



PROFILING OVERVIEW IN FORENSIC INVESTIGATIONS

C.E. TOLBARU

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Carmina-Elena TOLBARU

Faculty of Economic Sciences and Law

National University of Technology and Science POLITEHNICA Bucharest,

Pitești University Centre (Romania)

E-mail: carmina.tolbaru@gmail.com

ORCID ID: <https://orcid.org/0000-0002-1854-8352>

Abstract

The profiling investigation has great applicability in the field of forensics, providing relevant information regarding the psycho-behavioral interpretation of the criminal, in the context of the dynamics of the criminal act. In order to interpret criminal behavior and outline the psychological profile, the exploratory skills of the lawman stand out on the "game board", in a direct confrontation with the criminal. Although, from a legal point of view, in the criminal legislation in Romania, profiling is not found among the means of evidence, this investigative tool is mainly used in crimes of great violence, which present atypical elements.

Key words: *criminal investigation, criminal behaviour, criminal personality, violent crimes, crime scene analysis.*

INTRODUCTION

Enrico Ferri stated that delict is always the action of a person and the catastrophic expression of a human personality. Therefore, the truth of things should be sought in the study of the offender's personality, the individual behaviour being guided not only by momentary external stimuli, but also by stable predispositions representing the personality. Therefore, the crime scene bears the offender's signature, although the profiling is not likely to supply the offender's identity, only his pattern, based on some answer-oriented reference diagrams. The essence of profiling is found in the accuracy of the information gathered. Thus, criminal profiling is considered "a variety of techniques whereby information gathered at a crime scene, including reports of an offender's behaviour is used

both to infer motivation for an offence and to produce a description of the type of person likely to be responsible (*Davies A., 1993, p. 173*).

This investigation technique, although it has high applicability, is not widely accepted though within the jurisdictions of many states, being considered as not being reliable enough concerning the proof of guilt or innocence of the person investigated. At present, it is mainly used in the American and West-European states, based on the specialised knowledge of professionals from different fields, such as forensics, psychology, sociology, criminology etc. As its scientific character has not yet been established, existing some controversies regarding the admissibility of its evidentiary value, the offender's profiling keeps on being a misunderstood technique by courts.

In the Romanian legislation, the Criminal procedural code does not provide profiling among the means of evidence, but, besides the problem of admissibility as evidentiary value of this type of investigation, we have to admit its practical relevance in solving complex criminal causes, helping to maintain the investigation on the right track. Also, we should also consider the possibility of occurrence of some errors in the carrying out of such investigations, in the context of some profiles established subjectively by profilers. Thus, it is necessary the creation of some standards of appreciation of expert profilers and, at the same time, of establishing the significance of such an expert report for the identification of offenders (*Butoi T.B., Butoi I.T., Butoi A.T. and Puț C.G., 2019, p. 27*).

I. CRIMINAL PROFILING PROCESS – STRENGTHS AND WEAKNESSES

„Criminal profiling”, also known as behavioural profiling, crime scene profiling, offender profiling, psychological profiling and also criminal investigative analysis, is an investigative tool to discern offender characteristics from behaviour (*Petherick W. and Brooks N., 2021, p. 694*). It is an investigative tool that helps to identify and hold liable an unknown offender, offering a description of his physical, mental and social characteristics to the investigation bodies. Such a description refers to elements such as age, sex, race, height, weight, occupation, level of education and professional training, level of intelligence, marital status, type of temper or the eventual behavioural disorders etc. In Ainsworth's opinion, *criminal profiling* is considered ”the process of using all the available information about a crime, a crime scene, and a victim, in order to compose a profile of the (as yet) unknown perpetrator” (*Ainsworth P., 2001, p.7*).

In the specialised literature, they distinguished two main types of approaches in achieving criminal profiling (*Hazelwood R.R. and Douglas J.E., 1980, pp.18-22*):

- *top-down approach* (American or FBI approach) – according to which, from the data gathered at the crime scene, the investigators can identify the offender's characteristics, situating him/her into a certain pre-existing typology – thus, he/she will fall under the typology of organised or disorganised offender.

