

the circle of persons who may be recognized as subjects of a criminal offense under Art. 145 of the Criminal Code of Ukraine; improvement of the legal regulation of the procedure for collection, storage, use and circulation of information, in particular, on the mental state of a person, their compulsory examination and treatment, use of confidential data in the field of psychiatry, to which the Constitutional Court of Ukraine drew attention when interpreting Articles 3, 23, 31, 47, 48 of the Law of Ukraine "On Information", etc.

**Keywords:** *the right to respect for private life, information about the human health status, confidential information, medical secrecy, medical privacy.*

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### **CRIMINOLOGICAL CHARACTERISTICS OF THE IDENTITY OF THE ABUSER WHO COMMITS A CRIMINAL OFFENSE IN THE HOME SPHERE**

**Катерина Буряк. КРИМІНОЛОГІЧНА ХАРАКТЕРИСТИКА ОСОБИ КРИВДНИКА, ЯКИЙ ВЧИНЯЄ КРИМІНАЛЬНЕ ПРАВОПОРУШЕННЯ У ПОБУТОВІЙ СФЕРІ.** У статті досліджено особу кривдника, який вчиняє домашнє насильство. Запропоновано визначення кривдника, який вчиняє побутовий злочин, як сукупність суспільно значущих характеристик і відносин особи, що характеризують її як вчинення злочинів у сфері сімейно-побутових відносин. Проаналізовано структурні елементи кримінологічної характеристики особи злочинця, а саме: соціально-демографічні; кримінально-правовий; соціально-рольові; морально-психологічні. Соціально-демографічні характеристики особистості злочинця висвітлюються відомостями про стать, вік, освіту, місце народження і проживання, громадянство та іншими демографічними даними.

Кримінально-правова характеристика – це відомості про склад вчиненого злочину, спрямованість і мотивацію злочинної поведінки, одноосібність чи груповий характер злочинної діяльності, форму співучасті (виконавець, організатор, підбурювач, пособник), інтенсивність злочинної діяльності, характер злочинної діяльності, характер злочинної діяльності. наявність судимостей і так далі. Соціально-рольові характеристики розкривають функції особистості, зумовлені її становищем у системі існуючих суспільних відносин, належністю до певної соціальної групи, взаємодією з іншими людьми та організаціями в різних сферах суспільного життя. До моральних якостей людини належать її світогляд, духовність, погляди, переконання, установки, ціннісні орієнтації.

Злочинців відрізняє негативне або байдуже ставлення до виконання своїх громадських обов'язків, дотримання правових норм, вибір протиправних засобів задоволення особистих потреб, егоїзм, ігнорування суспільних інтересів тощо. Сформовано портрет злочинця, який вчиняє домашнє насильство. Запропоновано ефективну систему заходів із запобігання та протидії домашньому насильству, яка має базуватися на ефективній просвітницькій діяльності щодо спричинення побутових злочинів.

**Ключові слова:** *кривдник, домашнє насильство, портрет обличчя злочинця, протидія домашньому насильству.*

**Relevance of the study.** With Ukraine obtaining candidate status, there are many social issues that need to be addressed, the introduction of European regulation and values, the sphere of family relations and the problem of domestic crime is no exception. For the correct selection of the mechanism for regulating the counteraction and prevention of domestic crime, we decided

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to study in detail the identity of the abuser who commits a criminal offense in the home sphere.

This is very important, because the family is the main unit of society and it must be protected by the state. The commission of a criminal offense by the abuser in the family causes a public outcry, undermines the foundations of the family, causes physical, psychological and moral disintegration among family members.

**Recent publications review.** Some issues related to the identity of the abuser who commits domestic crime were considered in their works by such scientists as A. Blaga, P. Bilenko, I. Botnarenko, O. Bogatyreva, I. Bogatyrev, A. Bogatyrev, B. Golovkin, O. Humin, O. Juzha, A. Zelinsky, M. Kuznetsov, O. Kostenko, Yu. Lukyanova, U. Mytnik, M. Puzryev, L. Samaray, V. Topchiy.

