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Denys USATKIN[©]
Postgraduate Student
(Dnipropetrovsk State University
of Internal Affairs, Dnipro, Ukraine)

PREPARATORY STAGE OF INTERROGATION IN THE INVESTIGATION OF A GROUP VIOLATION OF PUBLIC ORDER

Денис Усаткін. ПІДГОТОВЧИЙ ЕТАП ДОПИТУ ПРИ РОЗСЛІДУВАННІ ГРУПОВОГО ПОРУШЕННЯ ПУБЛІЧНОГО ПОРЯДКУ. Висвітлено деякі аспекти розслідування групового порушення громадського порядку. Розглядаються організаційно-підготовчі заходи до проведення допиту для більш швидкого та ефективного їх розслідування. Зазначено, що допит є досить характерною процесуальною дією при розслідуванні злочинів проти громадського порядку. Адже в зазначених випадках майже завжди наявна певна кількість свідків та потерпілих. Так і групове порушення громадського порядку характеризується великою кількістю його учасників. В той же час, ефективне проведення допиту надає змогу в подальшому кваліфікувати діяння відповідно до Кримінального кодексу України. Оскільки поряд з зазначеним складом кримінального правопорушення постійно поруч вчинення масових заворушень та групового хуліганства.

Автор підтримує позицію, що допит являє собою регламентований кримінально-процесуальними нормами інформаційно-психологічний процес спілкування осіб, які беруть у ньому участь, спрямований на отримання інформації про відомі допитуваному факти, що мають значення для встановлення істини у справі.

Визначено, що найбільш поширеними організаційно-підготовчі заходи до проведення допиту при розслідуванні досліджуваної категорії правопорушень є такі: визначення предмета допиту та сформованої слідчої ситуації; визначення кола осіб, які підлягають допиту; визначення місця проведення допиту; визначення часу проведення допиту; визначення послідовності проведення допитів.

Наголошено на тому, що в провадженнях стосовно групового порушення громадського порядку можуть бути свідками наступні категорії осіб: особи, яким стала відома інформація щодо підготовки та вчинення даного кримінального правопорушення; особи, які безпосередньо сприймали факт учинення групового порушення громадського порядку; працівники правоохоронних органів або інші особи, які затримали злочинця або вживали заходів щодо його встановлення та затримання. Зазначається, що прагнення свідків надати слідчому правдиві й якомога більш повні показання ще не надає останньому підстав оцінювати показання як достовірні.

Ключові слова: *групове порушення громадського порядку, організація, планування, тактика, слідчі (розушуківі) дії, допит.*

Relevance of the study. Interrogation is a very typical investigative (search) action in the investigation of criminal offenses against public order. After all, in these cases there are almost always a certain number of witnesses and victims. And group violation of public order is characterized by a large number of its participants. At the same time, effective interrogation makes it possible to further qualify actions under the Criminal Code of Ukraine. Because along with the specified structure of a criminal offense there are constantly nearby mass riots and group hooliganism. Therefore, the relevance of the study of certain aspects of the interrogation in the investigation of a group violation of public order is beyond doubt.

Recent publications review. Famous scholars such as V.P. Bakhin, V.A. Zhuravel, A.V. Ishchenko, O.N. Kolesnichenko, V.O. Konovalova, M. I. Porubov, K.O. Chaplynskyu, L.D. Udalova, M.P. Yablokov and others studied the tactics of conducting investigative (search) actions during the investigation of certain criminal offenses. But it should be noted that our study is a comprehensive approach to determining the preparatory stage of the interrogation in the investigation of a group violation of public order.

The article's objective is to study the preparatory stage of the interrogation in the investigation of a group violation of public order.

Discussion. Speaking about the concept of interrogation, we note that the interrogation is a procedural action, which is regulated by criminal procedure information and psychological process of communication of persons involved in it, aimed at obtaining information about known facts relevant to establishing the truth in the case [4, p. 252].

A survey of law enforcement officers found that interrogations of victims of criminal offenses of the studied category are defined as the source from which information is most often obtained to put forward versions of the offender and conduct proceedings in 69% of cases. In addition, the interrogation of victims was marked by the most effective procedural action during the investigation by 72% of respondents.

In general, interrogation is the most common way to obtain evidence in the investigation of a group violation of public order. Of course, a necessary precondition for interrogation is preparation for it. It covers a number of specific activities: study of case materials; acquaintance with the data on the identity of the interrogated; if necessary - drawing up an interrogation plan. The greatest difficulty in investigating cases of this category is the organization of interrogations in the context of the need to gather information about the event, which was witnessed by a significant number of people, many of whom could be participants. In order for investigators to work in a coordinated and purposeful manner, and the results of their actions can be analyzed and used, in each case special questionnaires are compiled, which provide a list of questions that provide all the necessary data [3, p. 20].

