



Suleymanov J.I.*

DOI: 10.25108/2304-1730-1749.iolr.2017.53.144-160

Application of psychological methods in activity of a lawyer

Abstract: At analysis of the motives of information received a lawyer has to proceed from the fact that discovered discrepancies of the reality might be determined the both deliberate motivation (lie) and non-deliberate (involuntary mistakes). Diagnosing of the discrepancies of objective reality in course of comprehensive, complete and objective investigation of a case's circumstances has to include the both application of the techniques to identify a falsity (truthfulness) of information received and assessment of possibility of involuntary mistakes.

Diagnosing should not be limited with investigation only external manifestations of symptoms of false information as signs indicated give grounds only for probabilistic conclusions. Identifying of a lie should be based on evaluation of set of signs, with establishing their correlative links and dependencies.

Keywords: psychology; diagnostics; lawyer; lie; symptoms; information.

In recent years, psychological science has deeply studied the problem of symptomatology of false information at the level of observation for non-verbal means of communication, has received a significant development in other areas of identification of false messages and involuntary mistakes. It seems that the latest research in this sphere might be successfully applied in lawyer's activity.

* **Suleymanov Javanshir Islam oglu** – lawyer, a member of the Bar Association of Azerbaijan Republic, a member of International Organization for Legal Researches (Azerbaijan). E-mail: mopi_sid@yahoo.com



Simultaneous diagnostics of information received at participation in process assumes an assessment the both symptoms of lie and signs of truthfulness. Such diagnosing helps lawyer in especially complicated situations, when true data have some incorrectness, in base of which at cursory analysis might be made wrong conclusion on falsity of information received.

False informing is one of the forms conflict's existence. Therefore, in course of diagnosing of information received it is necessary to see differences of false information and data that received in result of involuntary mistakes. External signs of the both kinds of information being received might be similar: contradictoriness, presence of gaps, lack of concreteness and others. However, involuntary mistakes and lie are differed on their nature; therefore they cannot be related to one category. As it seems, the differences of lie and involuntary mistakes more completely and accurately presented by M.V. Lifanova, who wrote that first, a lie is always a volitional and deliberate action, bona fide delusion is involuntary fact, and second, a lie is designed on adequate perception of the facts, whereas a basis of bona fide delusion is involuntary mistakes, and at last, third, false information is formed in the latest stages of analysis of the facts and their reproduction, and bona fide delusion is characterised with entire period of subjective transformation of actualized information that includes a number of stages: perception, memorization and reproduction [5, p. 27-28].

During analysis of the motives of information received a lawyer should proceed from the fact that found discrepancies of reality might be determined the both deliberate motivation (lie) and non-deliberate (involuntary mistakes). Diagnosing of the discrepancies of objective reality in course of comprehensive, complete and objective investigation of a case's circumstances has to include the both application of the techniques to identify a falsity (truthfulness) of information received and assessment of possibility of involuntary mistakes.



Since diagnostic signs have no, as rule, an evidential significance therefore contradictions found in information will have the both an evidential significance and diagnostic sign. However, in the most cases the diagnostic signs of deception are beyond an area of evidential information as in course of interpersonal interaction the most part information is transmitted by human through a language of gestures, facial expressions and pantomime. Thus, it is precisely the gestural language serves as ground to be in doubt in veracity of said. Nevertheless, this information cannot be recognised as evidence in a case as the records of investigative actions are fixed only the verbal information or result of substantive activity.

Consequently, diagnostic signs serve only as a cue in choosing of the means and methods of impact. In particular, emotional tension might be result of common discomposure that linked with participation in a process or understanding of necessity to give accurate data and not to make mistake or other manifestation of internal experience, which do not form conflict behaviour. Other side, emotional tension that manifested in non-verbal means of information transmitting can be a consequence of providing with false information. G.A. Zorin enumerates the following symptoms of tension: muscle tension, trembling of the hands, twitching of the muscles of the face, lips, eyelids, external manifestations of the feeling of “chills”, decreased accuracy of movements, impaired coordination, deterioration of handwriting and other [4, p. 50]. Non-verbal signals cannot be evidence on a case, but they are enabling to be as orienting function to serve as a basis to bring version on falsity of information received.

