

ABSTRACT

The article discusses ways of committing domestic violence; traces arising after the use of one or another method and the environment in which the specified crime is committed.

The methods of committing: physical violence, which consists in inflicting bodily injuries that can lead to the death of the victim, violation of physical or mental health, damage to his honor and dignity, are considered separately. Psychological violence, which is related to the effect on the psyche of a person through verbal insults or threats, harassment, intimidation, which intentionally causes emotional insecurity, the inability to protect oneself and may cause or is causing damage to mental health; economic violence, which consists in depriving a person of food, clothing and other property or funds to which the victim has a legal right, which can lead to his death, cause a violation of physical or mental health.

Traces of domestic violence are considered in a broad sense, namely, traces of struggle: a mess in the room, overturned furniture, broken glass, dishes, scattered clothes, etc. It has been established that the traces of domestic violence can be material and ideal. Ideal traces of domestic violence are formed in the memory of the participants of the criminal event. The types of identified traces are specified in relation to the method of committing the crime.

When analyzing the situation of domestic violence, it was established that its structure includes the place and time of the crime, the moral and psychological relations of the subjects of the offense and their environment, the social and psychological environment in which the offender is located and influences his actions, as well as the socio-political situation in the country.

Keywords: domestic violence, forensic characteristics, ways of committing the crime, traces of the crime, the circumstances of the crime.

UDC 340

DOI 10.31733/2078-3566-2022-5-292-297



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THE IDENTITY OF THE CRIMINAL AS A KEY ELEMENT OF THE CRIMINAL CHARACTERISTICS OF OFFENSES REGARDING FORGERY OF COVID DOCUMENTATION

Юрій Харкевич. ОСОБА ЗЛОЧИНЦЯ ЯК КЛЮЧОВИЙ ЕЛЕМЕНТ КРИМІНАЛІСТИЧНОЇ ХАРАКТЕРИСТИКИ ПРАВОПОРУШЕНЬ ЩОДО ФАЛЬСИФІКАЦІЇ КОВІД-ДОКУМЕНТАЦІЇ. В науковій статті зосереджено увагу на одному з таких елементів криміналістичної характеристики як особа злочинця під час розслідування правопорушень за фактами підроблених ковід-документів. Проаналізовано особи злочинця через сукупність даних про соціально-демографічні, психофізичні, психологічні, біологічні і інші особливості суб'єкта, його виробничу, побутову, соціально-правову характеристики.

Зазначено, що особа злочинця представлена не тільки медичним персоналом, керівниками закладів охорони здоров'я, а й громадянами, які працюють у лікарнях на немедичних посадах або не мають відношення до медичної сфери, та діють через Інтернет самостійно або у змові з лікарями, медичними сестрами тощо. Наголошено, що у більшості випадків протиправні дії вчиняються у співучасті – групою осіб за попередньою змовою або організованою групою. Доведено, що криміналістичне дослідження особи злочинця у кримінальних провадженнях, пов'язаних із фальсифікацією ковід-документації, дозволяє встановити кореляційні зв'язки між іншими елементами криміналістичної характеристики (способом, місцем, часом, тощо) та повинно враховуватись для розкриття та попередження правопорушень. Акцентовано на взаємодії слідчих, оперативних підрозділів з відділами боротьби з кіберзлочинністю. Всі зазначені досягнення підтверджуються статистичними даними та практичними прикладами.

Ключові слова: пандемія, коронавірус, заклади охорони здоров'я, ковід-сертифікати, особа злочинця, криміналістична характеристика, підробка документів.

Relevance of the study. The duration of the pandemic, mutations of the virus became a kind of impetus for new manifestations of illegal activity. There was a temporary lull in coronavirus diseases at the beginning of the war, but it was short-lived. Sanctions of the Criminal Code of Ukraine, which provide for sanctions ranging from fines to imprisonment, do not stop criminals. Art. 362 "Unauthorized actions with information processed in electronic computing machines (computers), automated systems, computer networks or stored on the media of such information, committed by a person who has the right to access it", was registered together with others articles, such as Art. 366. "Official forgery", Art. 358 "Forgery of documents, seals, stamps and forms, sale or use of forged documents, seals, stamps", Art. 190 "Fraud", Art. 325 of the Criminal Code "Violation of sanitary rules and norms for the prevention of infectious diseases and mass poisoning" is not an exhaustive list of criminal offenses.