Despite the significant contribution of these authors to the study of this problem, the issue of criminological characteristics of the identity of the abuser who commits a criminal offense in the home sphere is insufficiently studied. The above made it necessary to prepare a scientific article and its title.

In criminological science, there are constant discussions about determining the identity of a criminal and forming a criminological portrait of such a person. L. Samaray sees that the identity of the offender is a consequence of the commission of illegal activity and not the type of person that precedes it [1, p. 191].

Ukrainian criminologist A. F. Zelinsky believes that the identity of a criminal should be considered as a set of socio-demographic, psychological and moral characteristics, which are more or less typical of persons guilty of criminal activities of one type or another [2, p. 22-23].

A well-known Ukrainian criminologist, academician of the Academy of Legal Sciences of Ukraine A. Kostenko gives his own understanding of the identity of the criminal. So, according to the opinion of this scientist, a person is a "three-dimensional" creature and consists of a layer: "physical thing", "biological creature", "social personality". On the last layer the criminal behavior of a person and his/her social pathology are determined, because it is a manifestation of a complex of arbitrariness and illusions [3].

I. Bogatyrev notes that the concept of criminal identity should be considered as a set of socially significant features, connections and relationships that characterize a person with a low level of self-control and guilty of violating the norms of Criminal Law [4, p. 79].

V. Golina says that the person of a criminal is a set of essential and stable social properties and signs, socially significant biopsychological features of an individual, which are objectively realized in a particular crime, give the character of public danger for the committed act and the responsible person for it – the properties of public danger, in connection with which he/she is brought to justice under the Criminal Law [5, p. 37].

O. Dzuzha notes that the person of a criminal is a set of socially significant properties, signs, connections and relationships that characterize a person guilty of violating the criminal law in combination with other (non-personal) conditions and circumstances that affect his/her criminal behavior [6, p. 94].

**The article's objective** is to study the identity of the abuser who commits domestic crime.

**Discussion.** We believe that the abuser who commits domestic crime is a set of socially significant properties and relationships of a person that characterize he/ she as committing crimes in the sphere of family and domestic relations.

For the study of the abuser who commits domestic crime, we consider the most successful classification proposed by A. Blagoy, according to which the main elements of the structure of the criminal's personality of this category are the following:

- 1) socio-demographic;
- 2) criminal law;
- 3) social and role-playing;
- 4) moral and psychological [7, p. 92].

*Socio-demographic characteristics* of the perpetrator's identity are covered by information about gender, age, education, place of birth and residence, citizenship, and other demographic data.

If we study the *gender* of persons who commit domestic crime in Ukraine, according to our research, 95 % of crimes in this category are committed by men and 5 % by women. In foreign countries, men are also more likely to be involved in family crimes, as evidenced even by the regulations that have been adopted to protect the rights of women suffering from domestic crime: The Violence Against Women Act, the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). The activity

of men in the role of an abuser is explained by the fact that men are more impulsive, prone to alcohol consumption, physically stronger, and less burdened with running a household.

According to our data, the *age* limit for persons who commit crimes in the family and household sphere is 25-35 years for women and 30-40 years for men. This age of abusers can be explained by a number of reasons, so V. Topchiy notes that most often violent crimes are committed by middle-aged persons during marriage and the birth of children; physical condition at this age is not limited to serious illnesses; at this age, abusers most often face stressful situations (at work, with friends, in the family), the consequences of which are aggressiveness, conflict [8, p. 87]. P. Golovkin suggests that such an age limit is due to crisis periods of personal and family life [9, p. 45].

For the most part, people who have a full or incomplete general secondary *education* are prone to crimes related to domestic crime. This can be explained by the fact that education is the key to upbringing and instilling humanistic ideals. However, if we turn to the position of V. Topchiy, he notes that the presence of higher education cannot guarantee a negative attitude to violence against family members [8, p. 89]. Therefore, it is important to distinguish between the availability of education and erudition, the latter is an integral component of family education, instilled ideals and self-development of the individual.