The organizational and preparatory measures of interrogation can be determined as follows:

- careful, complete and comprehensive study of criminal proceedings materials;
- determination of the order of interrogation (i.e. the range of persons to be interrogated and the sequence of its conduct);
- obtaining information about the interrogated person;
- acquaintance with some special questions;
- invitation of persons whose participation in interrogation is mandatory;
- planning interrogation;
- determination of the time and place of interrogation;
- preparation of the workplace for interrogation [5, p. 295-297].

Another group of scientists distinguish among them the following:

- collection of initial data related to the subject of interrogation;
- determination of the circle of persons subject to interrogation;
- study of the interrogated person;
- establishing the method of summons for interrogation and the order of its conduct;
- preparation of the place of interrogation;
- invitation to participate in the interrogation of third parties;
- determination of technical support of interrogation;
- drawing up an interrogation plan [2, p. 39].

Appropriate one is the position of V.H. Lukashevych, who emphasizes that in preparation for any verbal investigative action should be investigated case materials and the results of operational and investigative activities in three main areas: the study of persons with whom to communicate; analysis of factual data and evidence collected in the case; study of the structure of communication of persons of interest to the investigator [7, p. 138].

In our opinion, the most complete and detailed organizational and preparatory measures are defined as follows: 1. Immediately conduct an interrogation, minimize the period of time from the moment of the need for interrogation to its conduct. 2. Choose the right method of summoning for questioning in order to exclude unwanted publicity of this fact and the influence of interested persons. 3. Determine the range of interrogators. 4. Obtain complete information about the identity of the interrogated, use this information to establish psychological contact with the interrogated and determine the tactics of interrogation. 5. Make an environment in which the interrogated could focus on the content of the interrogation, remove items that could distract him, exclude the presence of strangers, telephone conversations. 6. Formulate the most important questions in writing so that they are not suggestive and are understandable to the minor. 7. Conduct interrogation in a calm and confident manner, avoid rudeness, but at the same time prevent reckless behavior of the interrogated. 8. Avoid the duration of the interrogation. 9. Record information after the end of the story. 10. To use scientific and technical means as additional means of fixing of indications for more full display of a course and results of interrogation [6, p. 114-115].

Based on the survey of respondents, the practice of conducting certain organizational and preparatory activities in the investigation of group violations of public order has been determined:

- full, comprehensive and thorough study of the materials of criminal proceedings;
- determination of the subject of interrogation and the current investigative situation;
- determination of the circle of persons subject to interrogation;
- determining the place of interrogation;
- determination of the time of interrogation;
- determining the method of summoning for questioning;
- determining the sequence of interrogations;
- study of the offender's identity;
- selection of material evidence and other materials for presentation to the interrogated;
- determination of tactics that will be used during the interrogation, and preparation of scientific and technical means of its fixation;
- identification of participants in the interrogation;
- providing favorable conditions for the interrogation, taking into account the need to ensure the safety of its participants;
- planning interrogation.

As we can see, the most common organizational and preparatory measures for interrogation in the investigation of the studied category of offenses are as follows: determining the subject of interrogation and the current investigative situation – 61 %; determination of the circle of persons subject to interrogation – 97 %; determination of the place of interrogation – 96 %; determination of the time of interrogation – 95 %; determining the sequence of interrogations – 88 %.

As for the interrogation of witnesses, it should be noted that they may be the following categories of persons in proceedings concerning a group violation of public order:

- persons who became aware of information on the preparation and commitment of this criminal offense;
- persons directly perceived the fact of committing a group violation of public order;
- law-enforcement officers or other persons who detained the offender or took measures to identify and detain him/her.

Witnesses from among the persons who took part in the measures to stop the riots (police officers, servicemen, firefighters, ambulance crews) answer the question: do they know the active participants and organizers of the riots; about specific criminal actions of the mentioned persons, including - what criminal actions were committed against the witness by the crowd (striking with sticks, throwing stones, committing armed resistance during the cessation of riots); what exactly were his/her actions to stop the riots (he/she was among the main police forces at the time of restraining the crowd; he/she detained the participants of the riots, used special means); can recognize any of the active participants or organizers of the riots? [9, p. 119].

The nature of the interaction during the interrogation of the investigator with the witness depends on the behavior of the latter. The interrogation of honest witnesses usually does not lead to conflicts. The tactical task of the investigator in the process of such an interrogation, which acquires a conflict-free cooperative nature, is to maintain and expand psychological contact, assisting the witness in the correct reproduction of what is perceived and recorded. Such techniques include, in particular: asking questions that promote associative connections that help to remember; presentation of physical evidence; acquaintance with fragments of testimonies of other persons for mention, etc. In conflict situations, the tactical task of the investigator is to persuade the interrogated to reconsider his/her position, which does not meet the objectives of justice, to refuse from the intention to give false testimony [1, p. 52].

Based on the above, the interrogation of a witness is quite important. After all, it allows to obtain information about the offender's identity (87 %), to find out the circumstances of the crime (94%), to put forward the correct investigative versions (69 %) and to determine the sequence and tactics of further procedural actions (57 %).

