

1. Yefimov M. M. (2018) Rozsliduvannya zlochniv proty hromads'koho porjadku ta moral'nosti : navch. posibnyk. 2-e vyd., dop. i pererob. Dnipro : Dniprop. derzh. un-t vnutr. sprav, 188 p. [in Ukr.].
2. Gavrilin Yu. V. (2004) Kriminalisticheskaya taktika i metodika rassledovaniya otdel'nykh vidov prestupleniy v opredeleniyakh i skhemakh : ucheb. posobiye. Moscow : Knizhnyy mir, 332 p. [in Russ.].
3. Zverev Yu. A. (1985) Organizatsyya i otdel'nyye takticheskiye priyomy doprosa. *Sledstvennaya praktika*, issue 145, pp. 18-23. [in Russ.].
4. Kryminalistyka : pidruch. dlya stud. yuryd. VNZ / Kol. avt. Hlibko V. M., Dudnikov A. L., Zhuravel' V. A. ta in. ; za red. V. Yu. Shepit'ka. Kyiv : Vydavnychiy Dim «In Yure», 2001. 452 p. [in Ukr.].
5. Kryminalistyka : pidruch. / V. D. Bernaz, V. V. Biryukov, A. F. Volobuyev ; za zah. red. A. F. Volobuyeva. Kharkiv : KhNUVS, 2001. 666 p. [in Ukr.].
6. Kriminalisticheskaya metodika rassledovaniya otdel'nykh vidov prestupleniy : ucheb. posobiye v 2-kh ch. Sp. 2 ; pod red. A.P. Rezvana, M.V. Subbotynoy. Moscow : IMTs HUK MVD Rossii. 2002. 232 p. [in Russ.].
7. Lukashevich V. G. (1993) Kriminalisticheskaya teoriya obshcheniya: postanovka problemy, metodika issledovaniya, perspektivy ispol'zovaniya : monograf. Kiev : Izd-vo Ukrainskoy akademii vnutrennikh del, 194 p. [in Russ.].
8. Romanov V. V. Korotkyy kurs lektsiy z dystsypliny «Yurydychna psikhologhiya» URL : http://studme.com.ua/158407205347/psihologiya/yuridicheskaya_psihologiya.htm [in Ukr.].
9. Shaldyryan P. V. (2005) Metodyka rozsliduvannya masovykh zavorushen' : dys. ... kand. yuryd. nauk : 12.00.09 / Akademiya advokatury Ukrainy. Kyiv, 210 p. [in Ukr.].

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.

UDC 343.98

DOI: 10.31733/2078-3566-2020-5-289-293



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, СВІДКІВ 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,

© Vengerova Yu. V., 2020
k_ksmp@dduvs.in.ua

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 навмисно імітують страховий випадок з метою отримання страхових виплат.

При розслідуванні злочинів у сфері туризму як свідки можуть бути допитані: представники консульських установ; працівники туристичного агентства; працівники страхової компанії; працівники банківських установ; обслуговуючий персонал готельно-ресторанного підприємства; перевізники; бухгалтери, касири, які працюють на підприємствах ресторанно-готельного обслуговування та у туристичних агентствах; інші категорії свідків, які володіють інформацією, що має значення для справи та ін. Можуть становити інтерес особи, які працювали на туристичному підприємстві, але згодом звільнилися.

Найсуттєвішою проблемою є брак часу для повноцінної підготовки до допиту, із вивченням законодавства у сфері туристичної діяльності, врахуванням всіх обставин, які підлягатимуть встановленню та складанням плану допиту.

Ключові слова: злочини, туризм, туристична діяльність, тактичний прийом, допит, свідок, потерпілий, підозрюваний.

