COMBATING OFFENCES: CRIMINAL-PROCEDURAL, FORENSIC, ORGANIZATION AND TACTIC ASPECTS

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PROBLEMATIC ISSUES OF COMBATING CRIMINAL OFFENSES AGAINST PUBLIC ORDER AND PUBLIC SAFETY

Abstract. The scientific article is devoted to the study of some aspects of the investigation of criminal offenses against public order. Opposition to the investigation of these illegal acts is considered, as well as ways to overcome it and apply the most appropriate measures.

The author notes that the opposition to the investigation of criminal offenses against public order determines certain methods and means of overcoming it.

The subjects of counteraction have been identified, which include the following categories of persons: officials of institutions, enterprises, organizations that became the scene of the crime, corrupt government officials and law enforcement agencies, representatives of parties, trade unions and other public organizations, labour collectives, certain groups, relatives, friends and relatives of the offender.

Based on the opinions of scientists, the opposition to the investigation of criminal offenses is defined as intentional or unintentional illegal and other conduct (action or inaction) of the offender and his associates, aimed at obstructing the investigation and ultimately – establishing the truth in criminal proceedings. It is noted that we do not agree with the authors' definitions of intentionality. It is stated that counteraction to the investigation can be carried out without intent.

Keywords: *criminal offenses, public order, forensic characteristics, counteraction to investigation, investigative (search) actions.*

Relevance of the study. Socio-economic and political changes that have taken place in recent years in Europe and the CIS, including Ukraine, have directly affected the international nature of organized crime. There is a steady tendency to worsen the criminogenic situation in the country, due to the emergence of qualitatively and quantitatively new activities of criminal groups. Serious miscalculations in the implementation of reforms in socio-economic, law enforcement and other areas of public activity have contributed to changes in the structure and nature of organized crime, the overall level of which tends to increase. Combating organized crime is an important area of state activity. At the present stage in the activities of law enforcement agencies to detect and investigate criminal offenses against public order and public safety there are a number of complex organizational and tactical tasks, which are due, on the one hand, requirements to intensify the fight against crime, and on the other in connection with the merging of organized crime with economic structures and the strengthening of corrupt ties; strengthening illegal opposition to the administration of justice by criminals; their use of the latest methods of preparation, commission and concealment of

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crimes. A significant increase in the number of criminal offenses against public order and public safety demonstrates the inability of law enforcement agencies to counter these negative phenomena.

The low quality of detection and investigation, the lack of qualified personnel in law enforcement agencies, the lack of a system for the prevention and prevention of criminal offenses, have created the basis for an increase in their number, which are increasingly becoming more threatening. There are negative trends in the criminalization of society and the growth of organized crime. This is evidenced by the statistics of the Prosecutor General's Office of Ukraine, according to which in 2016 592604 criminal offenses were registered, in 2017 – 523911, in 2018 – 487133, in 2019 – 444130, in 2020 – 360622. At the same time, the report on suspicion in 2016 was handed over only in 159480 criminal proceedings, in 2017 – 198477, in 2018 – 191856, in 2019 – 171691, in 2020 – 167098. At the same time, suspicion is declared only in 38% of the total number registered criminal offenses. As a result, most criminals avoid responsibility by continuing their criminal activities. It should be noted that the number of exposed COs and COs is growing every year. If in 2014 the police stopped the activities of 155 such groups, then in 2019 – 275, in 2020 – 298. The number of documented ethnic criminal groups increased by almost 40% and groups with interregional ties increased 2.5 times. . In 2020 alone, more than 450 CO and ZO participants were sent into custody.

Victims, not feeling the protection of their rights, freedoms and legitimate interests, as well as prompt, full and impartial investigation and trial, apply to the European judicial institutions with claims to Ukraine. At the same time, not only huge funds are spent on their consideration, but also the reputation of our state as legal at the international level is endangered. Among the reasons influencing the low efficiency of the investigation are the insufficient scientific elaboration of this problem, the lack of recommendations for the authorized persons of the pre-trial investigation bodies, which in criminal proceedings face opposition from the interested parties. In addition, there are a number of objective and subjective reasons why investigators make significant errors and miscalculations in assessing the response and choosing the means and methods to overcome it. The lack of theoretically developed and practically tested sets of measures to overcome opposition has a negative impact not only on the state of investigation and prevention of criminal offenses against public order and public safety, but also the level of their detection. In view of the above, ensuring the activities of pre-trial investigation officers in Ukraine requires constant updating, taking into account the current needs of practice, as well as the latest developments, including forensic science.

