

**THE MECHANISM OF FORMATION OF STATEMENTS.  
DEFINING FACTORS IN THE PROCESS OF HEARING OF  
PERSONS, IN PARTICULAR OF THE MILITARY PERSONNEL**

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**Abstract**

*The article refers, on the one hand, to the general aspects of the process of formation of statements, with an emphasis on elements common to any hearing, irrespective of the standing of the person being heard, and, on the other hand, it highlights the peculiarities of the military hearing process. The defining factors that influence the expression, rendering and use of testimonies in the forensic investigation process are presented, as well as the essential differences between the testimony obtained in spontaneous conversation, as part of a mere dialogue, and that obtained by interrogation, the means of obtaining answers with the highest degree of truthfulness, the influence of the type personality on the categories of testimony.*

*The study highlights peculiarities in the formation of statements by the military, gathered in the "bouquet" of the testimony, the factors that influence sensations and perceptions, corroborated with the typology of temperament, with personal motivation, but also with a series of situational factors (fatigue, tension states, physical conditions, milieu, environmental conditions, etc.). We paid particular attention to the essential differences between free testimony and that resulting from interrogation, finally highlighting some of the means of interest in obtaining the answers with the highest degree of truthfulness, as well as the manner in which the introverted/extraverted personality types determine the testimony process, highlighting the elements of effective communication in an investigation, based on encouraging the "partner" towards dialogue and openness, as a guarantee of effectiveness in the investigation.*

**Keywords:** *hearing, investigation, military, perceptions, sensations, psychological factors*

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## 1. Introduction

In his work “Zadig”, Voltaire set a principle of fundamental value for any human and, therefore, for legal investigation, considering that “it is better that two guilty persons should escape than that one innocent person should suffer”, a thesis based on arguments related to the defence of human rights, thus stating a capital truth, fully in accordance with the tendencies of manifestation of human freedom, in all its forms.

Over the course of history, this truth was transferred to a legal rule that is currently promoted as the presumption of innocence, which categorically states that no one can be held guilty before being finally convicted for committing a criminal deed. That is why “the statements of the accused (suspect) or defendant made in the course of the criminal proceedings may serve in order to find the truth only insofar as they are corroborated with facts and circumstances resulting from all the evidence in the case”<sup>1</sup>.

## 2. The Process of Making Statements in the Case of the Audience

Thanks to a specific algorithm characteristic to the process of knowledge and perception, which is used in the case of participants in committing a crime, provided by the human element which is the depository of data and information, the psychological process of formation of statements, irrespective of the standing of the participants in the process, is identical up to a certain point. This homogeneous process is subject to the same laws, because it involves in all cases a moment of perception of the information circumscribed to the offence, a moment of storage of the perceived information for a certain period of time, followed by the moment of reproduction, of communication of that information to the judicial bodies during the hearing.

Thus, in a self-contained paragraph, we will refer to the following common elements: *sensations, perceptions, the importance of knowing the circumstances of perception for the development of tactical procedures for hearing persons.*

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<sup>1</sup> Bogdan Tiberiu, Sântea Ioan, *Psihologie judiciară (Legal Psychology)*, Editura Themis Cart (Themis Cart Publishing House), Bucharest, 2010, p. 382; Aionițoaie Constantin, Tudorel Butoi, *Tratat de tactică criminalistică (Treatise of Forensic Tactics)*, Editura Carpați (Carpați Publishing House), Craiova, 1992, p. 90.

A person, through his/her sense organs and abstract thinking, knows what is happening in the surrounding world, and keeps the memory of the images of events occurring before him/her for a long time. So he/she has the ability to reproduce in his/her mind facts and phenomena that occurred a long time ago.

We consider the hearing activity to be similar to that of the psychologist who, through the interrogation technique, approaches the hearing of the subject in the therapeutical activity, the purpose pursued being, of course, different.

Using hearing abilities such as the disarmament technique, by which we try to identify something true in the other person's statements, even if we are convinced that what he/she says is wrong, irrational or unfair, then empathy, putting ourselves in the other person's shoes and trying to see the world from his/her standpoint, we paraphrase the words of the other person, and become aware of what the other person is feeling on the basis of his/her statements<sup>1</sup>.

The interrogation technique recommends that we address the other person in a gentle and warm tone, asking questions that are to the point, in order to find out what the interlocutor is feeling and thinking. If, in the case of the therapist or clinician psychologist, the purpose of the discussion is to determine the subject to speak freely, to identify and accept by himself/herself the solutions to the problems he/she is facing, the method of hearing in a legal context, in a criminal investigation, carried out in the presence of the investigator, is directed towards a certain purpose, which might inhibit or put stress on the person being interrogated, resulting in a cautious behaviour, carefulness in the formulation of answers, focus on their form and a tendency towards giving desirable answers, which is what actually happens.

In such situations, the interviewees limit their expansiveness, reduce explanations, they are in expectancy, which affects quite a lot the veracity and the amount of information that the investigating psychologist gathers, and it is even necessary to take notes because not writing down the answers might lead to the loss of some information, given that the capabilities of any investigator are limited, and he/she cannot remember

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<sup>1</sup> Holdevici Irina, *Ameliorarea performanțelor individuale prin tehnici de psihoterapie (Improving Individual Performance through Psychotherapy Techniques)*, Editura Lider (Lider Publishing House), Bucharest, 2005, p. 306; pp. 311-316.

everything that is being said. Even more, if 10-11 people are being interviewed, it might get confusing<sup>1</sup>.

