

FORENSIC DESCRIPTION OF VIOLENT OFFENCES FOR PROFIT

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ABSTRACT

Description: The purpose of the article is to develop forensic characteristics of violent offenses for profit in the current context. The methodology of the research are general scientific and special methods, namely: the methods of formal logic (analysis, synthesis, deduction, induction, analogy, abstraction), which made it possible to investigate in more detail the content of the issues under consideration. The study used special legal methods as well: comparative and legal method was applied in the analysis of legal norms, scientific categories, definitions and approaches; historical and legal method helped to reveal the content of the basic concepts of the study: “violent offenses for profit”, “forensic characteristics”, “investigation”; systematic structural method was used for establishing forensic characteristics of violent offenses for profit; the system analysis method enabled comprehensive syntheses of the elements of forensic characteristics and the correlation between them.

The Results of the Study: It made it possible to characterize the ways of committing violent offenses for profit; to determine the object of the offense in the commission of violent offenses for profit; to describe the crime scene; to provide data on the typical offender and the victim.

Practical Implications. The practical value of the obtained results lies in establishing forensic characteristics of violent offenses for profit in modern conditions, which is the basis for the construction of the methods for their investigation.

Value/Originality. The study allowed clarifying that the key element of forensic characteristics should be considered a means of committing a crime. The correlation between the elements of forensic characteristics of violent offenses for profit was established, which is essential for investigation of this type of crime.

Keywords: Violent Offenses for Profit, Forensic Characteristics, Investigation, Means of Committing a Crime.

INTRODUCTION

Violent offenses for profit are a key segment of criminal justice. Changes in public life cause their transformation, improvement of means and methods of criminal activity; require effective activity of pre-trial investigation bodies of the National Police of Ukraine regarding

their detection, investigation, prevention.

Traditionally, three main groups of violent offenses for profit are distinguished according to the focus of the trespass: against the life and health of an individual (predatory murder, contracted murders); against property (robbery, brigandage, extortion); against public safety (banditry).

The statistics on the commission of violent offenses for profit threatens. For example, according to the Unified report on criminal offenses of the Prosecutor General's Office of Ukraine, in 2019, 90 predatory murders were committed (paragraph 6 of Part 2 of Article 115 of the CC of Ukraine) and 14 contracted murders were committed (paragraph 11 of Part 2 of Art. 115 of the CC of Ukraine).

As regards the second group, crimes against property, in 2019, 11129 robberies (Article 186 of the CC of Ukraine) were committed, 1869 cases of brigandage were committed (Article 187 of the CC of Ukraine), 672 extortions were committed (Article 189 of the CC of Ukraine). As regards crimes against public safety, in 2019 there were 15 cases of banditry (Article 257 of the CC of Ukraine) (The Uniform Record of criminal offenses, 2019).

The investigation of violent offenses for profit is carried out by investigative units of the National Police of Ukraine and it requires taking into account criminal procedure as well as organizational and tactical features. These missions require the interaction of investigators and operational staff, as well as the use of tactical operations.

MATERIALS AND METHODS

Research methods are chosen based on the object, subject, and purpose of the study. The study used general scientific and special methods of legal science, namely: the methods of formal logic (analysis, synthesis, deduction, induction, analogy, abstraction), which made it possible to investigate in more detail the content of the issues under consideration. The study used special legal methods as well: comparative and legal method was applied in the analysis of legal norms, scientific categories, definitions and approaches; historical and legal method helped to reveal the content of the basic concepts of the study: "*violent offenses for profit*", "*forensic characteristics*", "*investigation*"; systematic structural method was used for establishing forensic characteristics of violent offenses for profit; the system analysis method enabled comprehensive syntheses of the elements of forensic characteristics and the correlation between them.

The issues of the method application to the investigation of violent offenses for profit were studied by a lot of scientists. However, nowadays, issues related to the investigation of violent offenses for profit remain to be relevant in modern terms, in particular with a view to forming their forensic description as the basis for constructing the methods of their investigation. These and other circumstances determine the relevance of the topic under the study.

The materials studied are the laws and regulations of Ukraine, as well as scientific works of domestic and foreign scientists governing the issue under consideration.

