Persons During Communication, and Formation of a Social Psychology," in the anthology "Voprosy psikhologii lichnosti i obshchestvennoy psikhologii" (Problems of Personality Psychology and Social Psychology), Leningrad, 1964.

consideration for personal rights guaranteed by law, and they are implemented in the process of investigatory and court actions within restricted intervals of time allocated to these actions.

Influence by the Method of Information Transmission

The information method is defined as transmission of information on new events, facts, and knowledge. The goal of information transmission is to enrich knowledge and satisfy curiosity. In the administration of justice, information transmission also frequently bears another conceptual meaning: It helps to determine the orientation of mental processes, and it is used with the goal of obtaining facts by which to establish the truth in the case being investigated or examined in court. Information transmission must stimulate mental activity of the person being influenced by this additional information, and it must help him recall forgotten facts, alter his attitude toward the facts being presented to him and toward his behavior, and so on. During communication we always transmit information, we always impose influence through information, and we exchange information. At the same time by creating special conditions for information transmission and by selecting the information in the appropriate manner we can significantly increase the influence of this information upon the personality.

Information can be transmitted in all grammatical forms--interrogative, exclamatory, narrative, affirmative, and negative. The form of information transmission stimulates mental activity in different ways and can be used in different ways to influence persons having different qualities. In employing different forms of information we should also take account of the state of the individual at the moment of communication, at the moment the information is transmitted to him.

We distinguish between direct and indirect information. In the first case we directly report particular facts, while in the latter case information as to the presence of a fact can be derived by the person receiving the information through the appropriate mental operations. The process of perceiving indirect information is more complex. It requires greater tension and higher psychological activity; therefore its transmission must always take account of the person's individual features, his state at the given moment, his occupational skills, and the possible orientation of mental processes, with a consideration for the content of all previous conversations.

The information must be intended for both an immediate reaction and a longer period of deliberation of the obtained information. This difference in purpose of the information requires use of different forms for transmitting it. Information intended for a period of deliberation and conceptualization usually requires the narrative form of presentation. Information intended for an immediate reaction as a rule requires the exclamatory form, and so on.

Information can be transmitted by presentation of objects, their images, by speech, or in written form. A system of encoded symbols can also be used.

as a form of information. However, this can be done only if this method of establishing ties is familiar to the person to whom the given information is transmitted.

Different types of people perceive information in different ways. This stems from typological and occupational features and differences in habits.

When imposing influence by the information transmission method we must take account of the following factors:

- 1) The conditions of information transmission;
- 2) the method of information transmission;
- 3) the sequence in information transmission;
- 4) the rate of information transmission;
- 5) maintenance of control over information transmission;
- 6) maintenance of control over perception of information;
- 7) a preliminary knowledge of mental processes stimulated by the influence of information transmission;
- 8) preliminary knowledge of the reactions of the subject of influence after the information is received (preliminary knowledge of feedback).

There are certain unique features in the method of influence using information employed depending upon the goals of influence.

Use of the information transmission method for recollection of forgotten facts: If the witness had forgotten some particular fact, usually we transmit some particular information in order to help him to recall what was forgotten. This information must correspond to the specific features of the given person. For example if visual memory dominates for the given person, the transmitted information must be intended for visual perception.

Influence is rendered by information not through direct communication of facts which must be recalled, but rather through communication of facts in certain associative ties with the event being recalled (proximity, and so on). Hence if results of greater objectivity are to be obtained, it would also be expedient for the additionally transmitted information to aid in recalling that which the person believes he remembers quite well himself, rather than hinting a direct answer to the posed question.

For example assume that a witness must remember who was standing next to him at the time he was watching a fire. The examining magistrate has two means at his disposal. He can name all persons known to the examining magistrate

who had also been witnesses of the fire one at a time. When such a list, such a hint is employed, the witness may confirm presence of one of the persons named by the examining magistrate, which may not have been true in reality. In the other variant the examining magistrate can take the witness to the place at which he had watched the fire. His very presence at this place (which the witness had remembered from before) activates recollection of temporary associations, and the witness would be able to remember the entire sequence of events and all of the dynamics behind his actions and those of other persons more quickly, and hence he would be able to recall more precisely who had been standing next to him.

We should keep in mind that facts and details that are in a direct association with accustomed events and actions occurring every day are recalled most readily. This is why it is important for us to establish the precise points at which the accustomed actions of the given person tie in with the event or incident of interest to us.

Information transmission in interrogatory form can be used most frequently in recollection. This helps the witness to mentally concentrate his attention on a particular group of objects, on a particular section of a route, on some isolated action, and so on.

In order to stimulate recollection we must always transmit only a certain part of the information that the given person must recollect. His recollection of the remaining part of the information (which, moreover, cannot be derived by logic) would indicate that the element of suggestion is absent and that facts actually existing are stated after they are recalled.

Additional information should be transmitted also when the examining magistrate must obtain the judgement of the given witness concerning particular issues and when incorrect conclusions of the witness based on incomplete information must be refuted. Very often the testimony of a person is based for one reason or another not so much on what he had seen as on what opinion the particular person had developed. Transmission of additional information in such cases has the goal of stimulating active thinking on the part of the witness so that he could review his conclusions.

Application of the information transmission method to change the person's attitude toward his behavior and toward information reported to him: Certain willful decisions are developed, mental processes are stimulated, and they undergo change under the influence of additional information.

Transmission of additional information can (and must) be employed broadly when the witness or defendant reports false facts or conceals particular facts from the inquiry or the court. The transmitted information can change the viewpoints of the person and his attitude toward particular facts, acts, and actions, both his and those of other persons. In such cases information transmission is intended, as a method of influence, chiefly to activate thinking by the person to whom it is transmitted so that he could process this

information. Hence it is entirely clear that a mandatory prerequisite of the information transmission method is the capability of the person, upon whom the influence is to be imposed, for actively perceiving the information, processing it mentally, and using it to make certain decisions. The information must be transmitted in a form which would be fully understandable to the person whom it is to influence.*

Selection of the information and determination of the order in which it is transmitted and the means of transmission promote activation of mental processes and orient them. Lack of system in information transmission not only fails to stimulate thinking. On the contrary it may lead even to the reverse results. This is why careful preliminary determination of the order, means, and rate of information transmission, which had been discussed before, is an important principle of using the information transmission method in the administration of justice. We must also constantly control the influence of information. Control is achieved when feedback indicating that the given information is received is evident--that is, when we see that the person had understood what he had been told, that he had reacted in appropriate fashion, that he had verbalized his reaction to the obtained information, and so on.

The information transmission method presupposes in all cases that the person upon whom the influence is imposed retains full independence in assimilating, processing, and conceptualizing the transmitted information and in making a decision.

The information transmitted must comply with the requirements of conclusiveness and persuasiveness; it requires critique, analysis, synthesis, and comparison with other facts. It is precisely such analysis, synthesis, and comparison that insure activation of the mental processes of the person upon whom the influence is imposed. Information transmitted for the purposes of influence should be interpreted not only as documents, photographs, and testimony by other persons presented to the individual, but also investigatory experiments which persuasively demonstrate and prove the orientation in the line of behavior of the defendant or witness.

Experiments facilitate recognition of associations and mutual relationships between facts, and thus they intensify the influence of information and facilitate assimilation of the significance of this information by the person upon whom the influence is imposed.

Inasmuch as almost all communication of information has the goal of altering willful decisions of the defendant or witness, we must justify the additional information with a consideration for the stages involved in making and altering a willful decision.

*This is precisely why the conclusion of an expert written without consideration of the extent to which a defendant not having special knowledge could understand it does not achieve this goal when presented to the defendant.

We distinguish the following elements within complex volitional acts: Stimulation of a volitional act; conceptualization of a goal for action and the resources necessary for attainment of this goal; the intention for performing and completing the given action; volitional effort in overcoming objective and subjective difficulties; performance of the appropriate activity. By transmitting information we must help the given person to pass through the stages listed above in his thinking.

The information transmission method is closely associated with the method of persuasion. The need for this association always arises when a state of doubt and lack of confidence arises in the person being influenced after the additional information is transmitted. Supplementary application of the persuasion method helps the individual to make the required willful decisions (to tell the examining magistrate or the court the truth).

The information transmission method is also broadly employed when the emotional state of the particular person must be altered radically. Logical conclusions can influence a person to a very limited degree if he is in a state of severe inhibition or excitation in which the received information completely fails to stimulate mental activity. Some sort of prod, some sort of way to get him out of such a state is required. The method of transmitting additional information is an aid here as well. It can be used to relieve inhibition (excitation) by sharply stimulating new, strong emotions or by gradually switching the person's attention from facts upon which all of his thinking had been concentrated formerly to other facts.

The information transmission method can also have a certain influence when no information at all is actually transmitted. If the person does not receive the information he expects his emotional state may undergo radical change, followed by a change in the course of his thinking. When a person expects information but does not receive it, he begins to perceive existing facts more sharply and makes the expected decision.*

Such a radical change in emotional state can be elicited by failure to ask a particular question which the person awaits for a long time. The defendant may carefully prepare himself to answer a question which, in his opinion, the examining magistrate would necessarily ask him. Failure to ask such a question can produce a radical change in the defendant's emotional state and cause him to change the orientation of his thinking and his line of behavior during the interrogation.

The person being interrogated becomes constantly tuned to particular points involved in the crime and in events occurring after the crime. By constant

*Concerning influence by the "lack of information" method, see Kertes, I., "Taktika i psikhologicheskiye osnovy doprosa" (Tactics and Psychological Fundamentals of Interrogation), Moscow, 1965, pp 160-161.

tuning we mean the thinking of a person based upon constant, systematic return to comparison of particular facts upon which he is tuned with other facts and details; attempts at guessing possible logical associations of the examining magistrate in relation to these facts; contemplation upon one's own explanations, suggestion of one's own hypotheses, and contemplation upon and implementation of particular actions directed at altering the facts, at producing new facts confirming the false hypothesis, and so on.

If facts and details having a bearing on the crime are not tuned in, if these facts do not figure into the constant thinking of the given person during his continual, repeated deliberation over the events of the past and his explanations to the examining magistrate and later the court, unexpected arrival of that fact and information on that fact would produce a severe reaction in the person to whom this information is transmitted. The more unexpected the transmission of such information is, and the less this information had been taken into account in former thinking by the given person, the stronger the reaction would be. In this case the unexpectedness of the information can cause significant exaggeration of the role and place of information concerning the given fact within the overall system of evidence on the part of the person to whom this additional information is transmitted.*

Proper application and use of information transmission with the goal of changing the orientation of thinking or changing the emotional state is possible only if the boundaries of excitation and inhibition are determined beforehand and if the facts, circumstances, and events upon which the person is tuned and the facts, circumstances and events which, judging by the circumstances of the case, are out of the person's awareness are established.

A knowledge of the given crime, the specific activity of the defendant at the moment of the crime, the actions he takes with the purpose of covering the crime, the degree to which he is informed on the course of the investigation and on facts the examining magistrate possesses, and a knowledge of all specific features of the defendant's personality help to determine the range of phenomena to which the person is tuned in.

Proper determination of the areas to which the person is tuned in and those of which he is unaware is a mandatory prerequisite for using not only the information transmission method but also all methods of personality influence having the purpose of altering the individual's attitude toward his behavior and toward the facts reported to him.

Influence by the Methods of Posing and Varying Mental Problems

Influence can be achieved not only by transmission of certain positive information. As we had already noted, information can also have an influence when

*For an example of such a reaction, see the article "Investigation of a Major Embezzlement" by M. G. Radzivilin (SLEDSTVENNAYA PRAKTIKA, Issue 65, 1964).

presented in the form of a question--a mental problem. However, the mental problem can be posed in such a way as to take account of specific factors which allow us to distinguish this as a specific method of influence. Its basic essence is presenting problems with the goal of developing and orienting the thinking of persons upon whom the influence is imposed.

Using this method we implement a process of recollection by association. By posing a series of questions concerning the development of a particular event we significantly enliven temporal associations and the memory of facts and events developing in parallel to the event in relation to which we pose the questions, or the mental problems of recollection.

By posing mental problems we stimulate self-analysis of one's act, which is an indispensable condition for making particular willful decisions and changing attitudes toward one's behavior and actions.

This situation cannot be achieved just by transmission of information, just by persuasion. The person being influenced must actively process all facts, all conclusions transmitted. This role is performed by the method of posing mental problems.

This method also enjoys broad application in revealing false testimony. The fact is that a person who knowingly gives false testimony necessarily possesses two mental models of the event with which the testimony is concerned. One model reflects the event in its real form while the other reflects the variant of the event being reported.

Presence of these two models leads to complication of mental filtration after the mental problem--the question--is posed. The person giving false testimony must think out the question from the standpoint of both models; he tries to make these two models coincide in the greatest number of details possible: Only in such a way would the false version be plausible. In the presence of such complex mental work and by means of competently asking the questions, varying them, asking questions unexpectedly, and by veiling the principal question by a number of minor, insignificant questions we can produce a moment in which the person being influenced by this method would be unable to control the relevance of the question to the model of the real event and would report facts pertaining to precisely this model rather than the imagined one.

In a number of cases the influence of posing a mental problem can be explained by the fact that with stimulation dominant, in expectation of being revealed the guilty individual often perceives information in a question which would lead him to conclude that he must recognize his guilt, even though this does not follow directly from the question.

The Persuasion Method

The persuasion method is defined as "communication having the purpose of altering viewpoints and attitudes or shaping new ones."* In a psychologist's point of view this method is the principal one of moral education.

The persuasion method is employed quite broadly in the administration of justice as well. In order that some witnesses could report on facts known to them and understand correctly what is required of them, in order that they could understand their role in the specific event and be persuaded of the need for rendering true testimony in the inquiry and at court, we must persuade them by presenting the most diverse arguments having the goal of directing or altering the viewpoints and attitudes they possess. More often we must persuade defendants as to the presence of a particular association between facts, and of the need for making a particular willful decision, altering their attitude toward their behavior, and so on.

This method is also employed broadly in the process of reeducating persons who had committed a crime. Use of the persuasion method during constant, systematic work with convicts helps to develop the necessary moral and ethical viewpoints in them, and form an understanding of the rules of socialist society.

The persuasion method can be effective only when it affects all spheres of the individual--emotional, intellectual, and volitional.

When employing the persuasion method we must take account of the thinking of not only the person doing the persuading but also the person being persuaded. In order that the persuasion method could produce the required results, we must: Stimulate the mental activity of the person being persuaded; know his mental processes during the time of persuasion; know the resources, when, and how to direct his mental activity so that it would lead the person being persuaded to the conclusions which we want to persuade him of.

Various resources can be used to stimulate the mental activity of the person being persuaded. We can evaluate his behavior in the past and in the present, we can evaluate the significance of the causes which led him to his crime, and so on. The mental activity of the person being persuaded must be directed at stimulating a critical attitude toward his acts and those of other persons. Such mental processes can be stimulated by transmitting information on how people the person loves and respects may relate and had related to his acts. Employment of the persuasion method presupposes in the overwhelming majority of cases simultaneous use of the information transmission method. The latter is used to justify the arguments with facts and evidence. Information transmitted during the process of persuasion can contain both data known formerly to the person being persuaded, and unknown data. The selection and order

*Kovalev, A. G., "Interaction of People in Communication, and Formation of a Social Psychology," in the anthology "Voprosy psikhologii lichnosti i obshchestvennoy psikhologii" (Problems of Personality Psychology and Social Psychology), Leningrad, 1964, p 11.

of transmitted information must insure facilitation of perception of the arguments, and it must direct the mental activity of the person being persuaded along a path which would lead him to the required decision.

On the basis of the above we can conclude that persuasion is a process including within itself the following principal elements:

- 1) Presentation of certain arguments;
- 2) transmission of information (known or unknown) confirming the correctness of the presented arguments;
- 3) consideration of the doubts expressed by the person being persuaded;
- 4) presentation of new arguments with a consideration for such doubts;
- 5) repetition of particular arguments and particular elements of the transmitted information with the goal of influencing the course of thinking of the person being persuaded more fully.

The last circumstance presupposes a knowledge as to the paths taken by the mental activity of the person being persuaded (with a consideration for the arguments and information transmitted). This is insured by presenting the person being persuaded with the possible ways for analyzing and synthesizing the reported information and the logical, moral, and ethical conclusions that can be made from the arguments and information reported, by analyzing all possible arguments that the person himself may suggest in contradiction to the logical, moral, and ethical decisions proposed by the examining magistrate. During this analysis it is very important to devote attention to and carefully analyze all obstacles that may arise in the mind of the person being persuaded as he makes a particular decision.

When the person being persuaded makes new willful decisions he is forced to review a decision made earlier, as a rule in the course of persuasion. In this connection use of the persuasion method must always be intended for creation of conditions facilitating review of a former decision. Such facilitation occurs when the person being persuaded is helped to formulate all possible variants of the decision, to determine and analyze all difficulties arising in the path of the new decision, and to define all conditions necessary for both making and implementing the new decision.

In implementing the persuasion method we should take account of all positive traits and properties of the personality of the person being persuaded, and we must concentrate the attention of that person upon them in the appropriate fashion, making use of contrasts with other properties and attitudes of other defendants. It is very important to reveal the points of vacillation and doubt in the person being persuaded. In this connection when employing the persuasion method we should continue to study the personality attentively and observe the person's reactions, changes in behavior, in facial expressions and gestures, and so on.

The process of persuasion can proceed together with the method of induction or the method of deduction (from the general to the specific or vice versa), depending upon the specific features of the personality of the person being persuaded. Thus in some cases the person is first persuaded of the falseness and incorrectness of his behavior and his way of life as a whole. After he reaches this conclusion on the basis of persuasion, he would then present specific facts of his incorrect behavior and way of life in detail by himself. In other cases the person would first have to be persuaded as to the presence, the proven nature of particular actions and behavior. After the person is persuaded as to the proven nature of these facts, he is persuaded in the incorrectness of his actions and his behavior as a whole.

The persuasion method can be implemented only if the person being persuaded has a desire to understand the arguments of the person doing the persuading. Establishment of a certain type of psychological contact, which is characterized by a positive attitude toward the person doing the persuading, a desire for perceiving his arguments, presence of truly complete perception, and an understanding of the information transmitted by the person doing the persuading, is a mandatory prerequisite for the persuasion method.

Persuasion must satisfy the following requirements:

- 1) It must suit the level of development of the person being persuaded; it must be structured with a consideration for the occupational, age, educational, and other individual mental features of the given person;
- 2) it must be successive, logical, and argumentative;
- 3) it must stimulate mental activity in the person being persuaded;
- 4) it must contain both generalized premises and conclusions on one hand and specific facts and examples on the other;
- 5) it must contain an analysis of mutually known facts;
- 6) the person doing the persuading must himself sincerely believe that which he wishes to persuade the person of.*

Use of the persuasion method during the administration of justice also requires elimination of prejudices on the part of the person to be influenced, and the capacity of this person for perceiving the arguments (disinhibition, reduction of excitement). In order that persuasion could achieve its goal, the person must not only understand the arguments but also agree with them.

The extent of persuasion can vary. "The effectiveness of a persuasive influence depends upon a number of conditions: First, upon the force of the

*See Kovalev, A. G., "Psikhologiya lichnosti," Moscow, 1967, pp 265-266.

influence itself; secondly, upon the specific features of the mental makeup of the person being influenced (needs and interests, sets, tastes, specific features of thinking), and their consideration in structuring the arguments; thirdly, upon the intellectual-emotional state of the person doing the persuading at the time of their interaction."*

In the process of persuasion we can both weaken emotional stimulation and intensify it. To attain results in the latter case we usually use the persuasion method simultaneously with the information transmission method, which helps to achieve the greatest results.

The process of persuasion presupposes mandatory clarification of the pro and con arguments of the person being persuaded by perceiving his speech, gestures, facial expressions, and so on. The person being persuaded can agree with the arguments, he can doubt them, or he can express a negative attitude toward them. In the event that doubt or, all the more so, rejection is observed during persuasion, we would need to clarify the reason and, with a consideration for it, begin the persuasion process over again with new arguments, additional information, repeating the arguments from a different aspect so that changes in attitude toward them on the part of the person being persuaded can be promoted.

A specific modification of the persuasion method is full verbal reproduction of the events under consideration (based upon individual facts and ideas) with the purpose of persuading the person that all of the facts are known. "...In some cases the examining magistrate may explain the course of events as he sees it to the defendants so that his hypotheses could be tested during the interrogation."**

This procedure is permissible only in event that an adequate possibility exists for correctly recreating a particular event. This is achieved by careful collection and study of particular facts, by extremely careful deliberation and logical conceptualization of the entire set of facts and relationships.

