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TACTICS OF SOME VERBAL INVESTIGATOR (SEARCH) ACTIONS IN THE INVESTIGATION OF FRAUD IN THE FIELD OF EMPLOYMENT

Ірина Гукова. ТАКТИКА ПРОВЕДЕННЯ ДЕЯКИХ ВЕРБАЛЬНИХ СЛІДЧИХ (РОЗШУКОВИХ) ДІЙ ПРИ РОЗСЛІДУВАННІ ШАХРАЙСТВА У СФЕРІ ПРАЦЕВЛАШТУВАННЯ. У статті розглянуто поняття, процесуальні та тактичні особливості найпоширенішої з вербальних процесуальних – допиту.

Проаналізовано наукові підходи до змісту допиту, а також висвітлено проблемні питання, тактичних прийомів та обставин, які підлягають встановленню, при допиті різної категорії осіб у справах щодо шахрайства у сфері надання послуг із посередництва у працевлаштуванні.

Наголошено, що специфіку допиту визначає предмет даної слідчої (розшукової) дії, що залежить не тільки від процесуального становища допитуваного та інформації, якою він володіє, а й від способу вчинення шахрайства і характеру слідчої ситуації. Визначено організаційно-тактичні особливості проведення допитів під час розслідування шахрайства у сфері надання послуг із посередництва у працевлаштуванні, окреслено обставини, що підлягають встановленню та наведено перелік питань, які визначають специфіку шахрайства у сфері надання послуг із посередництва у працевлаштуванні.

Успішне використання тактичних прийомів та застосування їх комбінацій є можливим тільки завдяки достатньому обсягу інформації відносно матеріалів кримінального провадження та наявності ряду доказів (показань інших учасників кримінального процесу, документів, в яких відображаються шахрайські операції тощо).

Надати достатньо детальну інформацію про шахрайство на ринку праці та осіб, які його вчинили, а також пояснити певні факти про подію, може потерпілий. Показання останнього є достатньо достовірні через його зацікавленість у справі. Тому найважливішим завданням слідчого є встановлення психологічного контакту та окреслення обставин, які необхідно встановити під час допиту.

Ключові слова: шахрайство, працевлаштування, послуги із посередництва, ринок праці, слідча (розшукова) дія, допит, потерпілий, підозрюваний.

Relevance of the study. Interrogation is the most common verbal investigative (search) action in absolute percentage with other procedural actions aimed at obtaining information from people. During its holding it is possible to establish information about the event of the crime, its circumstances, participants, the role of each, etc. The information received from the subjects of criminal proceedings may cover a significant number of factors that will allow an objective assessment of the situation and used in the evidentiary process, in order to bring the perpetrators to justice. Questions of interrogation are constantly in the center of close attention of scientists, due to the constant improvement of ways of committing crimes and changing the mechanism of criminal activity in general. Practice is forced to respond to various innovations, and representatives of the scientific world are constantly trying to find new ways to solve problems associated with the effective conduct of proceedings. This presupposes the adoption of effective measures in line with current trends and changes in forms of criminal activity, including in the field of employment.

Recent publications review shows that the problematic issues of interrogation have repeatedly been the object of close attention of scientists, in particular: V. P. Bakhin, V. K. Velskiy, M. V. Saltevskiy, K. O. Chaplynskiy, S. S. Chernyavskiy and others. Such scientists as S. V. Golovkin, O. V. Kurman, N. Yu. Kyrlyenko, O. L. Musiyenko, T. V. Okhrimchuk, N. V. Pavlova, T. A. Pazynych, S. V. Kuzmenko and others considered the issue of interrogation of different categories of persons during the investigation of fraud of different categories. Meanwhile, today there are a number of problems that remain relevant, despite their long and in-depth study. In addition, due to the specifics of fraud in the labor market, there is a question about the

need for in-depth study of organizational, tactical and procedural aspects of the interrogation of various persons in proceedings of this category. This indicates the relevance of this article.