RESULTS AND DISCUSSION

Violent offenses for profit are the subject of the various legal studies. For example, Melnik (2014) states that violent offenses for profit are socially dangerous acts characterized by mercenary motivation and a violent way of committing them. Violent offenses for profit constitute the most dangerous group of offences. Their increased social danger is due to

simultaneous infringement on several objects of criminal legal protection, that is, property and personality (health, personal freedom, dignity and life). Trespass against a person in committing violent offenses for profit is a means of satisfying greed for ill-gotten gain such as the property, the property rights, coercion to commit other acts of property character. The violence involved in committing violent offenses for profit can be physical or mental. The subjective side of violent offenses for profit is characterized by an intentional guilt in the form of direct intent and a lucrative motivating cause. Persons who are 14 years old at the time of committing a crime can be the target of these crimes. Most violent offenses for profit are classified by law as grave crimes or crimes of special gravity (Art. 12 of the CC of Ukraine).

Having studied theoretical sources we support Holovkin's (2011) perspective that, according to forms of external manifestation and subjective conditionality, offenses are committed in two main ways, violent and non-violent. The subgroup of mercenary violent includes crimes in which the mercenary purpose is accomplished in no other way than the violent one.

This is the distinctive difference between violent offenses for profit and other offenses of a mercenary type (class). According to the target originality of goal-setting, violent offenses for profit are divided into property and non-property. The assaults, the subject of which is property and property rights, constitute a sub-group of property offenses. The non-property violent offenses for profit include illegal imprisonment or kidnapping. Under these conditions, violence can be described as a purposeful form of behaviour, which is operatively carried out in the physical and mental influence on the physical and mental sphere of the victim. Physical violence involves the unlawful effects on the body of another person, committed against his will. Mental abuse is a threat to apply physical infringement immediately or in the future.

Scientist classifies violent offenses for profit into three main groups by the direction of the trespass:

1. Against the life and health of the person (predatory murder, contracted murder to order);
2. Against property rights (robbery, brigandage, extortion); against public safety (banditry) (Holovkin, 2011).

The forensic description of these crimes, as the most common ones, will be studied. The issues of the forensic description of violent offenses for profit, the methods of their investigation, have been partially addressed in forensic studies.

Particular attention should be paid to the works of scientists who have revealed the principles of formation of investigation methods, including the investigation of particular types (groups) of crimes. An important structural element of forensic methodology is the forensic description.

According to the results of the study conducted, Zhuravel (2012) argues that the forensic description is of utmost importance for the theory of forensics and the practice of organizing the detection, investigation and prevention of various criminal manifestations.

The forensic description occupies a key position and the latter should be seen as an information model reflecting qualitative and quantitative indicators of retrospective focus on typical traits, that is, those that inherent in a given array of crimes and specific ones that enable to separate it from other crime groups. The main difference between these models is that all the elements involved constitute a certain system and it is impractical to consider them separately.

In scientific and educational literature, different points of view regarding the structure of

forensic description are expressed. We adhere to the traditional view that the main elements of forensic description include: the target of criminal trespass; the method of committing the crime; the scene of the crime; the trace evidence of the crime; the personality of the offender and the personality of the victim. Therefore, according to this structure, the forensic description of violent offenses for profit should be considered (Chornous, 2017; Shykoriak, 2017).

Data on *modus operandi* of crime constitute the basis for an in-depth and comprehensive analysis of the crime, enabling quick, comprehensive and impartial investigation of the crime.

In general, *modus operandi* of a crime is used to construct the forensic description of particular types of crime; identify the relationship between structural features of the description; making up and verification of the story; planning the investigation; formation of organizational and tactical principles of pre-trial investigation and tactics of conducting individual investigative (search) actions; preventive activity for committing crimes.

In general, objective (external) and subjective (internal) factors affect the choice of the *modus operandi* of a crime. In addition, the manner is significantly affected by the conditions under which criminal acts are committed.

Subjective factors include motive, purpose, tasks to achieve the latter and selected instruments, methods, and means of implementation. The internal conditions that determine *modus operandi* of the crime are the features of the person: traits, temperament, outlook, attitude to social and moral values of society, level of intellectual development, etc.