Recent publications review. Peculiarities of counteraction to investigation and its overcoming were devoted to the works of such scientists as R. Belkin, I. Gerasimov, M. Yefimov, V. Karagodin, E. Lukyanchikov, N. Pavlova, M.. Saltevsky, M. Selivanov, V. Tanasevich, O. Татаров, K. Chaplinsky, Yu. Chornous, V. Shepitko, M. Yablokov. However, a comprehensive generalization and analysis of the main directions of counteraction to the investigation of criminal offenses against public order and public safety and their overcoming has not been carried out. Given this, there is a need to explore some features of criminal proceedings in this category.

The article's objective is to study the problematic aspects of countering the investigation of criminal offenses against public order and public safety.

Discussion. Timely prevention of opposition in the investigation of criminal offenses against public order and public safety in criminal proceedings is important. The main participants in the confrontation include such subjects as officials of institutions, organizations that became the scene of the crime, corrupt government officials and law enforcement agencies, representatives of parties, trade unions and other public organizations, labor collectives, certain groups, relatives, friends and relatives, criminals. Scholars emphasize that external counteraction is concealment of a crime for selfish motives or in order to preserve prestige, due to misunderstanding of professional interests, concealment of crimes for personal motives, coercion of the investigator by bribery to illegal actions or actions that are not in the interests of the investigation , bribery of participants in the process who have the necessary information (witnesses, experts, specialists), wrongful violence (threat or other acts affecting the reputation) [1, p. 699].

According to R. Shekhavtsov, the most meaningful and clear is the definition of resistance to the investigation as a certain type of purposeful activity of the subjects of crime, other stakeholders, which is expressed in individual intentional actions or in the form of

structurally complex intentional activities aimed at concealment, change , destruction of information that has evidentiary value, as well as its carriers in order to prevent the establishment of the circumstances of the crime and the guilt of those involved. In addition, the author notes that the form of counteraction means a type of active behavior of the opposing subject, in which certain external signs reflect his psychophysiological reactions to the situation, during the commission of a crime or during its investigation. According to the direction of actions - concealment of information about the crime and persons involved in it and interference in the investigation of the crime in order to force employees of the inquiry, pre-trial investigation, prosecutor's office, court to make decisions and conduct investigative actions that do not meet procedural requirements. Depending on the nature of the perpetrator's interaction with evidence-bearing media, opposition to the investigation may be direct (the defendant's mental influence on the victim, witnesses to compel them to give false testimony) and indirect, when such committed for certain reasons by persons not involved in the commission of the crime (for example, bribery of the victim by the relatives of the accused in order to force him to give false testimony). Depending on the types of subjects of counteraction to the investigation, counteraction is made either by persons – participants in the crime (suspects, victims), or persons not related to the crime (eyewitnesses, relatives, acquaintances of suspects, defenders, law enforcement officials, and also public authorities and administration). According to the number of subjects, counteraction to the investigation of extortions committed by organized groups, criminal organizations can be carried out by one person or by an organized group. Depending on the objects, the opposition to the investigation takes the form of influence on both individuals and objects of the material world, which are a source of information that has probative value. According to the number of objects of influence, counteraction to the investigation is simple – by influencing one object, and complex – by two or more [2, p. 7-8].

According to R. Belkin, at the heart of every crime is the conflict of the offender with the law, with the interests of society and the state. Restoration of the violated right begins with the disclosure and investigation of the crime, during which the conflict with the law may turn into a conflict with the investigator - a person who is called to establish the truth. Thus, a conflict situation arises in which opposition to the establishment of the truth by those interested in it and the investigator's measures to eliminate this opposition and achieve the goals of the investigation are the dominant factors [3, p. 98]. That is, counteraction to the investigation is a system of actions to resolve the conflict situation in criminal proceedings of a certain category.

We must agree with the opinion of L. Arkusha on the definition of opposition to the investigation of crimes as intentional wrongful and other conduct (action or inaction) of the offender and related persons, aimed at obstructing the investigation and ultimately - establishing the truth in criminal proceedings [4, p. 363].

Almost the same definition was given by V. Karagodin, who formulated opposition to the investigation as intentional actions (system of actions) aimed at obstructing the tasks of the preliminary investigation and establishing the objective truth in criminal proceedings [5, p. 18]. We will note at once that with the given definitions, as it was noted above, we agree, but the only thing with which we disagree is with intent of actions. Nevertheless, we believe that opposition to the investigation can be carried out without intent.

Therefore, we consider a number of theses expedient, in particular: 1) counteraction to the investigation is always an active activity; it must be distinguished from all obstacles to the investigation. Therefore, the indication that inaction can act as a counteraction contradicts logic; 2) opposition to the investigation is not limited to preventing the involvement of traces of the crime in the field of criminal justice. This is a wider range of actions that impede the investigation of crimes. Also, the authors note that countering the investigation can act as a means of action aimed not only at preventing the involvement of traces of the crime in the investigation, but also to create traces of false crime, staging a criminal event. In such cases, the person who opposes the investigation, on the contrary, seeks to "attract" traces of a false crime, staged event in the criminal process, so that they are further evaluated as evidence [6, p. 138].