And if the provision of services to health care workers, there are effective legal methods of countering and preventing the commission of criminal offenses in the relevant field, such as the removal from the duties and positions of managers whose subordinates have entered false data into the electronic database, the registration of licenses of private entities. management elements, services, certification of laboratories, annulment of the contract between health care institutions and the National Health Service, etc. Civilians, ignoring the current legislation, not only spread fake information about vaccinations, but also actively engage in criminal activities in the form of their native "help" to unwitting citizens, using a wide variety of schemes from primitive to IT developments.

Recent publications review. The scientific basis for the study of forensic characteristics became the works of such outstanding scientists as: K. Antonov, V. Bakhin, A. Volobuev, V. Honcharenko, G. Gramovych, V. Zhuravel, A. Ishchenko, N. Klymenko, V. Konovalova, V. Lysychenko, V. Lysenko, G. Matusovskyi, M. Saltevskyi, M. Segai, L. Skalozub, P. Tsymbal, V. Shepitko, M. Shcherbakovsky and others. But scientific developments need constant updating in accordance with the modern needs of practice, technological development, etc. In today's conditions, the spread of coronavirus infections continues to grow, giving rise to offenses in the medical field, and requires additional research.

The article's objective is to research one of the elements of the forensic characteristics of offenses related to the falsification of COVID-documentation, i.e. the identity of the criminal.

Discussion. In numerous disputes regarding the components of forensic characteristics, both in ancient times and in the present conditions, scientists unanimously emphasize that such an element as the person of the criminal occupies a separate place and for objective research requires the study and analysis of numerous sources [4].

Scientists note that the study of the identity of the criminal is important for putting forward and verifying investigative versions of the involvement of a specific person in the investigated crime, his search and identification, for the tactically correct organization of individual investigative (search) actions and operative and investigative measures, establishing all accomplices of the crime, as well as other circumstances [13, p. 36].

The specified element is considered from a criminological, criminal-legal, operational-investigative, psychological point of view, which highlight only certain aspects. Scientific works on criminalistics consider such concepts as the identity of the criminal, the characteristics of officials who commit misappropriation of budget funds, the use of the subject of embezzlement, embezzlement of the subject, etc. We supplement the classic structure of criminal-legal characteristics and consider it more accurate from a criminalistics point of view to use the concept of "the person of the criminal", which represents general information for criminals of a certain category of proceedings, and not a single case.

As rightly noted by A. Volobuev, terminological confusion does not carry a useful scientific load, as a result of which it creates theoretical discussions that distract the attention of scientists from real investigative practices [1, p. 64]. So, the outstanding Ukrainian criminologist M. Saltevsky noted that the forensic characterization of a criminal should describe a person as a socio-biological system, the properties and signs of which are reflected in the material environment and used to investigate crimes. Such human properties include: physical, biological and social. This is a description of the features of a person's appearance and internal properties, which allows one to imagine the image of a person, his portrait as a socio-biological being [11, p. 422].

There are definitions of the identity of the criminal in a more narrow sense. Yes, I. Pisarchuk, considering budget crimes, claims that the subject of the crime can be any official who has the right to dispose of budget funds, including relevant officials of enterprises,

institutions and organizations whose financing is carried out at the expense of the budget and which are regulated by current budget legislation are recognized as administrators or recipients of budget funds. Managers of budget funds are budget institutions represented by their heads, authorized to receive budget allocations, make budget commitments, and make budget expenditures [10, p.103].

But in our research, only in some cases the subject of the crime can meet the above definition. Our earlier study of forensic and expert practice on offenses related to the falsification of COVID-documentation shows that in about 80 % of cases there is intellectual forgery of documents carried out by medical representatives, 10 % are forgery with signs of changes to the signs. As for the creation of fake electronic applications, developed as an attachment to the single portal of public services "Diya", all of them make up about 7 %. Such a relatively small percentage can be explained by the complexity of actions that require special knowledge in the field of IT technologies. Also, according to official data of the National Police of Ukraine, among the registered criminal proceedings for fraud and forgery of COVID-documentation, 92 % related to forgery of documents, the rest – fraudulent actions, implementation of electronic and computer systems and services [14, p. 64].

It is clear that the offenses investigated by us do not always encroach on the state budget. Therefore, during the study of the identity of the criminal, we will use the classic structure in criminology and consider as a set of data about socio-demographic, psychophysical, psychological, biological and other features of the subject, his production, household, socio-legal and socio-political characteristics. Considering crime in the sphere of the economy of Ukraine, O. Kalman rightly highlights the socio-demographic characteristics, which includes information about gender, age, marital status, education, profession, criminal record, etc., determines a certain status of a person, determined by his belonging to a certain class (social stratum) and to a group with socio-demographic characteristics [5].