*Place of birth and residence.* We join the research conducted by A. Blagoy, who states that the vast majority of persons who committed crimes related to domestic violence were residents of cities, in second place-residents of villages and urban - type settlements, in third – representatives of regional centers, in fourth-settlements [7, p. 97].

*Citizenship* is a significant criterion in multinational marriages. There are no borders in the modern international space, and more and more marriages are being concluded between representatives of different nationalities and faiths. Due to ignorance, Ukrainian women face situations when the fact of marriage does not acquire the citizenship of the country of a foreign husband, because due to changes in the migration policy of many countries, marriage is not a sufficient basis for obtaining citizenship, but is only one of them. It is necessary to take into account such important criteria for obtaining citizenship as the residency requirement, successful passing of the language proficiency exam, and in Muslim countries-acceptance of a different faith. As a result, Ukrainian women in marriages with foreigners can remain emigrants and when faced with domestic crime, they keep silent about it. And in the case of appearing a child before the Ukrainian woman acquires citizenship of her husband, the situation becomes more complicated, because the husband and child are citizens of a foreign country for the Ukrainian woman, and in the case of domestic violence, she becomes even more vulnerable, because the child often becomes the object of blackmail of the husband.

*Criminal-legal characteristics* are information about the structure of the committed crime, the direction and motivation of criminal behavior, the sole or group nature of criminal activity, the form of complicity (performer, organizer, instigator, accomplice), the intensity of criminal activity, the presence of criminal records, etc. [10].

According to research of A. Blagoy, every third criminal in this category has previously committed crimes dominated by self-serving crimes, namely theft (36 %), robbery (9 %), brigandage (4 %), intentional destruction or damage to someone else's property (2 %), fraud and extortion (1 %), as well as violent crimes (24 %), in particular sexual crimes (6 %). It should be noted that among persons brought to administrative responsibility for committing domestic violence, failure to comply with a protective order or failure to comply with a correctional program, almost every fifth person continues illegal behavior every year, repeatedly committing such actions. However, an analysis of the sentences of criminal cases under Article 126-1 of the Criminal Code of Ukraine allows us to argue that 62 % of persons who have committed domestic violence have not previously been brought to criminal responsibility, 19 % of whom are considered not convicted under Article 89 of the Criminal Code of Ukraine and 19 % – convicted. The latter category of abusers (persons with a criminal record) were brought to criminal responsibility for committing such crimes as: theft (13.79 %), intentional grievous bodily harm (3.44 %), illegal possession of a vehicle (3.44 %), threat of murder (1.72 %), beatings and mutilation (1.72 %), threat of destruction of property (1.72 %), violation of administrative supervision rules (1.72 %), fraud (1.72 %), robbery (1.72 %), intentional light bodily injury (1.72 %), illegal handling of weapons, military supplies or explosives (1.72 %), theft by dismantling and other means of electrical networks, cable communication lines and their equipment (1.72 %), violation of the secrecy of correspondence, telephone conversations, telegraph or other correspondence transmitted by means of communication or through a

computer (1.72 %), illegal production, manufacture, acquisition, storage, transportation or transfer of narcotic drugs, psychotropic substances or their analogues without the purpose of marketing (1.72 %) [7, p. 220].

Among those ones who commit domestic crime in the form of sexual violence, persons who have committed rape and sexual intercourse with a person who has not reached puberty predominate. In second place – forced satisfaction of sexual passion in an unnatural way [11, p. 61]. It should be noted that during the commission of domestic crime, about 70 % of abusers are drunk [12, p. 390].

The study of criminal-legal features of a person who commits domestic crime is complicated by the fact that this type of crime has a high latency, so the criminological portrait of the offender is compiled on the basis of cases that have become clear.

*Socio-role characteristics* reveal the functions of an individual due to his position in the system of existing social relations, belonging to a certain social group, interaction with other people and organizations in various spheres of public life (worker or employee, ordinary performer or manager, single or head of a family, able-bodied or disabled, unemployed, etc.). These data show the place and significance of a person in society, which roles he prefers and which he ignores, reveal his social or antisocial orientation [13].