This procedure has the purpose of:

- 1) Stimulating associative ties in the person being influenced;
- 2) persuading him that all facts are known and that they have been fully proven;
- 3) stimulating a certain emotional state facilitating perception of the arguments;

*Kovalev, A. G., "Interaction of People in Communication, and Formation of a Social Psychology," in the anthology "Voprosy psikhologii lichnosti i obshchestvennoy psikhologii," Leningrad, 1964, p 12.

**Karneyeva, L. M., Ordynskiy, S. S., and Rozenblit, S. Ya., "Taktika doprosa na predvaritel'nom sledstvii" (Interrogation Tactics in the Preliminary Inquiry), Moscow, 1958, p 157.

4) eliciting remarks (even refutations of particular facts) confirming the correctness of the general picture of the event reproduced.

In each case we must employ and vary the persuasion method in relation to a specific person in different ways that are truly individual.

Influence by the Method of Controllable Mental Association

Mental associations evolving in the administration of justice have a great degree of mental influence. This is chiefly the product of recognition of the special significance of each mental association, arising in the administration of justice, to persons participating in it. This subjective approach to mental associations and must be employed as a specific method of influence. In imposing a general, purposeful influence upon the personality, we must not only know that each mental association has a particular influence, but we must also use all evolving associations to achieve the overall goals of influence, to create and control mental associations so that they would have the necessary influence.

Use, creation, and control of mental associations during the administration of justice with the purpose of influencing the personality produces a specific method of influence in forensic psychology.

The possibility for influencing mental associations during the administration of justice is significantly facilitated by possession of certain legal powers, by the persons doing the influencing, for creating and controlling precisely those mental associations involved in investigatory and court actions which would knowingly have a certain mental influence upon the given person.

An influence can be produced by controllable mental associations within the framework of many investigatory and, all the more so, court actions. However, investigatory activities do exist in which precisely this method of influence is employed. Such investigatory activities include confrontation. The influence of controllable mental associations is directly dependent upon the mental activity of the person that is to be in communication with the object of influence. Knowledge of the goals of communication, preliminary preparation for communication, and interest in attaining the goals are all factors that significantly heighten activity behind the influence and insure attainment of its goals.

This method is in a sense a specific set of several methods of influence. A person entering into a mental association is by himself an intense source of influencing information. We are aware of many cases in which the result of influence was attained just by the very fact of appearance of a particular person. Moreover in a number of cases the same result is attained just by telling the person that such communication is possible and is to occur. Verbal information transmitted during communication also has an influence.

A real mental association has significantly greater influence than do facts communicated outside of personal contact. Not only the information transmitted during communication but also the association to this information manifested by the person reporting it and his personal relationship to the person being influenced is important to the person being influenced. In addition to transmitting information, during such communication persuasion and influence by personal example occur.

Arguments are always presented, facts are always refuted, and so on in this case. A set of influences always acts, since the examining magistrate, the judge, and the procurator all take an active part in all cases to persuade the person and transmit the information. This is precisely the unique feature and efficiency of this method of influence.

The Method of Example

In pedagogical science the essence of this method lies in the fact that actions, procedures, and rules of behavior and communication are reproduced in the process of education. The method of example enjoys broad application in forensic psychology as well.

First of all it is implemented in the process of communication (which goes on in all stages). It is precisely in the process of communication that examples of behavior and attitudes toward other people are given. We can also use the method of example to impart an attitude toward objects, phenomena, and events. Such an attitude can be imparted chiefly through one's own actions, one's own behavior.

The method of personal example can also be used in the form of judgements concerning the behavior of particular persons and concerning their actions and statements. However, this is possible only when a certain part of the "example" is already perceived, when the judgements of the person employing the example method are already perceived to a certain extent and have become accepted.

The method of example is capable of stimulating a critical attitude toward one's personality in an individual being influenced. This is attained by comparing the actions, behavior, and words of the person being influenced with those of one's self. The example method must always be intended for such action. This is precisely why examining magistrates and judges must never try to talk with offenders in the jargon of thieves, assume "libertarian" postures, and so on "in order to facilitate contact." Such actions do not serve as a good example and would lead to the wrong results in the end.

The method of example does not boil down to just the external aspect of behavior and actions. It is manifested in relation to one's own obligations, in relation to satisfaction of promises, and in relation to organization, discipline, and so on.

The method of example is implemented both in the form of personal example and in the form of reporting on the actions of other people. The latter circumstance permits broader use of artistic literature, motion pictures, and encounters with other people to influence the personality. We know the great influence literary heroes and the heroes of motion pictures have had upon people convicted of crimes. Personal encounters with prominent people have an extremely great influence. This method can be used during the criminal proceedings as well, though in restricted form. It is used well in reeducating persons who had commissioned crimes. Creation of a habit of discipline and the habits of social life and communication would be impossible without the method of example, and the example must be provided by the persons doing the influencing and the reeducating.

Use of Unofficial Influences on the Personality by Different Collectives

As had been noted earlier, an influence is rendered during the administration of justice not only by the examining magistrate, the judge, and workers at corrective labor institutions. The person's family and collectives at his place of work, study, and residence have an influence. Collectives have an influence on the personality in different stages--during investigation and court examination of a case, and during reeducation of the person who had committed a crime.

The collective influences the personality in precisely the same way (and sometimes with even greater success) as does an individual during communication with this personality. It is precisely within the collective that the person's world outlook and ethical viewpoints develop, that the habit of work is acquired, and that leanings and interests are manifested. To influence the personality, the collective makes use of the same methods that had been listed above. The collective imparts certain information to the personality through communication, persuading it by means of influence upon the emotional sphere, the intellectual sphere, and the volitional sphere. Finally the collective is capable of compulsion when the individualistic sets of the personality hinder development of the required habit of work, the rules of behavior, discipline, and the person's views on socialist society.

Persons involved in the administration of justice must know the influence of collectives in all stages. Such a knowledge helps them to remove a person from a collective in time if the collective has a poor effect upon him, to take measures to alter the forms and methods of influence by collectives, and to take account of the influence of the collective in their individualized work with particular persons. They must know the influence a particular collective has upon the person, they must direct and monitor this influence properly, and they must coordinate the efforts of all collectives with the goal of insuring the fullest and most concentrated effect upon the person.

Because the time of communication with a person is short during investigation and especially during court examination, the effect of the collective

and of public opinion upon a particular person must be employed as broadly as possible in court proceedings. Court proceedings not only do not exclude but, on the contrary, presuppose broad implementation of methods of persuasion and influence on the part of individual collectives and the society as a whole.

The collective plays a special role in the methods of influence during the time the person is being reeducated at a corrective labor institution. Presence of a single collective in all spheres of life creates the most favorable conditions for influence upon the personality. However, in order that these favorable conditions could be transformed into reality we must especially carefully educate and create the collective itself. This is chiefly the task of workers at corrective labor institutions.

We had presented just the principal methods of influence of forensic psychology above, which could be employed to attain all goals of influence upon the personality in all stages of the administration of justice. At the same time methods exist which are used when necessary in specific conditions only during the preliminary inquiry or only at the corrective labor institution. These methods were developed with a consideration for the specific goals of these stages, with a consideration of the special status of the person being influenced. In accordance with this the essence of these methods is presented in the Special Part, in sections devoted to particular stages of the administration of justice.

CHAPTER 13

THE METHODS OF FORENSIC PSYCHOLOGY FOR TESTING MENTAL QUALITIES OF THE PERSONALITY

The need for testing the correctness of facts, events, and circumstances reported by a witness and by a defendant arises very often during investigation and court examination. Such testing is performed chiefly with the aid of logical analysis of these and other facts present in the materials of the case. However, this can also be done through direct testing of particular mental qualities of the given individual. Cases often occur in which witnesses and victims report erroneous information due to incorrect or incomplete perception, as a result of distortion of such information by means of subsequent mental processes, and so on. It is important to test the capacities and specific features of the given person in relation to perceiving and performing certain mental processes during investigation and court examination of criminal cases.

Such testing is performed through various investigatory and court experiments. From a psychological point of view certain methods for testing mental qualities of the personality are implemented in such experiments. An extremely close association can be seen here between forensic psychology and the law of evidence. It is precisely forensic psychology which creates the foundation for procedural and tactical regulation of the testing of mental qualities of particular persons in the course of the administration of justice. It does so by developing and selecting the methods for testing mental qualities and by determining the conditions under which the given method would produce objective results.

Special methods are created by forensic psychology for testing the mental qualities of the personality in order that such a goal could be attained.

One of the principal features of the methods of forensic psychology for testing mental qualities is the need for using the results of applying the methods as evidence. This predetermines the basic direction of their development and the basic demands imposed upon them.

At first glance it may appear that methods for testing mental qualities are, in reality, the same as methods for studying the personality. But this view is erroneous. The goal of this group of methods is entirely specific: Their purpose is to render assistance in a comparatively narrow area--the law of evidence.

The methods of forensic psychology for testing mental qualities of the personality differ from methods for studying the personality in at least the following ways:

- 1) A limited, specific goal;
- 2) implementation distinctly governed by the conditions of procedural law;
- 3) the possibility for direct use of the results as evidence in establishing the truth of a case.

We should also add the circumstance that only experiments in various forms and combinations are employed to test mental qualities.

As had been mentioned earlier, all methods of forensic psychology are basically implemented within the framework of investigatory and court activities. In the overwhelming majority of cases these investigatory and court activities have a more general goal than do the specific methods of forensic psychology employed in the given investigatory or court activity. The methods of forensic psychology employed here in a sense have secondary significance: They help us to attain the general goal of the given investigatory or court activity, increase the volume of information, and promote a rise in the objective value of the obtained results.

In addition to the methods of forensic psychology already mentioned, there exist investigatory activities having the sole purpose of implementing the methods of forensic psychology. One such investigatory activity is the forensic psychological experiment, which is simultaneously a specific method of forensic psychology. Thus these methods of forensic psychology are fully sanctioned by procedural law. This circumstance also serves as the grounds for isolating these methods as an independent group in forensic psychology.

The need for employing this group of methods arises when doubt exists as to the possibility for properly perceiving, remembering, and evaluating particular facts and phenomena by a specific person, and when the orientation of his mental processes must be tested experimentally.

A unique feature of this group of forensic psychological methods is that we can use them not only to test for presence of particular mental qualities in the personality but also develop particular mental qualities. It had been noted above that the skills of determining distance, speed, and so on are specially developed in persons without such skills during the administration of justice. The completeness and correctness of this skill's development is also tested by this group of forensic psychological methods.

In developing these methods forensic psychology bases itself on the large number of procedures for studying mental qualities of the personality present in both general psychology and certain of its applied branches. These procedures are reworked and modified considerably in order that they could be employed in criminal proceedings. These methods often require laboratory research and employment, in a number of cases, of complex apparatus. The unique features of criminal proceedings and the fact that these methods must be employed directly by examining magistrates and judges necessitate their simplification. The need for maximum simplicity in the methods of forensic psychology for testing mental qualities also stems from the fact that the results of these methods must have the force of evidence in a case. For this purpose the results must be understandable to all persons present when the particular method is applied and not having a special education in psychology.

However, such simplification can in no way be attained by reducing the reliability of the results or the objectivity of the conclusions that can be made from using the methods for testing mental qualities.

In developing these methods we must take account of the rights, guaranteed by law, of the person whose mental qualities are to be tested. The person must always be informed of the actions taken to test his qualities, and of the results of these actions. However, in a number of cases the goal of using this group of forensic psychological methods cannot be attained if persons in relation to whom these methods are to be applied know that they will be subjected to them beforehand.

For example we cannot test the correctness of perceiving time intervals by a given person if he is told beforehand that he will participate in such an experiment. Considering this, a specific method is worked out for testing this mental quality. However, the recommendations for using the method must define the moment at which such persons begin to be familiar with the course, goals, and results of a particular method of forensic psychology. The person becomes aware that the method had been applied when its results are entered as part of the proceedings.

The results of employing some particular method for testing a particular mental quality have significance in all cases only in relation to the given personality, only at a given time, and only under the given conditions.

A case has occurred in investigatory practice where examining magistrates organized experiments to test the correctness of testimony by defendants who stated that they had failed to notice a person lying on the road at night. The experiments were conducted in the following manner: They placed a dummy on a road at night and, while concealed, observed the actions of the drivers of passing vehicles. Then they stopped the vehicles and questioned the drivers as to what they saw and when. Such experiments were conducted in violation of the rule we cited above that it is the qualities of the given, specific person that must be tested.

A significant number of errors are made due to failure to comply with the rule that the qualities of a personality can be judged only if the conditions necessary for testing these qualities are present. Such errors are made especially often when testing the ability to determine time. As we know, in this case the perception conditions have extreme significance.

If a person is awaiting the onset of a particular event, time seems longer to him. Depending upon the person's temperament, pleasant events may occupy his mind for a shorter period of time than would unpleasant events; time passes more quickly as a rule when a person is communicating with someone else than when he is alone, and so on. Emotional state, interest in the event, and many other factors may have a significant influence upon the correctness of time perception. It would be impossible to perform such an experiment correctly without taking account of all of the possible conditions.

An analysis of legal practice would show that errors are usually made in tests organized to determine the possibility of correct time perception by a witness due to lack of consideration of all necessary conditions.

In a case concerning a hit-and-run in which citizen Dorosha died, the precise time at which the hit-and-run had occurred had to be established (it stands to reason that this is not an exceptional case; it is important to establish the time of the crime in all cases, which once again emphasizes the importance of performing such experiments). This problem could be solved by establishing the time at which the suspected vehicle crossed a railroad intersection. Hence it was extremely important to interrogate the guard at the crossing, Leonova. On being asked such a question she responded that the vehicle had crossed 15-20 minutes after she began her shift. The judge decided to test the correctness of Leonova's perception of time and perform a unique psychological experiment, asking her how much time she had spent so far being interrogated in court. She answered that she had already been under interrogation for 20-30 minutes. In reality it had not been more than 5 minutes. On the basis of this experiment the testimony by Leonova was evaluated as unreliable in regard to her time perception.

This example graphically demonstrates how neglect of the conditions in which the experiment must be conducted leads to erroneous results. During this experiment the judge should have considered the conditions under which Leonova perceived the time interval of interest to the court. It was known from the case materials that Leonova had worked at the crossing for 16 years, that night duty had long been familiar work to her, and that doubtlessly her work trained her to perceive time correctly under the conditions of the railroad crossing. She was familiar with and accustomed to everything there. Of course night duty at a lonely crossing would have led to erroneous, longer perception of time in relation to a new person. In view of her long experience, this was not the situation with Leonova. The court offered an entirely different situation to Leonova. Here everything was unusual, she was under stress, and she was emotionally excited: This was an extraordinary event in her life. Under such conditions time would surely seem longer to her.

Thus the incompatibility of the perception conditions in the two cases could have led to only one thing--an error in time perception, error in the entire experiment.

This example graphically demonstrates what the role of forensic psychology should be: It must create the possibilities for performing such experiments and insuring their value as evidence.

A significant number of the most diverse methods exist in forensic psychology for testing mental qualities. We can list several groups:

- 1) Methods for testing the correctness of perceiving objective reality (perception of colors, discrimination of sounds, and so on);
- 2) methods for testing the correctness of perceiving time, space, speed, and so on (development of judgement);
- 3) methods for establishing the specificity of processes involved in memorization, and specific features of mental operations.

The specific features and modifications of all of these methods are described in the Special Part on forensic psychology.

We can obviously see the influence of improving and developing the rules of criminal proceedings in relation to this group of forensic psychological methods. Deeper research on all conditions required for testing mental qualities must result in certain procedural and tactical changes in the order for performing such experiments.

Extensive application of the methods of forensic psychology for testing mental qualities of the personality in investigatory and court activity will significantly expand the possibilities for revealing valid facts having significance in establishing the truth.

CHAPTER 14

THE METHOD OF FORENSIC PSYCHOANALYSIS

The analytical method is mandatorily employed in all cognitive activity. This method assumes specific features in individual branches of knowledge in correspondence with the specific features of the object of cognition. Such is the case with the method of chemical analysis, mathematical analysis, and so on. There is also a method of psychoanalysis. Psychoanalysis of activity and behavior in their unity with consciousness is the principal method of Soviet psychology.*

Analysis has more-specific tasks in applied psychological science--in forensic psychology. In this case analysis is performed under specific conditions, and specific groups of facts and circumstances must be taken into account when it is employed.

The method of psychoanalysis has not been developed adequately as yet in psychological science.** This doubtlessly creates additional difficulties in developing its particular modification--the method of forensic psychoanalysis.

The need for a special method of forensic psychoanalysis arises for two reasons:

- 1) Truth is established in the case through subjective perception of all facts, circumstances, and evidence by persons authorized by law to establish, record, and evaluate these facts;
- 2) these facts are obtained from testimony by persons who had observed or known these facts in the past--that is, once again through subjective perception.

*See Lebedinskiy, M. S., and Myasishchev, V. N., "Vvedeniye v meditsinskuyu psikhologiyu" (Introduction to Medical Psychology), Moscow, 1966, p 251.

**Concerning the need for broadly developing the method of psychoanalysis, see the article "Psychology of Science" by M. G. Yaroshevskiy (VOPROSY FILOSOFII, No 5, 1967).

This situation can lead to significant distortion of some facts as a result of perception errors, incorrect evaluation of that which is perceived, errors in recall, and so on. In order that objective facts could be obtained from subjective perceptions and that the conclusions on the case could be logically grounded, in each case we must perform careful psychoanalysis to reveal all subjective errors.

During investigation and court examination, examining magistrates and judges must deeply analyze not only the statements but also the acts of many persons; they must analyze their own activity, know how to explore all acts and their causes and, in correspondence with this, they must know how to plan their subsequent activity, make the appropriate decisions, and direct the activities of other persons.

It would not be adequate to use just the method of logical analysis alone for all of this. In all cases logical analysis of the circumstances of a case must be supplemented by a consideration for and analysis of a diversity of psychological factors, which would create the conditions for understanding a large number of new cause-and-effect relationships which would significantly expand the information and the possibilities for analyzing and synthesizing the materials of the case as a whole.

In line with this, we can say that the method of forensic psychoanalysis is to a significant degree a method for evaluating the mind of the source of information taking account of the specific mental features of the persons perceiving, recalling, and recording facts used as evidence, as well as taking account of the conditions affecting the mental processes of these persons at the moment of perception, recall, and recording.

In order that logical grounds could be afforded to conclusions in a case on the basis of subjectively perceived facts, in each case we must perform careful psychoanalysis that would help us to test perception, memorization, and recall, and to reveal errors. Such analysis would permit us to objectively, correctly, and fully reflect the subjectively perceived facts in the case materials, which in this case would correspond to the highest degree to the real state of subjects, objects, interrelationships, and mutual relations.

The need for methods of forensic psychoanalysis also stems from the circumstance that the results of employing forensic psychological methods for studying the personality and for influencing the personality are not reflected in procedural documents very fully at all. This is precisely why logical evaluation of facts contained within procedural documents must be supplemented by psychoanalysis of all supplementary information obtained in the administration of justice but not recorded in the case materials.

We use the method of forensic psychoanalysis to analyze individual investigatory and court actions and their sum, individual stages in the administration of justice, the behavior of persons, and the conditions and situation in which the investigatory activity had been performed. With this method we

can also analyze the mental associations arising in the course of investigation, court examination, and reeducation of persons who had commissioned crimes.

This method permits us to answer the following questions: What mental processes are occurring in particular persons at a given moment, and what are the qualities and specific features of these processes? How are these processes regulated? Precisely which conditions and stimuli affect them? What is the progress of communication? What errors had been made in communication and in the functions performed?

This method first of all foresees analysis of behavior, a set of actions, and so on. However, it mandatorily foresees a stage of synthesis as well--generalization of knowledge and facts obtained by analysis. Any analysis not supplemented by synthesis is one-sided and can lead to separation of phenomena which in reality are closely associated with one another. Therefore when we refer to the method of forensic psychoanalysis we mandatorily presuppose a stage of synthesis in all cases.

Facility with the method of forensic psychoanalysis by persons authorized to perform investigatory and court functions means that these persons have the ability to analyze their own actions and acts, analyze those of other persons, elicit self-analysis in other persons in relation to their own actions, and use the obtained information to establish the truth and solve other problems of socialist justice.

Without psychoanalysis we cannot fully understand the actions of a person and their causes, which is precisely what is needed in investigation and court examination of each case. In all cases we must not forget that actions are always performed by a conscious person who can perceive and process social, external conditions in different ways. The structure of behavior may vary. The plans and structure of behavior cannot be explained in each specific case only on the basis of general social conditions. The mental qualities of the given person always have important significance in this case. Psychoanalysis is also needed for revealing associations between behavior, action, the results of action, and the conditions existing both at the given moment (when the action is performed) and in the time preceding the action. Any action, any behavior depends not only upon the given situation and specific stimuli but also upon the conditions under which the given person was educated, his experience, temperament, character, and so on.

