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## TATTOO AS NON- VERBAL LANGUAGE IN THE JURY COURT

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Since the dawn of civilization, tattoos have been a human creation. These inscriptions on the body in visible and other invisible parts emerged as a form of non-verbal expression, something that is definitively displayed, through symbols and information. Many see it as an artistic manifestation, synonymous with love or passion.

According to Berger (2007), *“it is of fundamental importance to note that these brands, in themselves, say nothing, that is: they can only have a meaning and be understood if they are within a sociocultural context in which they were produced. In other words, each brand will only receive a meaning depending on its cultural meaning, which can change from place to place. Tattoos always have a direct reference to social relationships, such as, for example, love for women, parents, pets, compliments and social factions, belonging to a tribe, etc., which only have a meaning in specific societies”* (1)

Each tattoo is linked to one or more concepts, a record of revealing information for everyone in that society. That is, civil society as a whole and even criminal society.

In the beginning, these engravings were made in a precarious manner. With the use of rudimentary instruments and there was a lot of prejudice, as it still exists today, although to a lesser extent in some cases. The object that was used with less definitive paints, methods became more sophisticated in the Modern and Contemporary Ages. Many tattoos are used by people simply because they want to engrave on their body the name of the person they love and even characters they admire, as well as animals or superheroes in their youth, etc. On the other hand, as non-verbal information, it brings with it a idea that could be an expression of unspoken communication.

With the use of the most exquisite needles and inks, tattoos proliferated and due to human creativity, other criteria, these objects became more exquisite.

When it is said that crime is organized, it is in fact right to be, as in prison units tattooing has taken on a different direction and new dimensions. Criminal factions or groups use tattoos as a means of communication (PCC).

One of the first prison units that used tattooing outside of Russia, on-site research for each group of tattoos per se, organized by volume, created by Dansig Baldaev (1925), where it is easy to see in the RUSSIAN Criminal TATTOO Encyclopedia. (two)

In the context of crime, the tattoo itself received emphasis in some situations, receiving a new meaning, different from that of fashion in general. Individuals who adhere to the “fad” of tattoos in Volga do so consciously, without further questioning. Due to the choice of the tattooed brand, it can be confused with criminal factions, depending on the behavior of these creatures. Lack of knowledge of these symbols could have negative consequences for those who use them.

Those who are inclined towards criminal behavior use tattoos differently than ordinary people, choosing brands or symbols that are more understandable. The agent who perpetrates a crime or has a penchant for crimes of a sexual nature, for example, wears a corresponding tattoo. Those who are killers or only aim to kill police officers wear a different tattoo, and so on. These tattoos emerged as a manifestation of desires or interests (conscious or unconscious), which take on meanings between them, a means of silent communication, almost a pact. Where tattooed people arrive, they are recognized, depending on the area of criminal activity, imposing fear and even privileges, if applicable. This expression and dialogue inside or outside the chain resonates between them and the leadership.

Tattoo holders, depending on the species, enjoy privileges in the criminal group. The Clown tattoo, for example, was cataloged and

recognized as those who wear it are “**famous**” **for killing police officers**. Many tattoos are currently studied, the subject of several Master’s and Doctorate theses, to provide deeper and more efficient knowledge in the field of interpersonal relationships. Tattoos often go unnoticed by us legal professionals, due to the profound lack of interdisciplinarity and multidisciplinary approach.

These criminal agents wear visible tattoos on their bodies, that is, the ostentation of those who wish to highlight their condition, especially in groups of criminals. The figure and ostensible location may further clarify your subjective inclination towards preferred illicit acts.

The tattoo option will depend on the criminal action of the tattooed person, as the information chosen will maintain and facilitate contacts with peers in the inner or outer world of the Penitentiary (3). Our work sought to research which tattoo is most used and displayed in intentional crimes against life (completed and attempted). These are reflections to bring to light this universe so unknown to all of us.

Depending on the criminal action, the chosen tattoo has a specific meaning. The individual with the chosen tattoo will even maintain contact with prison guards, locksmiths and even subordinates, if he is a leader.

It is possible to find several scientific studies on these tattoos (4). On the other hand, the shape that the agent leaves to the sample, such as arms and legs, attest to a more direct meaning.