The article's objective is to analyze scientific approaches to the content of the interrogation, as well as to highlight the problematic issues, tactics and circumstances to be established during the interrogation of various categories of persons in cases of fraud in the field of employment mediation services.

Discussion. The key to the success of the interrogation is quality preparation for it, and choosing the right tactics.

According to a number of scholars, the choice of interrogation tactics depends on several factors: the situation of interrogation (primary, repeated, the presence of psychological contact); procedural position of the interrogated and the level of his interest in the results of the investigation; features of the interrogated person (age, character, level of awareness, presence of criminal experience); the nature of the information and evidence available to the investigation [1, p. 60]. Thus, during the planning of the interrogation (at the preparatory stage) the investigator must find out a number of facts that are important for the investigation and determine the specifics of the proceedings, especially with regard to legal relations in the labor market and the implementation of criminal plans. To do this, you should familiarize yourself with a number of legal regulations governing legal relations in the field of employment; determine the procedure and procedure for the occurrence of labor relations between the employer, employee, intermediary and other entities operating in the specified segment; understand what violations contain signs of a criminal offense, and under what circumstances it is possible to talk about a civil tort. The investigator should study the legal literature in detail in this area, and it is better to seek the help of a specialist. In addition, the materials of the criminal proceedings and the documents contained therein should be carefully examined. If at the time of interrogation there are results of examinations, it is advisable to analyze the conclusions of experts and consider how they can be used in interrogation.

In order to identify certain inconsistencies in the testimony and use them during further interrogation, the investigator must analyze the testimony of others, the results of other procedural actions that contain evidence of the event under investigation. It is advisable to study additional information that will help to detail, clarify the testimony of the interrogated, to identify inconsistencies in certain facts. At the same time, an important element of preparation for the interrogation is to find out the personal interest of the interrogated person in certain results. N. V. Pavlova proposes to establish the nature of the relationship according to the scheme: witness-suspect, victim-suspect, victim-witness, suspect-another accomplice to the crime. The clarified circumstances determine the further tactics of interrogation [2, pp. 118-119]. Based on this, we can outline the data that the investigator must have at the beginning of the interrogation: regulations governing the conduct of transactions in the labor market; what is the violation of rights; which actions were legal and which were not legal; the nature of the illegal actions and the persons involved; place and time of committing fraud; characteristics of the interrogated person, his position and procedural status, connection with other participants in the criminal proceedings; the availability of evidence in the proceedings and the possibility of their use; the presence of contradictions and tactics for their elimination during interrogation, etc. The investigator needs to determine the maximum amount of circumstances to be established and set them out in detail in the interrogation plan with a mandatory indication of the tactics to be used.

However, as already mentioned, during the interrogation the interrogated may refuse to testify, or give testimony in a distorted version. This mostly applies to persons with «suspect» status. As practice shows, thus, in 12% of cases the suspects refuse to testify at all, and in 79% of cases they tell lies. This is logically explained by the desire to avoid criminal liability. In contrast, witnesses and victims refuse to testify during interrogation in only 3% of cases (this is not about victims and witnesses who do not report fraud to law enforcement agencies at all, causing latency). In 27% of cases, witnesses and victims may give false testimony, which is due to feelings about their reputation or fear of criminals, as well as the peculiarities of perception of the event itself.

Respondents have different social and professional status, different mental characteristics and motivation of their behavior, which determines the different nature of communication. A significant role belongs to the knowledge of the laws of formation of their readings, which is explained by the peculiarities of perception, memorization, reproduction, evaluation of information obtained during interrogation, and its use for tactical purposes [3, p. 3].

Understand the behavior of the interrogated, who hides the truth or is wrong about the events, choose tactics that will help to establish the goals and motives of the crime, to set the

factors that prevent the interrogated from telling the truth; to determine the optimal line of behavior in relation to the respondent, knowledge in the field of psychology will help [4, p. 30].