PROFILING OVERVIEW IN FORENSIC INVESTIGATIONS

There are three relevant steps within such method: (1) examination of the evidence gathered from the crime scene, classification of crime scene as organised or disorganised (2) and crime reconstruction (3), by processing the data gathered and issuing hypothesis regarding what went on, in chronological order of events, and also regarding the behaviour of the offender and of the victim. The pioneers of this approach were Ressler, Burgess and Douglas. Thus, "criminal profiling" allows the identification of the offender's personality and behavioural characteristics, based on the analysis of the offence committed, process usually involving going through seven stages, the first four being essential (Burgess M. and Douglas J.E., 1986, pp. 9-10):

- evaluation of the criminal act itself (1);
- comprehensive evaluation of the specifics of the crime scene (2);
- comprehensive analysis of the victim (3);
- evaluation of preliminary police reports (4);
- evaluation of the medical examiner's autopsy protocol (5);
- development of profile with critical offender characteristics (6);
- investigative suggestions predicated on construction of the profile (7).

The method was criticized, the offender not being able to be simply classified into a typology or another, often existing incidents characteristic to both typologies. Also, by improving the *modus operandi*, a disorganised offender can turn into an organised one, becoming therefore a professional. However, some fundamental traits remain stable in time as a result of the needs and motivations they generate and support. Being considered a reductional method, by its simple way of approach, this method, in principle, applies to series killers in the sexual area.

- *bottom-up approach* (British approach) – that is based on statistical data, permanently updated from the study of the offenders' behaviour during the murder. Thus, they build a general portrait of a type of personality, dominated by a *modus operandi* specific to his profile, as offenders develop certain patterns of behaviour and the characteristics own to his personality are reflected in their actions. The method is based on the evidence at the crime scene and on the witnesses' statements (*Canter D.V., Alison L. J., Alison E. and Wentink N., 2004, p. 294*). Starting from the smallest details that can be extremely enlightening, the overall picture is outlined, therefore the particular characteristics of the offence are associated with the ones of the offender. According to the nature and quantity of the information revealed in each case, the profile varies. It is realised a general description of the possible offender, starting from pattern based on reference behavioural characteristics, the generated profile leading to the restraining of the group of suspects. The method focused on the victim-offender interaction, the way in which the offender interacts with the victim, reflecting his day-to-day behaviour. The pioneers of this methods are David Canter and Paul Britton, profiling experts who, out of the statistical analysis of the solved murders, built

crime-related typologies. The method has a much wider applicability than the FBI method, and the accuracy of the results of this approach depends on the accuracy of reporting and registering the offences committed. In Canter's conception, an offender "leaves psychological traces, tell-tale patterns of behaviour that indicate the sort of person he is. Gleaned from the crime scene and reports from witnesses, these traces are more ambiguous and subtle than those examined by the biologist or physicist. They cannot be taken into a laboratory and dissected under the microscope. They are more like shadows, which undoubtedly are connected to the criminal who cast them, but they flicker and change, and it may not always be obvious where they come from. Yet, if they can be fixed and interpreted, criminal shadows can indicate where investigators should look and what sort of person they should be looking for" (Canter D., 1994, p. 12). Thus, the profiler's skills in understanding the human nature and the offender's pathology, in observing and correct understanding of the crime scene, are whose offering truthfulness in the construction of the psychological profile. Based on its deciphering, one can also shape his modus operandi in the future (Stancu E., 2007, pp. 544-545). Logic is essential to build rational and solid arguments about the offender's characteristics, not only in shaping the profile itself, but also in communicating the elements of the profile to consumers. Therefore, the profile construction should be grounded on two elements: logic and reasoning (Petherick W. and Brooks N., 2021, pp. 695).