Diagnosing should not be limited with investigations only external manifestations of the symptoms of false information as indicated signs give grounds only to make probabilistic conclusions. Detection of lie should be based on assessment of set of the signs with establishing their correlative ties and dependencies.



Establishing of correlative links of the signs of false information is meant revealing their casual basis. This task is solves the both on base of establishing of reasons of false information and in frames of revealing of circumstances that conduce to bona fide delusion. Thus, revealing of correlative links of information that does not correspond to established facts should include the analysis: reasons of false information; reasons for truthful statements; circumstances that conduce to involuntary mistakes.

Undoubtedly, diagnostic signs of a lie include mandatory components: a cognizance by a recipient, in role of which acts here a lawyer and probabilistic conclusion of the recipient, about “falsity of messages”.

Thus, under diagnostic signs should be understood cognizable by a recipient the manifestations of human activity (conscious and unconscious) that give grounds for probabilistic conclusions on deliberate misleading.

Diagnostic conclusion of falsity of received information will be more substantiated if might be established the most set of the signs of deliberate misleading and definitely look correlative links and dependencies of the one level. Suppositional conclusion on falsity of received information will be more accurate if it is established consistent links of diagnostic signs of deception symptoms and signs of truthful messages.

Along with the most common sign of truthfulness – concreteness – psychological science distinguishes also soundness, naturalness of movements, calm and confident voice, emotionality, presence of gestures, direct and open view, open posture, consistency of speech, logic, specificity of facts and others. Symptoms of false messages are inconsistency, improbability, tightness, stiffness, unnatural and uncertain voice, lack of emotionality, a small number of gestures, a closed posture, an indirect look (liar looks away, his eyes “run”), inconsistent of speech, contradictoriness of information said, absence of specific facts, an ironical



smile, a substitution of the topic and a departure from an answer, insecure words, excessive complacency, boasting and others [6, p. 65].

One of the most common signs of truthful messages is the concreteness of information said, therefore an absence of concreteness is considered by psychologists as a symptom of lie. It seems that in tactical purposes to strengthen diagnostic value of a sign of vagueness in false information a lawyer should apply a technique of their itemisation. This case either a symptom of vagueness will be more brightly expressed or inevitably are arisen the contradictions.

Partial lie is some contexture of truthful and false statements. This form of misleading is met more often than full deception. Therefore, proposed technique of contrast identification will be very effective not only in course of analysis of a sign of vagueness of statements. This case a liar will strive to itemize in order to give truthfulness his information during providing the facts that correspond to the reality. Other side, false statements of a person, who is strived to partly distortion of the reality, will be characterised with vagueness, uncertainty and other signs of deliberate misleading. Thus, a contrast of messages may serve a cue for detection of partly lie. Therefore, under contrast should be understood presence of dominating signs of truthful statements or prevalence of symptoms of deception in various sections of communicative activity [1, p. 112].

Diagnosing of false messages is considerable complicated if it is presence of symptoms of “different polarity” on the same section of communicative activity without obvious expressed dominating ones over others. However, here we may talk on inconsistency of the symptoms, but not about contrast of them. In particular, the messages might be distinguished with concreteness, truthfulness and confidence in stating if a legend of the message carefully prepared. However, even the most skilful liar can hardly “fake” all signs of truthful statements. It is the least degree is controlled by mind the mimics, gestures and pantomime. Even skilful “fake” of non-verbal means of communication may have a number of signs, on



which can be detected artificiality demonstrated signs of truth. These signs can be reduced to the two categories: a) incongruence of gestures, mimics and pantomime (discrepancy of non-verbal means of communication to utterances) and b) excessive diligence in “forgery” of signs of truthful statements (too much number of “open” gestures, unnecessary itemisation and others) [2, p. 78].

In course of diagnosing false messages a lawyer should evaluate all found signs in combination, prioritizing those symptoms, which practically cannot be controlled consciously or those of them, which have objective reasons. In particular, a liar is often weakly orientated in the details, and therefore it is difficult to fake a sign of concreteness in this situation. In addition, not all signs of false messages or truthful statements are subordinated to conscious control.