In attempted or completed intentional crimes, tattoos on the accused are very common. Can we decipher which tattoo and what it means? This is why we chose this topic for reflection because when the criminal process is accompanied by a prison report, whether synthetic or analytical, we will be

able to compare the history of the criminal agent and draw conclusions, especially in relation to DRUGS, the social cancer that today is definitely linked directly or indirectly with the **drug trafficking and deaths due to settlement of accounts or charges. Over 90% of cases in the Fourth Jury Court are at this level.**

It is very difficult for us when developing an action plan in plenary to take this situation into account. Firstly, the Prison Reports and updated antecedents (SDS and TJ) must be included in the records, as examples. Who can do this research? Everyone is overloaded with assignments and demands. A recent decision by the STJ understood that arguing about the accused’s background does not generate nullity.

*Special resource. Criminal Procedural Law. Qualified homicide. Jury court. Mention in plenary the criminal record of the defendant. Authority Argument not configured. Non-existent nullity, intelligence of art.478, of the Code of Criminal Procedure. Thesis of violation of arts. 3rd, 476 and 564, of the Code of Criminal Procedure. Topics not debated by ordinary instances. Precedents 282 and 356, of the Federal Supreme Court. Lack of pre-questioning.*

Special resource known in part and not provided therein. 1. The text of art.478 must be analyzed in comparison with the article 480, of Code of Criminal Procedure, which allows jurors and parties “at any time and through the presiding judge, to ask the speaker to indicate the page of the case where the piece read or cited by him is found, also allowing the jurors request him, by the same means, to clarify the facts he alleged”. And the art. 480 § 3, adds that “the jurors, at this stage of the procedure, will have access to the records and instruments of the crime if they request it from the presiding judge”. Therefore, there is no illegality in mentioning the defendant’s background, which

was already included in the case file, to which jurors have broad and unrestricted access, with the possibility of requesting clarification. Furthermore, the mention of such a procedural document was not made as an argument from authority.<sup>2</sup>, “The Supreme Court has precedents in the sense that “demonstration of the loss, in accordance with art.563 of the CPP, is essential to the allegation of nullity, whether relative or absolute”. **(HC 85.155/SP, Second Panel, reported by Minister Ellen Gracie, DJ of 4/15/05 (5).3.**

*The declaration of nullity in criminal law does not preclude the demonstration of actual harm to the defense, as provided in art. 563 of the CPP, it is important to say that disobedience to the formalities established in the procedural legislation can only imply the recognition of the invalidity of the act when its purpose is compromised due to the verified defect”***(RHC 114739/PA, Rapporteur Minister Dias Toffoli, First Panel, judged on 10/30/2012, DJE 12/10/2012. 4.** *The Court of origin, when analyzing the issue regarding the nullity of the Jury, only stated that there was a violation of article 478, of the Code of Criminal Procedure, failing to analyze the issues regarding the applicability of arts. 3rd, 476 and 564 of the CPP. Therefore, due pre-questioning is absent, under the terms of Precedents 282 and 356, of the STF, applicable by analogy<sup>5</sup>.Special Appeal known in part and not provided therein. (Special appeal, number: 1.407.113-SP, Rapporteur, Minister: Moura Ribeiro, 5th Panel, judgment date: 08/26/2014). (5)*

To carry out research into the defendant's background is a task that requires more work, but on the other hand, well studied and used within the scope of the evidence, it will certainly help a lot in obtaining a favorable verdict, including body reading of the accused and the jurors will help a lot our work in plenary. Matschnig assures that *Every person is different - so how could we all speak the same*

*body language? Even though we use the same signs in gestures and facial expression, there are considerable differences when it comes to non-verbal communication. This is mainly due to the fact that each of us uses our body to a greater or lesser extent as a mouthpiece. (6).*

The accused's History will show us the real connection between the possible crimes perpetrated by him and the tattoo or tattoos he uses. It is clear that we need in the Final Allegations or in Art. 422 of the CPP to attach these histories and the antecedents of the SDS-PE to the file, complementing it with unified procedural consultation in the Courts of the federation units. It is also important to search on behalf of the accused on social networks, such as Instagram, Google and Facebook. In addition to searches in other units of the Federation, which have consultations with the names of the parties, the same as the system adopted by the TJPE.