The use of audio or video recordings while asking questions and receiving answers might be considered useful by certain specialists, but it is apparent from the literature that most of them do not recommend this method, because this adds to the pressure on the interviewees and renders the answers very artificial. However, it is inevitable for the interviewers to take notes. This becomes quite a difficult task, which requires practice and a correct approach.

Following the legislative amendments brought to the matter of hearing persons, the use of scientific and technical means in order to record hearings should be the rule. In this respect, we refer to the provisions of the Romanian Criminal Procedure Code, which provides that, in the course of criminal prosecution, the hearing of the aggrieved person<sup>2</sup>, the witness<sup>3</sup>, the suspect or the defendant<sup>4</sup> should be recorded by audio or audio-video means in two situations: 1. when the criminal prosecution body considers it necessary<sup>5</sup>; 2. if the aggrieved person or the witness has expressly requested it and the recording is possible. It is also expressly mandatory to use the audio or audio-video media in all cases where the aggrieved person is a minor<sup>6</sup>. The exception to the rule are situations where this is not possible, but it is mandatory to include in the statement of the aggrieved person the specific reason why the recording was not possible. At the same time, in the case of the hearing of a protected witness, it must be recorded by video and audio technical means and must be fully rendered in writing. So, through this introduction, as Professor Ion Mircea<sup>7</sup> showed, even offences perceived while being committed can be reproduced by the receiving subject and presented to others, with sufficient general and

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<sup>1</sup> Conclusion stemming from the provision of the criminal law according to which the prosecutor might allow the parties or the lawyer to take notes during the hearing, whereas, as far as the investigator is concerned, although the law does not provide for this, forensic tactics recommends such a procedure, but with caution (e.g., one should not give the interviewee clues about the importance of certain accounts over others).

<sup>2</sup> Art.111 of the Criminal Procedure Code, par. 4.

<sup>3</sup> Art.123 of the Criminal Procedure Code, par. 2.

<sup>4</sup> Art.110 of the Criminal Procedure Code, par. 5, the rule states that the hearing should be recorded by audio or video technical means.

<sup>5</sup> In the case of the hearing of a suspect or defendant, the rule states that the hearing should be recorded by audio or video technical means. In cases where recording is not possible, this should be mentioned in the suspect's or defendant's statements, with the concrete indication of the reason why the recording was not possible.

<sup>6</sup> Criminal Procedure Code, Art. 111, par. 8.

<sup>7</sup> Mircea Ion, *Criminalistica (Forensic Science)*, Editura Fundația „Chemarea” (“Chemarea” Foundation Publishing House), Iași, 1992, p. 310.

detailed features as to be easily understood. Eyewitnesses, perpetrators and even victims, by perceiving the crime-committing process directly, are able to give useful accounts of the manner and circumstances in which it was committed.

The hearing of witnesses, victims and perpetrators is one of the most important means of obtaining evidence, as well as a way of checking already existing evidence from other sources. Of course, the entire hearing must be conducted in accordance with the rules of criminal procedural law and with the application of the tactical methods developed by forensic science. The purpose of the hearing is to obtain data regarding the investigated case, how it was committed and the perpetrator, in order to establish the truth.

The evidence needed in order to find out the truth in the criminal proceedings is revealed by specific forensic means<sup>1</sup>. In the conduct of criminal proceedings, evidence holds a central place, forming the very basis of criminal justice decisions. It is meant to highlight the real truth about a concrete accusation, highlighting either the guilt or the innocence of the person investigated. But the discovery of truth does not mean obtaining a faithful picture of reality, and limiting the production of evidence to elements that reproduce reality in a direct and complete manner, would inherently mean to renounce the carrying out of justice, for the simple reason that the judicial bodies do not have the capacity of omniscience and omnipresence. Therefore, the research efforts in the field and the methodology of investigation of any deed from the perspective of forensic science must make a small contribution to supplement these limitations.

Although it is generally considered that there is only one process of formation of the statements of the persons heard in the course of judicial investigations, there are also certain peculiarities in the development of statements which depend on the initial or acquired standing of the person, and, depending on the situation, the extension of the hearings is sometimes ordered.

In order to understand the behaviour of people during the hearings, the manner of unfolding the display of items of interest for the investigation, whether, how and under what conditions can investigators obtain statements that accurately express the things perceived by the person being heard, it is necessary to analyze the process of formation of statements, structured into four main stages: perception (reception) of the information,

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<sup>1</sup> Mircea Ion, *Criminalistica (Forensic Science)*, 2<sup>nd</sup> edition, Editura Lumina Lex (Lumina Lex Publishing House), Bucharest, 2001, pp. 3-5.

logical processing, memorization and reactivation thereof<sup>1</sup>. In the same context, we notice a unity of opinion, by adding to those already expressed the opinion of Professor Ion Mircea on the process of formation of statements as consisting of three main moments: perception (sensations and perceptions, as a process of identification and awareness of the information), memorization and reproduction<sup>2</sup>.

While it may be considered that there is, generally speaking, a single process of formation of the statements of the persons heard in judicial investigations, we have chosen to observe elements that give a specific character to the process of formation of statements in the case of aggrieved persons, witnesses and perpetrators.