Based on the predecessors, we will consider the forensic characteristics of the perpetrator of offenses related to the falsification of COVID-documentation, and first of all, we will highlight the following properties: gender, age, marital status, education, profession, criminal record, level of culture, intelligence, emotional and volitional, psychological state, etc. Analyzing data from the verdicts of the Unified State Register of Court Decisions for the specified category of offenses, it is possible to obtain the necessary data on the identity of the offender. Here is one example.

PERSON_1, born in Kostopil, Ukrainian, citizen of Ukraine, officially not employed, registered and living at ADDRESS_1, not convicted, not being registered as a person who, in compliance with the requirements of Clause 15, Part 1, Article 7, Paragraph 1 Part 2 of Article 9 of the Law "On Licensing Types of Economic Activities", the right to carry out economic activities from medical practice is granted, in violation of the requirements of the Resolution of the Cabinet of Ministers of Ukraine dated March 11, 2020, No. 211 "On preventing the spread of acute respiratory disease on the territory of Ukraine COVID-19, caused by the SARS-CoV-2 coronavirus", as well as the procedure for conducting PCR testing specified by the order of the Ministry of Health of Ukraine No. 722 dated 28.03.2020, and the form for recording the results of laboratory tests provided for by the order of the Ministry of Health of Ukraine No. 1 dated 04.01.2001 "On approval of forms of medical accounting documentation used in laboratories of medical and preventive institutions", understanding that such investigations are carried out by licensed laboratories, the results of which are recorded in the appropriate format of certificates, which are an official document, as they are issued by an authorized entity that has a license to conduct laboratory research, with direct intent and anticipating the occurrence of socially dangerous consequences, using the details of the LLC "Medical Laboratory", with the indication of the license of the Ministry of Health of Ukraine for conducting economic activities from medical practice No. AE 571609 dated 20.11.2014, without conducting any laboratory tests, at a time not determined by the pre-trial investigation, being in a place not determined by the pre-trial investigation, using his own laptop brand "FUjITSU", Serial No: YLND020237, model: AH512, created and with the use of office equipment, produced a fake certificate about passing a laboratory test for the presence of the disease – COVID-19, No. 07636711 dated 09.09.2020, by the patient PERSON_2, noting in it a known false test result I am negative, as well as other data necessary for the possibility of using such a document as valid [3].

But for a greater study of the identity of the criminal, criminologists also pay attention to criminal proceedings registered in the Unified Register of Pretrial Investigations, which, in combination with the analyzed verdicts, allowed us to obtain the following results. The age of

offenders is mostly between 17 and 50 years old. However, the age had a direct dependence on the sex and profession of the criminals, as well as the method of producing forged documents. Women committed offenses at a more mature age, mostly worked in medical institutions, young people aged 27 and over used real forms in which they entered unreliable data. At the time, men involved in computer technology committed the offenses between the ages of 17 and 30 using color printers to produce forged documents.

Also, it can be seen that in 31 % of cases the criminals had a higher medical education, in 42 % – a secondary medical education, in 20 % – a higher education in the field of computer technologies or incomplete education in this direction, in 7 % – other. 90 % of people had family relationships (we believe that in this case, the official registration of the relationship does not affect the criminal behavior of the offender), among whom 73 % had minor children. 93 % of offenders had no previous convictions, were not registered with a psychiatrist or narcologist. In almost all cases, the place of residence was characterized positively. The person of the criminal is represented not only by medical personnel, managers of health care institutions, but also by citizens who work in hospitals in non-medical positions or are not related to the medical field, and act through the Internet independently or in collusion with doctors, nurses, etc.

We will give an example from practice, common in literally every region of our country. In one of the hospitals in Ratniv region, the offender, working as a software engineer, using his official position, entered false information about immunization against COVID-19 into the medical electronic information system and forged vaccination certificates, which he later sold. The reward was from 1,500 to 2,000 hryvnias. The suspect has a higher technical education, age 38, marital status – married, no criminal record. As we can see, although the offender was an employee of a health care institution, he did not have a medical education and his functional duties were not related to medical practice. In Khmelnytskyi, a traumatologist from one of the region's hospitals received 5,000 hryvnias through an intermediary. For this amount, he guaranteed vaccination documents and entering data into the relevant database [8].

Previously, scientists absolutely rightly proved that crimes related to economic activity are one of the constituent parts of crimes committed in connection with professional labor activity [7, p. 64.]. However, in today's conditions, this axiom does not work. Therefore, we believe that special attention should be paid to the developers of fake electronic applications, since this direction is relatively new and can lead to negative consequences if not warned in time.