Psychological contact is always bilateral, its establishment and maintenance depend on both the investigator and the interrogated, although the initiative must belong to the investigator. At the same time, it should be borne in mind that the peculiarities of establishing psychological contact and tactics of direct interrogation differ significantly, depending on the procedural status of the interrogated person. If the victim or witness is mostly in contact and prone to communication, a large arsenal of tactics should be used against the suspects, including: presenting evidence; announcement of testimony of other persons; use of contradictions in the testimony of the same person; creating the impression of awareness of the investigator; suddenness factor, etc.

If we turn directly to the tactical features of the interrogation of a suspect in committing fraud, the investigator should take into account the fact that one of the essential characteristics of these persons is a constant willingness to use deception, ingenuity in its use. Thus, this type of criminals is characterized by psychological stability and mastery of techniques and methods of psychological influence on a person – persuasion and suggestion. This requires the investigator to show determination in establishing certain circumstances of the case, to be critical of the conduct of the interrogated and the content of his testimony. It is quite logical that under these conditions an important role in overcoming the interrogation of the interrogated is played by such handling of evidence, which allows to suspect the suspect that the investigation has certain and indisputable facts about his involvement in fraudulent seizure of property. The main feature of the use of tactics during the interrogation of suspects in fraud is the use of the method of presenting evidence on the rise. It is in this case that a favorable situation is created when the false testimony of the suspect is refuted by the new evidence [5, pp. 290-291].

In general, the successful use of tactics and the use of their combinations is possible only due to sufficient information on the materials of criminal proceedings and the availability of some evidence (testimony of other participants in criminal proceedings, documents reflecting fraudulent transactions, etc.).

The victim can provide sufficiently detailed information about the fraud in the labor market and the perpetrators, as well as explain certain facts about the event. The testimony of the latter is quite reliable because of his interest in the case. Therefore, the most important task of the investigator is to establish psychological contact and outline the circumstances that must be established during the interrogation.

Based on the specifics of fraud related to the provision of employment services, the following should be clarified:

- in connection with which the victim was looking for a job;
- in what way and for how long he was looking for a job, how he was looking for a job – independently or through employment agencies, if independently, then how – through advertisements in newspapers or via the Internet;
- whether he applied to various employment agencies, what are the consequences of such treatment;
- the victim immediately applied to the employer or an intermediary acted between them;
- how he learned about the employer or intermediary who offered employment services;
- how to characterize the nature of the relationship between the mediator and the employer;
- whether the money was paid to the intermediary for the provision of employment services, if so, in what amount and whether it was documented who received the money under the agreement;
- what kind of work was offered;
- whether an employment contract was concluded between the employer and the employee, if so, what are its conditions;
- whether the mediator and the employer presented documents certifying their status and legality of their activities;
- what the person who offered employment services look like did, or did not present identity documents, if victim did not suspect this person, which contributed to this;
- whether there are facts that will establish the identity of the fraudster (perhaps the fraudsters communicated with each other and exposed themselves with certain information, perhaps the victim saw the fraudsters in the media, etc.);
- what the situation was in the office where employment services were offered;
- if a job offer was found through an advertisement in a newspaper, what is its name, date, or it has been preserved;

- if the ad was found via the Internet, then when and through a site, how the correspondence was conducted, what phone number is indicated in the ad, whether the victim called this number;
- what the address and the name of the company were, what the description of the vacancy in the ads is like;
- who was present at the transfer of money for employment services, what are the signs of these persons, whether they did not provide telephone numbers and whether there were no calls to these numbers;
- whether the victim has not handed over any documents proving his identity, identification code, documents proving ownership of certain objects;
- whether various documents were signed without studying their content;
- under what circumstances the victim learned that he had been deceived, what actions he had taken.

This list is not exhaustive and the range of issues may change, depending on the situation, the establishment of new circumstances during the interrogation.