Finding the truth as a fundamental principle of criminal procedural law expresses the obligation for all judicial authorities to carry out, in any criminal case, an activity of evidence gathering that is complete and highly qualitative, which involves not only knowledge of criminal procedural law, specialized knowledge, but also forensic science knowledge<sup>3</sup>.

Within this framework of identification of terms and definitions, *sensations*<sup>4</sup> are ways of reflecting into the human brain the isolated properties of objects and phenomena in the real world that act directly on the sense organs. They are the simplest mental processes that signal what is happening around us or inside our own body, responding in fact to the need of adapting the body to the environment.

In forensic investigations, sensations as such are not of much use unless followed by mental mechanisms of processing those sensations; only in this way can they be subsequently reproduced by the witness before the judicial bodies. The unitary investigation of the two mental processes does not exclude the differences that exist between sensations and perceptions, differences by means of which we can delineate them from one another<sup>5</sup>,

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<sup>1</sup> Stancu Emilian, *Tratat de Criminalistică (Forensic Science Treatise)*, Universul Juridic, Bucharest, 2007, p. 411; Butoi Ioana, Butoi Tudorel, *Psihologie judiciară. Tratat universitar (Legal Psychology. A University Treatise)*, Editura Fundația România de mâine (Tomorrow's Romania Foundation Publishing House), Bucharest, 2001, p. 145.

<sup>2</sup> Mircea Ion, *Criminalistica (Forensic Science)*, 1992, *op.cit.*, p. 311.

<sup>3</sup> Art. 5 of the Criminal Procedure Code; Mihuleac Emil, *Expertiza judiciară (Judicial Expertise)*, Editura Științifică (Scientific Publishing House), Bucharest, 1971, p. 20.

<sup>4</sup> Iancu (Nechita) Elena-Ana, *Criminalistica. Tehnica și tactica criminalistică (Forensics. Forensic Technique and Tactics)*, 2<sup>nd</sup> edition revised and supplemented, Editura Pro Universitaria (Pro Universitaria Publishing House), 2009, p.116; Mircea Ion, *op.cit.*, p. 311. Bogdan Tiberiu, Sântea Ioan, *op.cit.*, 2010, p. 204.

<sup>5</sup> Iancu Elena-Ana, *op.cit.*, p.120.

and in fact it would be difficult to give such accounts without showing the interdependence of the two categories.

As it is well-known, sensations and sensory reception occur when our sense organs receive isolated information, either from outside or from inside the body. Each sensory organ receives information of various qualities (taste, touch, smell, hearing, sight) and various degrees of complexity (we do not only see objects, but we also notice their shape, colour, distance, etc.).

It can be seen, therefore, that the sense organs work simultaneously, giving us multidimensional impressions of the outer or inner world. The role of the receiving organs is to transform the various pieces of information (tactile, sonorous, visual) into nerve impulses and then, through the nerve tracts, communicate them to the brain, which receives, sorts them out, analyzes (processes) and stores them, so that they can be used immediately or at a later time. Basically, no normal adult person can have isolated sensations, but a significant amount of information acting upon him simultaneously<sup>1</sup>.

The quality of sensations consists in their capacity to be visual, auditory, gustatory, olfactory, cutaneous, organic, etc. This property helps to correctly identify the objects and persons involved in the criminal act. The vibratory components of the sound of the voice of a person allow for that person to be recognized at a later time. Last but not least, it helps guide behaviour, from which we conclude that there is a link between this process and what determines non-verbal communication, which we will certainly mention again.

We will not detail here the analysis of the information system that causes sensations to emerge; it is enough to bear in mind that some of the information remains subliminal, while some of it one becomes aware of, meaning that it is identified and interpreted by the brain.

When analyzing a testimony, for example, we need to know the heredity of our witness, that is, to be aware of the individual structure of his/her sense organs, we must know in particular about any dysfunctions of those organs in order to be able to discern the actual limits of his/her ability to receive valid information on one plane or another. That is why it is necessary and mandatory to take note of the state of health of the sense organs before proceeding with the hearing. A myope, a deaf person or a colour-blind

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<sup>1</sup> Bogdan Tiberiu, *Psihologie juridică (Legal Psychology)*, op.cit., pp. 203-204.

person, by the nature of things, can only report to the court those fragments of reality regarding which he/she was able to receive information.

Knowing the witness's past experience will also help us assess his/her testimony, because that experience can give greater or lesser veracity to the information he or she is reporting<sup>1</sup>. For example, some athletes or technicians are better at perceiving distance, speed, etc., than other people who, in their previous experience, had less to do with distances and speeds, therefore that they did not learn to accurately assess such facts, the military have sense qualities or motor skills that are greatly enhanced, as evidenced by the mandatory medical thresholds they must pass in order to be engaged in the army.

Any sensation has a pleasant or unpleasant emotional tone. In the case of pleasant sensations, the subject will tend to prolong the sensation, while in the other case, the subject will always want to shorten or avoid them in the future. Satisfying the sensation of hunger or thirst will always be accompanied by a pleasant emotional state, whereas the failure to satisfy them will result in unpleasant emotional states<sup>2</sup>.

Therefore, the nature of the receiving organ, the sensations of a person do not have the same contribution to knowing the environment, in matters that are of forensic interest, meaning that sensations reflect the state of the internal organs, which through a stimulus can produce changes at a minimum level, resulting in the occurrence of a sensation. We can say that most of the sensations received from the environment reach us by way of the senses of hearing and sight, and the thresholds of sensation vary from one individual to another, the magistrate having to determine the limits of the perception abilities of each individual involved<sup>3</sup>.