In correspondence with this we mandatorily take account of the principles of dialectics when employing this method: Each person and his actions and behavior are interpreted in a process of development, and individual facts are always interpreted with a consideration for the associations and dependencies between these facts and others.

All of these interrelationships may be revealed only through careful psychoanalysis of the collected facts and revelation, in the course of analysis, of

lacking factors precluding establishment of these interrelationships. We can use the method of psychoanalysis to establish an association between objective facts and the personality of the particular individual. All of this demonstrates the extreme significance of this method to the administration of justice.

Not only the activity and behavior of the person but also the specific conditions of this activity and the mental processes associated with it are subjected to forensic psychoanalysis.

The method of forensic psychoanalysis can be used to study facts and events not only occurring in the past or proceeding in the present, but also those that must occur in the future. This makes it possible to foresee all of the necessary conditions in preparations for investigatory and court activities. Analyzing the qualities of a particular person, his behavior in the past, and the conditions into which this person will be placed, in planning the investigatory or court activity we can foresee the person's behavior, actions, reactions to a specific situation, and the possibilities for using these reactions to establish the truth and to satisfy the goals of the given investigatory or court activity. This should be done with a consideration for the possible goals and plans of behavior of this person.

Thus we subject the following to forensic psychoanalysis:

- 1) Activity and behavior of the person in the past, present, and future;
- 2) the specific conditions of perception or activity;
- 3) one's own actions, the behavior of the person performing the given investigatory or court activity, both in the past and in the future;
- 4) past, present, and future mental associations.

Employment of the method of forensic psychoanalysis mandatorily requires making a decision and then implementing the adopted decision on the basis of the analysis and synthesis of the circumstances. This can be expressed as making a decision as to the need for studying the personality more deeply, collecting additional facts, repeating an investigatory activity, and so on.

The method of forensic psychoanalysis is unique in that we often need a combination of an analysis of the activity and behavior of a participant of the process on one hand and an analysis of the activity and behavior of the person performing the investigatory or court function on the other. Only through such analysis can we reveal errors in the administration of justice, which is extremely important if we are to attain the end goals of this activity.

Correct conclusions can be made through this method only in the event that the persons administering justice know how to analyze their own mental processes and states, reveal the causes of their arisal, and stop the subsequent

course of particular mental states that hinder objective perception and evaluation of actions, behavior, and facts that must be taken into account in the administration of socialist justice. In this connection the examining magistrate and the judge must know how to avoid unnecessary and harmful information, and stimuli that hinder concentration on and correct and complete perception of particular facts.

Thus the method of forensic psychoanalysis always presupposes a need for self-observation and self-control.

The essence of self-observation lies in a particular system for transferring human sensations through the second signaling system (explanation and description of sensations, understanding one's own mental states, an ability to explain one's own cognition, self-control in sensations, actions, and solving problems). The self-observation method mandatorily includes transfer of that which is observed into words, and it presupposes use of various objective means for testing that which is perceived subjectively. Thus during observation we test the precision of distance perception by measuring this distance, and so on.

The method of self-observation can in no way be reduced to a method of introspection, which is broadly employed in idealistic psychology, where this method is sometimes interpreted as the sole way for understanding the psychology of the personality. Use of the method of self-observation is a mandatory prerequisite for nurturing particular psychological qualities in the personality. It is a means for testing the correctness of one's own perceptions and sensations.

We often encounter a negative attitude toward the method of self-observation (self-analysis) in psychological literature. Many authors believe that it cannot be used as a foundation for understanding mental phenomena.

The response to these arguments is contained in a unique description of the method of self-observation provided by L. S. Vygotskiy: "The problem of the scientific value of self-observation is solved on analogy with that of the practical value of the testimony of a victim and the guilty person in a court inquiry. These persons are not disinterested--we know this, and therefore such testimony contains within itself the elements of falsehood: It could be that the testimony is entirely false. Therefore it would be senseless to rely just on such testimony. But does this mean that we should not listen to them at all and interrogate only the witnesses? This would not be wise either. We listen to the defendant and the victim, we check the information, compare it, we turn to material evidence, documents, clues, and testimonies by witnesses, and thus we establish the facts."*

*Vygotskiy, L. S., "The Procedures of Reflexological and Psychological Research," in the anthology "Problemy psikhologii" (Problems of Psychology), Leningrad, 1926, pp 45-46.

To all of this we should add the special conditions afforded by the administration of justice, where the method of self-observation has the purpose of correcting and preventing subjectivism and nurturing, developing, and disciplining the required mental qualities in persons involved in the administration of justice.

The problem is not to categorically reject the method of self-observation but to use it in such a fashion and within such limits that would guarantee a greater possibility for attaining the goals of socialist justice.

The method of self-observation is applied in all stages of the administration of justice. Every action for which we prepare, which we perform, or which we evaluate can and must be accompanied by self-observation, which would permit us to monitor our own emotions, reveal their causes, and correct errors in perception arising due to display of emotions during the time of perception.

The method of self-observation has a large number of unique features in regard to the goals of forensic psychology.

1. The method of self-observation must be employed prior to an investigatory or a court function. This should help the person reveal a state hindering correct and complete performance of the function, to prepare himself for situations that may occur during the time of the investigatory or court function.

2. Self-observation must be performed in the course of the investigatory or court function itself, which permits the person to check the correctness of his sensations, perceptions, and judgements, and to restrain emotions that may do harm to the process of communication and conduct of the investigatory function.

Such analysis must be performed during the time of the investigatory or court function outside the awareness of persons with whom the examining magistrate or the judge is presently communicating.

3. Immediately prior to recording the results we must once again analyze our own mental processes so as to prevent error in written recording of particular facts, events, and actions having significance to establishing the truth.

4. Analysis must be repeated after each investigatory and court function is completed so that we can reveal possible errors and so that the personal qualities of the person performing the investigatory or court functions can be continually improved.

The method of forensic psychoanalysis presupposes a need and ability for eliciting self-observation in persons to whom facts having significance to establishing the truth in a case are obtained. We must help such persons to break down all events and facts they had perceived into individual stages,

and we must help them to reveal the details and individual sensations. As is the case with the method of forensic psychoanalysis as a whole, self-observation mandatorily includes a stage of synthesis in addition to the stage of analysis. In line with this we must help the person not only to break his perception down into individual sensations but also resynthesize these sensations and perceptions into a single whole.

The method of forensic psychoanalysis is employed by persons authorized to perform investigatory and court activities and to make decisions concerning punishment and application of measures of compulsory influence with the goal of reeducation. The possibilities and actions of these persons in employing the method of forensic psychoanalysis differ. We can note three types of possible implementations of the method of forensic psychoanalysis.

1. Application of the method of forensic psychoanalysis by a person directly involved in the investigatory or court activity. In this case the method of forensic psychoanalysis always presupposes utilization of the results of self-analysis. Self-analysis data are supplemented by forensic psychoanalysis of the investigatory action and, on the other hand, the results of forensic psychoanalysis of the investigatory action are supplemented and expanded by self-analysis. In this case the method of forensic psychoanalysis in a sense has two goals: On one hand this method expands the possibilities for understanding circumstances having significance to correct resolution of a case and, on the other hand, the person performing the investigatory and court actions undergoes self-control and self-education.
2. Application of the method of forensic psychoanalysis by a person who is just a direct observer of the entire process of the investigatory or court action. In this case the possibility for analyzing the entire process of the investigatory or court action more objectively increases. It may appear that passive presence of a second examining magistrate during a search, or of a procurator during an interrogation would not help the course of such activity in any way. But this is not so in fact. The second examining magistrate present during a search has the possibility for concentrating all of his attention (without being distracted by the performance of the activity itself) on observing the person being searched and the persons doing the searching. This helps him to analyze changes in behavior of the person being searched and the actions and errors of those doing the searching more fully than can the examining magistrate who is directly involved in the search. A procurator present at an interrogation and apparently taking little part in direct communication with the person being interrogated is more capable of catching and analyzing all tactical errors of the examining magistrate and all changes in the behavior and speech of the person being interrogated.
3. Application of the method of forensic psychoanalysis by persons evaluating the course and results of an investigatory or a court action, and the entire process of establishing the truth on the basis of the case materials. Application of the method of forensic psychoanalysis to study only the materials of a criminal case significantly constricts the possibilities for obtaining

information. This leads to the need for using the imagination to a greater degree.

Significant professional experience and an ability to employ imagination develop intuition, which permits a person to find, in a sense unexpectedly, suddenly, new versions, new explanations, and new hypotheses concerning causal associations, motives, and goals pertaining to particular actions by persons that are the subject of forensic psychoanalysis. However, when using the term "intuition" we must always keep in mind that it is "not a sudden inspiration" but a result of mental processes, not fully known to us, proceeding on the basis of a deep knowledge of the materials of the case, rich professional experience, and an ability to use imagination. "There is serious danger in excessive reliance upon intuition. If the examining magistrate has an uncontrolled, uncritical attitude toward his impressions he may yield to self-suggestion and unwittingly fail to heed that which does not fall into the pattern he selected."*

Forensic psychology studies not only the possibilities afforded by this method but also the specific ways for achieving its goal. For this purpose we first of all develop practical procedures of psychoanalysis and establish certain principles on the basis of which we can conditionally, mentally fragment any investigatory action or behavior of some person both during the time of the investigatory action and in another situation. By isolating individual elements from the whole in this way we can analyze more deeply the motives behind the behavior of a person and the causes of his acts, and foresee the end result of his activity and behavior.

For the purposes of forensic psychoanalysis we study the psychological structure of the activity of each participant in the administration of justice, and we reveal individual components of this structure.

It is precisely with the goal of implementing the method of forensic psychoanalysis that we fragment the entire process of producing testimony, to be used as evidence, in individual stages, and fragment all groups of investigatory activities into individual stages.** Fragmentation into stages is also a prerequisite for forensic psychoanalysis of activity in the future (development of the methods of influence, reeducation, and so on). By establishing particular stages we promote attainment of the end goal, establishment of the sequence of actions for attaining the goal, and revelation of all conditions that may influence this process. Broad application of the method of forensic psychoanalysis is a significant guarantee that the truth would be established in the investigation and court examination of cases.

*Ratinov, A. R., "Investigatory Intuition," SOTSIALISTICHESKAYA ZAKONNOST', No 4, 1958, p 27.

**In the past, forensic psychology had often been reduced to just the psychology of testimony by witnesses. From our discussion it becomes clear that revelation of the stages in development of testimony by witnesses is only one of the prerequisites for employing the method of forensic psychoanalysis, and

Development of forensic psychology is associated first of all with development and improvement of the methods of forensic psychology. Development of forensic psychology must lead to greater expansion of the sphere of application of the methods of forensic psychology, and to enlargement of their role in attaining the goals of socialist justice.

that it does not have an independent nature, all the more so because it embraces one of the principal problems of forensic psychology.

SPECIAL PART

SECTION FOUR

PSYCHOLOGICAL FUNDAMENTALS OF PRELIMINARY INVESTIGATION

CHAPTER 15

PSYCHOLOGICAL STRUCTURE OF CRIME INVESTIGATION

§1. Specific Features of Cognition in Court During the Preliminary Inquiry

The principal, defining component of the psychological structure of an examining magistrate's activity is his cognitive activity in collecting and analyzing the most diverse facts on the basis of which he fully restores a past event and all interrelationships of different persons associated with this event, and on the basis of which he learns about the personality of the person who had commissioned the crime.

Justice cannot occur without careful preliminary work to establish the truth--the events, associations, and interrelationships that had existed in the past. It is precisely during the preliminary inquiry that this process of recreating the model of a past crime occurs. All of the principal features typical in general of cognitive activity involved in the administration of justice are manifested here in their most specific form.

Beginning the process of collecting the facts the examining magistrate sometimes does not initially know the end result of collecting this information and cannot build a complete mental model of the events that had occurred in the past. This feature of cognitive activity leads to considerable difficulties in the collection, selection, and evaluation of the obtained information, and to a need for suggesting and testing a large number of the most diverse hypotheses concerning the nature and true value of particular facts and the interrelationships between individual facts.

Therefore criminological knowledge and experience, which create the conditions for understanding the information at hand, for seeking it, and for correctly selecting the necessary information, acquire considerable significance to the examining magistrate's activity. Criminological knowledge and experience are also prerequisites for activation of imagination used in recreating the event. The greater the experience of the examining magistrate and the broader his knowledge in criminology, the more hypotheses he can suggest in establishing the truth and the more hypotheses he can test mentally.

An understanding of an event in the past--the crime--must be gained during the preliminary inquiry. This understanding is attained by structuring a mental model of the past event on the basis of collected, evaluated, and systematized information, which is continually supplemented in the course of investigation. Moreover not only do we recreate a static model of a particular object, but we also try to gain an understanding of the mechanism behind action and behavior. This presupposes a need for continual mental deliberation of a particular object. "In order to reproduce (in our thoughts) the objective course of events we need to move (mentally) along the path of movement of objects, reveal the source of their development, and reflect the stages of their change in the necessary sequence using the language of concepts."* All of this pertains fully to cognitive activity of the examining magistrate as well.

We always gain a knowledge of a past event on the basis of present facts. In this connection cognitive activity also includes within itself the need for structuring mental models of the interrelationships between facts and phenomena of the present on one hand and the past event on the other.

Cognition mandatorily involves mental processing of the obtained information, evaluation of the ties, facts, and possible ways that the event may have developed, and suggestion and testing of various hypotheses.

Cognition also includes within itself practical activity directed at testing and evaluating the facts and phenomena learned. During this activity we make broad use of analysis, synthesis, and experiments with objects revealed in the process of cognition.

Finally, cognitive processes are directed in the preliminary inquiry toward an understanding of the future: How can we change the event, how can we change the behavior of particular persons, and how can we change the conditions under which a particular enterprise operates (economic, business) to prevent possible crime at this enterprise in the future?

The process of selecting information also has significant features. The entire volume of information reaching the examining magistrate significantly

*Mal'tsev, V. I., "Ocherki dialekticheskoy logiki" (Essays on Dialectic Logic), Moscow, 1964, p 45.

exceeds the amount of information he actually needs to establish the truth in a case and in particular facts. The significance of a particular item of information may not be manifested right away, but rather only through subsequent comparison, analysis, and synthesis with other facts and circumstances of the case. This leads to a situation in which the actual volume of information recorded in the case materials is almost always larger than that having a direct bearing on the event--the crime--under investigation. A surplus of information recorded in the case materials is a unique feature and a direct consequence of the specificity of the examining magistrate's quest for the truth. This surplus of information is directly dependent upon the clarity of the events at the beginning moment of investigation: The more hypotheses suggested and tested during investigation, the greater would be the surplus of information recorded in the materials of the criminal case.

However, the surplus in this information is, to a certain degree, only apparent. Although this surplus is not related directly to the crime it permits us to graphically see the ways the examining magistrate went in his cognitive activity, the kind of hypotheses suggested, the extent to which they were tested and by whom, and so on. A knowledge of all of these ways helps the court to conclusively determine the truth in the criminal case.

This unique surplus of information is dialectically combined with a continual lack of information needed in solving the mental problems arising and building the needed models of past events. The need for solving these problems in turn necessitates a continual search for more and more new information. The examining magistrate continually displays cognitive activity in selecting a part of the information from the entire volume of information and in seeking the new information required. Both selection of information and the search for new information are governed by the law of criminal proceedings, which also makes a significant impression upon the examining magistrate's cognitive activity.

As with any other activity, the process of cognition is characterized by different degrees of controllability on the part of the person performing this activity. During the preliminary inquiry the process of cognition is distinguished by a certain disorder in the inflow of information. The inflow of information does not always yield to the wishes and the complete control of the person performing the act of cognition. The volume of information and the time and speed at which it arrives depend in many ways upon the circumstances in which cognition is performed.

Not only the direction of activity but also its rhythm depends in many ways upon the event that had occurred, the need for eliminating the consequences of the crime as quickly as possible, and the extent of interference placed in the way of the inquiry by the offender.

The somewhat limited controllability of cognition must be taken into account. Objective interference to control and to the desired dispersal (with a consideration for the mental capacities of the examining magistrate) of the

cognition process operates only in certain periods, which creates a mental overload for the examining magistrate. During these periods the examining magistrate's cognitive activity is especially difficult.

However, presence of periods of overloads does not preclude the possibility for planning cognitive activity. On the contrary presence of such factors makes planning a necessary element of the examining magistrate's cognitive activity. During such activity it is always possible to distribute and control the general flow of incoming information. The need for distributing and defining the sequence in which information is perceived is one of the significant features of cognition in the preliminary inquiry.

Another unique feature of the examining magistrate's cognitive activity is its high degree of emotional saturation. High emotional saturation is produced by:

- 1) Presence of overloads in the course of activity;
- 2) the significantly closer proximity to the crime, which has an effect on observations and personal perception of the consequences of the crime, and on communication with the persons who had directly observed it or persons who had been the victims of the crime, immediately after this event (observation of their mental states, their excitement or depression, their grief, pain, and so on);
- 3) the greater activity associated with determining, pursuing, and detaining the criminal, and so on.
- 4) Perception of objects eliciting negative emotions (perception of a corpse, and so on);
- 5) the unexpectedness in the turn of events themselves, and the more intense and more emotional behavior of all people involved (during the preliminary inquiry the people often continue to act under the influence of the crime that had an affect upon them).

Under the conditions of such high emotional saturation, cognitive activity requires that persons who must perform it devote special attention to their mental qualities and prepare themselves specially for this activity.

The examining magistrate can obtain information he needs to build the model of the past event in several ways:

- 1) By direct sensory perception of objectively existing facts (by inspecting the scene of the crime, objects, documents, and so on);
- 2) by obtaining facts through perception of the statements (oral, written) of other persons when he cannot personally observe and perceive events that had already occurred.

Presence of a second source for obtaining information makes it necessary for the examining magistrate to expand his cognitive activity: He must also gain an understanding of the sources from which he receives his information.

As the examining magistrate performs cognitive activity, two apparently mutually related processes develop: He gains an awareness of facts he needs to build the mental model of the crime, and he gains an awareness of the nature of the persons existing as the sources of the diverse information he needs to build the mental model. In this regard he must test their mental processes, states, properties, and sets.

Thus the examining magistrate's cognitive activity mandatorily includes cognition and consideration of the mental properties of all persons from whom he receives information he needs to structure the model of the past crime, and all mutual ties and the personality of the criminal. In turn, he gains an understanding of this personality in two ways--by direct perception and by collection of information and judgements on the given personality.

A developed capacity for observing the behavior, gestures, and facial expressions of a person has special significance to direct cognition of a personality. A. S. Makarenko was entirely right when he wrote: "There is nothing sly, nothing mystical in the fact that certain dynamics of the soul can be learned from a person's face."* Attentive observation, thoughtful analysis of the changes revealed, and their comparison with existing facts can always help the examining magistrate to expand his knowledge on the individual's personality.

There is significance in distinguishing the two types of cognitive processes mentioned above also because through them we reveal highly typical features: In the second cognitive process the examining magistrate does not record his findings. All features of the behavior and facial expressions of the witness and defendant are retained only in his memory.

The results of direct cognition of the personality during the preliminary inquiry can be used to evaluate the results of investigation so as to build new hypotheses and develop plans for testing them.

Procurement of information necessary to attain the goal of cognition through other persons produces yet another unique feature of cognitive activity in the preliminary inquiry. We had already noted the possibility of a subjective attitude on the part of many persons toward the activity of the examining magistrate and, in this connection, the desire of some of them not to transmit information fully, and to sometimes even consciously distort it. To obtain all the information he requires the examining magistrate must employ various methods of influence offered by forensic psychology.

*Makarenko, A. S., "Soch." (Works), Vol 5, Moscow, 1958, p 268.

Application of an elaborate system of methods of psychological influence to obtain information from other persons is a distinguishing trait of cognitive activity in the investigation of a crime.

The examining magistrate's cognitive activity requires various actions directed at finding evidence, which is significantly complicated by interference on the part of the offender. Preparing for the crime, the latter often thinks of creating conditions and false clues that would prevent correct performance of cognitive activity by the examining magistrate. Such "deceitful" actions are performed by the criminal both immediately after the crime and during investigation of the case. His activity may be directed at destroying material evidence, creating an alibi for himself, and so on.

Presence of the unique features mentioned above in the examining magistrate's cognitive activity means that he must employ the reflection method as well: He must suggest hypotheses concerning the possible actions of the criminal as he conceals clues of the crime, and he must analyze his attempts at directing the inquiry along a false path.

