

The criminalist processing of murders

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Abstract

The murders present a negative phenomenon that suffocate efforts of the citizens of the Republic of Kosovo to ensure a better and safer life. Based on the developments of events and overall mainstreams as well as the situation regarding the security phenomenon in Kosovo, this paper can also be considered as an effort to give contribution in finding appropriate measures of prosecution bodies, as well as presenting efforts and the difficulties with which they are faced. During the examination of the subject, efforts have been directed towards the introduction of the real situation in the fight against these negative phenomena, the approach of prosecution bodies in terms of criminology and criminal aspects, but also according to the development of social consciousness in the fight against these negative phenomena, analyzed from the historical perspective.

Keywords: Murders, law, professionalism, criminalist processing, fighting.

Introduction

The criminalist processing is a series of measures and actions, methodologically planned, undertaken by the police in pre-criminal procedure, in the case of certain criminal events, in order for the issued operational work (criminalist control) to be raised to the level of reliability that could issue certain criminal-legal decisions (ground suspicion) (Modly & Korajlić, 2002, 251). The criminalist processing is complex in measures and actions, by which the first information on the criminal event in the explanation process (converting information into data and transforming data into evidence) is raised to the level of probability of the existence of a criminal offense and the approach-recognition of the offender, that will enable the extraction of criminal legal decision. (Korajlić & Muharremi, 2011, 100). So it is about the police activity, which is focused on the discovery, collection, provision and presentation of evidence for the relevant facts, for finding the perpetrator and providing access to the perpetrator. The criminalist processing is realized in the case of any concrete criminal event. The same is realized in cases of existence of doubt and even of a grounded suspicion (Modly & Korajlić 2002, 15). The disclosure and enlighten of criminal offenses in principle is the perception process which starts from the unclear and not complete information about the crime or the perpetrator, that continues through research, collection, evaluation and verification of the evidence and facts, to the final situation in which the decision is based for indictment or a decision for termination of the investigation.

In the criminalist processing the official person is placed like in chess in the role of

the “rival” - in the role of perpetrator, trying to seep and to ascertain into his way of thinking. The disclosure of criminal offenses and their perpetrator, which are made by officials with their own initiative, represent the most fundamental and important part of their work.

The planning of criminalist processing

In the business world it is said: “the best plan and the best preparation is half the job done”. The criminalist processing of serious criminal offenses, to be implemented appropriately in situations where the perpetrator is known or unknown, requires important human and material potentials, In relation to this, there are possible investigative situations with which the police is faced:

INVESTIGATIVE SITUATIONS		
UNKNOWN PERPETRATOR	KNOWN PERPETRATOR	
	THE ACCESSIBLE PERPETRATOR	THE INACCESSIBLE PERPETRATOR

This schematic presentation is closely associated with the content of the police activity, which is based on: (Modly & Šuperina, 1999, 55).

- Undertaking measures and actions for detection of criminal events - offence, detecting and fixing the traces and materials related to the criminal offence,
- Undertaking measures to find the perpetrator of a criminal offense when it is known, or disclosure (identification) when it is unknown and ensuring that it can be accessible (present), which means to deny it from escape or hiding, and
- Gathering all the indicative information from the real accessible, personal and technical sources.

The indicative information obtained during the criminalists processing may be so qualitative and full that the state prosecutor will not have a need to fill, but to make the shape” to wear the attire of procedure”. As Professor *D. Modly*: emphasises «police criminalists processing is accomplished by applying rules of criminology at the same time complying with the provisions of the criminal procedure code (which actually constitutes an inseparable link). *Criminalists processing must and should be initiated only if the police (who acts for this case), after assessment and analysis of the initial situation, concludes that we are dealing with the criminal act (possible - reliable). Police competent authority has a duty to assess the initial situation even in cases when someone else has estimated (the submitter speaks to the criminal charges, the competent prosecutor, etc.).* “ Thus foreign evaluations must not be meritorious for the police action, although the evaluations of some criminal-legal subjects, such as prosecutor, legal obligations which should be accomplished regardless of their own assessment of the situation. In situations where the police estimates that criminalists processing is nessesary (mandatory), this does not mean that it is at the same time possible. If possible, the police must foresee

measures and initial actions and *assess* whether there are grounds for the action of the first measures and to foresee the expected minimum success (prognosis). Also, the evaluation of the initial situation can tell us that the criminalists processing is *unnecessary*, exactly, when the factual situation is explained in general, or when it can be done by other relevant bodies such as inspections, customs etc. This police action, when estimating that criminalist processing is possible, is submitted before the uniformed and criminalist police, as obligation for action with the purpose of explanation of the criminal event circumstance. On the case of implementation the criminalist processing, police should take care for listing actions and measures within the criminalist processing, and which can be achieved only with qualitative planning, for undertaking measures and actions. The criminalist processing of murders is a thoughtful prediction of targets which should be achieved, as well as manners and actions by which they want to realize a maximum opportunity of combination. Planning is successful if the purpose is chosen right, while the method of choice for achieving is more than necessary.