In conclusion, it should be noted that in the investigation of criminal offenses against public order and public safety there are the following ways to counter the pre-trial investigation:

1) negative impact on conscientious participants in the criminal process - victims, witnesses, members of criminal groups who cooperate with the investigator;

2) refusal to initiate criminal proceedings without sufficient grounds;

3) destruction of physical evidence;

4) delaying the preliminary inspection and artificially delaying the decision to initiate criminal proceedings;

5) repeated transfer of criminal proceedings from one investigator to another or another investigative body with the seizure of important evidence of the commission of covert crimes and the artificial creation of grounds for termination of the investigation;

6) delaying the pre-trial investigation by conducting time-consuming investigative (search) actions or appointing a large number of examinations;

7) facilitating the departure of interested persons outside the region or country, etc.

Conclusions. In conclusion, it should be noted that the opposition to the pre-trial investigation as a factor in the investigation of most criminal proceedings against public order and public safety has not been resolved. Thus, there are preconditions for the formation of the concept of forensic support to overcome the pre-trial investigation, in which all issues would be considered comprehensively and would have both theoretical (enrichment of forensic science theoretical concept) and practical significance ("armament" of authorized persons with effective tools in combating crime).

Opposition to the investigation of criminal offenses against public order and public safety determines certain methods and means of overcoming it. It is important to identify the subjects of counteraction, which include the following categories of persons: officials of institutions, enterprises, organizations that became the scene of the crime, corrupt government officials and law enforcement agencies, representatives of parties, trade unions and other public organizations, labor collectives, certain groups of the population, relatives, friends and relatives of the offender. Based on the generalization of scientific views of scientists, opposition to the investigation of criminal offenses against public order and public safety can be defined as intentional or unintentional illegal and other conduct (action or inaction) of the offender and related persons aimed at obstructing the investigation and ultimately - establishing the truth in criminal proceedings.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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Костянтин ЧАПЛИНСЬКИЙ

ПРОБЛЕМНІ ПИТАННЯ ПРОТИДІЇ КРИМІНАЛЬНИМ ПРАВОПОРУШЕННЯМ ПРОТИ ГРОМАДСЬКОГО ПОРЯДКУ ТА ГРОМАДСЬКОЇ БЕЗПЕКИ

Анотація. Наукова стаття присвячена дослідженню актуальних проблемних питань розслідування кримінальних правопорушень проти громадського порядку та громадської безпеки. Наголошено на особливостях запобігання протидії розслідуванню зазначених протиправних діянь, а також зазначається про способи її подолання та застосування найбільш доцільних його організаційних заходів.

На підставі узагальнення правоохоронної практики, доведено, що протидія розслідуванню кримінальних правопорушень проти громадського порядку і громадської безпеки визначає певні методи та засоби її подолання.

Визначено суб'єктів протидії, до яких віднесено такі категорії осіб: посадові особи установ, підприємств, організацій, що стали місцем вчинення злочину, корумпованих представників владних структур і правоохоронних органів, представників партій, профспілкових та інших громадських організацій, трудових колективів, окремих груп населення, родичів, друзів і близьких злочинця.

На основі думок науковців, визначено протидію розслідування кримінальних правопорушень як умисне або не умисне протиправне та інше поводження (дія або бездіяльність) злочинця та пов'язаних з ним осіб, спрямоване на перешкоджання розслідуванню і в кінцевому рахунку – встановленню істини у кримінальному провадженні. Відмічено, що ми не погоджуємося з визначеннями авторів з приводу умисності дій. Вказано, що протидію розслідуванню можна здійснювати й без умислу.

Ключові слова: *кримінальні правопорушення, громадський порядок, криміналістична характеристика, протидія розслідуванню, слідчі (розшукові) дії.*

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SCIENTIFIC APPROACHES TO EVALUATION OF SOCIAL EFFICIENCY OF FORENSIC EXAMINATION

Abstract. Scientific approaches to evaluating social efficiency of forensic examination through the prism of determining and analyzing its criteria and indicators (primarily, it should be choosing criteria for evaluating such efficiency, then – to determine its indicators). It is established that the social efficiency of forensic examination is multifaceted and complex, and the most appropriate form of its indicators are the social consequences of the functioning of the institute of forensic science. The content and nature of the criteria and indicators of social efficiency of forensic examination directly affect the sequence of their applying.

Keywords: *forensic examination, social efficiency, criteria, indicators, evaluation.*

Relevance of the study. The study of assessing the quality and social efficiency of

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