The individual features of the offender's personality determine the *modus operandi* of the crime. However, there are general patterns inherent in committing violent offenses for profit.

Preparing for a violent offense for profit involves several interrelated stages of criminal activity, provided careful planning. In most cases, criminals have used crime precautionary measures that are reflected in the following actions:

1. The choice of trespass target (including persons). For the most part, it is carried out either by conducting reconnaissance actions or by direct or unconscious lead by other persons, including the future victim;
2. The study of the trespass target and the circumstances in which the offender (s) will have to act. For this purpose, various reasons are used to visit the premises, to study the lifestyle of a person. During this "*visit*" sometimes the necessary conditions are created for the realization of a criminal plan (the security alarm system, telephone cable, the key from the front door lock, etc. are damaged);
3. The choice of the most effective manner of direct seizure of property, causing harm to life and health of the person, as well as the necessary technical means preparation, means and tools with which the criminal intention will be carried out;
4. The choice of a manner to conceal the traces of a crime, including hiding or selling stolen goods;
5. A preliminary conspiracy between the accomplices of the crime, a division of roles.

Therefore, it is established that the structural element of *modus operandi* such as preparation is a mandatory component in the commission of violent offenses for profit.

Directly, the *modus operandi* of committing violent offenses for profit is varied, above all, depending on the type of a specific crime: predatory murder and contracted murders, robbery, brigandage, extortion, banditry, and the like. Analysis of the provisions of the CC of Ukraine gives an idea of their content. It is a common combination of the lucrative motive and violent direct manner of action.

The violent manner is the external manifestation of a lucrative motive in projection on the final result of the action. Targeted outcome and instrumental originality of motivation for violent offenses for profit gives reason to speak about their increased social danger (Holovkin, 2011).

Another component is the manner of concealing violent offenses for profit. According to Ovechkin (1975), the ways of concealing crimes are conditionally divided into two groups:

1. The methods of operation aimed at preventing the receipt of information about a crime (moving material sources of information about a crime; disguising material sources of information; destroying material, and in some cases ideal (people) sources of information about a crime; evasion of appearance to the investigating authority; refusal to testify);
2. The methods of operation that hinder the receipt of information about a crime and are aimed at providing knowingly misleading information (falsification; staging; knowingly misleading communication for the purpose of concealing a crime; knowingly misleading testimony).

There are specificities of concealing criminal activity depending on the type of crime. For example, the commission of intentional predatory murder mainly involves the destruction of material sources of information about a crime, hiding from pre-trial authorities, refusing to testify and giving knowingly misleading testimony, concealing objects of criminal trespass, and concealing material evidence, means and instruments. With the commission of contracted murders, the offenders are prepared more carefully and, accordingly, the hiding measures are improved. Considering the "*central*" element of forensic description, the modus operandi of crime, it should be emphasized that there are correlations with other elements of the forensic description of crime, and, of course, the target of the criminal trespass.

It should be noted that all violent offenses for profit have a direct criminal trespass object. According to the target originality of goal-setting, violent offenses for profit are property-oriented. A subgroup of property crimes is trespass, the target of which is property and property rights. According to the study of investigative practice, most frequently the target of trespass is money and other valuables, which are valuable but compact in size (gadgets, mobile phones and jewellery). A common target of criminal trespass is household items, appliances, household equipment. Other properties include weapons and ammunition, as well as consumer goods (spirits, groceries, etc.). In addition, the target of criminal trespass includes narcotics, psychotropic substances, precursors, cultural property, etc. A human being can be considered as special target of criminal infringement.

It is the target of criminal trespass as a specific thing of the material world and its data that are important for the search for objects, they facilitate the identification of criminals, enable the promotion of investigative stories. This information is used to search for persons and objects related to the crime.

Furthermore, the importance of forensic examination of the target of criminal trespass is also due to the fact that the target is subjected to criminal influence, which is accompanied by a number of changes, the analysis of which is important for establishing the circumstances of the crime. Such changes may relate to the crime scene; is on the object or parts thereof; in the places where the object is located; the signs of the target of a criminal trespass may be on the offender: his body, his clothes, the tools used by the crime. Their research is important for investigating a crime.

