

BADANIE SYTUACJI W POSTĘPOWANIACH ŚLED CZYCH W SPRAWACH O PRZESTĘPSTWA POPEŁNIONE W ZAKŁADACH KARNYCH UKRAINY

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Streszczenie. W artykule naukowym autor przeprowadza analizę, celem której jest zrozumienie sytuacji, zaistniałych w trakcie postępowań przygotowawczych w sprawach o przestępstwa popełnione w zakładach penitencjarnych Ukrainy, na podstawie której wnioskuje, że sytuacje, zaistniałe na tym czy innym etapie śledztwa, mają wpływ na dokonywanie wyboru przez śledczego rodzaju oraz formy postępowania przygotowawczego, jako sposobu dowodu w sprawie. Autor artykułu wnioskuje, że należy rozróżniać trzy podstawowe grupy czynników, mających wpływ na tok śledztwo w sprawach o przestępstwa popełniane w zakładach karnych: pozytywne, negatywne oraz mieszane.

W postanowieniach artykułu autor określa warunki, determinujące rodzaj postępowania przygotowawczego w sprawach o przestępstwa popełniane w zakładach penitencjarnych, wyodrębniając, co najmniej, trzy grupy: do pierwszej grupy zalicza się cechy osobowościowe osób popełniających tzw. przestępstwa penitencjarne; do drugiej grupy odnoszą się relacje, panujące pomiędzy samymi skazanymi; do trzeciej grupy autor proponuje zaliczyć środowisko społeczne w miejscu odbywania kary. Szczególną uwagę autor poświęca charakterystyce głównych czynników, które mają negatywny wpływ na treść sytuacji, zaistniałych w trakcie postępowań przygotowawczych w sprawach o przestępstwa popełniane w zakładach penitencjarnych. Jako wniosek, autor zaleca służbom śledczym z Narodowej Policji Ukrainy, w trakcie realizacji postawionych przed nimi zadań z zakresu postępowań przygotowawczych w sprawach o przestępstwa popełnione w zakładach karnych, korzystać z badań naukowych i empirycznych.

Słowa kluczowe: kryminalistyka, przestępstwo, śledztwo, zakłady karne, sytuacja związana ze śledztwem.

INVESTIGATION OF SUCCESSFUL SITUATIONS IN THE PROCESS OF INVESTIGATION OF CRIME IN THE INSTITUTIONS OF UKRAINE'S COMPLAINTS

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Abstract. In the scientific article, the author conducts research on understanding of investigative situations in the process of investigating crimes committed in penitentiary institutions of Ukraine, and determines that the planning of investigative actions and the nature of investigative actions depends on the investigative situation at any given stage of the investigation as a way of proof in the case. The author of the article determines that there are three main groups of factors that influence the investigation of crimes committed in the PIs: positive,

negative and mixed. In the provisions of the article, the author identified a group of conditions that determine the investigation of crimes committed in the Ministry of Health, which is at least three groups: to the first group, refer to the personal characteristics of persons who commit penitentiary offenses; to the second group of conditions include the relations that prevail between the members who are in the PI; to the third group of conditions, the author suggests to include the social environment of places of deprivation of liberty. The author pays special attention to the characterization of the main factors that negatively affect the content of investigative situations that arise during the investigation of crimes committed in the administrative units. As the author concludes, it recommends that the investigators of the National Police of Ukraine use, in the course of performing their tasks, scientific and empirical investigations of investigative situations in the process of investigating crimes committed in penitentiary institutions of Ukraine.

Key words: criminalistics, crime, investigation, penitentiary institutions, investigative situation.