According to statistics of A. Blagoy, depending on family roles, criminals usually become 20.9 % – husband, 15 % – wife, 12.1 % – father, 15.9 % – mother, 13.3 % – son, 2.4 % – daughter, 4 % – brother, 1.8 % – sister, 1.3 % – uncle/aunt, 0.7 % – nephew/niece, 1 % – grandfather, 2.5 % – grandmother, 3.1 % – grandson, 0.5 % – granddaughter, 3.9 % – son-in-law, 0.7 % – daughter-in-law, 0.5 % – father-in-law, 0.3 % – each-father-in-law and mother-in-law. At the time of committing the crime, the vast majority of family abusers – 53.5%, did not work or study, 6 % did not have a permanent job [7, p. 290].

According to K. Filipenko, domestic criminals spend the most time with friends (66.6 %), less at home (26.6 %), with neighbors (10 %), colleagues (5.3 %). They consider friends (70 %), relatives (14.6 %) and neighbors (15.3 %) to be the best their environment. They get aesthetic pleasure from watching TV and using the internet (75.3 %), from reading newspapers and magazines (22 %). 84.6 % of them consider a friend to be the most respected person [14].

If we consider the type of activity of abusers, it should be noted that most of them are unemployed – 55.6 % and student youth – 41.6 %, then representatives of working professions – 17.9 %, pupil youth – 12.6 %, military personnel – 7.7 %, civil servants – 6.3 %, law enforcement officers – 6.1 %, entrepreneurs – 5.4 %, agricultural workers – 4.8 %, cultural and artistic figures – 3.4 % [15, p.194].

L. Kryzhnaya claims that among abusers who commit domestic crime, the largest share falls on unmarried people (cohabitants) – 47.2 %, then divorced ones – 37.6 % and married ones – 15.2 % [16, p. 86].

*Moral and psychological signs.* The moral characteristics of a person include their worldview, spirituality, views, beliefs, attitudes, and value orientations. Criminals are characterized by a negative or indifferent attitude to the performance of their public duties, compliance with legal norms, the choice of illegal means of satisfying personal needs, selfishness, ignoring public interests, etc. [17].

The psychological characteristics of the criminal's personality include the features of his/her intellectual, emotional and volitional qualities. Intellectual properties include: the level of mental development, the amount of knowledge, life experience, breadth or narrowness of views, the content and variety of interests, and so on. Criminological studies show that the majority of persons who have committed crimes, especially violent ones, are characterized by a reduced level of general education knowledge, a narrow worldview, or even mental retardation, and limited abilities for some socially useful activity [17].

Criminologists in the system of moral and psychological features distinguish four main elements:

- 1) orientation (a set of socially significant personality traits related to legal consciousness, in particular worldview, personal orientations, social attitudes, key motives, etc.);
- 2) mental forms of relationships that manifest themselves in cognitive processes, mental, emotional states of the individual;
- 3) temperament and other biological, hereditary properties that, along with social factors, affect the formation of a person's character;
- 4) experience (knowledge, skills, habits and other qualities that determine the choice of forms of activity) [18, p. 286].

Criminologists note the following factors of illegal behavior of criminals of this category:

1) personality traits (rigidity, dominance, anxiety, rapid irritation, low self-esteem, repression, impulsivity, addiction, low level of empathy and openness, stress tolerance, emotional lability, aggressiveness, isolation, suspicion and self-identification problems);

2) negative attitude towards the family and inadequate expectations from their representatives;

3) low level of social skills (lack of negotiation skills, peaceful solution of problems, inability to make moderate decisions, seek help from others);

4) the presence of psychological health disorders (pronounced psychopathological abnormalities, increased nervousness or repression, suicidal tendencies);

5) alcoholism and / or drug addiction as a psychopharmacological problem that causes affective mental disorders (aggressiveness, hypersexuality, irritability, coordination disorders, destruction of self-criticism, etc.), which result in loss of control over one's own behavior and irreversible process of personality degradation;

6) problems with physical health (pathological course of pregnancy, interrupted pregnancy, difficult childbirth, disability, etc.), which increase the likelihood of violent manifestations due to the powerful effect on the nervous system;

7) underdevelopment of parental skills and feelings is most often observed in young parents, whose difficulties in raising children cause nervousness, repression, anxiety, fear, which reduce self-esteem and the ability to cope with the duties of fatherhood, lead to neuropsychiatric disorders [19, p. 30].