Therefore, a lawyer should evaluate not some separate sign, and detect all symptoms and investigate them in aggregation. Justified conclusion of a defender about falsity or truthfulness presented information allows correcting the defence tactics. Accurate diagnosing of false messages, existing out of the frames of procedure form but having criminalistical significance, plays also an important role in choosing of tactical line.

Unlikeliness of stated information is often sign of the deception. Unlikeliness is a discrepancy of information received to normative representations. It is characterized with availability of “inexplicable facts”, inconsistency of behavioural and eventful phenomena. Lack of data about lawyer’s awareness is not allowed a liar designing truthful legend. Therefore, when analyse information received, lawyer should take attention to this sign, orientating to logic representation on possibility of existence those or other events, those or other actions and phenomena.

Special attention should be paid to the latest research of psychologists in sphere of non-verbal means of communication. Non-verbal sources of information might be subordinated to conscious control, but variety of the gestures, mimics,



pantomime are too big that even skilful liar cannot fake all body language [3, p. 201].

In result of study conducted by famous Californian psychologist Paul Ekman and his colleagues, were discovered the following changing of human body language, who are saying wrong: 1) Gestures. It is reduced hands gesture activity as, liars, as rule, are aware that gestures of their hands closely associated with their thoughts and feeling, and it means that they can say others more than a host presumes. 2) Touch. It is considered that classic sign of deception is a hand streaking off over a mouth or close it. 3) Hands divorced to the sides. The gesture means that the hands as if are refused to bear responsibility for words said. 4) Fussiness. Crossing the legs with their straightening, directing the feet to the nearest exit. 5) Even skilful liar, who is enable to “dress a mask”, cannot control micro-signals of face’s expression, when a part of brain that “responsible” for natural emotions send signal, and after that other centre of the brain “extinguishes” it, ordering a face to shut up. 6) Eye contact. The most part of people cannot look into the eyes those they deceive. A liar more often looks away, can completely turn away from the interlocutor, can and blink more often than usual. 7) Sincerity of voice. The tension experienced by a person will sound in speech. The voice of a liar may lose the richness of intonations [2, p. 169-174].

Above-cited results of the research of non-verbal signals of a liar will be very visual in defence practice. Analysis of above non-verbal symptoms allows making conclusion that a liar seeks to reduce activity (reduction of motor activity, emotional paleness of speech, the desire to “put on an impenetrable mask” of a dispassionate expression of a face and others).

It seems that all symptoms of false statements, which a lawyer meets, might be divided into the two categories: a) verbal symptoms (systemic nature of statement, internal contradictions and inconsistency with established facts, notional unlikelihood, a sign of learning, vagueness and presence of gaps, non-specificity of



the facts); b) non-verbal signs (emotional paleness or excessive emotional painting of a speech, unsure voice, poverty of gesticulation, signals of mimics, gestures and pantomime, topic substitution, avoiding of response). Separate symptoms have no brightly expressed verbal or non-verbal character. So, complacency and boasting, like the symptoms of untruth, can be expressed the both in sign of language (a smirk, an arrogant expression of a face and others) and in direct statements.

References

1. Blekbyorn R. *Psikhologiya kriminalnogo povedeniya* [Psychology of criminal behaviour]. S. Petersburg, 2004, 496 p.
2. Vil'son N., Makklafin K., Ekman P. *Yazyk zhestov-put' k uspekhu* [Language of gestures – way to success]. S. Petersburg, 1999, 218 p.
3. Enikeev M.I. *Osnovy obschey i yuridicheskoy psikhologii* [Basis of general and legal psychology]. Textbook for Universities. Moscow, 1996, 631 p.
4. Zorin G.A. *Takticheskiyi potentsial sledstvennogo deystviya* [Tactical potential of investigative action]. Minsk, 1989, 82 p.
5. Lifanov M.V. *Vyayvlenie i razoblachenie lozhnykh pokazaniyi* [Revealing and disclosure of false testimonies]. Dis. kand. yurid. nauk [PhD in Law Diss.]. Ufa, 1997, 223 p.
6. Simonenko S.I. *Psikhologicheskie osnovaniya otsenki lozhnykh i pravdivykh soobscheniy* [Psychological basis of evaluation of false and truthful messages]. Dis. kand. psikhol. nauk [PhD in Psychology Diss.]. M., 1998, 114 p.