ДОСЛІДЖЕННЯ СЛІДЧИХ СИТУАЦІЙ У ПРОЦЕСІ РОЗСЛІДУВАННЯ ЗЛОЧИНІВ ВЧИНЕНИХ В УСТАНОВАХ ВИКОНАННЯ ПОКАРАНЬ УКРАЇНИ

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Анотація. У науковій статті автор проводить дослідження розуміння слідчих ситуацій у процесі розслідування злочинів вчинених в установах виконання покарань України, та визначає, що від слідчої ситуації на тому чи іншому етапі розслідування залежить планування слідчим видів і характеру слідчих дій як способу доказування у справі. Автор статті визначає, що слід виділяти три основні групи факторів, що впливають на розслідування злочинів, скоєних в УВП: позитивні, негативні і змішані. У положеннях статті, визначено автором групу умов, що детермінують розслідування злочинів скоєних в УВП, що найменше на три групи: до першої групи, відносять особистісні властивості осіб які вчиняють пенітенціарні злочини; до другої групи умов відносять відносини які панують між учасниками які перебувають в УВП; до третьої групи умов, автор пропонує віднести соціальне середовище місць позбавлення волі. Особливу увагу автором приділено характеристиці основних факторів, які негативно впливають на зміст слідчих ситуацій, що виникають в ході розслідування злочинів скоєних в УВП. Як висновок автор, рекомендує слідчим Національної поліції України використовувати у процесі виконання поставлених перед ними завдань наукові та емпіричні дослідження слідчих ситуацій у процесі розслідування злочинів вчинених в установах виконання покарань України.

Ключові слова: криміналістика, злочин, розслідування, установи виконання покарань, слідча ситуація.

Formulation of the problem. The methodological basis for the investigation of crimes in the penal institutions of Ukraine, of course, has a number of specific features, but in turn, they are based on the provisions of the general forensic methodology and methodology for investigating crimes in general. According to the official data of the State Criminal Execution Service of Ukraine in penitentiary establishments (further on the PIUs), the criminogenic composition of the sentenced to imprisonment, as of 01.07.2018, is: 5.6 thousand people sentenced for more than 10 years; 7 022 persons -

for intentional murder; 3 080 persons - for intentional grievous bodily harm; 8 311 persons - for robbery, robbery and extortion; 12 282 people - for theft; 712 persons - for rape; 18 people - crimes against the foundations of national security.

State of research. It is necessary to agree with the opinion of criminologists, who noted that the forensic methodology is "essentially the" cutting edge "of criminology - and the amount of its recommendations, which is necessary for the practice of combating crime" (*Belkin, R.S., 2003, p.658*) Professor Belkin R.S. it is quite clear that the forensic methodology or methodological basis for the disclosure, investigation and prevention of certain types of crimes is an independent section of criminology, the subject of which is the definition and study of methodological provisions of general significance for the investigation of any crime, and the development on this basis of private methods of disclosure, investigation and prevention of certain types of crimes (*Belkin R.S., 2000 p. 501*).

In our opinion, it is the relationship of forensic techniques with the means and techniques of forensic technology and tactics, is manifested precisely within the framework of specific methods of investigation of various types of crimes, where all recommendations of forensic technology and tactics, especially the conduct of investigators (wanted) actions. It is here that organically linked technical means, methods of their use and tactics of investigation with the specific methods of investigation of certain types of crimes.

Statement of the main provisions. In conducting research into the methodological basis for investigating crimes within the framework of private forensic investigation techniques and their elements, it should be noted that directly the very investigation of the crime is conditionally divided into the initial, next and final stages, which, depending on the circumstances of the case and the investigative situation that arose, carry out typical investigative actions, characteristic for this stage of the investigation.

For the algorithm of disclosure and investigation of a type of crime, including crimes committed in penitentiary institutions, the following elements of the private method of investigation of certain types of crimes will be informally significant:

- 1) forensic analysis of the investigated type of crime;
- 2) typical investigative situations;
- 3) typical investigative versions (made on the basis of various investigative situations);
- 4) investigative actions (their types and nature) are aimed at the practical examination of the investigative versions put forward and the relationship between them.

It is worth pointing out that all these elements are closely interrelated. The presence of such interconnections between the forensic categories is confirmed by practically all criminologists.

Thus, the interrelation of the investigative situation with the forensic characteristic of the crime was noted by I.A. Kopylov, defining the investigative situation as a "forensic characteristic of the investigation of a particular crime at a certain point, necessary for the decision of investigators" (*Kopylov I.A., 1988, p.19*).