*Perceptions*, in the social or objective environment, are the mental process of reflecting objects with the complexity of their attributes. In fact, perceptions are the processing of sensations, giving them meaning in accordance with

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<sup>1</sup> Marioara Petcu, *Mecanisme psihologiei juridice (The Mechanisms of Legal Psychology)*, Editura Argonaut (Argonaut Publishing House), Bucharest, 2001, p. 201.

<sup>2</sup> Iancu Elena-Ana, *op.cit.*, pp. 118-119.

<sup>3</sup> Stancu Emilian, *Tratat de criminalistică (Forensic Science Treatise)*, 2010, *op. cit.*, p. 413; Ciopraga Alexandru, *Criminalistica. Tratat de tactică (Forensic Science. A Treatise on Tactics)*, Editura Gamma (Gamma Publishing House), Iași, 1966, p. 171.



the experience, interests or state of the person concerned, or with the conditions in which the action of the external stimulus is taking place<sup>1</sup>.

Every perception implies a “feeling”, that is, a complex mental experience in which intellectual, emotional, and relatedness elements are not mixed, but united, giving rise to a dynamic mental global phenomenon that is irreducible.

Perception reflects the general and special psycho-physiological features of an individual, the characteristics of temperament, the structure of his/her abilities and the orientation of his personality. Perception is not the contribution of a single sense organ or of the isolated brain, but what a human, as a personality, perceives<sup>2</sup>. The perception of any person irrespective of his/her legal standing, for example, may also be influenced by certain concrete conditions in which the illicit activity liable to cause distortions and misrepresentations takes place, differences between what is perceived and what is happening in an objective plane.

The causes of the distortions may be objective or subjective<sup>3</sup>. Objective causes are related to the environmental conditions in which the illicit activity and, implicitly, the perception occurs, namely the time and place conditions that characterized the carrying out of the illicit activity, the duration of the perception, the visibility conditions existing at the time of the perception, the place where a certain object was perceived, the distance, the perspective, the angle of visibility, the degree of complexity of the perceived phenomenon, the measures of dissimulation taken by the perpetrator, the existence of sources of noise or light that might disturb the perception, as well as meteorological conditions (fog, rain, snow).

Subjective causes are related to the psycho-physiological and personality particularities of the aggrieved person, whether their effect is temporary or lasting. The main subjective causes of limited duration, which can be associated with perception, influencing it in a favourable or unfavourable way, are psychological and physiological factors. Among psychological factors, we mention: emotional states, positive or negative feelings, those of

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<sup>1</sup> Bogdan Tiberiu, Sântea Ioan, 2010, *op. cit.*, p. 204; Mircea Ion, *Criminalistica (Forensic Science)*, 1992, *op. cit.*, p. 313; *Criminalistica (Forensic Science)*, 2nd edition, Editura Lumina Lex (Lumina Lex Publishing House), 2001, p. 255.

<sup>2</sup> Ciopraga Alexandru, *Evaluarea probei testimoniale în procesul penal (Assessment of Testimonial Evidence in the Criminal Trial)*, Editura Junimea (Junimea Publishing House), Iași, 1979, p. 94.

<sup>3</sup> Olteanu Ion in a collective of authors, *Ascultarea persoanelor în cadrul anchetei judiciare (The Hearing of Persons in the Judicial Investigation)*, Editura A.I.T. Laboratories (A.I.T. Laboratories Publishing House), 2008, p. 154.

accommodation of the sense organs and the factor on which the quality and realism of the perception depends directly – attention<sup>1</sup>.

Among physiological causes with a transitory effect, whose intervention at the time of perception is of a disruptive nature, we mention: stress, fatigue, consequences of the action of chemical agents such as tobacco, drugs, alcohol, trauma. Inherent causes, related to the aggrieved person, are lasting and therefore influence perception, regardless of the circumstances in which it occurs.

The existence of occasional subjective factors such as lack of sleep, hard, exhausting work, hunger, as well as overfeeding, stress, constant wakefulness, alcohol consumption, drugs, certain states of mind, all these factors have some influence on perception, with the subject noticing, in such situations, only a part or fragments of what is happening in the surrounding environment. Having taken note of the components of the mechanism of formation of the legal testimony as expressed during the hearing process, we will briefly review some of the situations, factors, causes, means and differentiations encountered throughout this complex process of representation, as a mental mechanism that allows the reflection and knowledge of the object and of circumstances, and we might add that this happens in its absence, but on condition that it once acted upon the sense organs.

The act of representation provides an active copy of perceived objects and situations, not just a mere residue of the process of perception, therefore, we will present this entire assembly together with the knowledge supplied by specialty works of legal psychology with regard to the mental mechanisms of primary processing of information<sup>2</sup>.

We note that, until the time of delivery of the statements through the agency of the mind, the information underlying them is stored in a raw form, as perceived in good faith, regardless of whether or not it reflects reality, and we think this is the mechanism on which the proverb “first thought, best thought” is based.

Perception is influenced by a number of properties of the stimulus-object (see Table no. 1)<sup>3</sup>, the commanders, the instructors must take into account

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<sup>1</sup> Olteanu Ion, *op. cit.*, 2008, p. 16.