The next element of forensic description is the crime scene of violent offenses for profit, depending on various factors of social life. The above review reveals that the actions of criminals are characterized by planning, high level of organization, material and technical equipment, etc.

The crime scene is a system of interrelated elements: tangible objects and their reflections in the environment, as well as the behaviour of persons involved in the crime.

The crime scene of violent offenses for profit can be determined through corresponding

time, place, and preconditions for the crime. In order to identify essential features of the elements of the violent offenses for profit from a forensic perspective, the classification should be proposed as follows:

1. Spatial (characterizing the crime scene and related places);
2. Temporal (characterizing the time of the crime, the sequence of events in time and the time of occurrence of various circumstances that accompany the crime);
3. Material (characterizing the qualities and properties of the material objects at the crime scene and related places);
4. Behavioural and psychological.

Spatial elements characterize the crime scene and its associated locations. In investigating violent offenses for profit, the following should be taken into account:

1. The place where the preparatory actions for the crime took place;
2. The place of direct commission of the crime;
3. The place where the traces (in the broad sense) of criminal trespass are left;
4. The place of concealment of the traces of the crime, tools and means of its commission.

Investigation of a crime scene in the process of detection of violent offenses for profit provides initial information about the crime committed and enables, first, to identify, secure and use in the course of the investigation specific traces and verbal evidence specific to the crime; second, to comprehensively evaluate the state of affairs, from the perspective of the objective possibility of committing violent acts for greedy purpose; third, to solve a number of important operative-tactical reports on the identification of persons involved, witnesses and eyewitnesses to the crime, the establishment of the circumstances of its commission.

Given the scene of the crime under the study, the following subgroups can be classified:

1. By the location of the crime: in a populated area (in an open area, in the street, in the yard, in the porch, in an apartment, in a transport vehicle); outside build-up area (in the open area, in the field, in the forest, in the transport vehicle).
2. By the crime scene: committed on the premises; committed in the street.
3. By the time of committing the crime: committed in the daytime or night time (from 10 pm to 6 am); on weekdays or weekends and holidays;

The mechanism of committing violent offenses for profit cannot occur without trace in relation to the material environment; therefore, the occurrence of a complex of material and ideal traces should be noted, that is, the trace evidence of crime.

The trace evidence of violent offenses for profit is diverse, represented by groups of perfect and material traces. Lukashevich (1993) argues that the traces of the crime should be interpreted in the broad sense, that is, as various changes, the result of the interaction of the offender with the carrier of potential information, which are expressed in specific material (sign) forms and have meaningful content. The latter enables the perception of the process of reflection and comprehension of its essence. Touching on the essence of the ideal traces, the scientist states that they are a psychic fact have no signs perceived materially. The distinctive feature of the ideal traces is that they form not just facts of consciousness, but facts of a knowingly wilful act that are objectified, materialized in the testimony of the person.

Ideal traces include the testimony of persons who have information about the circumstances of the crime and find their practical expression in the records of investigative

(search) actions, other documents of criminal proceedings, as well as the storage media obtained as a result of the use of technical means of fixation.

According to empirical studies, most frequently the trace evidence of crime is represented by groups of material and ideal traces of crime.

The above classification of information sources is forensic one. In procedural law, all material sources are conditionally divided into procedural (basic) and non-procedural (additional).

Procedural sources include those listed in the law (Part 2 of Art. 93 of the CPC of Ukraine). Non-procedural include sources of information of auxiliary, orienting character, collected by the investigator (operative officer), during non-procedural actions prior to initiation of criminal proceedings or conducting pre-trial investigation (interrogating, searching of the territory with a service dog, searching for a criminal on hot spots).

Therefore, from a forensic perspective, it is expedient to classify material sources of factual data into three groups: people, things and their reflection. They all in some way carry information about the crime, the criminal and its other participants (Bilenchuk, 1995).

The trace evidence of crime is always the target of a thorough scientific analysis of scientists, because material and ideal sources of trace information enable to obtain information about the elements of forensic description of the corresponding crime and the relationship between them.