For confirmation, we will give the following examples. In Kharkiv, the cyber police exposed a 17-year-old boy who not only faked the Diya application, but also created the largest channel for the distribution of fakes. More than 20,000 people subscribed to his Telegram bot and Telegram channel, which have already been blocked. The system worked according to a conceptually new scheme: user data was stored on a server that generated simulating web page of the "Action" program and there you could change any information about yourself.

A 21-year-old man, who was exposed by the employees of the department for countering cybercrimes in the Zaporizhia region, together with the investigators of the Zaporizhia district police department, in cooperation with representatives of the Ministry of Statistics, acted in a similar manner. The attacker developed a smartphone app that was identical in design to the state-run Action app. In addition, the web platform displayed a fake QR code, which even after scanning showed its successful validation page [8].

The analysis of other registered criminal proceedings allowed us to reach the following conclusions – these are young people, about 18-20 years old, male, with unfinished higher education, whose activities are related to the field of computer technologies, acting with guides from their circle of communication or relatives. Forensic scientists who studied economic crimes, including budget crimes, rightly claim that in most cases, illegal actions are committed with complicity – by a group of persons with a prior conspiracy or an organized group [10; 12]. Potential accomplices of such crimes are often medical workers, as a rule, who have friendly relations, their relatives, roommates, acquaintances from other fields of activity, in some cases – doctors who held managerial positions and their subordinates.

Let's give some examples. In 2001, in Vinnytsia, for 250 euros, criminals, which included medical workers, entered unreliable information about vaccination into the electronic health care system. Such services were advertised in closed messenger groups, and after paying for them, unvaccinated citizens received digital certificates displayed in the "Action" application. A doctor from one of the capital's laboratories searched for clients himself or with the help of intermediaries. He was also assisted by three nurses who entered false data into the database and printed ready documents. In Vinnychyna, the cyber police exposed a criminal group of sellers of

fake COVID-certificates. For 250 euros, criminals entered false information about vaccinations into the electronic health care system. The Vinnytsia businessman advertised his services in closed messenger groups. He was assisted in his criminal activities by medical professionals to whom he sent clients [8].

The psychological characteristics of the criminal in the specified offenses are characterized by a negative attitude towards the law, delusions of quick and easy enrichment, etc. Given that, in most cases, those accused of crimes related to the falsification of COVID-documentation signed a plea agreement, showed sincere remorse and actively assisted in solving the crime, it is possible to count on a change in their erroneous views. Therefore, the forensic investigation of the identity of the criminal in criminal proceedings related to the falsification of COVID-documentation allows establishing correlations between other elements of forensic characteristics (method, place, time, etc.) and should be taken into account for the detection and prevention of offenses.

Conclusions. Thus, it should be noted that the person of the criminal is represented not only by medical personnel; heads of health care institutions; as well as citizens who work in hospitals in non-medical positions; ordinary citizens who are not related to the medical field, but due to their professional skills have the opportunity to make changes in the electronic space independently or in collusion with doctors, nurses, etc. Establishing this element of forensic characteristics affects the qualification of the offense, the chosen method of committing the offense, the method of forging COVID-documentation, place, time, etc., and requires the coordinated interaction of investigators, operational units and cybercrime fighting departments.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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Submitted 21.11.2022

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ABSTRACT

The scientific article focuses on one of such elements of forensic characterization as the person of the criminal during the investigation of offenses based on the facts of forged COVID-documents. The identity of the criminal was analyzed through a set of data on socio-demographic, psychophysical, psychological, biological and other features of the subject, his production, household, socio-legal characteristics.

It is noted that the person of the criminal is represented not only by medical personnel, managers of health care institutions, but also by citizens who work in hospitals in non-medical positions or are not related to the medical field, and act via the Internet independently or in collusion with doctors, nurses etc. It is emphasized that, in most cases, illegal actions are committed in complicity – by a group of persons with a prior conspiracy or an organized group.

It has been proven that the forensic investigation of the identity of the criminal in criminal proceedings related to the falsification of COVID-documentation allows establishing correlations between other elements of forensic characteristics (method, place, time, etc.) and should be taken into account for the detection and prevention of offenses. Emphasis is placed on the interaction of investigative and operational units with cybercrime fighting departments. All mentioned achievements are confirmed by statistical data and practical examples.

Keywords: *pandemic, coronavirus, health care facilities, COVID certificates, identity of the criminal, forensic characteristics, forgery of documents.*