<sup>2</sup> Lopez Emilio, *Manual de psihologie juridică (Legal Psychology Handbook)*, Editura Oscar Print (Oscar Print Publishing House), Bucharest, 2009.

<sup>3</sup> Lessons Collection, *Psihologie și pedagogie militară în sprijinul învățământului militar (Military Psychology and Pedagogy in Support of Military Education)*, Editura Militară (Military Publishing House), Bucharest, 1984, p. 41.

these dependencies both in the practical training of the military and in the methodology of transmission of knowledge, and it is also influenced by a number of personal factors. Thus, people with a choleric temperament perceive faster, but with errors, melancholic ones have a slower perception, but without errors, while the sanguine temperament combines accurateness with speed.

**Table no. 1**

Objective-stimulus property	Perception is facilitated for:
1. physical characteristics (intensity, etc.)	average
2. frequency of occurrence in the perceptual field	average
3. structural complexity	average
4. colour contrast	(in decreasing order) black on yellow, yellow on black, green on white, green on red
5. stimulus quality	real objects are easiest to perceive, then schematic object models and, finally, symbols. Figures are easier to perceive than letters
6. position in the perceptual field	it is easier to perceive objects located centrally and in the upper left region
7. dynamics	dynamic objects (movements, transformations) are perceived more easily

Each person, through the activity of knowledge, provided by the cognitive system, tries to classify, order, determine the meaning of what surrounds them: objects, phenomena, processes or other people. If we know how a person's image of the world comes to exist, the principles governing the development and interaction of cognitive elements (perceptions, notions, reasoning, etc.), we can make the first step towards understanding human behaviour, a preceding, but absolutely necessary stage in the scientific substantiation of instructive-educational intervention.

The motivation of a person is a fundamental factor in perception. Perceptual tasks are carried out more quickly and more precisely when stimuli objects and phenomena are more familiar, more in keeping with the skills, meanings, states of necessity and the motives of the perceiving person. The military investigator must know that motivation decisively influences the selectivity of perception in the sense that people tend to choose the information they are interested in and ignore that which does

not correspond to their motivation.

Moreover, the more an object, a phenomenon is of greater importance to the perceiver, the more that object can be overestimated in interpretation. The tendency to have a cognitive balance makes a person “perceive” more than what the information itself contains. The person adds to the information everything that seems appropriate in order to reconcile the current interpretations and meanings with the previous ones so that the cognitive system is as concordant, as “understandable” as possible. These phenomena arise, in particular, in the perception of events in the microsocial environment and in the case of interpersonal perception.

Perception occurs more readily and its interpretation is more correct in the case of a rich experience, of a similar previous profession, so in the conditions of a store of perceptual patterns deposited in the memory of the person concerned.

It should be noted that sensitization phenomena can be successfully used to increase perceptual performance in military tasks. Thus, waiting in a room with red-violet lighting, applying cold compresses on the back of the neck, sugar consumption accelerate the process of adaptation to night vision. Making an impression on visual receptors with medium intensity light is followed by sensitization to sound stimuli. When a sense organ is stimulated intensely and for a long time, an auxiliary stimulation of another sensory organ must occur in order to maintain an increased functional tone.

Finally, perception is also influenced by a number of situational factors; fatigue, excessive tensions, certain physical conditions, etc., can diminish the performance of perception, which is why, as we have shown, in the general procedural environment, the judicial bodies even develop intermediate (situational) plans in view of the preparation and holding of the hearing itself<sup>1</sup>.

As regards another element of the statement formation mechanism, the perception of space in the activity of certain categories of military staff with demanding professions (border police officers, sailors, scouts, observers, military pilots, etc.) is particularly important for the successful completion of the missions entrusted to them. We present below some of the factors that influence the perception and assessment of objects and spatial distances.

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<sup>1</sup> Stancu Emilian, *Procedee tactice folosite în investigațiile penale – Evoluții (Tactical Procedures Used in Criminal Investigations – Developments)*, 2011, op. cit., pp. 207-208.

Thus, when the environment in which the activity takes place is known, the average error of visual distance estimation is 6-8%, as compared to over 15% in unknown environments. The assessment of distances (visually and auditorily) also depends on the nature of the indices provided by the objective (see *Table no. 2*)<sup>1</sup>.

**Table no. 2**

Indices	Max. distance of perception of the objective in km.		
	Means	Visual	Auditory
1. Bright flashes at the mouth of the pipe; short, clanging sounds	Cannon	3-4	over 3
2. Repeated blinks within short intervals, jerky sounds	Machine gun	1.5-2	over 1.5
3. Motor sounds	Automotive etc.		over 1.5
4. Noise, intermittent lights		over 1.5-2	over 1.5-2
5. Cigarettes, lanterns, matches voices	People	0.5-1.5	0.5-1 m

The closer object might darken, mask the more distant object, which makes the depth seem larger than in reality, the same way that empty space seems larger than filled space. The fewer the landmarks between the observer and the objective, the closer the latter seems. Objects with lower luminosity appear to be more distant; therefore, in strong sunlight or when the sun is in front of the subject, distances seem smaller and objectives closer, and on gloomy days, at dusk, in the rain, in the fog, in the shade or with the sun behind the subject, distances to the objective seem larger than in reality.