In order to perform cognitive activity under such interference the examining magistrate must combine it most intimately with highly complex constructive activity having the purpose of insuring performance of his cognitive function and completely eliminating possible interference on the part of the criminal.

Hence the need for maintaining secrecy in the investigation has an influence on the examining magistrate's cognitive activity as well. This secrecy is displayed in cognitive activity in the following way.

1. The examining magistrate must restrain emotions that may arise in the presence of other persons. His behavior must not stress the special significance of particular facts.
2. The possibility of collective establishment and subsequent evaluation of the significance of particular facts narrows. The examining magistrate can employ only a highly limited circle of people to establish the facts and, all the more so, to evaluate their significance, which is very important in cognitive activity in general. The examining magistrate's opportunities for collective cognition are restricted to participation in and performance of investigatory functions only by persons foreseen by the rules of the Code of Criminal Procedures and who satisfy certain requirements. The possibilities for discussing established facts and their interrelationships and for exchanging opinions on them are even more limited. The process of establishing the truth and deriving it from the interrelationships of facts always requires testing of hypotheses, which is done by stating one's ideas to other persons. The need for observing investigatory secrecy forces the examining magistrate to always carefully think out the possibility for communicating particular facts to one person or another, he must determine the facts that can be communicated, and he must take steps to keep facts known to him from becoming general knowledge.

The examining magistrate's cognitive activity is associated most intimately with his maintenance of records, his need to record all facts and phenomena he establishes the proceedings. This association between these types of activity requires that he constantly direct his thoughts toward tasks performed in parallel with the principal cognitive activity: He must determine precisely what must be recorded, the procedures and technical resources to be used, the amount of information on a particular phenomenon or event to be recorded, and the legal form the information should take. Perceiving facts, and analyzing and synthesizing them, the examining magistrate must simultaneously think about whether or not these facts would be perceived by other persons, the procurator, and the court after they are recorded by him in the case materials in appropriate fashion. This multiplicity in orientation of the examining magistrate's activity as he performs his act of cognition considerably complicates his actions and requires great concentration of his mental capacities and a high sense of responsibility for the work he does.

Record maintenance by the examining magistrate must be directed at recording:

- 1) The elements established (facts, phenomena, objects) he uses to recreate a model of the past event and its interrelationships;
- 2) his own actions as well as those of other participants (specialists, experts, and so on) in seeking and finding facts and phenomena of importance in establishing the truth;
- 3) actions established on the part of the offender.

Record maintenance has the purpose of not only formalizing the facts and events revealed through cognition but also promoting their objective perception by the examining magistrate himself and eliminating and preventing development of subjectivism in his actions and errors in his cognitive activity.

The extremely high emotional saturation of gaining information on a crime by the examining magistrate had been mentioned above. These cognition conditions are capable of generating subjective errors in perception by the examining magistrate. When investigatory activity is especially emotionally saturated possible errors in perception and cognition as a whole are eliminated as the examining magistrate performs his duty of record maintenance. The recording of facts and procedural documents with the participation and in the presence of other persons, furnishing these persons the rights to correct the work of the examining magistrate, use of scientific-technical recording resources, and concentration of attention on recording the information in procedural documents help the examining magistrate to avoid possible errors in cognition under the influence of emotional saturation and other factors (fatigue, and so on).

Record maintenance by the examining magistrate permits adequate control over the impressions he develops as well. A unique feature of these impressions is that for the most part they are formed under the influence of verbal

transmission of particular facts, phenomena, and events by other persons to the examining magistrate. In order that these impressions would not be erroneous he must try to supplement verbal characteristics with visual impressions to the greatest extent possible and check the correctness of impressions, concepts, and images arising at the time of verbal transmission of facts.

Development of concepts acquires special significance here. The examining magistrate has to receive information from people having the most diverse specialties. Specialists often use concepts and words to define processes, states, and properties which are understandable only to persons having a knowledge in their specialties. The correctness with which particular concepts are perceived must always be tested through an explanation of their essence, through alteration of the word structures, and through graphical or other kinds of modeling that reveal the meaning of the particular concept. Only in this case can the examining magistrate avoid making errors in his own impressions and in recording the facts and reports. The process of learning facts through other persons prior to their recording mandatorily occurs in conjunction with testing of the correctness of the concepts presented by these persons.

The unique features of the examining magistrate's cognitive activity gradually shape a specific, professional mode of thinking in him. "Objects and phenomena which a person perceives in different forms of labor and upon which he acts in turn act upon him, shaping not only the professional concepts but also a certain professional mode of thinking."* The specific features of the examining magistrate's mode of thinking depend not only upon the specific features of the objects and phenomena under cognition but also the specific conditions of cognition, of the activity that must occur in the process of the examining magistrate's cognitive activity (record maintenance, and so on).**

*Platonov, K. K., "Voprosy psikhologii truda" (Problems in Labor Psychology), Moscow, 1962, pp 82-83.

**The mental qualities of the examining magistrate are not examined in the present textbook. They are analyzed thoroughly in the book: Ratinov, A. R., "Sudebnaya psikhologiya dlya sledovateley" (Forensic Psychology for Examining Magistrates), Moscow, 1967.

CONTINUED

1 OF 2

CHAPTER 16
MENTAL FEATURES OF SOME PARTICIPANTS
OF CRIME INVESTIGATION*

§1. Mental Features of the Defendant

While in the psychology of a witness we are chiefly interested in knowing the way his testimony is shaped, in the psychology of the defendant we are basically interested in knowing his mental processes and states affecting his specific behavior in the preliminary inquiry and arising during this activity, which we need to know in order to reveal the laws behind the shaping of testimony and to correctly determine the ways of influence.

The mental features of the defendant is a rather broad concept. It includes a certain group of mental features that can significantly influence the entire constitution of the given personality and determine his attitude toward crime. Mental qualities can also be conditions facilitating crime. Certain mental qualities arise as a result of crime--under the influence of both the crime itself and the consequences of the given person's experiencing it.

We should also distinguish a group of mental processes and states which affect the mental constitution of the given personality in the course of investigation, particularly while in prison. It is precisely this group of mental phenomena that we imply in the concept of the mental features of the defendant.

*A significant number of persons always participate in investigation. Depending upon their relationship to investigation, their role in this process, and the psychological structure of their activity, the mental features of each group of participants are shaped and manifested in different ways. This chapter will examine only some features of defendants and witnesses. Works have recently been published examining the mental features of other groups of participants. Thus some features of the thinking of a forensic expert have been analyzed (Lantsman, R. M., "Modeling Some Thinking Functions of the Criminological Expert," in the anthology "Ekspertiza pri rassledovanii prestupleniy" (Expert Examination in the Investigation of Crimes), Issue 6, Vil'nyus, 1967).

During the preliminary investigation the mental features of the defendant are governed by his legal status, the conditions under which the investigation proceeds and, finally, the way he experiences the situations shaped by investigation during the preliminary inquiry. In turn the latter circumstance depends on a very large number of factors. Among such factors we can name his attitude toward the crime, the extent to which the crime had been solved, the very course of crime investigation, the defendant's attitude toward the examining magistrate and other persons, and so on.

Of course we should keep in mind that the effect of the conditions of preliminary inquiry upon the defendant's mind depends upon the way his personality had developed. This determines the individuality in manifestation of mental features in each specific case. This individuality is produced by the entire set of mental qualities existing prior to the crime and those arising in the course of criminal activity. Only on this basis do specific mental features develop in the defendant in the process of crime investigation.

Without a doubt the offender would display negative mental qualities during preliminary investigation. They are manifested in his set, in his actions, and in his attitudes toward other persons. Meanwhile these actions and attitudes also depend significantly upon the conditions listed above, which predetermine the mental features of his behavior in the preliminary inquiry.

The personality of an offender does not contain just negative qualities alone. Without a doubt it possesses positive ones as well (manifested when the offender is in a different state). The process of investigation, the situations arising, and the relationships must promote in every possible way the revelation, reinforcement, and development of these positive personality traits in the defendant.

The defendant's behavior in the preliminary inquiry can be characterized by an active and a passive role in investigation. This once again depends upon a large number of factors. To a certain degree it depends upon the type of nervous system he has, on his attitude toward the crime, the way he experienced its consequences, his volitional qualities, presence of particular plans of behavior, vital interests, goals, and so on.

Depending upon the causes producing it, the defendant's activity can help the investigation along or, on the other hand, it can totally inhibit the process of establishing the truth. When the defendant recognizes his guilt and desires to compensate the harm he had done, he directs his activity at helping the examining magistrate to collect evidence and examine it. The defendant points out the places where valuables had been hidden, helps inspectors find and properly analyze documents, and so on. Arisal of such activity depends in many ways upon the correctness and timeliness of psychological influence imposed upon the defendant by the examining magistrate.

The defendant's activity is sometimes also elicited by an awareness that his actions may paralyze the preliminary inquiry, lead it along a false path,

and permit him to avoid punishment. In these cases the defendant's activity is expressed in preconception and presentation of false information, in a desire to influence the examining magistrate and other persons to obtain information on what the examining magistrate is doing, in intentional destruction of evidence, in creation of false evidence, and in intimidating witnesses.

If such actions cannot be performed, sometimes a radical change occurs in the defendant's emotional state. The same occurs with the defendant when during the preliminary inquiry conditions are created eliminating his possibility for acting in such a way as to hinder the investigation.

The defendant's behavior during the preliminary inquiry may be thoroughly thought out by him beforehand in many cases. The plan and structure of his behavior during the inquiry depend upon interaction of all aspects of his personality.

The structure of the defendant's behavior depends upon a number of factors:

- 1) His personal qualities;
- 2) the novelty of the situation (whether or not he had been convicted formerly);
- 3) the emotional influence of the crime at the time of its investigation;
- 4) attitude toward the crime;
- 5) the line of behavior selected, which in turn depends upon the extent the person is prepared for investigation;
- 6) specific features of the mental associations evolving;
- 7) the degree to which the person is informed on the case materials;
- 8) situations arising during investigation.

However, preconceived plans for behavior cannot alter or eliminate the possibility that the person's real personal qualities would arise. He is able to keep his behavior under control in most cases only until his dominant drive begins to operate. This drive is often concealment of the circumstances of the crime.*

In most cases several motives of behavior dominate in the defendant during the preliminary inquiry, with an internal struggle between motives always occurring. The motives of behavior themselves and the nature of the struggle

*Another dominant drive in the defendant may be repentance for the crime, which encourages him to openly confess. In such cases the situations being discussed of course do not arise.

among them is dependent upon the entire set of the defendant's personal qualities. Moral evaluation of his own behavior at the moment of the crime plays a tremendous role. "When a person recognizes an incorrespondence between his acts and the demands of public morality, moral feelings such as the sense of honor and personal worth, shame for himself and his act, regret for what had been done, repentance, and so on are elicited within him and have an influence on his behavior."*

In many cases this internal struggle among motives of behavior is manifested as heightened nervousness in the defendant's behavior. The motives of his behavior depend upon the demands of the situation, the images of behavior he has accumulated, and the state of his system of motivations. A knowledge of the defendant's personality and the circumstances of the case would permit us to determine these principal motives, which in turn would allow us to have significant influence upon this struggle among motives, and it would help the defendant to resolve the internal struggle among motives.

Analyzing the motives of the defendant's behavior we must also always consider some causes that may lead to self-slander (a desire to conceal the intimate aspects of his life, to protect a person, and so on).

The legal status of the defendant generates specific mental states. The representation, orientation, and force of these states doubtlessly differ and depend upon the specific features of the personality and the specific situation generated by the circumstances of each specific criminal case: "...institution of criminal proceedings produces a typical mental state in the defendant, this state arising namely from the moment of indictment and being associated not only with a sense of fear of punishment but also a feeling of severe moral depression and profound moral responsibility for the act."**

The state of the defendant after an indictment is passed may be significantly more diverse. In some cases it may even be characterized by a certain relief. This occurs because after the indictment is passed he knows specifically what he is accused of and he feels that his fate has been clarified in a particular fashion.

During the investigation the defendant manifests both personal and situational mental states. The latter states can be elicited by the course of investigation, by development of mental attitude toward the investigation, and by associative recollection of the crime and its details. During investigation the personal and situational states often intimately intertwine. As a general rule personal states inherent to the defendant appear more sharply in acute situations. Hence the specificity of the defendant's legal status creates exclusively favorable conditions for studying all features of his personality.

*Ratinov, A. R., "A Psychological Description of Testimony by a Defendant," in the anthology "Voprosy preduprezhdeniya prestupleniy" (Problems in Preventing Crime), No 1, 1965, p 116.

**Ivanov, Yu. A., "Vospitatel'naya funktsiya sovetskogo predvaritel'nogo sledstviya" (The Educational Function of the Soviet Preliminary Inquiry), Moscow, 1967, p 43.

Due to their unusual nature and the keenness with which they are perceived by the defendant, the situations present in a preliminary inquiry create special conditions for studying his personality traits: Many traits of the defendant's personality which may not have been revealed in another situation are revealed fully and directly here.

The defendant is always typified by a complex, specific state of internal tension. In particular this state leads to sharper perception of information. Each word and gesture by the examining magistrate is believed to be a sign of an entire series of actions and of a great amount of information possessed by the examining magistrate. This in turn leads to continual processing of a tremendous quantity of information, sometimes without a consideration for its value. The defendant incessantly sorts through numerous variants and combinations of the obtained information as well as information that is hypothesized and guessed. These mental operations are performed, moreover, in a state of general depression and fear elicited by the continually growing threat of being fully revealed.

All of this complex thinking leads to internal tension and stress, after which discharge often occurs. A constant state of tension in the defendant leads to a situation in which mental associations arising during preliminary investigation often become a resource for discharging internal tension for the defendant. This can result in complete narration on all that agitates, disturbs, and alarms the defendant, or in sharp protests against the actions of the examining magistrate and against the very fact that he is communicating with him. When these circumstances are present the role of the examining magistrate in creating a basis for communication and properly determining its orientation increases especially.

An excited state can be elicited in the defendant by the very fact of concealment of certain circumstances from the examining magistrate. "...A secret concealed by an individual produces a yearning to share it with someone, it produces a desire to 'talk it out.' The defendant's suppression of this desire requires inhibition of particular areas of the brain, which by the law of induction elicits active stimulation of other areas. Stimulation is alleviated when the need for talking about concealed thoughts is satisfied."*

As a rule a state of heightened interest in perception of information is continually manifested by the defendant during the preliminary inquiry. The defendant does not know which facts the examining magistrate possesses, and this continually stimulates his thinking and forces him to select different variants and to try to guess the information which the examining magistrate truly possesses. This makes him especially susceptible to any information transmitted to him by the examining magistrate or information that is

*Ratinov, A. R., "Sudebnaya psikhologiya dlya sledovateley" (Forensic Psychology for Examining Magistrates), Moscow, 1967, p 20.

communicated directly from the examining magistrate. This feature of the defendant's mental state must be remembered when developing the plan for influencing him, since such a state creates extremely favorable conditions for attaining the goals of influence.

The defendant's relationship with the examining magistrate is characterized by two diametrically opposed desires. On one hand he desires to communicate in order to obtain certain information from the examining magistrate; moreover he recognizes that his fate depends in many ways precisely upon the examining magistrate. On the other hand he fears this communication and tries to avoid it because he recognizes quite well that the examining magistrate will influence him in such a way as to obtain a confession of the crime. Under certain conditions these contradictions are also intensified by the circumstance that the defendant may erroneously believe the behavior of the examining magistrate to be biased and to feel that he is at fault to some degree for his woes, and this can intensify a negative attitude toward the examining magistrate. A desire to receive information is continually accompanied by a fear of offering information that may condemn the defendant.

The defendant's desire to receive certain information from the examining magistrate often leads not only to an active desire to perceive information but also to actions directed at receiving this information. In some cases defendants think out the plan of their conversation with the examining magistrate quite artfully in order to learn the information of interest to them, to gain the initiative in such conversations, and to direct them in such a fashion that the examining magistrate rather than the defendant is the source of information.

The behavior of the defendant during communication with the examining magistrate is also defined in some cases by his awareness of the fact that the examining magistrate is performing not only a cognitive function but also that of recording testimony. Many defendants know that words by themselves cannot be used against them as yet, that these words can be used against them only when they are recorded in the proceeding documents. Recognition of such features of preliminary investigation very often makes the defendant highly talkative. Sometimes he even dares to relate the facts to the examining magistrate which would apparently condemn him totally, but then he declares that he would never place his signature on such testimony. The defendant recognizes that the procedural form for recording the mutual relationship between him and the examining magistrate is to a certain degree a compromise. Recording of the results of interrogation in procedural documents depends not only on the will of the examining magistrate and his actions but also on the will of the defendant, who can agree or not agree on recording of particular facts in the procedural documents.

The mental states of the defendant are also characterized by the circumstance that he recognizes in all relationships within the preliminary investigation he is not only a party in communication but is also simultaneously the object of activity of a number of persons who enter into a relationship with him (the procurator, the examining magistrate, an expert, and so on). At the

same time he remembers that he can also influence their activity and their attitude toward him. This predetermines both his general line of behavior and the specific features of his relationship to particular persons.

We should qualify the specific features of the mind of a defendant under guard. In this case objective conditions are created for obtaining significantly less information on the circumstances of the case (the defendant does not meet with other defendants, witnesses, and so on). This leads to especially sharpened perception of information during communication with the examining magistrate. At the same time imprisonment alters the living stereotype and needs and sometimes elicits a sense of isolation and a sharp change in overall mental tone. It creates specific mental states.*

*For greater detail on the psychological features of a prisoner, see Section Six of this textbook.

CHAPTER 18

A PSYCHOLOGICAL DESCRIPTION OF INTERROGATION

§1. The Concept and Psychological Nature of Interrogation

Interrogation is a resource by which the examining magistrate learns of events in the past, facts, and circumstances that are not observed directly but rather by means of perception of the words of people testifying on the facts, circumstances, and events. Inasmuch as the principal factor in interrogation is the information transmitted by the person being interrogated, he must first analyze its specific features, the principal ones of which are as follows.

1. The process of information transmission by a person being interrogated must in all cases be initially stimulated. Information begins to be transmitted only after the examining magistrate makes the appropriate demand.

In all cases interrogation is a process of solving mental problems by the person being interrogated. He cannot transmit any sort of information without first solving a large number of mental problems that are sometimes highly complex. A number of mental processes mandatorily precede direct verbal communication of these facts and events. These mental processes have the goal of either mentally recreating a model of the event or solving other required mental problems.

The problems can basically be directed at: Recalling facts and events; deliberating judgements concerning persons, events, and facts; establishing interrelationships, causes, and effects among facts, phenomena, and persons.

The solving of mental problems by the person being interrogated is characterized by two-sided activity: On the one hand the mental problem is posed to him by the examining magistrate, while on the other hand the person being interrogated poses an entire series of additional mental problems to himself.

Transmission of information is always preceded by solution of a number of mental problems by the person being interrogated: Concerning the relevance of particular facts and events to the subject of interrogation; concerning

the presence of interrelationships among individual facts; concerning their evaluation from the standpoint of a knowledge of the law; concerning their evaluation from the standpoint of his own interests. Hence the person being interrogated begins to transmit information only after: The examining magistrate poses mental problems; the person himself poses his own mental problems; the entire set of all these mental problems is solved.

The results of interrogation depend in many ways upon the examining magistrate's initial understanding of the mental problems that would be posed to him by the person being interrogated, upon whether or not he is able to prevent his own transmission of information, and upon other methods for achieving an orientation in the mental activity of the person being interrogated that would prevent or hinder solution of the problems posed by the examining magistrate.

2. Information transmission is always associated directly with a desire to transmit a verbal description of the event or its individual elements to the examining magistrate. Recollections and other mental tasks depend completely upon this subjective state of the bearer of information. Not only his activity in recollection and in mental tasks but also the completeness and clarity of verbal presentation of images and details of the past events recalled from the memory depend upon the desire of the person being interrogated and his interest. This in turn depends upon whether or not the person being interrogated has his own goals and interests pertaining to recalling the past event. The information can be consciously distorted to a significant extent if the interests of the person being interrogated do not coincide with the interests of the examining magistrate, and satisfaction of his interests and goals depends upon the final form the recalled model of the event takes.

3. The transmitted information must be based either on a mental image of the event or fact possessed by the person being interrogated or on a process of recollection and recreation of this image and the associations. During the interrogation the person being interrogated describes not that which itself is perceived but rather just his recollection of this perception, the mental model of it that had been retained. Therefore the time passing between perception and presentation of that which was perceived during the interrogation can alter even the very definition and evaluation of that which had been perceived earlier. Subsequent perceptions, loss in sharpness of perception, and actions of the person being interrogated during the time since the event and its perception have an influence upon such a change.