The virtual world has provided all of us with new research horizons. Although the volume of work we carry out is exacerbated, not to mention the demands for quantitative and less qualitative results. To do a good job in instruction and in the Jury's plenary session, the aforementioned research is essential today. The criminal agent kills, and even exposes it on social media, most of the time with impunity. On the other hand, reading the body language of the accused and the jurors forces us to study in order to read and add to the arguments that already exist in the case file. (7)

A Jury Prosecutor can no longer stick exclusively to what is in the case file, he needs to interpret the evidence, as the accused's life as a whole can define his profile. The tattoo he sports, often vainly, makes a point of showing, if it is on his upper and lower limbs it could reveal his criminal inclination.

The prison reality is a diverse source of tattoos, Belmont:” for prisoners, the sense of

*belonging to a certain group still predominates. Tattooing, currently understood as a cultural phenomenon that has expanded due to its multiple and frequent uses, has dismissed and diluted the stigmatizing burden impregnated with moral values that affected special groups such as prisoners, and could, who knows, become extinct as stigma”.*

The same work contains attachments of various types of tattoos used by prisoners in general, such as Stabbed Skull, Oak Cross, Death with a Scythe, Eagle, Dove, Marijuana Leaf and others more specific to homosexuals and others more directly linked to crime. of homicide, such as: sword/dagger tattoos. Demon, pistol and revolver, clown or joker and others. Annex III refers to the carp tattoo, in the Criminal Tattoos Manual.

We know that we face a lot of work, especially if we work in Jury Courts, but if we operationalized research like this for all intentional processes against life, it would be easier to argue in plenary. Our language addressed to the Sentencing Council is precisely articulated to the 21st Century. Jurors may yawn and sleep if the arguments do not correspond to accessible language. Plenary is not a place for uninteresting classes or presentations. As a result, study and the constant search for knowledge is the daily source to be sought.

In the years 2017 and 2018, 532 (five hundred and thirty-two) trials were carried out in the Fourth Jury Court of the Capital of Pernambuco. The top tattoo, most used and corroborated as a significant link to trafficking and association with trafficking, was that of Carpa (Karpa), information about a fish. With two detailed details: The carp with its mouth upwards is high-ranking and with its mouth downwards, lower-ranking. Ways of communication between them in obedience to the trafficking hierarchy and even the silence that prevails to free the leader or lead

different factions from responsibility.

In fact, the symbiosis between drug trafficking and intentional crimes against life is unbreakable. The indicators and results were not ready, which is why I cannot show them to my colleagues at the moment. I hope the research will be published in the National Congress. In Brazil, we are not used to working with indicators. Essential for identifying results, recidivism, education, etc..

Our level of efficiency in the Jury Court, especially in capitals, is to give priority to the fullness of the Guardianship of Life (6). Work that inspired our concentrated effort to hold six weekly juries in 2017 and twelve weekly juries in 2018.

Providing that the records include these tattoo indicators will bring us much closer to the accused, knowing his life and inclinations, providing greater elements for arguments and clarifications to the jurors, with a great chance of convincing the scientific nature of the Carpa tattoo, or other, which can be searched.

Due to the holding of two sessions per day in 2017 and four sessions per day and twelve weekly sessions in 2018, we were shown empirical research that encouraged us to bring it here for reflection by colleagues, as it is an area that is little explored and can be better cataloged through indicators and results. Those of us who work in the criminal area and especially in the Jury need to write, do research and exchange ideas, as Lawyers write for the exclusive purposes of the Defense in plenary, for example, with strange and far-fetched theses.

“The installed barbarism attacks society, the family, institutions, the pillars of the democratic State and a minimum standard of civility that cannot be given up”

*“Insanity is doing the same thing over and over again and expecting different results”  
(Albert Einstein).*

## CONCLUSION

A day-to-day research carried out for more than two years, and still ongoing, based on bibliographic reference works, opening up new possibilities for action and argumentation.

Tattooing is information that is little explored and is very interesting as it opens up new and deep horizons of knowledge Sociological, Forensic Neurolinguistic, Psychological, Anthropological and logically legal.

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