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СУДОВА ДОПОМОГА ПРИ РОЗСЛІДУВАННІ ЗЛОЧИНІВ, СКОЄНИХ ОРГАНІЗОВАНИМИ ЗЛОЧИННИМИ ГРУПАМИ

Анотація. Очевидною є потреба правоохоронних органів у технічних засобах, що використовуються для боротьби із сучасною злочинністю. Важливість використання технічних засобів зростає із погіршенням стану злочинності та збільшенням кількості злочинів, скоєних організованими злочинними групами. Варто зазначити, що саме за допомогою сучасних технічних засобів ці злочинні об'єднання здатні перешкоджати розслідуванню кримінальних справ.

Мета статті – визначення важливості судової допомоги у розслідуванні злочинів, учинених організованими злочинними групами.

Методи та матеріали дослідження. Для досягнення мети з урахуванням специфіки та складності характеру досліджуваної проблеми використовувалися логічний, систематичний і порівняльний методи. Здійснене дослідження ґрунтується на вивченні доктрини національного законодавства.

Результати. Важливою складовою використання судово-технічних засобів і методів під час розслідування кримінальних правопорушень є навчання практичних працівників. Саме завдяки отриманим знанням, активній ролі спеціального та кримінального слідчого забезпечується ефективно розслідування кримінальних правопорушень, учинених організованими злочинними групами. Головним питанням, що стосується розкриття та розслідування кримінальних правопорушень, учинених злочинними угрупованнями, є вибір найраціональніших методів, процесів і засобів, які забезпечували б вирішення завдань при розслідуванні кримінальних правопорушень, беручи до уваги не лише можливості використання судових рекомендацій, а й можливості виконавців.

Висновки. Узагальнені результати наявних підходів указують, що лише знання та навички застосування криміналістичних методів є передумовами вжиття тактичних заходів з виявлення та розслідування злочинів, учинених організованими злочинними групами.

Ключові поняття: судово-технічна допомога, злочинність, тактичні процеси, рекомендація, організована злочинна група.

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FORENSIC ASSISTANCE IN INVESTIGATION OF CRIMES COMMITTED BY ORGANIZED CRIMINAL GROUPS

Abstract. Level technical and forensic support enjoyed by the organs of law enforcement is constantly around everyone. Population, including the state can afford to mention about insufficient equipment with technical-forensic state institutions that are tasked to defend fundamental human rights and freedoms, discover, investigate and prevent crimes and misdemeanors. But no punctuate attention on creating conditions for the formation of a professional who must have abilities and skills needed to apply forensic arsenal to prevent, detect and investigate crimes including those committed by organized criminal groups.

Key concepts: forensic technical assistance, crime, tactical processes, recommendation, organized criminal group.

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Introduction

Analyzing the term forensic assistance, the dual significance of this system is worth emphasizing. On the one hand, it has the function of ensuring the conditions to maintain the capacity of law enforcement to solve concrete forensic tasks related to criminal investigation; and, on the other hand, implementing the technological aspects by forensic subjects [8, 9].

As for the first component of the system, i.e. the organizational and administrative level, it is under the responsibility of the Ministry of Justice and Ministry of Health, forensic units of the Ministry of Internal Affairs and National Anticorruption Centre, as well as other forensic expertise public agencies [2]. The tasks to be carried out at this level are related to organization and management, legal regulation on implementation of technical and scientific means, initial and continuous training of forensic means users, etc. These activities are reflected in procedural and criminal law, and other internal regulations.

As mentioned by Coldorovschii V. these activities largely depend on forensics which has the general aim to provide scientific support to law enforcement bodies in fighting crime [1]. Until now, forensics, regarded as a science and as a practical activity over more than a century of fighting crime, has accumulated rich experience, both practical and scientific referring to consistent patterns of criminal activity [10], preparation [5], committing and concealing of crimes. Without this it is difficult to assess objectively current prac-

tice needs to define the objectives and appropriate measures in investigation of offenses [1, p. 34].

Secondly, the forensic technique like any other technique must be developed according to the objectives to be addressed.

The purpose of the article is to highlight the importance of forensic assistance in investigation of crimes committed by organized criminal groups.

Methods and materials applied. In order to achieve the stated goal, taking into account the specificity and the complex character of the investigated topic, the logical, systematic and comparison methods were used as research methods. The research undertaken is based on the study of doctrine, national law.

1. Forensic assistance in detection and investigation of crimes

There is an evident need for law enforcement in the technical means used in fighting contemporary crime. The importance of this problem increases with worsening crime rate and the increasing number of crimes committed by organized criminal structures, which by applying modern technical means can resist criminal investigation. It is also obvious that developing the broad spectrum of technical means necessary to solve all forensic tasks, especially those related to discovery and investigation of crimes at national level is impossible, taking into account our modest economic and scientific potential [1, p. 34].

Accurate knowledge of the circumstances of crimes committed by organized criminal groups is

a complicated activity depending on a variety of subjective and objective factors.