Relevance of the study. The investigation of crimes in the field of tourism has a certain specificity, due to the circumstances and mechanism of this crime. A special place among all other sources of evidence is occupied by testimony, which takes the form of evidence only in the case of observance of the rights, freedoms and legitimate interests of persons who have information about the crime and their proper procedural design. However, during interrogations in the investigation of crimes related to tourism, investigators often face difficulties of both procedural and organizational and tactical nature. Therefore, without information on the basic techniques, methods and methods of interrogation of various categories of persons, as well as the specifics of crimes of this type, it is not always possible to guarantee success, because the investigation in such conditions is carried out in conditions of information insufficiency.

Recent publications review shows that the problems of interrogation have been repeatedly considered in the scientific works of V.P. Bakhin, V.K. Veselskyi, V.O. Konovalova, M.I. Porubov, M.V. Saltevsykyi, K.O. Chaplynskyi and others. However, there are still a number of debatable issues regarding the interrogation of various categories of persons in the investigation of crimes in the field of tourism.

The article's objective is to highlight the problematic issues that arise during the preparation and interrogation of various categories of persons in the investigation of crimes in the field of tourism, as well as to provide recommendations on the most effective organization and tactics of this procedure.

Discussion. According to the analysis of judicial and investigative practice, interrogation in the investigation of crimes in the field of tourism is accompanied by a number of difficulties associated with the need to have information about both the event and the regulation of the tourism business. Based on this, the investigator needs to prepare more carefully for interrogation in such proceedings. In particular, not only materials of criminal proceedings, but also regulations and special literature are subject to study.

If you have questions about the procedure for concluding agreements in the field of tourism, the functioning of tourist services and violations in their work, possible abuses in the field of tourism, the investigator should consult in advance in this area to help clarify unclear details and form a range of issues interrogation. Formulation of important questions during the preparation for the interrogation, thinking through various details, as well as predicting the possible behavior of the participants with the choice of ways to respond to each case, will contribute to its quality and prevention. The drafting of an interrogation plan should not be neglected either.

As T.O. Kalyuga rightly points out, that not only citizens of our state, but also citizens of other states – foreigners who have temporarily arrived in Ukraine within the framework of certain agreements on the provision of tourist services to obtain the specified tourist product, may suffer from the actions of fraudsters. but, having become victims of fraudulent schemes, they never received the tourist services promised to them [1, pp. 134-135]. However, this necessitates the interrogation of an interpreter who understands the language of criminal proceedings and is able to prove to a citizen of another state the basic provisions of Ukrainian law when conducting procedural actions. Preparation for such an interrogation is particularly important, as re-interrogation of foreigners is difficult. This is due to the clearly defined terms of the possible stay of a foreigner on the territory of our state. If the interrogated is a representative of a diplomatic mission or consulate, his re-interrogation due to his special legal status

may be conducted in exceptional circumstances. However, the outlined legal status of a foreigner also depends on certain types of international legal acts ratified by Ukraine, which must be taken into account when conducting certain procedural actions with injured foreigners, including interrogation [2, p. 95].

According to the materials of the criminal proceedings, the shortcomings revealed during the direct interrogations were established. Thus, based on the content of the interrogation protocols, a formalism can be traced, which consists in a superficial description of the event of the crime, without specifying small details that could help establish important information. There are many inaccuracies, discrepancies with the testimonies of other participants and other sources of evidence in the testimonies of different categories of persons. While investigative (search) actions aimed at resolving discrepancies were carried out in only 34% of cases.

Regarding the establishment of psychological contact, 37% of investigators answered that they do not have enough time to establish psychological contact and they are often limited to recording mandatory personal data and asking questions that are mandatory for the interrogation procedure. 87% of investigators do not see the opportunity to spend time getting to know the interviewee, as well as to have long conversations on foreign topics of interest to the interviewee, due to the large amount of functional responsibilities and tight work schedule.

Investigators lack the time and technical ability to accompany the process of obtaining testimony by video. In 78% of suspects, after some time they refuse to testify, citing the fact that they were obtained as a result of psychological pressure or physical influence. While video footage could help refute these allegations and prove the legitimacy of the interrogator's actions.