Objects coloured in vivid colours (white, red, green) appear to be closer than those coloured in black, brown, blue. The transparency of air makes objects seem “farther away”, and greater distances “colour” objects in blue-violet. Isolated objectives appear to be closer than grouped ones.

Finally, when the observation is done top-down, distances seem greater than in reality, and when the observation is done bottom-up, they seem smaller. Observation is the highest form of perception, having, through its characteristics, the status of a true method of knowing.

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<sup>1</sup> Lessons Collection, *Psihologie și pedagogie militară în sprijinul învățământului militar (Military Psychology and Pedagogy in Support of Military Education)*, op. cit., p. 42.

The defining features of observation are as follows: it is premeditated, directed and planned, taking place in relation to a determinate purpose whose clarity influences the performance of the observation; it involves the multilateral study of the perceived object; prior training directs observation towards the important, significant aspects; observation is based on knowledge about the object being researched; the transposition of the things observed in one's own language facilitates memorization and understanding; the need for knowledge, the interest of the observer support and direct observation, influencing its effectiveness to a great extent.

The following succession is recommended for the development of skills that allow the correct and quick perception of the environment, especially in the case of military observers, scouts, border police: 1) the informational stage; 2) the operational stage.

In the informational stage, the system of representations (patterns, images) of the objects that can be encountered in real life is formed at the level of the military personnel; these are described in detail in order to be easily recognizable.

Military missions in operations in current combat theaters exploit this knowledge for the preparation of future missions, therefore, training is necessary, and a wide range of training tools are used: real objects, small-scale terrain models, boards, albums, diagrams, maps, films, slides, schematic models. Also, the factors that affect perception and their direction of influence must be known. Where possible, phenomena and objects must be presented in real-life tactical situations, in the context of missions fulfilled. The informational stage must be concluded with a verification of the knowledge of appropriated images.

In the operational stage, an organized system of groping and exploration of the perceptual field is formed, operations of search for an object that is masked or missing from the perceptual field are developed.

A number of peculiarities arise in relation to the purpose, the mission or the functions entrusted to the military group. Combat or other missions involve, almost without exception, group activity. The solitary flight of a pilot in a supersonic hunting aircraft, for example, depends on the activity of a team present at the command point, the technicians who prepare the machine for each flight, then the activity of coordination of a mission on the tactical plane, by the management cell at the command point, followed by the operation of identification and capture of illegal traffickers of people, drugs, etc., led by the cross-border crime fighting operational team, etc.

Every military changes his/her mental characteristics in relation to his/her place and role within the group to which he/she belongs. If at first the purpose (mission, function) of the subunit acts "from the outside" on the fighter, forcing him to "obey" the needs of the group, to execute the orders as they were given, without requiring further explanations, as the military education process advances, the initially "external" goals imposed by the commander are internalized, become conscious and are transformed into their own action triggers. This assimilation of the military requirements by each fighter is the characteristic, defining process for the army.

The military perpetrator finding himself face to face with the investigator goes through states caused by strong emotional unrest, just like everyone else. While a person with a civilian status, when meeting a judicial authority, is troubled by the situation, a military in a similar position, in addition to the complex caused in a civilian, also feels the emotional burden, the official character of the hearing, the sobriety imposed by the military grade of the investigator, his relationship of subordination to the investigator, in terms of the grade held.

From the first eye contact, irrespective of the legal standing of the military being interviewed, the military investigator must analyze the behaviour of the military undergoing the hearing process, his mimic, his attitude of telling or not telling the truth, his mental state in light of the latest missions completed, the degree of strain suffered during those missions, in order to be able to choose the optimum time for the planned activity, and if it is necessary, even to postpone it for a later date.

We consider that the "military investigation", given the multitude of behavioural qualities and positive personality traits that must be held by the military personnel, at least at a declarative level (although they also come from and interact socially with that environment, being constantly influenced by it), should not have great difficulty in establishing the truth, but, on the other hand, we should not believe either that, under the imperative of military obligations resulting from subordination and from military hierarchy, truth will certainly be told without much effort.

The military, too, might be an emotional person, during the first encounter of this kind, he might display a certain innocence in relation to what has happened, talking all the time and looking for ridiculous excuses, claiming that the accusations are unfounded, that he is totally innocent, and that because of the investigation his reputation and military honour might be stained in relation to his superiors, subordinates or colleagues. All this will disappear when faced with arguments based on evidence brought by the

military judicial body.

Instead, what one should exploit in the investigation is the fact that the military are undoubtedly calm, possess remarkable self-control, qualities which are necessary in their actions, and this might lead the investigator to believe he is in the presence of a behaviour specific to the so-called “cold-blooded criminals” who do not regret their deed in the least, but see it merely as a means of achieving certain goals, aspects that could be misleading and might result in an interpretation of the facts so as to fit this pattern.

### 3. Factors Influencing the Expression of Testimony

In the situation of the reproduction and formation of statements, we have to deal with factors that influence the expression of the testimony. Let us suppose for an instance that an individual has been sufficiently balanced and able to resist the disruptive influence of all the factors we have studied so far. This individual, endowed with ideal mental abilities, was able to observe the facts with full accuracy, keeping them intact in his subjective register, reproducing them faithfully, following an effort of voluntary evocation. How could he express them now in such a way that those who listen to his account might perceive and understand them just as he did? Here lies another obstacle, and not the least significant one, which will have to be overcome one way or another. Indeed, there are few people who have enough culture and verbal intelligence to give accurate expression to personal experiences or impressions. It is enough to present an ordinary object to a person, let him/her examine it and ask him/her to describe it, for us to come, without seeing the object, to a representation of that object that is quite different from reality. This will happen simply because the subject failed to communicate to us by words what he/she perceived; it is a rare skill to be able to *describe* something well<sup>1</sup>.