Note that individual criminological scientists investigated the issues of the relationship between the investigative situation and the nomination and direction of verification of investigative versions in the method of investigation of certain types of

crimes and their application in practice was spoken. It is Professor Havlo V.K. in his paper "On the Investigative Situation and Methods of Investigating the Stolen Offenses Involving Officials", the idea of the dynamics of the investigative situation, its interconnection with the nomination and verification of investigative versions was fairly rightly put forward, as well as the initial investigative situations, verification investigatory situations and types of situations of investigation (Havlo V.K., 1973, p. 90).

Thus, it should be noted that from the investigative situation that developed at the time of the investigation of the crime will depend on the planning of the investigation in the case as a whole and it will be the basis for the nomination of investigative versions. It is necessary to emphasize that the most accurately and substantively in the science of forensic science identified the investigative situation Professor Shikanov V.I.: "The investigative situation is a set of data characterizing the situation in which the investigator should act" (*Shikanov V.I., 1976, p. 157*).

In our opinion, it is in direct dependence on the investigative situation that the investigation is being conducted by investigators of various investigative (search) actions. Note that forensic investigations in which the issues raised regarding the investigative situation as a practical forensic category, in the science of forensic science were raised precisely because of the need to increase the effectiveness of investigative actions and the system of tactical receptions aimed at this. In this regard, the efforts of scientists R.S. Belkin, O.M. Vasiliev, I.F. Gerasimova, B.A. Obraztsova worked out a set of scientific recommendations on the tactics of investigative actions in typical situations, laid the foundations of forensic teaching about the investigative situation, the ways of its use in the practice of investigation of crimes were indicated.

In examining the practical, practical side of this scientific category ("investigative situation"), it should be noted that for practical activities on the disclosure and investigation of criminal cases, it is interesting not as an end in itself, but first of all in the context of forensic tactics, since "the investigative situation actively influences the choice of tactical methods aimed at achieving the corresponding goals" (*Shepitko V. Yu., 1995, p.72*).

We are convinced that it is precisely from the investigative situation at one or another stage of the investigation that planning of investigative types and the nature of investigative actions depends on the way of proof in the case. Since, in the context of the relationship between the investigative situation and the investigation, investigators (investigators) investigate the actions aimed essentially at verifying the versions of the present investigative situation, it should be noted that the nature of the investigative situation is determined by a combination of many factors. The content and combination of these factors. The content and combination of these factors are always individual and, ultimately, are due to the peculiarity of the investigated case, therefore, we believe that there can not be absolutely identical investigative situations. Due to the fact that these situations all the time change, there is a need for the investigator to take different decisions, if necessary and prioritize the conduct of certain investigatory (search) actions, as well as tactical methods of their implementation.

Note that the content of a typical investigative situation that occurs when investigating crimes committed in penitentiary institutions is determined by a number of specific factors that reflect the circumstances of the investigation of the investigated category of crimes. In this case, we are talking about factors that reflect the

circumstances of the investigation of murders committed by both convicts themselves in penitentiary institutions and in relation to them themselves. The question of the nature and content of these factors, or, in other words, the peculiarities of the investigation of crimes committed in penitentiary institutions, was investigated by criminologists.

Professor Petukhovskiy MA classifies the conditions specific to the preliminary investigation into the PIs in two groups: "firstly, the peculiarities of the appointment, organization and activity of correctional institutions expressed in the tasks and powers provided for by the normative acts of the administration of these institutions and in the special legal , as well as the actual situation of persons serving sentences in the form of deprivation of liberty, and secondly, psychological peculiarities of the personality of convicts, which consist in the presence in each of them of a certain "experience" of criminal activity Sty, but in many and not consumed complex deeply negative psychosocial features (interests, views, habits)" (*Petukhovskiy M.A., 1979, p.10-11*).

In our opinion, it is precisely this classification that is not sufficiently complete and clearly reflects forensic significance, that is, the significance is precisely for the investigation of crimes committed in penitentiary institutions. In particular, the specifics of the appointment, organization and activities of the UVP, the legal regulation of their activities, the normative acts of the task and authority of the administration of the UVP, have only an indirect relationship to the investigation of crimes committed in the Ministry of Health. In other words, the information on these features does not contribute to solving the actual forensic problems - the establishment of the offender and the circumstances that are part of the subject of proof.