Conclusions. Thus, interrogation is an important verbal investigative action that requires careful preparation and knowledge of the investigator's circumstances. The further course of the investigation depends on the results obtained during the interrogation. The success of the interrogation depends on how responsibly the investigator treats the collection of information necessary for the operation of evidence, on determining the list of issues that are important to establish the circumstances of the case and, directly, on the psychological mood and ability to communicate with different categories of criminal proceedings.

References

1. Особливості провадження допиту підозрюваного (обвинуваченого) з метою недопущення тортур та інших порушень прав людини : посібник / В. К. Весельський, В. С. Кузьмічов, В. С. Мацишин, А. В. Старушкевич. Київ : Нац. акад. внутр. справ України, 2004. 148 с.
2. Павлова Н.В. Розслідування шахрайства при укладанні цивільно-правових угод щодо відчуження житла: монографію Дніпропетровськ : Дніпроп. держ. ун-т внутр. справ, 2008. 176 с.
3. Коновалова В. Е. Допрос: тактика и психология: монограф. Харьков : Изд-во СПД ФЛ Вапнярчук, 2006. 176 с.
4. Порубов Н. И. Научные основы допроса на предварительном следствии. 3-е изд., перераб. Минск : Вышэйш. шк., 1978. 176 с.
5. Дехтярьов Є.В. Особливості тактики допиту особи, яка підозрюється у вчиненні шахрайства в сфері виконання господарсько-договірних зобов'язань. *Вісник Луганського державного університету внутрішніх справ імені Е.О. Дідоренка*. 2011. №3. С. 286-292.

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1. Osoblyvosti provadzhennya dopytu pidozryuvanoho (obvynuvachenoho) z metoyu nedopushchennya tortur ta inshykh porushen' prav lyudyny [Peculiarities of interrogation of a suspect (accused) in order to prevent torture and other human rights violations] : posibnyk / V. K. Vesel's'kyi, V. S. Kuz'michov, V. S. Matsyshyn, A. V. Starushkevych. Kyiv : Nats. akad. vnutr. sprav Ukrayiny, 2004. 148 p. [in Ukr.].
2. Pavlova N. V. (2008) Rozsliduvannya shakhraystva pry ukladanni tsyvil'no-pravovykh uhod shchodo vidchuzhennya zhytla [Investigation of fraud in the conclusion of civil law agreements on the alienation of housing] : monohraf. Dnipropetrovsk : Dniprop. derzh. un-t vnutr. sprav, 176 p. [in Ukr.].
3. Konovalova V. Ye. (2006) Dopros: taktika i psikhologiya [Interrogation: tactics and psychology] : monograf. Kharkov : Izd-vo SPD FL Vapnyarchuk, 176 p. [in Russ.].
4. Porubov N. I. (1978) Nauchnyye osnovy doprosa na predvaritel'nom sledstvii [Scientific bases of interrogation on preliminary investigation]. 3-ye izd., pererab. Minsk : Vyshéysh. Shk, 176 p. [in Russ.].
5. Dekhtyar'ov Ye. V. (2011) Osoblyvosti taktyky dopytu osoby, yaka pidozryuyet'sya u vchynenni shakhraystva v sferi vykonannya hospodars'ko-dohovirnykh zobov'yazan' [Peculiarities of interrogation tactics of a person suspected of committing fraud in the field of fulfillment of economic and contractual obligations]. *Visnyk Luhans'koho derzhavnoho universytetu vnutrishnikh sprav imeni E.O. Didorenka*, no 3, pp. 286-292 [in Ukr.].

Abstract

The article considers the concepts, procedural and tactical features of the most common of the verbal procedural, the interrogation. It is emphasized that the specifics of the interrogation is determined by the subject of this investigative (search) action, which depends not only on the procedural position of the interrogated and the information he possesses, but also on the manner of fraud and the nature of the investigative situation. The organizational and tactical features of conducting interrogations during the investigation of fraud in the field of employment mediation services are determined, the circumstances to be established are outlined and a list of issues that determine the specifics of fraud in the field of employment mediation services is given.

Keywords: *fraud, employment, mediation services, labor market, investigative action, interrogation, victim, suspect.*