The fullness and fidelity of perception is directly proportional to the duration of the perception. If events happen quickly, the witness will retain fewer details than if the events unfold less quickly<sup>2</sup>.

However, it is a notorious practice that according to which it will always be preferable to leave the initiative of descriptions to the subject being

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<sup>1</sup> Mircea Ion, *Criminalistica (Forensic Science)*, 1992, *op. cit.*, p. 316.

<sup>2</sup> Iancu Elena-Ana, *op. cit.*, p. 131.



interviewed, rather than to actively intervene in those descriptions, under the pretext of helping him/her. What happens in such cases, in most judicial interrogations, is that the person being investigated will unknowingly come, if he/she does not have a deliberate intention to resist such a tendency, to describe facts and situations not as he/she lived them, but as the judge would like them to have occurred, or as the judge thinks they ought to have occurred.

We are dealing here with a process similar to that encountered in many medical consultations, where the doctor, who has already formed a certain opinion regarding the patient's diagnosis, directs his questions in such a way that, even if the patient does not have the illness he is suspected of, the latter provides answers that coincide with the diagnosis formulated a priori. Thus, we have arrived at the most interesting point of this matter, namely to establish the criteria to be followed in order for those who have an interest in seeking the truth to obtain undistorted testimonies. Unfortunately, because of natural errors, or certain interests, the witness gets to deliberately distort the reality of his statement, but often does it involuntarily by virtue of suggestive, insidious questions or questions with an implied answer that are asked by an investigator who is quite tenacious in fulfilling his mission, but less prepared to do it correctly from a professional point of view<sup>1</sup>.

#### **4. Essential Differences between the Testimony Obtained by Spontaneous Narration and that Obtained Through Interrogation**

It is not in vain that, according to the provision of the criminal procedure law, at the beginning of the hearing, the person being heard is invited to report freely everything he/she knows about the events and circumstances in which occurred the deed provided for by the criminal law that he or she has knowledge of or which was communicated to him/her<sup>2</sup>.

It is clear that spontaneous testimony always stems from an intention of truthfulness – it turns out to be more rounded and clearer (less distorted) than that obtained through interrogation. But the spontaneous testimony has, on the one hand, the defect of being incomplete, and, on the other, that of being inconsistent (the subject does not show consistency in his/her

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<sup>1</sup> Stancu Emilian, *Tratat de criminalistică (Forensic Science Treatise)*, 2010, *op. cit.*, p. 419.

<sup>2</sup> Art. 109, par. 1, of the Criminal Procedure Code; Art. 122, par. 2, of the Criminal Procedure Code.

account). In addition, he/she often includes unnecessary elements that have nothing to do with the actual facts and which only increase the number of pages and make the reader get lost in insignificant details. Only a very small number of statements record everything that is of interest and nothing that is of no interest<sup>1</sup>. Instead, the testimony obtained through interrogation, through repeated hearings, as techniques directed towards any subject, irrespective of the latter's legal standing, is the result of the conflict between what the subject knows, on the one hand, and what is suggested to him/her as being known by him/her by asking questions in an interlaid and progressive manner, on the other. Indeed, these responses are a mixed reaction in which the spontaneous feelings of the person being interrogated are intertwined with the emotional representations and experiences evoked by the question he/she is answering<sup>2</sup>.

To summarize, it can be said that the testimony obtained through interrogation usually provides more concrete, but less accurate details than the spontaneous testimony.

## **5. Means of Obtaining Answers with the Highest Degree of Truthfulness**

In the relevant literature<sup>3</sup>, it is mentioned that the only factor that must be known in order to resolve situations in which it is possible to obtain false statements is the moral conscience of the witnesses, i.e. their commitment to truth and justice. Curiously enough, the most moral witnesses are usually precisely those who are most impressed by threats, the severity and the ceremony of the interrogation. Instead, those who are immoral or amoral – those on whom the stimulus should be exerted, in fact – do not react at all to it, therefore, we consider oath as a useless measure, we believe that the warnings regarding the accountability inherent in giving a testimony are totally insufficient as guarantees of truth.

A much more practical approach is to have thorough prior knowledge of the personality of the witness and of his/her position in relation to which

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<sup>1</sup> Ciopraga Ion, *Criminalistica. Tratat de tactică (Forensic Science. A Treatise on Tactics)*, op.cit., p. 217. Roșca Alexandru, *Psihologia martorului (Psychology of the Witness)*, Institutul de psihologie al Universității (University Institute of Psychology), Cluj Napoca, 1934, p. 30. Bogdan Tiberiu, *op. cit.*, p. 258.

<sup>2</sup> Mircea Ion, *Criminalistica (Forensic Science)*, 2001, *op. cit.*, pp. 248-279; Stancu Emilian, *Tratat de criminalistică (Forensic Science Treatise)*, 2010, *op. cit.*, pp. 423-424; pp. 475-477.