In our view, it is advisable to more fully classify and characterize the factors that influence the investigation of crimes committed in the PIs. It is precisely this that we think it is necessary to allocate three main groups of factors influencing the investigation of crimes committed in the PIs: positive, negative and mixed.

In our opinion, the factors that negatively affect the investigator's activity in investigating crimes committed in the PI are as follows: awareness of the majority of convicts who committed crimes in correctional institutions, on procedural order of investigation, implementation of tactical methods aimed at inclining the accused (suspect) to give true testimonies, etc .; thoughtfulness, tricks, and sometimes increased social danger of the methods of committing crimes; peculiarities of the psyche of convicts; counteracting the investigation by the convicts; the difficulty in effectively using special knowledge (mainly in the form of participation of specialists in investigative actions) in investigating crimes in correctional institutions; insufficient equipment of correctional facilities by scientific and technical means, inability of some employees of correctional institutions to correctly apply them in conducting urgent investigative actions.

In our opinion, the factors that have a positive influence on the course of the investigation include: the limited number of people who may be suspected of committing a crime in obtaining information about a crime committed in a correctional institution; the ability to quickly obtain information characterizing a person who committed a crime; the possibility of a quick detention and isolation of the convicted offender; the possibility of widespread and effective use of investigative, regime and administrative measures in the disclosure and investigation of crimes in correctional facilities; the possibility of more effective use of organizational and technical assistance in the investigation of crimes committed by prisoners at correctional facilities.

To the mixed factors, in our opinion, it is expedient to include: limited areas of correctional institutions, within which usually occur crimes; presence of eyewitnesses committing a crime.

It is worth pointing out that in addition, it is worth highlighting a group of conditions that determine the investigation of crimes committed in the Ministry of Health, which is at least three groups:

To the first group, we propose to attribute, personal qualities of persons who commit penitentiary crimes. Because staying in places of deprivation of liberty often reformates person's personal qualities. In the environment of the convicts there is an exchange of personal qualities, resulting in a convict becoming like the majority, which is there a significant period of time and gain experience as the implementation and the disclosure of crimes. This experience allows the prisoner to choose the optimal course of behavior and successfully apply it to different situations of investigation.

To the second group of conditions, it is in our opinion, to relate the relations that prevail between the members who are in the PI. It is the external environment in which the crimes committed in the UVP occur and are being investigated, which are natural for places of imprisonment. Due to limited territory, on the one hand, it is more likely to reveal a crime and a criminal, material traces of a crime, and on the other hand, it is complicated by the preservation of traces, because on a small territory a high concentration of convicts. This is precisely what makes it more difficult to preserve the investigative secrecy in a correctional institution.

To the third group of conditions, in our opinion, should include the social environment of places of deprivation of liberty. The determinative meaning of this is the unofficial rules of conduct governing the internal content of the relationship of the convicts, which affects their behavior, attitude towards the society of convicts and the administration.

Note that the main factors that adversely affect the content of investigative situations that arise during the investigation of crimes committed in the administrative units are:

First, the presence of a majority of the convicts of a general negative psychological setting to assist investigating authorities in investigating crimes committed in the PIs. Suspected of convicted persons, regardless of their informal affiliation, even if there is strong evidence against them, following the "laws" and "notions" existing in the criminal world, refuse either to testify on a case in general or to give knowingly false testimony. The same "rules" are followed by the overwhelming majority of convicted witnesses.

In our opinion, it is the informal norms that are more important for most convicts, which is explained by the cruel and inevitable nature of the sanctions provided for their violation. It is easier for a convict to break the official rules of conduct than informal ones (informal), as violations of informal norms can lead to the transfer to a lower informal group with negative consequences throughout the next period of serving a sentence.