4. When a witness, suspect, or defendant is being interrogated, mental activity is required of them in all cases. This is necessary for correct perception and understanding of the mental problems posed by the examining magistrate, for recall of the image of the past event, and for coherent presentation of all elements of this mental model, and their transmission through verbal contact. Finally, mental activity is also required for perception of methods of influence on the part of the examining magistrate, directed both at facilitating recall of particular circumstances and facilitating solution of mental problems on one hand, and at altering negative attitudes possessed by the person being interrogated concerning presentation of information on the past event and the facts on the other.

During the interrogation the examining magistrate and the defendant must first of all think, and the more strongly this mental activity is stimulated, the more fully it would handle all problems posed and the more successful the results of interrogation would be.

To insure high mental activity an appropriate emotional state should be elicited and maintained in the person being interrogated. For this purpose we need not necessarily make use of just positive emotions alone. Negative emotions do not by themselves reduce mental activity of the person being interrogated in all cases. They reduce mental activity only when the person is in a state of stress and does not have the experience or the knowledge of ways to select lines of behavior in the given situation. Under certain conditions the same negative emotions (stimuli) can activate mental processes. But for this purpose they must arise not "in general" but rather in relation to a specific object or person. Thus arising of a negative emotion (anger) in response to information concerning the actions of the criminal can significantly activate the thinking of the person under interrogation.

When preparing for the interrogation, in each specific case the examining magistrate must think out and resolve the issue as to precisely which emotions, precisely which mental states could elicit mental activity, with a consideration for the circumstances of the case, the mental features of the person under interrogation, and his attitude toward other persons. From this it is clear that the goal of interrogation can be attained only by exchange of information between the examining magistrate and the person under interrogation. In this case information exchange always begins with the examining magistrate communicating information first.

The goals of information transmission by the examining magistrate to the person under interrogation can be as follows:

- 1) Stimulating an interest and a desire to transmit the information possessed;
- 2) posing specific mental problems pertaining to information transmission;
- 3) rendering assistance in mental recreation of the events by the person being interrogated, activating his thinking, and changing his mental states. Thinking and the process of solving mental problems are always stimulated by transmitting certain information on the past crime already known by the examining magistrate.

During an interrogation a witness may be required to perform the most diverse forms of thinking, including that directed at gaining a fuller understanding of his sensations at the moment of the particular event. Information should be communicated to the person under interrogation by the examining magistrate in order to achieve this goal. Therefore, for example, in some cases information on the entire incident unknown to the witness could be transmitted to the witness in some cases (of course after the initial testimony is received from him) and he could be informed of a number of circumstances, since the

witness himself is unable to tie in some of his sensations with the entire picture, and he can determine their significance and relevance to the given event only after receiving supplementary information. Thus a witness may have perceived a sound, but he may not remember the role it played in the given event, and therefore he may not report this fact during the interrogation. He may have perceived the sound of breaking glass, but he may not have associated it with a burglary in the apartment, which the witness finally noticed after a certain interval of time.*

During the interrogation the examining magistrate must clarify not only the information perceived by the person under interrogation on facts and events of interest to the inquiry, but also the mental states of the person under interrogation immediately during the time of perception. We should keep in mind that many mental states (fear, anger, and so on) significantly reduce the possibility of perception and hence constrict the possibilities for subsequent transmission of information to the examining magistrate.

The process of exchanging information goes on in the course of mental communication between the examining magistrate and the person under interrogation. From the standpoint of the criminal process the goal of interrogation is to receive information from the person under interrogation having significance to the criminal case under investigation. However, this purpose may be achieved only through mental communication, in the course of which both all of the general laws of communication and the typical features inherent to a specific form of communication such as interrogation are realized.

In this connection interrogation can be defined as mental communication between the examining magistrate and the person under interrogation, during which information exchange occurs, terminating with a verbal report by the person under interrogation on the past event and on his solutions to other mental problems posed by the examining magistrate.

However, even this definition of interrogation would be incomplete. Its purpose does not end with transmission of information on a past event or on other facts of interest to the inquiry. This information must still be perceived by the examining magistrate. On the basis of the verbal information his mental model of the past event must arise, be supplemented, and change. In all cases the examining magistrate must process the verbal information into images, concepts, and mental models.

Thus interrogation is also transmission of information by the person under interrogation on events, facts, and interrelationships, and perception and processing of this information by the examining magistrate.

Hence it is clear how important it is to reconstruct the verbal information during the interrogation into the form of diagrams, drawings, and models of

*See Zhabitskaya, L. G., and Shakhriman'yan, I. K., "Use of the Materials of Testimony From Witnesses to Analyze Perception Processes," VOPROSY PSIKHOLOGII, No 2, 1965, p 150.

the situation. Without this the examining magistrate cannot always gain a full understanding of information reported by the person under interrogation or process it fully.

Mental communication--interrogation--has a large number of unique features that have a significant influence both on information exchange and on re-creation of the mental model of the past event, the result of information exchange. From the very beginning the interrogation presupposes inequality in information exchange, a certain degree of compulsion in the orientation of the mental processes of the person under interrogation. The examining magistrate always transmits a highly limited volume of information. It is clearly and precisely defined in each specific case by the goals of the interrogation. Moreover surplus information transmitted by the examining magistrate during interrogation may only be an interference to attaining the principal goals of interrogation. Transmission of surplus information could result in loss of interest by the person under interrogation toward mental communication, and overloading his mental activity involved in processing the information obtained from the examining magistrate and, consequently, in a reduction in thinking activity necessary for solution of the mental problems posed to the person under interrogation.

Extremely clear regulation of the volume, quantity, quality, and sequence of the information transmitted is a necessary prerequisite for proper interrogation and for attainment of its goals. The flow of information is continually regulated during an interrogation. In the optimum variant this flow of information must basically be directed toward the examining magistrate, and only the smallest proportion of the most necessary information should be directed toward the person under interrogation.

Thus the results of interrogation depend upon the competence with which the process of information exchange is organized.

Mutual interest in obtaining information often arises in the course of an interrogation. Both the examining magistrate and the person under interrogation may desire to receive information.

The complexity of the structure of interrogation lies in the fact that during communication the person under interrogation tries to obtain information not only to properly solve the mental problems posed to him and report information to the examining magistrate in the end, but also to fill his gap in information on what the examining magistrate has done in regard to understanding and recreating a model of the past event. This specific feature in the psychology of a defendant had already been mentioned above; it manifests itself to the greatest degree precisely in communication during interrogation. This circumstance often predetermines the activity and the heightened attentiveness of the defendant toward the interrogation, and the nature and orientation of his questions to the examining magistrate. Being mental communication, interrogation is always typified by the fact that the examining magistrate must constantly keep the initiative in directing communication, in regulating the process of information exchange. He is the

one who must regulate the process of information transmission, and not the person under interrogation, who sometimes tries to capture the initiative and thus attain his own goal--obtaining the information he needs from the examining magistrate.

The concept of information is significantly broader in relation to interrogation than just verbal description of a fact or an event by the person under interrogation. Information is also transmitted by the external appearance of the person under interrogation, his behavior, specific features of his speech, his mental state, and so on. "Information includes all data obtained by a person from the outside world with his organs of vision, hearing, tactile sensors, and olfaction."*

Thus all information obtained by the examining magistrate during interrogation is divided into information on events and facts of interest to the inquiry, and information on the source of transmission of verbal reports on these facts and events.

All information of the second type is extremely important. It permits the examining magistrate to properly evaluate the source of information transmission and, what is especially important, to select tactics right during the course of the interrogation (depending upon the state and behavior of the person under interrogation, his reactions to the information transmitted, and so on) which would permit him to extract fuller, more correct information from the person under interrogation and fuller recollection and presentation of the facts known to him.

During the interrogation, information can also be gained on the personality of the individual under interrogation through verbal communication, with this individual directly reporting facts and events in his life, which can be used to make general conclusions on his personality. This large quantity of information on the personality of the individual being interrogated can also be recorded in the proceedings, by writing down all information obtained in the interrogation record. Autobiographical information produces a fuller understanding of the conditions behind his upbringing and education, and clarification of the causes behind his particular traits and habits. It stands to reason that in a number of cases the information obtained in such an interrogation would require additional testing.

During the interrogation, by perceiving and evaluating the entire sum of information from the person under interrogation the examining magistrate must determine what interference exists (or may exist) along the path from direct perception of information by the person under interrogation to his verbal presentation of his recollections of former impressions and knowledge of various circumstances pertaining to the crime being investigated to the examining magistrate.

*Blok, I. P., "Osnovnyye ponyatiya teorii informatsii" (Fundamental Concepts of Information Theory), Leningrad, 1959, p 4.

This interference can be conscious and unconscious. Conscious interference should be defined as distortions of information that is actually perceived when it is transmitted to the examining magistrate due to a particular set of the person under interrogation and the volitional orientation of his actions. Unconscious interference arises in response to an external influence which distracts, hinders the mental activity of the person being interrogated, who does not have a conscious goal of distorting the information.

The causes of interference may arise in all stages in the development of a witness's testimony not to mention development of the defendant's testimony. Therefore every interrogation is at the same time a careful testing and clarification of the specific features of each stage in the development of testimony having the purpose of finding the concrete cause and the concrete conditions which led to conscious or unconscious interference in information transmission. Only after this can the examining magistrate direct all of his efforts (use the appropriate methods of forensic psychological influence) at eliminating this interference and supplementing information actually perceived by the person under interrogation.

We had already noted above that a number of stages in the development of testimony occur during the interrogation, during communication with the examining magistrate. Hence one of the principal tasks in organizing the interrogation is to see that it is conducted in such a fashion that as testimony develops (as those stages proceed which occur during communication with the examining magistrate) everything could be done to prevent new interference in information transmission and eliminate the interference that had already been created and manifested prior to the examining magistrate's communication with the witness. Thus we must avoid conditions that may create new interference in information transmission. Interference can be created by change in mental state of the person under interrogation. For example prolonged anticipation of a summons for interrogation may lead to irritation, tiring, and depression, which would hinder the mental activity of the person under interrogation and, consequently, would be interference in the process of information transmission. This means that we must take all steps to see that all negative mental states are alleviated prior to the beginning of interrogation and, all the more so, that new interference is not generated by the examining magistrate's actions.

In general, establishing the mental state of the person under interrogation is an important element of interrogation. From the standpoint of the interests of the interrogation all mental states can be divided into those affecting a person positively and negatively, those reducing or heightening his mental activity during the interrogation.

It has long been noted that when in one mental state a defendant would confess his guilt after certain evidence is displayed to him, while in another state he is entirely unreceptive to precisely the same evidence.

According to the general rule the defendant's state must correspond to the methods of psychological influence to be used. If he is to be influenced by means of logical explanations and proof of certain associations among facts, then the person under interrogation must be in a mental state that would permit him to attentively follow the arguments, conceptualize them, and make logical conclusions.

Academician A. A. Ukhtomskiy had noted that reactions of the body depend upon its state. Every method of influence in forensic psychology is intended for a particular body reaction. This reaction is directly dependent upon the state of the person at the given time. In this connection the mental state of the person being interrogated must always be brought into correspondence with the method of influence proposed so that the reaction to the given method of influence would be as active as possible.

Determining the mental state is a mandatory prerequisite for application of the methods of psychological influence on the person under interrogation.

During the interrogation we must always insure that the person being interrogated is under careful observation so that his state could be determined on the basis of his appearance, behavior, reactions to information transmitted to him, on the basis of analyzing his speech (rate, coherence, repetitiveness, incoherence), and so on. "Doubtlessly a fine observer can note and correctly understand signs pointing to certain feelings and motives in the person under interrogation...what is significant is not the overall state of the defendant but rather the change in his state during the interrogation, his special restlessness or confusion elicited by a certain question, his desire to avoid talking about particular circumstances and so on. Such signs serve as unique signals to the interrogator having tactical significance."*

One of the unique features of interrogation during the preliminary inquiry is that the person under interrogation does not have full information on the knowledge the examining magistrate possesses on the elements of the event being investigated. In all cases this predetermines the specificity of the mental state of not only the defendant, as had been mentioned above, but also the witness, which must always be taken into account. Such a lack of information forces all persons being interrogated to try to present a mental model of the event as precisely and correctly as possible so that the mental model of the event they reproduce verbally would not differ from the one the examining magistrate probably has.

Different mental states can be capitalized upon during the interrogation. Some states facilitate establishment of contact with the defendant, others encourage his mental activity during the interrogation and, finally, still

*Ratinov, A. R., "Psychological Description of Testimony by a Defendant," in the anthology "Voprosy preduprezhdeniya prestupnosti" (Problems in Crime Prevention), No 1, Moscow, 1965, p 70.

others are required for attaining the goals of using certain methods of forensic psychological influence (see §3).

During the interrogation it is important not only to reveal the mental states of the person being interrogated but also to know how to modify them. In particular, A. G. Kovalev wrote about this: "...When conducting an interrogation...we must not only take account of the state...but also try to elicit positive states facilitating communication and the work of the examining magistrate."*

In this connection some methods of psychological influence are used during an interrogation precisely to alter the mental state of the person under interrogation as a prerequisite for successful application of subsequent methods of influence to attain the principal goals of the interrogation. For example the persuasion method can be used to change the mental state of the person under interrogation, and after this goal is achieved another method can be employed (for example the method of influence by information transmission).

The principal content of an interrogation is made up of the methods of forensic psychological influence upon the person under interrogation. The methods of forensic psychological influence are employed to alter mental states, the course of mental processes, mental images, and the sets of the personality, and to change the person's attitudes toward particular facts. In resolving the question of what methods of influence to use we take account of the specific circumstances of the case, the extent to which the person under interrogation participated in the event and his role in it, and his relationship to this event and other persons (with a consideration for his mental properties). Finally, we mandatorily consider the known personal mental state of the individual subject to interrogation. Only in this way can we correctly structure the plan for employing methods of influence.

We also take account of the communicative properties of the person. In certain cases influence is directed chiefly at developing communicative properties in order to intensify and facilitate contact with the person during forthcoming communication (for example during a confrontation).

If we are to have an influence we must always understand the mental processes occurring in the person under interrogation. To achieve such a situation we would need to make broad use of reflection when preparing for and conducting the interrogation. "The advantage of deliberation by reflection permits the examining magistrate not only to predict the behavior of his rival, thus regulating his own behavior, but also to actively influence his deliberations and set the framework within him for a decision desirable to the examining magistrate."**

*Kovalev, A. G., "Psikhologicheskiye osnovy ispravleniya pravonarushitelya" (Psychological Fundamentals of Correcting an Offender), Moscow, 1968, p 26.

**Ratinov, A. R., "Sudebnaya psikhologiya dlya sledovateley" (Forensic Psychology for Examining Magistrates), Moscow, 1967, p 159.

The goals of information transmission from the examining magistrate to the person under interrogation had been described above. We can expand their interpretation with a consideration for an influence upon the person under interrogation. Information transmission by the examining magistrate has the goal of:

- 1) Explaining the essence of forthcoming communication;
- 2) changing the mental state of the person being interrogated so that the interrogation goal could be attained;
- 3) posing a mental problem;
- 4) facilitating recall;
- 5) persuading the person that certain facts must be communicated.

Interrogation is not simply cognitive activity by the examining magistrate directed at receiving information. As with all cognitive activity, interrogation is also associated in most intimate fashion with the examining magistrate's record maintenance function. Thus the interrogation concept also includes written recording of information obtained from the person being interrogated.

The record of the interrogation does not contain and cannot reflect all information obtained by the examining magistrate during its course. Only that portion of the information which pertains directly to what the person under interrogation has said about events, facts, or himself personally of interest to the inquiry is recorded. The total volume of information received by the examining magistrate is reduced in the interrogation record by: Leaving out all information offered by the interrogator and concerning his behavior; weeding out some of the verbal information due to its irrelevance to the case under investigation; leaving out certain information that had actually been communicated, on the request of the person being interrogated.

The interrogation record is always a certain compromise between the person being interrogated and the examining magistrate. Out of fear or due to other causes the person being interrogated may want to make sure that it was really he who produced certain recorded facts. Thus the examining magistrate's explanations during the interrogation may often be directed at obtaining not only a verbal presentation of information but also the consent of the person being interrogated for written recording of this information in the interrogation record.

Achievement of results during interrogation depends significantly upon the mental qualities of both persons participating in such communication, on whether or not communication is established between them, and on presence of psychological contact, which in turn depends upon the conditions of communication. The conditions of communication may be created by the attitude (prior to interrogation) of each of them (the examining magistrate

and the person under interrogation) to the forthcoming communication--the interrogation. They may be expressed through the external situation of communication, and they may be created through perception, in the course of interrogation, of information hindering communication and altering the course of such communication. Finally, these conditions may be created by the behavior and reactions of persons participating in this specific form of mental communication.

Establishment of psychological contact with the person under interrogation has tremendous influence upon the entire process of interrogation and upon the verbal information obtained. This issue is examined in the next subsection.

§2. The Concept, Goals, and Ways for Establishing Psychological Contact During Interrogation

The goals of interrogation may not be attained if psychological contact is not established between the examining magistrate and the person being interrogated. Establishment of contact is a necessary prerequisite of mental communication--interrogation. It is the first stage, and in many ways it defines the orientation and content of the mental associations that will be achieved in the course of interrogation.

The need for establishing psychological contact is emphasized by all authors that have studied the tactical and psychological problems of interrogation. However, there is no common viewpoint on this issue. Some authors define psychological contact as the end goal of interrogation, that of obtaining valid testimony, others define it as a benevolent attitude of the person under interrogation toward the examining magistrate, while still others define it as a similar but mutual attitude, and so on.

In this connection a statement on the concept of psychological contact by L. B. Filonov and V. I. Davydov, who made a special study of questionnaire responses by a significant number of examining magistrates with the goal of revealing the viewpoints of practical workers in relation to this issue, is interesting: "In our interviews the examining magistrates all agreed that contact with the person under interrogation is one of the principal factors upon which success of interrogation depends. Experienced examining magistrates assert that they often waste a great deal of time talking about entirely irrelevant things in order to finally gain contact with the person under interrogation. However, different examining magistrates impart different meanings to the concept of contact. To some, contact is achieved as soon as the person under interrogation shows a willingness to talk with the examining magistrate; to others, contact is only the result of interrogation: If the examining magistrate receives the needed information from the person being interrogated, 'this would mean that contact had occurred.' Experienced examining magistrates agree that contact includes mutual relationships between the examining magistrate and the defendant during interrogation under

which the examining magistrate conducts the interrogation in the most successful manner and can employ the appropriate procedures most fruitfully and with the least error, and predict the course of interrogation.... Presently we can only say in general form that contact is produced on the basis of integrated use of information on certain personality traits of the defendant, on his ways of thinking, and on his basic orientation."*

As we can see from this citation the authors nevertheless fail to place the concept of contact and the goals and ways of establishing it into words. Their information permitted them only to specify that knowledge of the personality of the person being interrogated is needed if contact is to be established.

The concept of contact is associated chiefly with insuring the conditions for achieving the overall goals of interrogation. Its definition must include presence of a desire for communication by the person under interrogation, his readiness and ability for perceiving and processing information offered by the examining magistrate during communication, his readiness and ability for solving the mental problems posed to him by the examining magistrate and for activating and directing his mental processes toward solving these problems.

We can assume that psychological contact is established when in preparing for the interrogation the examining magistrate becomes sure that the necessary conditions for the best manifestation of all elements of mental communication have been created.

In correspondence with this, the conditions for receiving information, processing it, and transmitting it must be created for the person under interrogation. These elements of communication mandatorily presuppose stimulation of mental activity in the person under interrogation in such a way that he would be in a position to perform all forms of activity during information exchange. He must be in a state permitting correct perception of information from the examining magistrate, its active processing, and complete transmission of information he possesses. Establishment of contact does not at all imply that in all cases the person under interrogation has a desire to tell all information he possesses completely. There must be a desire to transmit information in general. This by itself would mean that the person would be susceptible to information from the examining magistrate and to his methods of influence. Thus contact implies an understanding of information, presence of an interest toward receiving and processing it, and presence of a mental state promoting such active processing.

The purpose of establishing psychological contact is to eliminate all interference (external and internal) that may hinder development of proper mental

*Filonov, L. B., and Davydov, V. I., "Psychological Procedures for Interrogating a Defendant," VOPROSY PSIKHOLOGII, No 6, 1966, pp 119-120.

associations between the examining magistrate and the person under interrogation in the process of attaining the goals of interrogation.