The desire of witnesses to give the investigator truthful and as complete testimony as possible does not yet give the latter grounds to assess the testimony as reliable. In particular, V.V. Romanov emphasizes that during the interrogation of victims from among the persons against whom criminal acts were directed during the riots, persons who accidentally fell into the field of action of the crowd, resulting in physical, moral and material damage, etc. special attention is paid to clarifying the peculiarities of the perception by these persons of various

objects of the surrounding reality. In order to objectively assess the accuracy of the testimony of such a victim or witness, it is necessary to determine the conditions in which he/she was observing the events about which he/she testified. The influence of external factors on his/her receptors, the interaction of different sensations, patterns of perception, the influence of life, professional experience of the interrogated on the processes of perception, memory, the possibility of distortion of perceived phenomena and other factors are also found [8-9].

Among the preparatory measures an important place is occupied by the establishment of circumstances that require proof, ie the definition of the subject of interrogation. The study of the materials of criminal proceedings allowed to identify the following circumstances to be found:

- whether there was a leader or organizer of certain actions among the group of offenders;
- the emergence of a criminal plan;
- when, where and under what circumstances the illegal actions were committed;
- what exactly did they manifest;
- methods of preparation and commission of a crime, sequence of criminal actions, as well as features of concealment of criminal activity (its nature);
- what is the cause of illegal actions;
- information about the object of encroachment, the motive of the crime, the attitude of the person to the criminal consequences;
- what is the relationship between the perpetrators and the victim;
- the number and characteristics of participants in illegal actions;
- whether the victim resisted;
- if so - in what it was manifested and what traces could remain as a result on a body and clothes of attackers;
- general ability of the interviewee to a certain perception, memorization and reproduction;
- whether the victim showed any marks on his body and clothes;
- conditions under which the interrogated observed any objects or phenomena;
- psychological and physical condition of the person at the time of perception or after it;
- what material damage is caused by the actions of offenders;
- whether the victim did not meet with the suspects or their acquaintances after committing a group violation of public order;
- if so, on whose initiative the meeting took place and what the conversation was about.

Conclusions. Summing up, we note that in the investigation of a group violation of public order the interrogation is a very typical procedural action. The following categories of persons may be witnesses in proceedings concerning a group violation of public order: persons who have become aware of information on the preparation and commitment of this criminal offense; persons who directly perceived the fact of committing a group violation of public order; law enforcement officers or other persons who have detained the offender or taken measures to identify and detain him/her. Effective carrying out of organizational and preparatory actions allows to carry out most effectively the studied investigative (search) action

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Abstract

The article deals with some aspects of the investigation of a group violation of public order. Organizational and preparatory measures for the interrogation have been considered for a faster and more effective investigation. The author has noted that the interrogation is a very typical procedural action in the investigation of crimes against public order.

It has been determined that the most common organizational and preparatory measures for interrogation in the investigation of the investigated category of offenses are as follows: determination of the subject of interrogation and the current investigative situation; determination of the circle of persons subject to interrogation; determining the place, the time and the sequence of interrogations.

Keywords: *group violation of public order, organization, planning, tactics, investigative (search) actions, interrogation.*

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Yulia VENGEROVA®
Postgraduate Student
(Dnipropetrovsk State University
of Internal Affairs, Dnipro, Ukraine)

FEATURES OF OBTAINING INFORMATION FROM VICTIMS, WITNESSES AND SUSPECTS IN THE INVESTIGATION OF CRIMES COMMITTED IN TOURIST INDUSTRY

Юлія Венгерова. ОСОБЛИВОСТІ ОТРИМАННЯ ІНФОРМАЦІЇ ВІД ПОТЕРПІЛИХ, СВИДКІВ ТА ПІДОЗРЮВАНИХ ПРИ РОЗСЛІДУВАННІ ЗЛОЧИНІВ У СФЕРІ ТУРИСТИЧНОЇ ДІЯЛЬНОСТІ. Стаття присвячена висвітленню проблемних питань та труднощів як процесуального, так і організаційно-тактичного характеру, що виникають під час підготовки та проведення допиту різної категорії осіб при розслідуванні злочинів у сфері туристичної діяльності. Надано рекомендації щодо найбільш ефективної організації і тактики проведення допиту у провадженнях даної категорії.

Розслідування злочинів у сфері туристичної діяльності відрізняється певною специфікою, обумовленою обставинами та механізмом вчинення цього злочину.

Серед усіх учасників потерпілі більш за всіх зацікавлені у встановленні об'єктивної істини і притягненні винних до кримінальної відповідальності, що є цілком логічним. Проте іноді особи, які вважають себе потерпілими, можуть приховувати деякі факти, що ставлять під сумнів сумлінність їх дій. Такі ситуації мають місце при оформленні віз, страховок, коли потерпілі