Both methods briefly explained above, but enough to outline their importance in the forensic investigation of offences with unknown authors, were both put into question and criticized in considering the weaknesses identified. Based on such drawbacks, the method set out by the American profiler Brent Turvey regarding the behavioural evidence analysis confirms their potential, representing an addition to them. Its relevance is recognised as a result of the fact that it focuses on the evidentiary material means discovered at the crime scene, together with the aggressor's behaviour and with the consideration of the victim's characteristics. Turvey rules out the native gift of intuition that a profiler should hold, being a piece in a puzzle represented by the whole process of criminal prosecution. Thus, in the profiling activity, they impose a thorough assessment of the physical evidence collected and analysed accordingly by a team of specialists from different fields, with the purpose to recreate the crime scene systematically, developing a strategy that would help detain the offender in the criminal prosecution stage, and then help convict him/her in the judgement stage. In making the offender's profile, Turvey differentiates the inductive profiling from the deductive one. In his conception, the inductive profile implies a subjective approach based on extensive generalisations from statistical data. Thus, in similar situations, offenders have similar motivations (Butoi T.B. et al. 2019, p. 31). Such an approach was criticized by Turvey, as he is an advocate of the deductive method based on objectivity, where the criminal profiler keeps an open mind. In

PROFILING OVERVIEW IN FORENSIC INVESTIGATIONS

this context, the skills of critical thinking that the criminal profiler should have, prevail, as well as the capacity to understand the needs underlying the offender's behaviour (*Fintzy R.T., 2000, p. 1532*). And this means to ask the right question regarding the crime-related behaviour. The aspects that require investigation, relevant in the forensic inquiry, include the criminal skills, knowing the victim, knowing the crime scene and knowing the methods and material traces discovered at the crime scene. In the analyse of the behavioural evidence, Turvey puts emphasis on the forensic analysis of all traces (analysis of lesions, of blood stains, of the bullet trajectory), on the characteristics of the crime scene (based on photos), on the victim's and witnesses' statements, as well as a thorough study of the victim's characteristics (*Turvey B., 2012, pp. 189-192*).

Concluding these references concerning criminal profiling, we mention that not all types of offences fit with this investigation technique. Generally, it is about the offences where the offender showed elements of psychopathology, serial murders, violent offences and sexual aggressions.

II. CRIME SCENE - *MODUS OPERANDI* AND CRIMINAL MOTIVATION

The events taking place at the crime scene require a psycho-exploratory approach that should offer an answer to the conclusive question "*Who committed the offence*", in the context of some *sine-qua-non* preliminary questions, such as "*What happened*" and "*Why did it happen*" (*Butoi T.S., 2019, pp. 52-57*). In criminal profiling, the *modus operandi* offers clues regarding the offender. For example, the disorganised serial killer's *modus operandi* usually indicates a psychotic profile characterised by spontaneous, unpredictable murders and surprise attacks (*Butoi T.B. et al., 2019, pp. 50-51*). At the same time, no one acts without motivation, the psycho-behavioural print having a particular significance in the context of forensic investigation. Thus, the serial killer will always have a sexual motivation dictating his *modus operandi*.

The crime scene is the starting point in forensic investigation, that should always be managed correctly and investigated as best as possible. Each place of the crime scene is unique, with a special significance and offering an original experience, providing physical evidence that should be carefully interpreted and analysed by investigators. The profiler's role is to get into the offender's and the victim's mind, *modus operandi* being the label of his personality and behaviour. We can deduct from here the type of personality and the motif of the murder. For example, the offences committed sexually are likely to reveal the offender's motivation. They try to identify the common characteristics of the offenders who committed the same offence, including the reasons, behaviour and psychological traits (*Jitariuc V., 2023, p. 241*).

Both the crime scene and the *modus operandi* can provide relevant data regarding a certain human behaviour that should be observed, studied and decoded psychologically in order to make a correct and thorough interpretation of the

motivation and of the characteristics of those elements involved in the offence (Cârjan, L., 2005, pp. 577-578). Starting from atypical elements, a certain type of abnormal personality of the offender is built. To get into the offender's mind and observe his pathological disorders is related to the profiler's mastery in the context of an inductive and deductive thinking. His creation is related to the reproduction of the crime scene in which the profiler should submit to the role play form a double perspective, victim and offender, offering the moment the same significance as much as possible.