<sup>3</sup> Lopez Emilio, *op. cit.*, p. 139.

he/she testifies in order to be able to predict what the intention leading him/her in his/her statements is. Thus, if it is deduced from the prior analysis of the affective relations of the subject that his/her testimony will not be impartial, it should be further analyzed in order to determine whether this partiality should be attributed to a noble goal (compassion, generosity, etc.), an immoral one (revenge, desire for enrichment, etc.), or it simply results from the selfish desire to make a good impression and to compromise oneself as little as possible. It is not uncommon to meet all these factors together, because the statements of the same witness can be inspired successively or alternately by them, depending on the facts or persons to which they refer.

Therefore, a subtle psychological analysis of these “imponderable” factors, which influence so much the obtaining of inaccurate and incorrect evidence, becomes indispensable.

The value of a statement can be judged only if its author is known. In general, precision is not always tied to veracity, but is usually in direct relationship with it. It can also be said that the higher the degree of extraversion of the subject, the easier it will be – within certain limits – to obtain his/her testimony, but there will be just as many chances for it not to be consistent, whereas the introverted subject will give us more reserved and even more subjective statements, but also more consistent, i.e. less influenced by external and time circumstances.

*The conclusion* to be drawn goes in the direction of identifying the characteristics of communication, constituted in a mechanism, that presents itself as follows: the subject expresses his/her feelings openly and directly and encourages his/her partner to do the same. Therefore, effective communication even in the investigator-investigated relationship involves open expression and listening, whereas ineffective communication implies the refusal of the parties to openly share their feelings and the refusal to listen to what the other has to say.

## 6. References

1. Aionîtoaie Constantin, Tudorel Butoi, *Tratat de tactică criminalistică (Treatise of Forensic Tactics)*, Editura Carpați (Carpați Publishing House), Craiova, 1992
2. Bogdan Tiberiu, Sântea Ioan, *Psihologie judiciară (Legal Psychology)*, Editura Themis Cart (Themis Cart Publishing House), Bucharest, 2010
3. Butoi Ioana, Butoi Tudorel, *Psihologie judiciară. Tratat universitar (Legal Psychology. A University Treatise)*, Editura Fundația România de mâine (Tomorrow's Romania Foundation Publishing House), Bucharest, 2001

4. Ciopraga Alexandru, *Criminalistica. Tratat de tactică (Forensic Science. A Treatise on Tactics)*, Editura Gamma (Gamma Publishing House), Iași, 1966
5. Ciopraga Alexandru, *Evaluarea probei testimoniale în procesul penal (Assessment of Testimonial Evidence in the Criminal Trial)*, Editura Junimea (Junimea Publishing House), Iași, 1979
6. Lessons Collection, *Psihologie și pedagogie militară în sprijinul învățământului militar (Military Psychology and Pedagogy in Support of Military Education)*, Editura Militară (Military Publishing House), Bucharest, 1984
7. Holdevici Irina, *Ameliorarea performanțelor individuale prin tehnici de psihoterapie (Improving Individual Performance through Psychotherapy Techniques)*, Editura Lider (Lider Publishing House), Bucharest, 2005
8. Iancu (Nechita) Elena-Ana, *Criminalistica. Tehnica și tactica criminalistică (Forensics. Forensic Technique and Tactics)*, 2nd edition revised and supplemented, Editura Pro Universitaria (Pro Universitaria Publishing House), 2009
9. Lopez Emilio, *Manual de psihologie juridică (Legal Psychology Handbook)*, Editura Oscar Print (Oscar Print Publishing House), Bucharest, 2009
10. Marioara Petcu, *Mecanismele psihologiei juridice (The Mechanisms of Legal Psychology)*, Editura Argonaut (Argonaut Publishing House), Bucharest, 2001;
11. Mihuleac Emil, *Expertiza judiciară (Judicial Expertise)*, Editura Științifică (Scientific Publishing House), Bucharest, 1971
12. Mircea Ion, *Criminalistica (Forensic Science)*, Editura Fundația „Chemarea” (“Chemarea” Foundation Publishing House), Iași, 1992; Mircea Ion, *Criminalistica (Forensic Science)*, 2nd edition, Editura Lumina Lex (Lumina Lex Publishing House), Bucharest, 2001
13. Olteanu Ion in a collective of authors, *Ascultarea persoanelor în cadrul anchetei judiciare (The Hearing of Persons in the Judicial Investigation)*, Editura A.I.T. Laboratories (A.I.T. Laboratories Publishing House), 2008
14. Roșca Alexandru, *Psihologia martorului (Psychology of the Witness)*, Institutul de psihologie al Universității (University Institute of Psychology), Cluj Napoca, 1934; Stancu Emilian, *Procedee tactice folosite în investigațiile penale – Evoluții (Tactical Procedures Used in Criminal Investigations – Developments)*, 2011
15. Stancu Emilian, *Tratat de Criminalistică (Forensic Science Treatise)*, Universul Juridic
16. Roșca Alexandru, *Psihologia martorului (Psychology of the Witness)*, Institutul de psihologie al Universității (University Institute of Psychology), Cluj Napoca, 1934
17. Stancu Emilian, *Procedee tactice folosite în investigațiile penale – Evoluții (Tactical Procedures Used in Criminal Investigations – Developments)*, 2011
18. Stancu Emilian, *Tratat de Criminalistică (Forensic Science Treatise)*, Universul Juridic
19. \*\*\* Romanian Criminal Procedure Code