The content of the forensic description of the offender is in examining the individual as a particular system with traits and features, reflected in the environment and used in the investigation of violent offenses for profit.

First of all, the importance of studying the personality of the offender in the investigation of violent offenses for profit should be emphasized, since the investigator prioritizes information about the offender's personality in the course of making up stories and planning an investigation.

A specific feature of committing violent offenses for profit is its group character. This trend is noticeable in crimes against property and banditry.

The situation in the East of Ukraine negatively has an impact on criminality. One of the factors for the deterioration of the criminal situation in Ukraine is a significant increase in the illicit circulation of firearms and ammunition that are coming from areas of hostilities in the east of our country to other regions. Such weapons and ammunition can be detected by law enforcement officers both during their transportation by road or passenger rail, and during storage in specially equipped hiding places in apartments, dwellings, garages, household premises, industrial and warehouse premises of enterprises, institutions, organizations, etc., including the abandoned and derelict (Kovalenko, 2017). In addition to weapons, other items prohibited or restricted in civilian use, property and values ill-obtained are transported. Persons engaged in criminal activities make every effort to accomplish their tasks throughout Ukraine and then to hide from law enforcement bodies in the territories not controlled by Ukraine or territories of foreign states.

This complex issue threatens many spheres of public life. Law enforcement bodies in our country constantly take measures to prevent possible negative consequences.

Examining the personality of the offender is one of the important actions of law enforcement officials, which further ensures the elimination of the causes and conditions of committing crimes, recidivism, etc. The information on the personality of the offender as an element of the forensic description of the crime is the data that can assist to determine the effective path to the search and the detection of the suspect and other tasks related to the

investigation. This information enables to identify the data needed to organize the most effective search of the person who committed the crime, and subsequently, his disclosure.

Therefore, according to outcome of the criminal proceedings studied, the typical offender committing violent offenses for profit is predominantly male, aged 25 to 40, officially unemployed, previously convicted of a crime. Mainly violent offenses for profit were committed by a group of persons by prior conspiracy.

An important place in the forensic description is the information about the victim. Forensic examination of the victim's personality in violent offenses for profit is to obtain the data about him required to solve a crime, to choose the most appropriate tactical operation methods of conducting individual investigative (search) actions, to increase the effectiveness of investigating crimes in general. Moreover, the basic data that characterize the victim as an individuality should be clarified; information about his life style, relations with others; the relationship of the victim and the suspect; the victim's position regarding criminal proceedings and punishment of the offender, etc.

It is important to study a victim's feature such as "*victimization*". For example, these are situations in which the actions or traits of the victim are provocative in nature, that is, they themselves have a cause for committing a violent offense for profit.

As noted above, there are correlations between the offender and the victim. They can find their practical impact at any stage of criminal intent and under different conditions. For example, when committing violent offenses for profit, criminals study the situation in which they will have to act. For this purpose, various reasons are used to visit the premises, to study the lifestyle of a person. During this "*visit*" sometimes the necessary conditions for the implementation of criminal intent (alarms, telephone cable can be damaged, the key from the front door lock can be stolen) are created.

Therefore, the importance of identifying a victim's character of a violent offense for profit is explained by a certain selectivity in the offender's actions, which shows the relationship between his or her personality and the victim, and the nature of the relationships and interactions that affect the purpose, motive, place, time, modus operandi and concealing a crime.

CONCLUSION

The forensic description of violent offenses for profit consists of the basic elements as follows: modus operandi of the crime, the target of the criminal trespass, the scene and the trace evidence of the crime, the personality of the offender and the personality of the victim.

Considering the variety of modus operandi of violent offenses for profit, their common features are distinguished, namely: a lucrative motive; the realization of the lucrative motive is carried out in a violent manner, mainly through physical violence; the crime is committed using specially adapted means and tools.

The commission of violent offenses for profit is characterized by the concealment of the crime and the material objects associated with the crime.

The effectiveness of investigating violent offenses for profit by the National Police units of Ukraine depends on the proper development of their forensic description, as well as the formation of a methodology for investigating of these crimes.

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