This interference can be caused by:

- 1) Presence of distractive stimuli;
- 2) absence of interest and, especially, prejudice---a negative attitude toward forthcoming communication;
- 3) presence of mental states hindering development of communication or making it impossible.

We can in a sense discern several stages in the process of establishing contact.

1. Clarification of the possible effect of the interrogation situation upon mental processes and states of the person under interrogation. This includes an entire complex of measures directed at creating external conditions that would facilitate communication and conduct of the subsequent interrogation. We must create an interrogation situation which would generate the greatest interest of the person under interrogation in the goals of interrogation and in communication with the examining magistrate. We must exclude the possible action of distractive stimuli to the greatest extent.

2. Establishment of psychological contact begins when the examining magistrate displays his own communicative properties. Display of these qualities would help to alleviate and eliminate a situation of sharp conflict, to encourage an interest in the person under interrogation toward forthcoming communication and toward his transmission of information, and sometimes to alter his set for behavior during interrogation. The examining magistrate's display of his communicative properties must arouse interest in the person under interrogation toward forthcoming communication. This would concentrate his attention on the forthcoming interrogation and force him to attentively perceive the examining magistrate's information and follow his thoughts.

The examining magistrate must also display his positive communicative qualities as he establishes contact in the case where the person under interrogation knows what information is expected of him in the interrogation and recognizes the significance and importance of this information to investigatory agencies. The examining magistrate's display of his communicative properties would activate the person's thinking and his desire to completely transmit all information he possesses to the examining magistrate and to communicate all facts of which he is aware to an even greater degree. By his initial relationship to the person under interrogation the examining magistrate tries to make him ready for action in the subsequent stage of interrogation.

In establishing psychological contact in the course of subsequent interrogation the examining magistrate should never forget that he also is an object of observation and that information coming from him can intensify contact or cancel out the results he had already attained thus far. This is precisely why it is extremely important for the examining magistrate to display all of his positive communicative properties as he establishes contact.

3. Establishment of contact presupposes a knowledge of the true state of the person under interrogation at the present moment and determination of the need for altering his mental state in some particular way. Establishment of psychological contact always presupposes careful analysis of the specific personality features of the person under interrogation, analysis of his state at the given moment, analysis of the points of stimulation and inhibition in his thinking, and analysis of his attitude toward the examining magistrate, toward the fact that he had been summoned for interrogation, and toward the goals of the interrogation. Without analyzing the personality of the person under interrogation in this way, the examining magistrate would not be able to properly define his subsequent course in establishing psychological contact. Consequently, this would mean that he would not be able to establish contact.

While in psychological contact the examining magistrate must clearly determine which mental state the person under interrogation should have for the most complete attainment of the goals of interrogation and for insuring the greatest mental activity on the part of the person under interrogation. The most diverse methods of influence are employed to alter mental state in this stage of interrogation. However, their goal is highly specific: They are used only to alter the mental state of the person under interrogation, to insure the necessary conditions for subsequent interrogation.

As had been noted above interrogation is a unique form of communication because in most cases the person, who recognizes the need for forthcoming communication (the interrogation) because he had been summoned by the examining magistrate, does not initially know the goal of this communication, or he knows it only in its most general form. This generates nervousness and heightened caution before the interrogation begins. Such a state cannot promote active resolution of all interrogation tasks. Therefore it must be alleviated during the first stage of interrogation, in the process of establishing contact.

The mental state of the person under interrogation at the beginning of interrogation depends upon his attitude toward this case, the extent to which he is informed of it, and his knowledge of the reason he was summoned for interrogation. Finally, the mental states of the person under interrogation may not be directly associated with the circumstances of the specific case and with his summons to this interrogation. The person may be disturbed by entirely other events and circumstances. Nevertheless such disturbance may significantly reduce the success of interrogation. In the stage of establishment of contact we should always clarify the causes of particular states in order that the ways for altering them could be thought out and determined.

These states are modified by communicating the goal of interrogation, by posing specific mental problems, by defining the goals of forthcoming communication, by specifying the role of the person under interrogation during such communication, and so on.

Psychological contact always means encouragement of states facilitating perception of information from the examining magistrate, and thus facilitating subsequent implementation of the methods of influence.

4. Alteration of the psychological structure of communication is also included in the actions of establishing contact. We know from the discussion above that psychological communication can vary: It may take the form of sharp conflict as well. Development of sharply conflicting mental associations always contradicts the goals of interrogation and reduces the mental activity of the person which would be needed to solve the mental problems in the course of communication. In correspondence with this, alteration of the form of psychological communication and alleviation of sharp conflict is also a goal of establishing psychological contact. This would allow creation of conditions (even if a relationship of conflict continues to exist) necessary for interrogation.

5. Stimulation of the interest of the person under interrogation toward forthcoming communication (the interrogation) is a mandatory stage in establishing contact. His interest could be encouraged in different ways (depending upon the goal of interrogation, specific features of his personality, and so on). It can be achieved by explaining the significance of information from a witness and the social importance of his activity in this legal role. Interest can also be stimulated by transmitting information important to the person under interrogation and by informing him of the goal that must be attained during the forthcoming interrogation. Interest in communication can also be stimulated by a desire to explain one's true position, one's actual behavior, and one's relationship to particular circumstances in the event. When a desire to communicate is stimulated in the person under interrogation, contact with him has been established.

The possibilities and ways for establishing contact depend significantly upon the mental features of the person, the legal status of the person under interrogation, the extent to which he is informed of the goal of forthcoming communication and, finally, on the set of the person under interrogation for behavior during the forthcoming interrogation. Hence it is clear that psychological contact with a witness is not the same as psychological contact with a defendant. Establishment of psychological contact with a person detained for the first time differs from establishment of contact with a person who had already been interrogated several times in relation to the particular criminal case.

Sometimes it is erroneously believed that only with the defendant is it necessary to establish contact. Contact must be established with the witness and the victim as well. The goal of establishing contact is to alleviate

mental states which would hinder information exchange, perception of information, and its processing. Such states do in fact occur most frequently in the defendant, but they may also exist in the victim. Due to the wrong done to him the victim may be in such a mental state and be so immersed in his internal experiences that he would be unable to deeply, correctly, and thoroughly solve all problems posed to him by the examining magistrate. He would be unable to perceive and transmit the information required.

Established psychological contact must be maintained constantly throughout the entire interrogation. In this connection it would be more proper to call the stage of establishing contact a constant process, which develops and which is monitored throughout the entire interrogation. This contact may be disturbed during the interrogation through errors made by the examining magistrate. This happens because the person under interrogation may lose interest in communication, because mental states arise that hinder mental activity on the part of the person under interrogation, and so on.

After stimulating interest toward forthcoming communication and exchange of information, during the interrogation the examining magistrate must himself display continuous interest toward the information offered by the person under interrogation. In correspondence with this he must assume a line of behavior under which the person under interrogation would feel that the examining magistrate does have a certain interest in the information transmitted to him and sees that the examining magistrate is interested in receiving it. Absence of interest in perception of information on the part of the examining magistrate would reduce interest in communication on the part of the person under interrogation. It would reduce the volume of information transmitted and lead to loss in psychological contact.

Maintenance of contact requires that the examining magistrate monitor his activity during the interrogation so as not to create conditions that would produce states in the person under interrogation reducing his mental activity. This presupposes extreme tactfulness in his relationship to the witnesses and defendants. The latter may have a sharpened sense of dependence upon the examining magistrate, which is capable of having a negative influence upon their mental activity.

Once established, psychological contact is not a continually acting factor. Correspondingly, contact must be established (though perhaps not in full volume, with a limited goal) each time the given person is interrogated. The reason for this is that with each new encounter the person may be in a different (in relation to a former interrogation) psychological state. He may have rethought the course of the previous interrogation, encounters and events may have occurred to alter some of his viewpoints and his attitude toward the examining magistrate, and so on. Finally, the very fact of a new summons to interrogation would result in a certain amount of apprehension, nervousness, and so on. Moreover, the examining magistrate may be perceived differently each time. Change in behavior of the latter and the slightest alterations in his attitude toward the person under interrogation are also

capable of generating new facets in his mental state. Hence irrespective of the number of times the interrogations are conducted the examining magistrate must never weaken his attention to the stage of establishing contact.

§3. Some Specific Features of Employing the Methods of Forensic Psychology For Influencing an Individual During Interrogation

All forensic psychological methods of influence can find use in particular forms of interrogation and in particular situations. Thus the persuasion method enjoys broad application. The specific situation of interrogation, or a one-to-one conversation between the examining magistrate and the person under interrogation, and the possibility for prolonged contact create favorable conditions for influence by this method. At the same time the specific conditions of the preliminary inquiry mean that we must often employ modifications of the methods of psychological influence which could not be employed in other investigatory functions, all the more so in other stages of the administration of justice. A unique feature of psychological influence during interrogation is maximum use of a restricted amount of information from defendants and suspects on facts known to the examining magistrate, and capitalization upon specific psychological states arising in connection with the investigation situation. These specific conditions require development of special modifications of the methods of influence.

However, the lack of information possessed by defendants and suspects concerning the actions of the examining magistrate and the facts he has collected should never encourage even an attempt at using false information to influence the person under interrogation. A fundamental principle of all forensic psychological methods of influence is the total impermissibility of transmission of false information by the examining magistrate. "...Whether the examining magistrate likes it or not, deceit during investigation is always either a falsification of facts or the soil for it. Therefore no excuse that use of deceit during interrogation is 'successful' can be an argument in favor of permitting it."* All interrogation methods permitting use of false information should be considered erroneous.**

Inasmuch as many methods of influence are based on capitalizing upon the fact that the person under interrogation is insufficiently informed, a general rule in employing them is for the examining magistrate to transmit a minimum amount of the information he possesses. In this case the need for monitoring the entire process of information transmission is a rule that must be observed

*Rozovskiy, B. G., "Some Problems in Using Psychological Procedures to Interrogate Defendants," in the anthology "Kriminalistika i sudebnaya ekspertiza" (Criminology and Forensic Expert Evaluation), No 2, Kiev, 1965, p 14.

**As an example incorrect recommendations such as these were supported in the article "Some Psychological Procedures of Investigation" by V. G. Krasuskiy (in the anthology "Sledstvennaya praktika" (Investigatory Practice), Issue 65, Moscow, 1964).

strictly. The volume of information transmitted depends strictly upon the goal of its transmission. As a rule this volume does not exceed that necessary for solving a particular problem during the interrogation. Transmission of surplus information hinders employment of other methods of influence, it can produce a loss of interest in communication, since everything of interest to the person under interrogation would already have been transmitted to him, and this can cause a loss in psychological contact, which is an indispensable prerequisite for achieving the goal of interrogation. Transmission of surplus information can tire the person under interrogation, sharply reduce his mental activity, and sharply reduce the possibility for his perception of other methods of influence.

Let us examine several specific methods capitalizing upon the fact that the person under interrogation is insufficiently informed.

Modifications of the Method of Influence by Information Transmission

Influence by the information transmission method is often employed in the preliminary inquiry in order to intensify emotional influence. The emotional influence of information transmitted during interrogation can be explained by the overall state of the person under interrogation and the extremely sharpened perception of information elicited by the high demand for it and its acute lack in the preliminary inquiry, and the specific reaction to the fact that the examining magistrate possesses this information. Emotional perception of information is also often intensified due to exaggeration of the significance of this information to investigation of the crime. This once again is a consequence of the restricted amount of information possessed by the person under interrogation on the course of the investigation.

Not only available information but also the situation created, in which keenly awaited information is not provided, is often employed with the goal of emotional influence. The behavior of the defendant can be changed and he can be influenced by the fact that his hopes for obtaining certain information are gradually destroyed. In turn, this intensifies his state of inner tension more and more, often resulting in his communication of facts that he had long concealed to the inquiry in order to release this tension.

There is even a specific modification of the forensic psychological method of influence by information transmission that takes account of the specific conditions in which information is revealed during the preliminary inquiry. This is the emotional experiment, the essence of which lies in unexpected revelation of materialized information (material evidence, a person, and so on) to the defendant (usually the suspect), associated with the crime and the actions of preparing for and concealing the crime, having the goal of eliciting a reaction in the defendant generated by intense change in his emotional state in response to the information transmitted to him, and of providing observations on his reactions. The reaction of the defendant to information revealed to him permits us to conclude as to his true relationship to certain events and facts, and then to alter his line of behavior during interrogation.

The doctrine of the dominant--a temporal mechanism in cerebral activity--is the theoretical foundation of the emotional experiment. The dominant always leaves a trace in the human brain and can be reactivated by a similar (or the same) stimulus. This is precisely why information possessed by the examining magistrate, which is at the same time an inherent element of the dominant, has an influence upon the person under interrogation which sharply changes his emotional state. This is expressed externally in his behavior, actions, and psychophysiological reactions.

This tactic is an experiment because the examining magistrate intentionally creates conditions under which the emotional state of the person under interrogation changes radically, often producing certain physiological reactions. The experiment is called emotional because its purpose is to reveal changes in emotional state and permit subsequent analysis and use of the revealed change in the interrogation.

In determining the possible force of emotional influence upon a particular defendant of a specific item of information, we must consider that the force with which the stimulus influences his emotional state depends upon the time of perception, the unusualness of the event, the psychological features of the defendant, his general state at the given time, and the specific features of the line of behavior he has chosen at the time of investigation.

The greater the role this information can play, in the defendant's opinion, in his unmasking, the more intense is the emotional influence of the information revealed. Therefore the emotional experiment must always be preceded by careful analysis of the defendant's mental qualities, his line of defense, the versions he suggests, and the extent to which the possible direction of his thinking can be revealed.

The more intensively the crime is experienced and the more firmly it is retained in the memory of the defendant (in view of repentance or in view of a fear of revelation), the greater would be the emotional influence of information recalling this event, especially if the defendant does not know that the examining magistrate has such information, if he believes that this information totally destroys his line of defense against the accusation.

In addition to evaluating the assumed significance of the information, in preparing for the emotional experiment we must carefully think out the conditions under which it is to be revealed during interrogation. Among the conditions of revelation we must take account of the mental state of the person under interrogation: It must insure perception of the information prepared for revelation at the highest emotional level. We should always think out beforehand the particular mental state that would insure the strongest reaction by the person under interrogation, his state at the present time, and the way it could be altered to the state required.

Certain demands are also imposed on the information that must have an intense emotional influence. It must be as emotionally neutral as possible to a person who does not know the circumstances of the case. In this connection the corpse should not be shown because this can elicit a sharp emotional change in any person, even one who has no association whatsoever with the murder. The information must have its influence because it is in the memory of the guilty person and resurrects the crime in his mind, which he stubbornly denies during the inquiry.

The defendant must not know of the plan for revealing the information. His line of behavior depends to a significant degree on his hope that the examining magistrate lacks a specific fact. Thus a sharp alteration in his emotional behavior is produced by instantaneous elimination of the version he has made up.

To achieve success with the emotional experiment we must comply with a great number of rules pertaining to its conduct. By doing so we considerably increase the reliability of the stimulus and facilitate subsequent evaluation of the experiment's results.

1. The defendant should be influenced first by other methods (persuasion, and so on). The strength of the emotional experiment lies in the fact that this method is employed not in isolation but rather as one of a number of methods, on their foundation, on the basis of the mental state of the defendant generated by these methods. All of this prepares the necessary orientation in the defendant's thinking and creates the proper mental state directly prior to the moment certain information is revealed to him.

2. The selected information must be revealed suddenly, unexpectedly. This creates additional conditions for sharp alteration in emotional state, which cannot be concealed from the observing examining magistrate.

3. The examining magistrate should refrain from explaining the significance of the information verbally at the very moment it is presented during the experiment, since simultaneous perception of the examining magistrate's words could reduce the expected reaction of the defendant and the intensity of the externally manifested reaction.

The results of an emotional experiment could include display of the following by the defendant:

- 1) Expressive motions (facial expressions, gestures, "verbal" expressions);
- 2) externally expressed changes in the autonomic nervous system (arisation of sweating, pallor, and so on);
- 3) sharp change in mental state (depression, excitation, and fear, which can also be expressed through changes in facial expressions and gestures);

4) an immediate verbal reaction indicating that the defendant actually has a relationship to the revealed information which he had formerly concealed.

While in the first two cases the defendant's reaction attests directly to the strong emotional influence of the perceived information, in the last two cases it attests to more-profound alterations in the orientation of the defendant's thinking in response to the revealed information.

The emotional experiment not only causes display of a certain reaction to that which is perceived. It also causes subsequent change in state, which is also dependent upon the fact revealed and the reaction to it.

It is important to distinguish personal state (associated with internal experiences of the person, usually inherent to the given individual) from the situational state, which materializes as a result of perception during the emotional experiment.

The emotional experiment is unique not only in that it is performed in the process of influencing the defendant but also in that its conduct presupposes further change in influence. Therefore this method is always employed as part of a general system of influence, in the course of interrogation.

Another unique feature of the emotional experiment is its dual significance: Its results are evaluated by both the examining magistrate and the defendant himself. Observing the defendant's reaction the examining magistrate is persuaded of the correctness of his hypothesis concerning the defendant's implication in the given criminal case and the given event. This determines the orientation of his influence in the course of further interrogation. The emotional experiment has even greater significance to the defendant, who recognizes that in the course of the experiment and as a result of his involuntary reaction and his behavior, which he could not place under control immediately, he had given away his true relationship to the particular object, and that in connection with this his line of negating certain facts and events has become entirely senseless. This is precisely what defines the orientation of subsequent influence upon the defendant. At this point it would be mandatory to point out the significance of the defendant's behavior to him and to intensify the influence of logic as a supplement to the influence he had been subjected to during the course of the experiment.

Conduct of an emotional experiment by the examining magistrate requires significant knowledge of the psychology of the persons under interrogation, careful analysis of the mental features of the persons that are to be interrogated, and special attentiveness in preparing for and conducting this experiment.

Modifications of the Method of Posing and Varying Mental Problems

This method has specific features when used in interrogation during the preliminary inquiry, stemming from the fact that in solving the mental

problem posed to him by the examining magistrate it is very important for the person under interrogation to know and take account of the information the examining magistrate possesses on the given issue. The method of posing and varying a mental problem very often attains its goal in the preliminary inquiry precisely in view of these specifically evolved conditions. What we have here is an acute lack (at a particular stage of investigation) of knowledge as to the amount of information possessed by the examining magistrate, and a specific state of the defendant elicited by this lack. This leads to a situation in which the person under interrogation solving the mental problem is forced to make use of facts in his mental model of the event being discussed in the interrogation but which he is continually trying to conceal from the examining magistrate.

In order that posing of a mental problem could attain its goal as a method of influence (confession of the crime, narration of the concealed event or fact), the mental problem must have a certain property: To the extent possible it must correspond with the mental problems the defendant had to continually solve in preparing for the crime, during it, or during the investigation itself.

The entire success of this method rests with inclusion of information into the thinking of the person being influenced which he knows in view of his participation in the crime and the particular illegal acts he performed, and not information he has picked up from the materials of the criminal case.

Another prerequisite of this method is an orientation in the thinking of the person under interrogation, established by posing the appropriate problems (questions) to him, which would force him to use information contained within his mental model of the concealed event or fact. The person under interrogation must often structure his response namely with a consideration for the information he is concealing. The art of interrogation lies in the ability to reveal elements of the concealed event in the response of the person under interrogation which would gradually permit the examining magistrate to gather complete information on the event even if the person under interrogation tries to conceal it.

We can cite the following case as an example of posing such mental problems. "During inspection of a store in which a theft had occurred the examining magistrate discovered a woolen blanket on the floor beneath a window. The blanket had several indentations which permitted the hypothesis that someone had tried to hang it several times on a nail driven into the top of the window frame. The criminal had to cover the window because the streetlight illuminated the inside of the store well. The suspicion of theft fell upon a certain P. During the interrogation the examining magistrate asked him only one question: 'What do you think, was the criminal, who had been trying to cover the window in the store, seen by a passerby?' Recalling that the blanket had dropped off several times in his attempts at hanging it on the nail, P. decided that he had been seen at that time by someone who knew him, and he confessed his guilt in the theft."*

*Rozovskiyy, B. G., "Some Problems in Using Psychological Procedures to Interrogate Defendants," in the anthology "Kriminalistika i sudebnaya ekspertiza," No 2, Kiev, 1965, p 16.

This case is a persuasive example of how a mental problem posed to the person under interrogation forces him to employ information he possesses and guess at the lacking information, which results in his conclusion that he must confess his guilt.

Questioning procedures in which the examining magistrate intentionally poses a question ahead of a series of logically expected questions, which in the opinion of the person under interrogation should have been asked first, are a modification of this method.