« On that occasion in the daily criminalist practice there should be some distinctions:

- serial flow of labour operations which means: that the measures and actions are undertaken successively one after another,
- parallel flow of labour operations, which means: that some criminalists in parallel develop the necessary work operations, and
- complex flow of labour operations where criminalists of various professional profiles at the same time perform different labour operations on the same subject, and which can be called also a synchronized flow » (Korajliæ N. 2003, pg, 189).

Drafting of the plan, in technical terms is preceded by data collection. The accuracy and integrity, as well as the quantity and their actuality define the frameworks of the plan implementation. The basic assumption for successful planning is the analysis of the content of knowledge about criminal offense in terms of the data integrity that we have available at the moment as well as giving prognosis on the content of criminalists processing, beside special evaluation that define causes and reasons for urgent actions.

Without planning it is impossible to implement general and full aspects, the discovery, investigation and disclosure of criminal offence, because in those cases the process of disclosure - testimony develop as spontaneous process with a very large participation of coincidence.

Assumptions for realization of criminalists processing »lege artis«

To implement the criminalist processing *lege artis*, few assumptions must be met such as:

- *Opportunity and ability to use all relevant information regarding the security subject;*
- *The ability of assessing the degree of the indetermination during analyses that security condition during analyzes of security state and respective problem-solving situations generated*

due to lack of information or knowledge, or because of the presence of controversial information;

➤ Possibility of simulation and testing the solution of security problems, the possibility of prognosis of security conditions and situations in the interest of submitting and establishing optimal organization of the internal affairs conduction and deducting the chance to conduct the internal affairs in the lowest possible level etc.

Operational planning

According to the strategy, guideline are set in order to determine each direction is processed in detail. Operational planning consists from a series of measures and operational-tactical and technical actions, such as: *use of informers, verification of alibis, special observation (secret surveillance), which is consisted of surveillance, secret photographing, tapping (extraction of acoustic information), use of technical equipments (detectors, polygraph, voice stress analyzer etc), alarm systems, traps, secret issuance of writing, various checks, research action, legitimism, blockade, ambush, raid, visits (by the uniformed and civilian persons), the use of police dogs, the discovery and use of collusion etc.* When it comes to criminalists processing of the murder, the plan must specifically set four ways, such as:

1. The criminalist characteristics of the criminal offense (way of committing, situation of committing, the personality characteristics of the killer and the victim etc). It's about typical and individual characteristics of murder.
2. The basic orientators of murder (behaviour of participants).
3. The basic criminal situation of murder (system of environment elements, situation of the perpetrator and the victim, according to phases of the conducting of the murder) objective and geographical situation (technical situation of environment, climatic condition etc).
4. Form of guilt, which includes elements of situation of committing the murder, characteristics of the criminal offence perpetrator of the murder and circumstances that have limited action of the perpetrator's character (Modly, 2000).

Action with victim of the criminal event

Victim of the criminal offence is considered every person, which individually or collectively has had damage, including physical and mental injury, emotional suffering, economic loss or substantial endangerment of their fundamental rights by actions or omissions. Today a very important role plays the DNA to ascertain the identity of persons. According to *Vodineliqit, identificatio of dead person can be divided into:*

1. *Ascertain of the identity of the known dead person, and*
2. *Identification of the unknown dead person*

Identity should be carried out according to the principle of speed, because changes occur quickly in dead bodies. The identification by witnesses is not enough and other

methods of identification should be taken into consideration such as: personal trademarks (bunting and different bruises) dactyloscopy, DNA analysis etc. The most common errors during the identification occur due to the changes of the body. The face has no facial expression and mime. It is just like mask.

Identification of an unknown corp is a very complex activity and requires the utmost commitment of the police to identify as soon as possible. Today, thanks to computer technology, a reconstruction of the person's appearance based on the found skull exists, which helps to identify very quickly and qualitatively the unknown corpses (Korajlië, 2003, 218).

Conclusions and Recommendations

Based on the real situation on the ground and evidence collected during my personal work on this very sensitive subject I came to the conclusion that the prosecution in Kosovo still works on classical criminal processing of these criminal acts. It should be noted that the prosecution has its approach more in terms of criminal justice, and much less in terms of criminology in gathering evidence. On the basis of what was said previously we can conclude that the necessary scientific approach on criminology as a science, has its own scientific methodology that may be supervised in different rates such as "*de lege lata*". Criminology defines and distinguishes the principles and institutions, as well as the proposed changes "*de lege ferenda*", in line with the expected development of modern crime.

During the drafting of this paper and usage of the documentation of the Kosovo Police we may conclude that the number of such crimes in Kosovo is growing from year to year. A big problem is the storage of material evidence collected during investigative actions by the prosecution and the police. In Kosovo in recent years, there have been several instances where evidence was missing from areas that were under the supervision of officials. One of the biggest problems in Kosovo is perhaps a lack of professionalism, generally, in order to succeed in the war against crime. Taking into account these findings, my recommendations consist of: a concrete action taken by the relevant authorities in Kosovo. Another important point is the supervision of internal human resources, and also their education towards the theoretical and practical aspects in order to achieve better results in the fight against such criminal activities.

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