Therefore, *modus operandi* represents the main component of an investigation, especially regarding those offenders who are perpetrators and who repeat the murder. Obviously, the *modus operandi* is not always the same, as the offenders improve themselves intime, their method of operation acquiring other characteristic elements. However, some basic characteristics remain, leading to the limitation of the circle of suspects, that qualifies it as a trustworthy indicator concerning the correlation of a suspect to the *modus operandi* used. But there are situations in which the *modus operandi* has a special significance, so that it represents the only evidence necessary to identify the one who vomited the offence.

The characteristics of the crime scene will always indicate the offender's personality, out of the examination of the *modus operandi*, by relating to all its components, being able to show an overall picture of the personality of the person who committed the act, and also the characteristics of the group of affiliation. Some characteristics cannot be classified into a common pattern of personality. That is why they should not disregard the circumstantial elements, the occasional unpredicted and unexpected circumstances that can occur and influence crucially the adoption of a certain *modus operandi* (Jacob A., Măndășescu H., Bălțatu S. and Ignat C., 2008, p. 35).

In forensic investigation, a series of clues can be considered when approaching and decoding the crime-related activity, being elements of the *modus operandi*:

- finding patterns – the *modus operandi* can be used to establish certain murders that are connected among each other. There are a few specific types of *modus operandi* that are related to the identification of such important patterns of behaviour.

- physical clues (traces at the crime scene) – at the crime scene, there can be physical evidence characterising a certain *modus operandi*.

- psychological clues – committing the offence can take place in relation to a certain victim profile or in a certain emotional or psychological state of the offender;

- geographical clues – referring to the place and environment of committing the deeds. Thus, some offenders act only into a certain geographic area;

PROFILING OVERVIEW IN FORENSIC INVESTIGATIONS

- temporal clues – it is based on the moment (period, time) of committing the offence. There are offenders who repeat the deed at a certain period of time, in connection with their personal experiences, presenting a certain pattern.

Therefore, criminal profiling should target all the information that can be gathered in relation to the offence committed, provided both by physical and non-physical clues. Any crime-related activity is likely to produce changes in the physical environment. Thus, the criminal profiling techniques involve a thorough analyse of the crime scene and finding the common patterns with the previous incidents (How Criminal Profiling Offers an Insight into a Criminal's Mind - IFF Lab).

The whole crime-related scenario reveals personal attributes of the offender's behaviour – emotional, psychological, physical, ordinary and even professional characteristics – the offender's profiling establishing the person most susceptible to commit the offence from the perspective of some specific and unique characteristics. For that matter, Turvey himself, in the context of behavioural evidence analysis, defined criminal profiling as "the process of inferring the personality characteristics of individuals responsible for committing criminal acts" (*Turvey B., 2002, p. 1*).

Therefore, criminal profiling is usually implemented to predictive profiling, in the sense of identification of suspects, by establishing common patterns. Thus, they can conclude regarding the possible reasons of the offence, based on which they draw up deductions concerning who is the most "probable" to have committed such murder. Therefore, the results depend on their perspective on the dynamics of human behaviour. The patterns of speaking and writing, the styles, verbal and nonverbal gestures, as well as other traits and patterns are those shaping the human behaviour. These individual characteristics work in common to make each person act, react, function or perform in a unique and specific way, and the individual behaviour usually remains substantial, regardless of the ongoing activity (*Douglas J.E. and Munn C., 1992*).

CONCLUSION

The profiling technique has its own merit, i.e it succeeds, by analysing the behavioural patterns and other clues, resulting from the modus operandi and from the research of the crime scene, to deduct the characteristics of the possible offender. Although extremely controversial at present, it is useful, and it can be used at the same time as a technique of prevention of criminality, in considering the criminological theories in relation to the explanatory causes of criminality.

Criminal profiling is therefore a specialised field of knowledge, involving psychiatrists, psychologists, criminologists, judicial bodies, being a powerful tool of investigation, based on the collaboration of these professionals in gathering the resources that can lead to finding the truth. However, at a certain moment, criminal profiling does not have enough reliability in order to be admissible as

evidence in a trial, being considered as based on deductions, suppositions, suspicions, stereotypes and probabilities. Thus, as long as it cannot be proved, the forensic investigation cannot be considered a science. This is the situation for now, though.

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PROFILING OVERVIEW IN FORENSIC INVESTIGATIONS

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