A. Gumin believes that the greatest influence on the formation of moral and psychological qualities of a person is exerted by the family and the closed environment. Moral formation of personality is the result of interaction between reality and personality [20, p. 175].

Criminologists note that people who commit domestic crime have low or high self-esteem, are quickly irritated, aggressive, anxious, closed in on themselves, self-centered, rude and vindictive. They are characterized by a dismissive attitude towards their family members, who have high expectations from them. It is difficult for such individuals to negotiate, solve problems peacefully, and ask for help from others. They often have psychological abnormalities, nervous States, apathy, suicidal tendencies, and various addictions. Such addictions often lead to loss of control over behavior and gradual degradation. Physical disabilities also affect the identity of the perpetrator, which constantly occur on the person's nervous system.

Various factors contribute to domestic crime: the crisis of male gender identity, the difficult economic situation, the taboo on male "emotionality", the suppression of real emotions, stress, upbringing in the Family, School formation, low level of interests and culture [12, p. 390].

**Conclusions.** Based on our research, we can form the following forensic portrait of the identity of the abuser who commits a criminal offense in the home sphere – this is a man (or woman) aged 30-40 years who is married, with an average level of education, is a resident of the city, has a low level of intellectual development and social consciousness, mostly does not have a permanent place of work or is a low-skilled employee, with signs of deviant behavior (prone to the use of alcoholic beverages, narcotic substances, committing various offenses, ignoring legal norms), has a low level of social skills, emotional intelligence, previously brought to administrative or criminal responsibility, with a stereotypical view of gender roles, he is characterized by affective mental disorders (within the limits of sanity) and committed violent acts against his family.

Successful formation of a forensic portrait of the identity of the abuser who commits a criminal offense in the home sphere is the key to develop an effective system of measures to prevent and counteract domestic crime. In our opinion, the most effective is educational activities on causing domestic crime, because our state has a strong legislative framework for its counteraction and prevention, international projects and programs are being implemented to protect victims of violence, but public awareness remains at a rather low level.

The actual definition of the abuser's personality is a person who is characterized by a set of socially significant properties and relationships and intentionally commits a criminal offense in the family sphere.

*Conflict of Interest and other Ethics Statements*

The author declares no conflict of interest.

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#### ABSTRACT

The article examines the identity of the abuser who commits domestic violence. The definition of an abuser who commits domestic crime as a set of socially significant characteristics and relations of a person that characterize him as committing crimes in the sphere of family and household relations is proposed. The structural elements of the criminological characteristics of the offender are analyzed, namely: socio-demographic; criminal-legal; socio-role; moral and psychological. Socio-demographic characteristics of the criminal's personality are covered by information about gender, age, education, place of birth and residence, citizenship, and other demographic data. Criminal law characteristics are information about the composition of the committed crime, the direction and motivation of criminal behavior, the sole or group nature of criminal activity, the form of complicity (performer, organizer, instigator, accomplice), the intensity of criminal activity, the presence of criminal records, and so on. Socio-role characteristics reveal the functions of an individual determined by his position in the system of existing social relations, belonging to a certain social group, interaction with other people and organizations in various spheres of public life. A person's moral qualities include their worldview, spirituality, views, beliefs, attitudes, and value orientations.

Criminals are distinguished by a negative or indifferent attitude to the performance of their public duties, compliance with legal norms, the choice of illegal means of satisfying personal needs, selfishness, ignoring public interests, and so on. A portrait of a criminal who commits domestic violence has been formed. An effective system of measures to prevent and counteract domestic violence has been proposed, which should be based on effective educational activities on causing domestic crime.

**Keywords:** *abuser, domestic violence, portrait of the face of a criminal, counteract domestic violence.*