In a case against M., witness K. had been with the former in the evening immediately prior to a robbery. For a large number of reasons the testimony of this witness was extremely important to the case's investigation. It was known from police data that K. had stated that were he to be summoned for interrogation he would categorically deny that he had seen the defendant at a certain place (in a movie theater). Beginning the interrogation, the examining magistrate did not ask the witness whether or not he had seen the defendant in the movie theater (this was the expected question). Instead, he asked: "Tell me, was M. already at the movie theater when you arrived?" The witness answered: "No, he came in later." This is the way the question as to whether or not he had seen the defendant at the movie theater was resolved.

The person under interrogation had prepared himself for one particular problem. It was precisely about this problem that he had concentrated a certain defensive inhibition. Altering the logical association and sequence of questions the examining magistrate could thus cross this "defensive" border.

Another modification of this method is posing a series of detailed questions with which we can reveal total unawareness of a significant number of small details by a person who had given false testimony on an event in which, in his words, he had participated. Thus if the false witness asserts that he had spent the evening together with the defendant in the apartment of the latter, by an entire series of questions the examining magistrate can produce a situation in which the person under interrogation himself realizes in the end that he does not possess information which he should have possessed, were he truly a participant of this event (who else was in the room, who was sitting, who was doing precisely what, the details of conversations, the details of actions, who left first, who made a telephone call, who was wearing what, what were they drinking and out of what, who was eating, and so on). In the overwhelming majority of cases such persuasion of the person under interrogation supplemented by continuing influence on the part of the examining magistrate leads to cessation of false testimony.

The Method of Indirect Suggestion

A lack of information on the part of the person under interrogation, which is a general feature behind the methods of psychological influence during the preliminary inquiry, permits broad application of the method of indirect suggestion. In this case the person under interrogation concludes that he

must change his selected line of behavior in the interrogation after perceiving facts revealed by the examining magistrate not pertaining directly to the crime. The method of posing and varying mental problems differs from this method in that the orientation of thinking by the person under interrogation is changed in the first case by means of facts pertaining directly to the crime, which does not occur with the method of indirect suggestion.

In this method the person under interrogation is given facts not having a direct bearing on the crime with the hope that the knowledge of these facts and transmission of this information by the examining magistrate would lead the person under interrogation to the conclusion that the examining magistrate does have all of the information on the crime. In this connection the person under interrogation concludes that there would be no sense in maintaining his previous line of behavior, directed at concealing facts already known to the examining magistrate.

As an example of the method of indirect suggestion we can cite a criminal case in which leather was stolen from a leather enterprise in the Belorussian SSR. A worker of the warehouse who was accountable for several invoices bearing altered dates discovered by an inspection had to be interrogated. The entire text of the invoices was written by a worker of the material division in the bookkeeping office, and the alterations were made by V., the warehouse worker. The examining magistrate knew from testimony by other witnesses that the principal organizers and participants of the misappropriation had tried every possible way to keep warehouse worker V. from explaining the true reasons for alteration of dates on the invoices and not to name the persons involved. V. promised to fulfill this request. Thus there were sufficient grounds for hypothesizing that V. would not tell the truth in the interrogation.

Preparing to interrogate V., the examining magistrate collected a significant number of facts pertaining to the biography of this person. Thus he revealed where V. had worked before the leather plant and the true reason he left his former place of employment (which did not correspond to what was written in his labor document). The examining magistrate was also interested in where V. had spent his last leave, precisely where he spent his vacation, and so on. The collected information was thought out very carefully and used at the beginning of V.'s interrogation. During loose conversation prior to the interrogation the examining magistrate asked the following question of witness V. among others: "Why had you developed hostile relations with the chief accountant of the rayon union of consumers' societies in which you had formerly worked?"

The content of this question persuasively demonstrated to the witness that the examining magistrate had a full knowledge of all the circumstances behind his release from the union, even though this had occurred 3 years ago. After receiving the response to the question the examining magistrate next asked him: "How did you enjoy your vacation in Gelendzhik?" Once again

this question had the purpose of demonstrating that the examining magistrate was deeply informed on all circumstances of the witness's life, including his summer vacation. In preparing for the interrogation the examining magistrate managed to learn that witness V. left the vacation home together with P., with whom he spent 3 days in Rostov-on-Don. The examining magistrate also capitalized upon this circumstance in his questions. During the same loose conversation he asked: "Well, how did you like Rostov, what could you have possibly seen in 3 days?" The content of this question once again persuasively demonstrated to the witness that the examining magistrate had extremely deep knowledge on his life. This entire carefully thought out series of questions and the information transmitted through them should doubtlessly have led the witness to the conclusion that the examining magistrate had carefully collected information on him long ago. This in turn could not fail to suggest to him that if the examining magistrate had been able to collect so much detailed information on circumstances not having a bearing on the crime, what information could he have collected on circumstances pertaining directly to this case?! Without the direct influence of facts pertaining directly to the case, all of this firmly persuaded witness V. (as he himself later told the examining magistrate) that he must tell only the truth during the interrogation since the examining magistrate would be able to unmask him immediately in any attempt at providing false testimony, that in the end this could only have a bad reflection upon his own, witness V.'s, fate.

A Modification of the Method of Influence by Controllable Mental Associations

This form of influence is associated with the fact that the person under interrogation has limited information. In its fullest form this modification of this method of influence is implemented through confrontation, which will be discussed in more detail in the following chapter.

This method sometimes enjoys special application in investigating crimes commissioned by a group of persons. In practice we often encounter cases in which one of the defendants may falsely persuade the examining magistrate that he had told the entire truth, while in fact he continues to conceal the crime or a certain event. When conspirators exist in the case the examining magistrate asks the person under interrogation to say the same thing to his conspirator, who is to be brought into the interrogation office immediately. Such control of forthcoming mental associations, in which one of the participants of the crime is forced by the circumstances and by his own previous behavior to say something that he does not in fact want to say, is often employed in investigatory practice. This method often produces a positive impact when all conditions are taken into account correctly and the necessary steps are taken to control the mental associations between defendants in proper fashion (to prevent the possibility for exchanging any sort of meaningful gestures, and so on).

SECTION FIVE
PSYCHOLOGICAL FUNDAMENTALS OF
COURT PROCEEDINGS

CHAPTER 24
MENTAL QUALITIES OF JUDGES

§1. Mental Qualities of a People's Judge

The activity of a judge is extremely complex and diverse, but at the same time its inherent components are relatively stable and are manifested in every criminal and civil case examined. This constancy of activity helps to develop, nurture mental qualities in the judge which correspond to the greatest degree with the functions he performs.

By examining the psychological structure of court proceedings we can reveal the qualities a judge must have in performing all of his functions and all forms of activity at court.

First of all a judge must have a high degree of responsibility for his activity and for the decisions he makes, and an awareness of his responsibility for all the consequences of his decisions. This responsibility is generated on the basis of high moral qualities, communist ideology, and socialist recognition of law, and as a result of a constant understanding of responsibility and the importance of the judge's activity to Soviet society. The prerevolutionary lawyer L. Ye. Vladimirov wrote: "The belief that our opinions cannot have direct practical consequences is one of the main reasons why a society which deals in politics because it has nothing else to do can produce so many superficial and even entirely false theories and viewpoints."*

*Vladimirov, L. Ye., "Ucheniye ob ugovolnykh dokazatel'stvakh" (Doctrine on Criminal Evidence), St. Petersburg, 1910, p 39.

Continual responsibility of the judge before society stimulates his cognitive capabilities to the maximum, and analysis of the information he receives requires that he make clear decisions. Speaking in 1934 at a solemn meeting devoted to the 10th anniversary of the USSR Supreme Court, M. I. Kalinin described the qualities required of a Soviet judge in the following way: "The judge must be a person who by his own behavior and by his own attitude toward work has earned trust and authority; he must be a person who has great sociopolitical experience, can analyze people and, I should also add, who is a cultured person."*

The work of a judge is unique in that it cannot be interpreted only as work; it must always be a calling. This circumstance was well noted by G. Medynskiy, who wrote the following in his study of the causes of legal error: "The crux of the matter lies in the very psychology of the judge, in his philosophical idea about his relationship to man and society.... The functions of a judge are not work; the functions of a judge are a lofty social service, and a blind judge is not a servant to the people."** This awareness of one's duty must be constant in the judge.

The activity of a judge in a sense combines both the elements of the activity of an administrator or a collective manager, and the elements of the activity of a scientist. "The judge must be a sophisticated psychologist, a person combining his occupational knowledge and skill with the capabilities of a scientist."*** Only this combination and continual development of all necessary mental qualities would provide a judge the possibility for correctly performing his complex activity.

The uniqueness of activity and communication in court requires that judges develop specific properties for communication, which must insure establishment of contact and the necessary mental associations with all participants of the process and insure respect for socialist justice. All of the judge's behavior must attest to his desire to learn the essence of the events at hand and the mutual relationships among persons who had taken part in these events.

The behavior, the countenance of a judge must be such that he immediately encourages respect for himself, so that all persons present are persuaded of his righteousness and of his ability for solving complex criminal and civil cases and deciding the fates of people. The ability for displaying these qualities is one of the specific features of the communicative properties of the judge. The principal point to consider in the communicative properties of a judge is not a desire to be pleasant in communication (a soft smile,

*Kalinin, M. I., "O sotsialisticheskoy zakonnosti" (Socialist Legality), Moscow, 1959, p 177.

**Medynskiy, G., "Trudnaya kniga" (A Difficult Book), Moscow, 1966, p 333.

***Lyakas, A. G., "The Problem of a Psychological Description of the Activity of the Principal Participants in Court Examination," PRAVOVEDENIYE, No 4, 1966, p 115.

courtesy, a sympathetic look, and so on), but rather the ability to demonstrate by one's own appearance a desire to thoroughly analyze all circumstances of the given case and concentration of mental and volitional strength. This is precisely what elicits respect toward both the judge and justice as a whole. This is precisely the stimulus for all participants of the process to carefully, thoroughly present the facts, their evaluations, and their ideas about particular facts.

During a court hearing the judge must never show by his appearance, behavior, or attitude toward some participants that he already has an opinion on the given issue. Final resolution of constructive activity occurs only in the deliberation chambers. Strict compliance with this rule helps him not only to properly clarify the problem but also perform cognitive activity correctly. If the participants see from the behavior of the judge that he already has an opinion on the given issue, this would significantly reduce their interest and their mental activity directed at clarifying and explaining certain circumstances of the case. This in turn would mean that the court would be unable to perceive certain facts or hear out certain opinions about the mutual associations, the interrelationships between these facts.

Being constantly aware of the influence of his behavior upon all people present in the courtroom, at the same time the judge should not think about what impression he may make on a specific person (his relative, his friend). The judge's behavior must never be intended for an external impact. Elements which are knowingly intended for external approval by those present in the courtroom and for gaining the sympathy of some person present are impermissible in either the judge's behavior or speech.

The judge is always in the center of attention of all participants of the court process. Most of the persons present have their eyes on him. His every word and gesture is perceived as having great significance to the case. In such a situation mental qualities such as endurance, calmness, and disinterestedness acquire special significance. Disinterestedness of the judge must be displayed constantly in all of his questions, individual remarks, gestures, and behavior.

Court proceedings cannot go on in abstraction from emotions. We cannot demand that the judge be unemotional. He is seeking the truth and, as V. I. Lenin noted correctly, "without 'human emotions' there has never been, nor can there be a human search for the truth."* Emotions direct the process of establishing the truth and help the search for a correct decision. The emotions of the judge as he perceives particular facts are always in the center of attention of all persons present in the courtroom, who can make the most diverse conclusions from the judge's external display of his internal emotional state. This means that being internally emotional in the

*Lenin, V. I., "Poln. sobr. soch." (Complete Collected Works), Vol 25, p 112.

perception of facts, the judge must remain disinterested in communication with respect to his outward behavior. Only such behavior by the judge would insure both finding the truth and having an educational influence in the legal process. Continual control over one's behavior, one's emotions, and their expression is an indispensable trait of a judge's activity.

Such demands imposed upon a judge's activity can be satisfied only if he has high volitional qualities, which are continually nurtured in the judge by self-control over his behavior, and an ability to analyze and direct his emotions and states.

Every examination of a criminal or civil case requires that the judge display his high volitional qualities, which must insure that all doubts and uncertainties he may have would be overcome and that his constructive activity would be conducted clearly so that in each specific case, irrespective of the situation's complexity, he would make the correct decision that corresponds fully to the essence of the given case.

Another unique feature of a judge's activity is that he cannot and must not impose his opinion upon either other judges or other participants of the process. This is insured by extremely well developed tactfulness, which is generated in the process of his work. Such tactfulness is developed on the basis of the judge's deep conviction that only the freely expressed opinion of each participant in the process would provide a possibility for correctly understanding the truth and making the correct decision in the end.

During a court hearing the judge must communicate with a large number of participants in the most diverse age categories having different levels of education, development, and so on. The judge's every expression, every phrase must correspond fully to the rules of ethics and behavior adopted by the society. The judge must relate respectfully and properly to all that is respected by the Soviet people--old age, title, services before the people, and so on. Unfortunately we still encounter cases in which some judges permit themselves to call the witness "an old lady" and permit impertinent and insulting remarks concerning the clothing and occupation of a particular witness.

The judge must be able to modify his behavior with a consideration for the situation that has evolved. The composition of the audience, its attitude toward certain participants of the event, and the evolved opinion on this event can vary. Therefore the reactions of the courtroom can sometimes vary as well, sometimes hindering the activity of the court, making it more difficult. The composition of the audience can also affect the course of court inquiry and the judge's behavior. The judge's activity during a court hearing can change depending upon the attitude of the audience.

The entire set of the judge's mental qualities must insure a deep, thorough cognitive process that has an educational influence upon all persons present, and they must insure correct resolution of the case and implementation of the decision made.

We had already noted that one of the unique features in the activity of a judge is the need for perceiving and analyzing a large volume of the most diverse information within the brief period of time of a court hearing. This unique feature of his activity requires that the judge know how to concentrate his attention to the maximum and strain his mental capacities to insure reception and processing of all of this diverse information. The judge must know how to fight against fatigue and loss of attention, and he must not be distracted by other matters in the course of the examination.

We had already noted that the constructive activity of a judge (attempts at resolving the issue, directing his mental processes toward resolving the issue) begins while cognitive activity is still going on. The process of obtaining information is always a process of conceptualizing this information. The judge must simultaneously perceive the information, analyze it, compare it with information he already has, and continue to manage the course of the legal process and the activity of all participants in the process.

Another unique feature of a judge's activity is that when making a decision he must foresee its consequences into the far future. He must foresee the consequences of his decision to society as a whole, to the specific labor collective, to the convict, his family, the victim, and so on. Finally he must also foresee the way his decision would be perceived by those present in the courtroom. This diversity of the judge's mental activity requires development of particular mental qualities (broadness and depth of thinking), and development of the ability to generalize and analyze a large number of facts and interrelationships.

It is important for the judge to develop his imagination since only with its help can he mentally recreate a model of the past event, the circumstances of which are being examined in the court hearing, chiefly on the basis of verbal information.

Learning the circumstances of the case chiefly through the testimony of various participants requires that the judge have significant knowledge on the laws of psychological science. Presence of psychological knowledge would permit the judge to correctly define his attitude toward the source of the information he receives, to reveal the possible causes for his distortion of the facts, reveal the mental features of the given person, understand the motives of his activity both during the event under examination and at the present time, and influence the personality.

The need for organizing the legal process and the activity of many participants in the process requires that the judge have certain qualities as an organizer--discipline, organization in all of his acts, in all of his activity. The diverse functions of the judge can be performed only in the event that he had learned to be accurate in every separate act, in every element of the overall structure of court proceedings.

§2. Mental Qualities of People's Assessors

In addition to professional judges, people's assessors also take part in examining civil and criminal cases and making decisions on these cases. Such people's assessors are permanently employed in other forms of socially useful labor and are called upon by society to perform court functions for just a relatively short period of time.

The mental qualities of assessors have constantly attracted the attention of legal scientists and psychologists. Some such research had been carried out by bourgeois scientists as well. In some works instead of detailed analysis of all of the mental features in the activity of people's assessors we find only statements indicating that their physiological state has decisive significance (for example a juror's poor digestion has a bad influence on his activity, and so on).

Russian prerevolutionary lawyers also studied the mental features of people's assessors. In particular, P. Sergeich had the following to say about this: "He who has dealings with jurors knows that they debate not the sort of crime that the convict had commissioned but rather the sort of person he is."*

Of course the legal status of people's assessors differs significantly from the status of jurors. Their rights and the legal conditions of their activity differ, which also means differences in their psychology. People's assessors have the same rights as judges in resolving all issues and they cannot be restricted to just passing a judgement on the personality of the convict.

To the same degree as in the activity of a professional judge, the activity of people's assessors is directed at clarifying all circumstances of a case. They must perform cognitive activity and make decisions (perform constructive activity), and they must perform the educational function of the Soviet court. These diverse functions of people's assessors can be fulfilled only with a consideration for their rich life's experience, their professional knowledge, and chiefly with a consideration of high awareness of their responsibility for their work.

In a number of works on forensic psychology by bourgeois authors an attempt is made to define the psychological features of jurors through several stages in their psychological activity. Thus G. Tokh believes that there are three stages in the activity of jurors: Adaptation to the situation; evaluation; decision-making.** These three stages do not reflect the true stages in the activity of people's assessors. All the more so they do not reflect all features of mental states associated with performing the functions assigned to them.

*Sergeich, P., "Iskusstvo rechi na sude" (The Art of Speech in Court), Moscow, 1960, p 143.

**Cited in the article "Modern Bourgeois Forensic Psychology" by O. A. Gavrilov, VOPROSY PSIKHOLOGII, No 3, 1964.

The activity of a people's assessor is always associated first of all with presence of a clearly defined goal, an awareness of responsibility, and a knowledge of the principal resources for performing this activity. Only presence of this stage could insure correct fulfillment of all subsequent complex responsibilities by the people's assessor.

The fundamental, guiding premises defining the mental qualities of a judge can also be related to the qualities of people's assessors. They also must have a high feeling of responsibility for their duties and an awareness of the importance and state significance of the functions they perform. This awareness insures, first of all, high quality in performance of functions by people's assessors.

A stage of obtaining information also always exists in the activity of a people's assessor. This stage is significantly complicated for people's assessors by the specific conditions of perception and by the greater emotional influence of this information.

Thus the process of obtaining information is truly associated with adaptation to the situation. Another unique feature of the psychology of people's assessors is that they do not always have experience in examining court cases. They have not developed qualities developed by a judge through prolonged activity. They are not adapted to the specific conditions of the court and to the large number of stimuli that arise during court hearings and in the activity of the court. The course of court inquiry and perception of information on a crime have a stronger emotional influence upon people's assessors, and the unfamiliar situation of the court is perceived more acutely by them. We should not forget that many people's assessors feel totally out of place in their role as people sitting in view of the entire courtroom.

Because people's assessors are not trained to perceive specific facts that often elicit unpleasant emotions, and because they are not adapted to situations arising continually in court, they must undergo psychological preparation. This psychological preparation must include detailed explanation of their activity in court and a warning concerning the possible strong emotional influence of particular facts or circumstances.

Careful, thorough preliminary familiarization with features of court proceedings and with the conditions of the proceedings would go a long way in removing the interference that people's assessors may experience in learning the circumstances of a case and making a decision.

People's assessors feel much more confident when they analyze situations in court which they encounter to one degree or another in their principal occupational duties. Moreover, the occupational experience of a people's assessor permits him not only to analyze the circumstances of the case more fully himself but also to help the rest of the court with his knowledge. For example a teacher serving as a people's assessor during examination of

a case concerning a juvenile may render significant assistance to all of the court because he has more knowledge on the psychology of juveniles and more practical experience in contact with them.

Inasmuch as people's assessors are not fully adapted to perceiving and processing the tremendous volume of information fed in during a court inquiry, they tire more rapidly than do professional judges. In this connection the stage of preparing for participation for a court hearing acquires special significance. In order to facilitate perception and transmission of information by people's assessors it would be useful to carefully acquaint them with the information collected by the preliminary inquiry, and to help them develop a mental model of the event, to define the elements subject to testing and elaboration in the course of the court inquiry, to work out a course of mental activity before the court hearing, and to work out a plan for testing the evidence.

Considerable assistance should be rendered to people's assessors when they perform cognitive and constructive activity in the deliberation chambers. They must obtain the skills of collectively examining the problems prior to making a decision. At this stage the role of the foreman grows especially. He must tactfully direct and activate the collective process of restoring the entire model of the past event and individual elements, and the exchange of opinions prior to adoption of a final decision.