N. Iakubovici [11, p. 9] mentions that the process of crime discovery is burdened by the conditions of crime commitment (under unfavorable conditions – which affects the process of discovery, storage, collection and documentation of traces); offender behavior (it may create impediments or block the activity of discovery and investigation of crime); advancement of forensic and technical means and methods applied to discover, secure, collect and examine material evidence (the criminal formation may apply modern technical and scientific means in their criminal activity compared to the tools of judicial bodies applied in discovery and investigation of crimes).

In the process of investigation and discovery of crimes police employees and criminal investigators encounter practical problems. In order to address them, use of procedures and methods to ensure maximum information on the crimes and its participants is required.

In order to characterize the activity of the special and criminal investigation officers the following expressions are used: «art to discover crimes», «art of hearing», «mastery of the special or criminal investigation officer», etc.

The roots of these expressions are based on individual qualities of the special or criminal investigator, who strictly complies with not only the legal requirements (regulated in laws, decisions, provisions instructions etc.), but also uses intelligence, different methods and ways to solve cognitive tasks.

Most of the times, the discovery and use of cognitive methods are intuitive, although there are forensic recommendations specifying the procedure for concrete criminal investigation cases. However, their content is not known by practitioners for various reasons.

In this context it is to be mentioned that a large part of employees of law enforcement bodies are not aware of the existence of such recommendations, but would like to become acquainted with them.

Knowledge and practical skills of employees of law enforcement bodies should be based on forensic achievements (forensic technique, forensic tactics and methodology) as they represent the set of technical and tactical means and methods ensuring effectiveness of the activity.

However this is not enough. It is necessary for practical employees to be trained in order to be able to implement the set of forensic technical means and methods.

The success of discovering and investigating offenses, especially those committed by organized criminal groups, is mostly provided by the active role of special and criminal investigator.

The term «forensic assistance» has been extensively used in the literature lately. The appearance of this term was determined by the practical needs to effectively fight crime through the practical application of means, methods and procedures for forensic discovery, collection, analysis and use of relevant information.

Currently the term used is «forensic endowment» (previously «forensic assistance»).

R. Belkin [7, p. 64] mentions the existence of the concept of «criminal assistance provided to criminal police in discovering offences» i.e. a system of forensic knowledge underlying the development of skills and abilities to use forensic recommendations and apply forensic means and methods to prevent, discover and investigate crimes.

Z. Kirsanov [6, p. 10–11] considers that criminal assistance must be seen not only as a solution for forensic tasks (development and implementation by investigators of means and methods of collection, defining and use of information necessary to prevent, discover and investigate a crime), but also as a solution for the training process (development of practical recommendations regarding the training of employees to correctly apply forensics knowledge).

In our opinion, the main issue related to the detection and investigation of crimes committed by criminal groups is to choose the most rational methods, processes and tools that would ensure solving cognitive tasks of discovery and investigation of criminal offenses, taking into account not only the possibilities of using forensic recommendations but also the executor's possibilities.

The selection of such processes, methods and tools depends on the purpose and *modus operandi* according to the tactical decision. Implementation of tactical decisions is accomplished by tactical methods [3]. Published literature, based on various stages of criminal investigation, provides the following tactical processes:

- tactical procedures of planning criminal investigation;
- tactical procedures of performing criminal investigation;
- tactical procedures of documentation of the development of activity and results achieved;
- tactical procedures of assessing the results achieved.

The achievements of forensics are implemented by special and criminal investigators. As a result, proper selection and use of forensic methods, procedures and means designed to solve a particular cognitive tasks depends on the skills of investigators to correctly apply forensic recommendations.

Thus, forensic assistance in detection and investigation of crimes can be defined and inter-

preted as an organizational and functional system directed towards training and support of judicial bodies employees to use forensics in fighting crime, including preparation for criminal investigation of specific cases.

2. Investigators' tactical skills

G. Zorin [4, p. 6] characterizes the professionalism of criminal investigators, comprising their knowledge and skills, by the term «tactical repertoire of the investigating officer». Considering that tactical repertoires are seen as a means to apply criminal investigation activities, G. Zorin [4, p. 5] specifies the existence of «tactical potential of criminal investigation activity» meaning by it a set of information with probative value in a latent form and can be discovered, investigated and interpreted by the criminal investigator (where criminal investigator holds a tactical repertoire ensuring collection of information from the source). V. Obraztov also uses the term «tactical potential of criminal investigation activity».

The potential of criminal investigation is composed of the theoretical possibility of the investigating officer inconsistency, while the tactical repertoire – is a real category that completely depends on the qualities of the investigating officer and is determined by the real purpose of the criminal investigation.

Category of tactical potential of criminal investigation analyzed in the context of forensic assistance as element ensuring detection and investigation of crimes committed by criminal groups, does not fully reflect the practitioners' work.