Secondly, the presence of crime perpetrators in the pastoral crime victim's experience and experience in communicating with investigators. In addition, it is worth agreeing with scholars of forensics Ishchenko Ye.P. and Nikolaychenko V.V., as they are reasonably noted, not only does not forget their craft while serving the sentence, but extends and deepens criminal skills and knowledge. During long-term communication

convicts receive information about the most diverse ways of committing and concealing crimes; analyze the mistakes that led to the discovery of mastering individual skills and methods, especially the best of the criminal experience of other convicts in the "authority".

Thirdly, the negative operational situation in a particular correctional institution where the crime was committed. Signs of such an environment are: an active influence on the processes in the PIs of the so-called "leaders" of the convicted negatives; control of these persons for the behavior of convicts belonging to other informal groups in the informal group of convicts; insufficient authority of the administration of places of deprivation of liberty; low level of operational work in PIs.

Fourthly, it is a counteraction to the investigation, both on the part of the convicted persons, including those recognized as suspects (accused), in such cases (and in some cases), and by the representatives of the administration of the Ministry of Social Affairs, who are not rarely seeking to conceal the fact of committing a crime in the Ministry of Justice or some of the circumstances of the commission of the crime. .

It is advisable to emphasize that special features are countered to the investigation of crimes in general and murders in particular in PIs committed by convicts belonging to the informal group of "thieves in the law", "watching" and other convicted negatives, if the killings were committed on motives that correspond to "the concept "And the principles of the criminal environment. In such cases, investigators are usually faced not only with counteraction to investigations by suspects (accused), but also from the criminal environment as a whole. The need to delimit the data of "concepts" is substantiated by scientists and criminologists and criminologists.

According to our research, the main forms of such a response are:

- organization and financing of participation in the investigation of lawyers who, in spite of their professional duty, are actually held by organized criminal communities;
- the organization of a mass mental, and in the case of non-induction and physical impact on witnesses and victims of convicts, as well as their relatives who are at liberty;
- organization of mass disturbances in the correctional institution as a reaction to the actions of the investigators;
- discrediting and attempts to bribe investigators and operational personnel involved in the investigation, including using members of organized criminal groups that are in freedom (organizing mass complaints, appeals, appeals to non-governmental organizations for wrongful acts of investigators and operatives);
- threats and insults to investigative and operational personnel involved in the investigation, as well as their relatives, primarily by members of organized crime groups, who are "at liberty" outside the UVP (*Batiuk O.V., 2013, p. .320*).

Fifthly, factors such as the difficulty of investigating the confidentiality of the confidentiality of places of inquiry and the timing of the investigating (search) actions of their participants from the number of convicts, the results of conducting investigative actions should be taken into account. At the same time, we consider that it is inappropriate categorical statements of some authors that it is impossible to secure the secrecy of the investigation into the PIU, every step of the investigator is known and actively discussed. As practice shows, with the careful preparation and tactfully competent organization of investigative actions, including the use of specific features of the regime requirements in the PIs, it is possible to solve the problem of ensuring an adequate degree of confidentiality.

Sixthly, the factors contributing to the complexity of ensuring the personal security of convicts, who collaborate with the investigation in the course of the investigation.

Seventh, factors of inadequate level of interaction between the investigator and the staff of a particular correctional institution, especially with employees conducting operative search activities in the department. In our opinion, the decision to abolish investigators in the system of the State Criminal-Service Service of Ukraine under the Ministry of Justice of Ukraine, which specialize exclusively in disclosing and investigating crimes in the Ministry of Justice, is quite correct. As is well known, at present, crimes committed in the administrative units of Ukraine are being investigated by the investigators of the National Police of Ukraine on the place of the territorial affiliation of the police department, since according to item 6 of Article 261 of the CPC, there is no special entity in the specified category of crimes, to territoriality.

As a **conclusion** of this study, we note that the analysis and disclosure of the understanding of investigative situations and factors that adversely affect the process of investigating crimes committed in penitentiary institutions of Ukraine will allow the investigators of the National Police of Ukraine to use the results of scientific and empirical research for better accomplishment of tasks in the process. investigation of crimes committed in penitentiary institutions of Ukraine.

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