People's assessors can be people of the most diverse backgrounds having different temperaments, characters, and so on. However, given all of the diversity in their personal qualities, the totality of their joint efforts, knowledge, and capacities must always permit a possibility for fully establishing the truth in the case under examination and adoption of the correct decision.

CHAPTER 25

PSYCHOLOGICAL DESCRIPTION OF SOME PARTICIPANTS OF COURT EXAMINATION*

§1. Psychological Features of the Defendant

The behavior of the accused in court depends in many ways upon the mental qualities he has prior to the court experience, his world outlook, his attitude toward the indictment, and his own evaluation of the criminal acts. His attitude toward the court and his behavior in court also depend upon his former experience and presence of a former record.

Describing the psychological features of the accused in court, A. R. Ratinov wrote that they "are governed by the proximity of final resolution of the case, the viscosity of the interrogation, presence of implicating evidence, the defendant's acquaintance with all materials of the preliminary investigation which are examined in court in his presence and with his participation, and his preparedness for defense. The action of these factors is highly diverse and sometimes conflicting."**

*Numerous participants of the criminal or civil process are always present for examination of the case in court, to include the procurator, a lawyer, representatives of the civil plaintiff and respondent, victims, the accused, witnesses, experts, and so on. Irrespective of the personal mental qualities and their legal role in court, differences in goals and interests also presuppose differences in mental activity, in attitudes to court proceedings, and in reactions to the administration of justice. All of this leads to a necessity for carefully analyzing the psychology of each participant of the court proceedings separately.

This chapter will briefly examine only some general psychological features of defendants and witnesses.

**Ratinov, A. R., "Sudebnaya psikhologiya dlya sledovateley" (Forensic Psychology for Examining Magistrates), Moscow, 1967, p 216.

Let us dwell in greater detail on some factors defining the psychological features of the defendant. First of all they are defined by the fact that he is already familiar with the materials of the criminal case: He knows precisely which facts would be communicated by whom in the course of the court inquiry. The defendant already knows the shape of the final model of the event and of his actions representing the criminal act, developed in the preliminary inquiry.

The defendant bases himself beforehand on the fact that all events and all facts are known to the examining magistrate and have been recorded in the indictment, with which he is already familiar. In correspondence with this it is often highly probable that he may also foresee the questions that would be posed to him, and thus he prepares the answers carefully. This is why a number of methods of influence intended at restricting the information he has on the materials of the criminal case can no longer be employed.

The center of his mental activity shifts considerably as he prepares for court: It becomes directed basically at developing his own versions of the event, at reporting new facts, and at altering the significance of facts already known.

While during the preliminary inquiry the principal model with which all evidence presented by the examining magistrate is in a sense "compared," all of the examining magistrate's methods and procedures of influence, and the versions suggested by the defendant and his line of behavior make up the entire pattern of the illegal event and the actions of the defendant, this situation may change in court. If the defendant does not confess his guilt, then the information in the indictment often becomes the principal reference point for his mental processes and for new versions he suggests. All of his versions and explanations would now be structured in application to the indictment. He may often substitute a new version for the true model of the event (if there is a difference between them). The results of investigation often prevail over the true event. He now has an idea of the true circumstances of the event and a knowledge of the model established by investigatory agencies.

The defendant thinks out his line of behavior in court precisely with a consideration for the above; this defines the ways he explains particular facts. The mental model which the defendant uses to structure all of his protective versions undergoes a certain substitution.

The position of the defendant in court is characterized by a line of behavior that is thought out more substantially. The defendant has been prepared by the entire course of the preliminary investigation for calm perception of the specific features of the legal proceedings.

Nevertheless presence of a large number of people in the courtroom and the court process itself always have a significant influence upon the defendant. The novelty of the situation is always an irritating, stimulating factor.

This state of the defendant significantly intensifies in court in connection with the forthcoming resolution of the punishment issue and the experiences associated with the crime and its consequences.

In one of his speeches M. I. Kalinin said: "Were we to take a person who had been in court at least once, he would tell you and you yourself would feel that court proceedings and the court decision itself are remembered by this person for a very long time, leaving an impression upon him forever. And inasmuch as this process leaves an impression in the person's memory the influence of this process on the person's psychology and on his future acts should be tremendous."*

The reactions of persons present in court to his words, to his description of former activities, the behavior of witnesses and victims, and so on also have an influence on the defendant.

The one-to-one relationship between the defendant and examining magistrate is somewhat different than in court, in the presence of a large number of people, where either his actions and behavior are restrained or he is forced to be more relaxed so as to conceal his timidity, emphasize his independence, and so on. A large audience sometimes suppresses the defendant, though in some cases it may support him if he feels that it has sympathy toward him. The defendant would be more confident if people are present that think the same way he does.

This circumstance should be kept in mind when examining some categories of criminal cases, particularly sectarian cases.

The behavior of the defendant in the course of a court hearing can change many times. The course of court examination, every specific relationship arising between the defendant and a certain participant of the court examination and, finally, the behavior and reactions of those present in the courtroom have an influence on his behavior and state. A sharply negative reaction in the courtroom can cause the defendant to become silent, to stop answering questions distinctly and thoroughly, and to reduce his mental activity. The foreman is sometimes forced to take certain steps (going as far as declaring an intermission) in order to return the defendant to a state in which he could once again provide clear explanations, take an active part in the court inquiry, and solve the mental problems posed to him.

The behavior of the defendant and his role in court depend in many ways not only on presence of a large audience but also on his recognition of the possibility that the court could make direct use of its perception of his speech and behavior. We had noted above that the statements in the record of the interrogation at the preliminary inquiry are a compromise. In court, however,

*SOVETSKAYA YUSTITSIYA, No 20, 1932, p 1.

the recording process does not depend upon the wishes of the defendant: Everything he says, even his behavior, can be used by the court to resolve the case. The defendant takes all of this into account.

The defendant develops (often even before the court hearing) different attitudes toward all participants of the court examination. He is always aware that the court must resolve his fate and pass sentence. This in many ways predefines both the attitude of the defendant toward the court and his behavior in the courtroom. He thinks out his behavior beforehand, tries to select a line of behavior which in his opinion would impress the court to the greatest degree, and he tries to continually correct his behavior and adhere to the image he had selected.

The mental activity of a defendant in court is extremely complex and diverse. He perceives testimony of witnesses and questions of the court, the procurator, and the lawyer, responds to the most diverse questions, monitors the reactions and behavior of every participant, especially the members of the court, and he monitors the reactions of the courtroom. All of this means that he must work hard to perceive and process information which, moreover, he must also constantly compare with his mental model of the event, with his line of behavior. Such intensity in mental activity often results in the defendant's forgetting to control his behavior or being unable to do such work constantly. This permits us to observe the true attitude of the defendant to particular facts, rather than the attitude he had decided to display in his line of behavior at court.

Radical, unexpected collisions arising in the course of a court hearing can alter the initial line of his behavior. This is promoted by his emotional, active participation in all activities. Therefore stimulating the activity of the defendant is one of the tasks of the court.

SECTION SIX
PSYCHOLOGICAL FUNDAMENTALS OF THE ACTIVITY OF
CORRECTIVE LABOR INSTITUTIONS

CHAPTER 28
GENERAL INFORMATION ON WAYS FOR
REEDUCATING AND CORRECTING PRISONERS

§3. General Information on Methods of Psychological Influence on Prisoners in the Process of Reeducation

The methods of influence used by an educator can be applied to a group of prisoners and to a specific person. They must always insure a certain educational influence simultaneously upon both a specific person and the collective; they must intertwine and supplement one another.

Personal influence upon a prisoner by the educator plays a significant role in reeducation. First of all such influence is imposed through personal conversations. Conversation becomes both a method for studying the personality and a method for influencing the personality. In any sort of mental communication during reeducation, the goals of studying the personality and influencing this personality are always combined.

During a conversation with a convict it is very important to continually inform him as to the possibilities, ways, and goals of acquiring qualifications, general education, and so on. The prisoner should develop an interest, a desire to go along with the measures of the administration both in relation to his own self and in relation to the entire collective of prisoners.

During reeducation it is necessary for the convict to know the end goal of the administration's actions and understand that the goals of the administration's actions coincide fully with his own interests. The convict must know the ways he can make his transition to life and activity in the overall collective of Soviet citizens easier. This knowledge would help direct his activity and his volitional and intellectual capacities toward achieving particular intermediate goals.

During reeducation it is very important to create a negative attitude in the prisoner toward his former activity which in the end led him to crime. Without such change in attitude toward his past behavior the prisoner would not be able to develop a new attitude toward labor and life and a new world outlook.

Conversations, persuasion, and explanation are directed also at encouraging a conscience in the prisoner.* One of the significant manifestations in change of attitude toward past behavior is voluntary confession of former crimes that had not been known prior to the sentence, and declaration by the prisoner that he desires to compensate for the material harm he imposed, and his gradual compensation of this harm.

All of the general methods of influence in forensic psychology are employed during individual influencing of prisoners. However, there are unique features in this case as well. Thus the method of analyzing and generalizing the practical experience of correction is specific.**

The method of controlling mental attitudes acquires special significance to attainment of the goals of education in prison. Here the educator has better possibilities for influencing mental attitudes and controlling the mental attitudes the prisoner develops in relation to workers of the colony, other prisoners, relatives, and so on.

The unique feature noted above in prisoner reeducation is that positive personality qualities are developed in a collective of persons also having various negative qualities. This contradiction inherent to imprisonment as a punishment and a means of reeducating persons who had commissioned crimes is resolved to a certain degree by contact with and influence upon the prisoner by various social organizations not involved in the colony's administration but at the same time typical of Soviet society. They include observation commissions and various public organizations (trade unions, the Komsomol, the collectives of patronizing enterprises, the collectives of enterprises in which the prisoners had formerly been employed, and so on).

During contact with prisoners these collectives and public organizations help, through their influence, to develop a proper mental attitude toward serving the punishment and toward the process of acquiring working skills, developing a world outlook, and increasing the moral needs. At the same time representatives of the collectives help to properly and objectively determine the results of reeducation and to establish a possibility for returning the given prisoner to conventional labor collectives of Soviet citizens. The educational influence of the representatives of public organizations is directed at encouraging self-education and a correct understanding of the punishment, and toward developing promise in the life of the prisoner. Contacts with representatives of public organizations help to reveal positive

*"Conscience is a moral phenomenon representing the unity of awareness and experiencing of moral acts and a feeling of moral responsibility for one's behavior" (Kovalev, A. G., "Psikhologicheskiye osnovy ispravleniya pravonarushitelya" (Psychological Fundamentals of Correcting an Offender), Moscow, 1968, p 107).

**For greater detail on methods for analyzing correction of offenders, see Kovalev, A. G., "Psikhologicheskiye osnovy ispravleniya pravonarushitelya," Moscow, 1958, pp 29-35.

personal qualities of the prisoners more fully and to make use of them in subsequent education.

Public influence develops and encourages conscience in prisoners most effectively, which helps considerably in the process of general education. Contact between the prisoner and representatives of various public organizations and individual persons continually indicates to him the orientation of public opinion in relation to the personality and behavior of this prisoner, and change in public opinion in connection with his present change in behavior.

The educational influence of public organizations is unique in that they can only approve or condemn a particular action or a particular form of behavior by the prisoner. This is a certain supplement to the actions of the administration, which also renders an influence through punishment, compulsion, and change in conditions.

The educational influence of representatives of public organizations and collectives is significantly supplemented by encounters with persons who had formerly served their sentence in the given colony and had become normal citizens in Soviet society, and encounters with production leaders.

Contact of the prisoner with his family (taking account of his restricted living conditions) has special significance. Such contact promotes development of positive qualities in the prisoner and change in his negative mental states. Educators in the colony also play a great role in this. They must insure communication with the family and the appropriate attitude of family members toward the prisoner in the necessary cases (in the content of letters, packages, during meetings, and so on). However, this communication must not be limited in all cases to just moral or material assistance to the prisoner. In some cases we must work for a situation in which the prisoner could render assistance to his mother, his wife, or his children. This would promote creation of an awareness in the prisoner that he is needed by the family, that he must take steps to upgrade his qualifications and increase his wages. It is especially important to make proper use of meetings with relatives for the goals of educational influence. Forthcoming communication with relatives must be prepared for carefully. Prior to the visit the educator must inform relatives as to changes that had occurred in the psychology of the given prisoner and as to the possible ways for reinforcing positive interests and qualities in him. The educator should tactfully hint at the most suitable line of behavior, and so on.

Similar preparations are also made with the prisoner. We should especially keep in mind that the very fact of conviction leads in many cases to arising of sharp conflict between the prisoner and even his closest relatives. Absence of adequate preparation in such cases may even lead to a negative influence by the course and results of the visit.

To achieve the goals of reeducation the educator should make use of all mental associations into which the prisoner enters (foremen in production, teachers at school, patrons, relatives, and so on).

The method of information transmission acquires a specific form. Specially and purposefully selected information fed to the prisoner should insure that he receives and processes information that he had not received (or which he had ignored) in the past--on life in Soviet society, on the interests and activities of Soviet people, on labor processes, culture, and so on. The experience of many educators demonstrates that it is very important to collect information on how the family of the prisoner is presently living and how it is being helped by the state, public organizations, and the collective in which the prisoner had formerly been employed.

Competent presentation of such facts to the prisoner would promote encouragement of a sense of guilt not only before the family but also before the collective and before the state as a whole. Through graphical examples he sees that even though he had done harm to the state and the collective, they are helping his family and doing everything to see that his family would not be needy and that his children could grow up to be normal Soviet citizens. Such facts encourage a firm decision for reeducation, for improving work, and for returning to normal life more quickly in the prisoner.

The method of suggestion also enjoys its application. As a method of education and reeducation, it must always be based on the authority of the person who employs this method (the educator).

Under certain conditions the "explosion" method is also employed, defined by A. S. Makarenko as "instantaneous influence turning about all desires of a person, all of his wishes."* However, this method must either be preceded by a lot of work in accumulating certain prerequisites for attainment of the "explosion" results, or the "explosion" must be followed by a lot of work in reinforcing the feeling arising from the "explosion." When employed by itself, the "explosion" method cannot attain the goals of reeducation.

In order that the most proper paths of influence upon a specific prisoner could be determined, we recommend broadly employing the psychological-pedagogical experiment in relation to him. By varying such experiments we may learn the conditions under which the process of reeducating the given prisoner would promote attainment of the goal to the greatest degree. Such an experiment permits us to reveal the most fully all properties of the prisoner's personality, and it helps to shape his intellectual and volitional qualities. Carefully organized psychological-pedagogical experiments and observations would permit us to create a proper impression as to the attitude of the given prisoner toward measures of educational influence.

In order that all measures would be perceived by the prisoner to their full extent, it is important that their mental systems are not in an inhibited

*Makarenko, A. S., "Soch." (Works), Vol 5, Moscow, 1958, p 253.

state. We must continually try to see that they actively perceive the entire sum of the methods of influence. In this respect the fight against narcotics and narcomaniacs acquires special significance in corrective labor institutions. Use of narcotics sharply reduces mental activity of the person, reduces the possibility for actively influencing him, worsens volitional qualities, and makes the prisoner more susceptible to negative influence and to reinforcement of negative habits.

In cases where the personality properties have been disturbed by continual use of alcohol and narcotics, reeducation must sometimes be combined with therapy.

The personality may have undergone significant deterioration in this case. When psychopathic traits are developed and when there is a tendency for hysterical reactions, a physician-psychiatrist should be included in reeducation.

Personal educational influence combined with all other measures has the goal of encouraging a desire for self-education in the prisoner. We had already noted that presence of a desire for self-education is the most important element of reeducation. "...One of the most important tasks of corrective labor institutions is to elicit a process of self-education, and independent and persistent work by the convict in increasing his level of culture and awareness and in developing high morals."* There can be no reeducation without this.

Encouraging a desire for self-education in a prisoner is a very complex process. Educational influence presupposes creation of conditions (though they may be immediately unnoticeable) under which the prisoner develops a desire to achieve particular habits and knowledge. Some sort of goals (be they initially insignificant) should be afforded to the prisoner which he can realistically attain. In encouraging self-education it is important not only to hint at some particular goal (for example learning to be a driver) but also to point out the ways for attaining this goal. The prisoner often has neither the skills nor the habits of applying volitional effort to attain a particular goal. Therefore it is important to demonstrate the smallest, most specific stages in achieving the goal and indicating examples of how this goal had been attained by other persons. The prisoner's desire to demonstrate to himself that "he is not any worse" would promote activation of both the physical effort and the mental processes required in attaining these goals. When working with a prisoner to achieve the goal placed before him, we must accent his attention on the results that had already been achieved, and we must encourage him so as to reinforce his desire to attain even greater results.

*Remenson, A., "How to Influence Malicious Violators of Conditions," K NOVOY ZHIZNI, No 8, 1964, p 52.

While when working with offenders remaining free we must base ourselves on the need for changing their concepts of their future and of their plans for life, in a corrective labor institution this element of educational activity acquires special content. The prisoner often loses hope for life in general. The very fact that he is serving a sentence, the very fact of isolation from society is often perceived as total elimination of all promise. This feeling is especially acute when the prisoner is convicted to a long prison term. Reinforcement and development of positive personality qualities is possible only when new promise, new ideals, and new possibilities are created for the prisoner, when he develops an understanding of the ways and purposes of achieving this promise. In addition to general (long-range) hopes and plans, we need to create and develop particular short-range goals, for example re-training for another type of job, mastery of a particular specialty, transfer to a colony of another type and, finally, even such goals as earning a visit with his wife, and so on.

A desire for self-education can also be encouraged by demonstrating the end result of developing negative personality qualities, desires, leanings, and habits in personal conversations. Graphical demonstration of what, for example, continual consumption of alcohol could lead to can promote arising of a desire in the prisoner to break this debilitating habit.

As a prisoner undergoes self-education he must develop the habit and ability for analyzing his behavior. This is attained by analyzing his actions and behavior, and by analyzing the behavior of other prisoners first just in his presence and later with his participation. This is the way the skill of analyzing and correcting one's behavior, and the skill of internal control are created.

It is very important to reveal the dreams of the prisoner or generate such dreams. To reveal a dream means to provide a goal for all activity and life in the corrective labor institution, to direct all actions of the prisoner toward development of qualities necessary for fulfillment of this dream.

The process of reeducation would be organized properly only if the educator knows and takes full account of the internal experiences of the prisoner. As the prisoner serves his sentence he always recalls and analyzes his past life and his activities and relationships. All activity in reeducating the given prisoner and the speed with which he develops a desire for self-education, for alteration of his habits and his personality depend in many ways upon the path taken by such recollection and evaluation.

When organizing education it is very important for us to note and determine the orientation of the mental processes of the specific prisoner and to promote their intensification and development. In many cases infringement of the law is the result of the will of the offender, directed in a particular fashion, or the consequence of his lack of will. In correspondence with this, "in addition to persuasion, correction of will must enjoy priority in educational work with a prisoner."*

*Kovalev, A. G., "Psikhologicheskkiye osnovy ispravleniya pravonarushitelya," Moscow, 1968, p 20.

The convict must constantly practice making independent decisions and controlling his own acts, and he must learn to manage small groups of other prisoners. Creation of situations in which a certain prisoner is forced to make a decision for a group of persons, to feel responsibility for the work and behavior of other persons, and organize their activity significantly helps development of personal qualities (volitional qualities in this case).

Change in the personality of a prisoner is promoted by materialization of a desire he may possess to show former comrades at work and his family how his attitude toward them and to his past behavior has changed. This desire is reinforced even more by reports in letters and through personal visits that his desires have been understood correctly, that he is being awaited, and that there is belief that his attitudes toward former living conditions have changed and that his interests have changed. The practical work of corrective labor institutions demonstrates that it is precisely in such situations that prisoners begin to work more actively, and that their work becomes more productive and conscious.

Reeducation must gradually prepare the convict for the conditions of his future life in a society from which he is presently isolated.

A judgement as to correction of a particular prisoner can be made only after his preparedness for living and working in the conditions of a normal labor collective is tested. It is extremely important to correctly finish off all activity in reeducating the prisoner at the corrective labor institution. For this purpose we must insure that the prisoner who has finished serving his sentence enters a healthy, morally strong collective in which the successes attained during reeducation in the colony could be reinforced even more. If after leaving the corrective labor institution the former prisoner once again enters the microgroup which had previously had a negative influence upon him, all of the results of reeducation may be nullified very rapidly. The person would once again resort to drunkenness, lead his former way of life, and recover his former habits, skills, and convictions.

Therefore it is necessary for the colony administration and the patronizing enterprises to predetermine the future place of work and life of the prisoner. Such experience in patronage already exists, and it must be expanded in every possible way. This would create an additional stimulus for the convict's self-education.

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