It is worth mentioning the notion of «tactical potential of the practitioner» as a distinct category, which reflects the knowledge, skills, abilities of practitioners required to carry out tasks related to discovery and investigation of crimes.

The practical potential of the practitioners reflects his/her intellectual ability, tactical preparation to use forensic means and methods.

The main conditions ensuring the development of investigators' tactical skills are:

- knowledge of behavior stereotype regarding tactical methods and procedures;
- practical skills and abilities ensuring effective finding, record, collection, research and assessment of information;
- knowledge of typical criminal investigation errors, including skills to forecast and solve them in concrete situations.

The tactical potential also comprises tactical skills required for discovery and investigation of crimes committed by criminal groups; knowledge and ability to use tactical means and forensic methods in fighting crimes; ability to identify timely and accurate tactical tasks appeared and conditions

that would ensure its solution; ability to assess the existing possibilities; ability to choose a certain way of solving tactical tasks, including non-standard ones; ability to learn and develop new things.

The high level tactical potential serves as proof that the practitioner is able to find new tactical solutions to existing issues.

Tactical potential ensures use of the existing tactical measures and determines the style of the practitioner.

The reason why the guide addresses the tactical potential of the practitioner is that it differs from the real behavior of the investigator, being determined by specific circumstances and namely: criminal investigation situation, individual qualities engaged in detection and investigation of crimes.

The tactical potential is a dynamic aspect, reflecting the vital problems related to discovery and investigation of crimes. The issue of studying the process of formation of the tactical potential is complex and requires the joint efforts of theoreticians and practitioners.

The law faculty curriculum has an important role in approaching these issues as it provides the possibility to develop skills and abilities of the future practitioner who will carry out activities to detect, investigate and prevent crimes committed by criminal groups.

During the detection and investigation of these categories of crimes, the criminal investigation and special investigation bodies must operate under a variety of situations to be correctly perceived and assessed.

Organization of forensic knowledge required in a specific criminal investigation situation is an important prerequisite that ensures effectiveness of forensic recommendations.

Currently, practitioners are guided by their own experience or according to their institution as many educational institutions focus on the theoretical methods overlooking the practical activities.

To this end, those staff who do not possess the necessary forensic knowledge are required to develop skills and abilities to ensure execution of service tasks and namely:

- correct assessment of criminal investigation and special investigation cases (typical and particular situations);
- ability to take right decisions.

The tactical decision structure is regarded as a complex cognitive process consisting of:

- situation analysis;
- setting objectives and formulation of goals;
- determining the means used to implement the objectives;
- developing the vision regarding the manner of performing the tasks, deadlines, executors;

- forecasting results;
- preparing backup solutions.

The academic activity in the area of forensics must be developed considering the need of practitioners to gain skills and abilities required to analyze, plan and implement optimal tactical solutions in investigation and detection of crimes committed criminal groups.

The weakness of the practitioner is the poor communication and collaboration with other participants involved in conducting criminal investigation and special investigation measures.

Thus, it is to be mentioned that although the proceeding is strictly observed, the tactics of carrying out criminal investigative actions contains errors and mistakes, and participants are showing a lack of communication skills [4, p. 3]. This suggests that an important element of the tactical potential of the practitioner is the set of practical skills that ensure successful communication to resolve tactical tasks.

The tactical potential of the practitioner ensures existence of other components in terms of tactical readiness – motivation, emotions, will.

Thorough knowledge and skills to use forensic methods are the preconditions for implementation of tactical measures to detect and investigate crimes committed by criminal formations.

The use of forensic assistance in discovery and investigation of crimes committed by criminal groups highlights the consistent patterns and characteristics of conducting and organizing criminal investigation and special investigation measures to investigate these types of crimes.

Conclusions

Following the study, we formulate the following conclusions:

1. The discovery and use of cognitive methods are intuitive, although there are forensic recommendations specifying the procedure for concrete criminal investigation cases. However, their content is not known by practitioners for various reasons.

2. Knowledge and practical skills of employees of law enforcement bodies should be based on forensic achievements (forensic technique, forensic tactics and methodology) as they represent the set of technical and tactical means and methods ensuring effectiveness of the activity.

3. Practical employees must be trained in order to be able to implement the set of forensic technical means and methods. The success of discovering and investigating offenses, especially those committed by organized criminal groups, is mostly provided by the active role of special and criminal investigator.

4. Forensic assistance in detection and investigation of crimes can be defined and interpreted as an organizational and functional system directed towards training and support of judicial bodies employees to use forensics in fighting crime, including preparation for criminal investigation of specific cases.

5. The main issue related to the detection and investigation of crimes committed by criminal groups is to choose the most rational methods, processes and tools that would ensure solving cognitive tasks of discovery and investigation of criminal offenses, taking into account not only the possibilities of using forensic recommendations but also the executor's possibilities.

6. Thorough knowledge and skills to use forensic methods are the preconditions for implementation of tactical measures to detect and investigate crimes committed by criminal groups.

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