Despite the fact that the testimony given in the pre-trial investigation is not taken into account in court, and the testimony of the suspect is generally his right and not his duty, the video can still help to understand the events and confirm the lack of influence by the investigator.

The most significant problem is the reluctance of investigators to use the full range of tactics that are recommended by forensics and developed in practice. A survey of investigators investigating criminal offenses in the field of tourism showed that the following tactics are the most commonly used:

- establishing psychological contact with the respondent;
- use of positive qualities of the interrogated;
- assurance of taking the wrong position;
- clarification of the possibility of mitigation of punishment in case of a guilty plea and cooperation with the investigator;
- announcement of testimony of other persons;
- mention of the available evidence during interrogation and its presentation;
- creating an inflated awareness of the investigator about the crime;
- concealing the limits of the investigator's awareness of the crime;
- separation from the general flow of information relevant to the case;
- suddenness factor.

At the same time, a number of tactics that could be useful, investigators either did not name at all, or believe that they are not effective, or refer to the lack of time to use them. Tactics such as comparing facts and adjusting the subject of the story were not named at all, while these tactics help to keep the situation under control.

One of the methods of interrogation that is ignored by investigators is to observe the behavior of the interrogated and his psychophysiological reactions. While such observation allows to reveal untruth or inconsistency in the testimony of the interrogated.

In addition, when referring to the presentation of available evidence during interrogation, investigators do not pay sufficient attention to the specifics of presenting such evidence, depending on certain circumstances. In general, each tactic has its own characteristics and forms of application, which depend on the situation. According to scientists, investigative tactics, as a set of techniques for solving investigative problems, are used only where and where there is opposition to the investigation, the actions of the investigator. In this case, the tactics in general is the ability to convince the opposite side [3, p. 11]. Meanwhile, even in the absence of counteraction, when the situation is conflict-free, tactics are indispensable. If, for example, the victim or witness forgets certain facts about the crime, forensics recommends a whole arsenal of techniques that must

be used. Among them: asking reminder questions; demonstration of physical evidence; announcement of testimony of other persons, interrogation at the scene, etc. For example, if the victim does not remember the name of the travel agency that was posted on the office sign before the agency disappeared, you can show him photos, offer to review the contents of the documents signed by him, and so on. The victim may not remember the address of the travel agency, but states that he can show where it is. In such circumstances, you can go to the place, etc.

In general, the choice of interrogation tactics depends on several factors:

- interrogation situations (primary, repeated, presence of psychological contact);
- features of the interrogated person (age, character, level of legal awareness, presence of criminal experience, etc.);
- the nature of the information and evidence available to the investigation;
- procedural position of the interrogated and the level of his interest in the results of the investigation, etc. [4, pp. 60–61].

Regarding the last position, it should be noted that, among all participants, the victims are most interested in establishing the objective truth and bringing the perpetrators to justice, which is quite logical. However, sometimes individuals who consider themselves victims may conceal certain facts that call into question the integrity of their actions. Such situations occur when applying for visas, insurance, when victims deliberately imitate the insured event in order to obtain insurance benefits. There are also cases when due to the negligence of persons responsible for safety in the tourism business, there are cases of injuries, mass poisonings and other events that have serious consequences for tourists. Meanwhile, tourists sometimes blame the subjects of tourism activities while they can provoke such events themselves. It follows that during the interrogation of the victim, the investigator should be critical of his testimony and compare them with other evidence in the case.

Witnesses are generally less interested in establishing the objective truth of the case. However, under Ukrainian law, it is a duty rather than a right to testify about an event observed by a witness. After all, according to Art. 385 of the Criminal Code of Ukraine provides for criminal liability for a witness's refusal to testify.

When investigating crimes in the field of tourism, the following may be questioned as witnesses: representatives of consular offices; employees of a travel agency; employees of the insurance company; employees of banking institutions; service personnel of the hotel and restaurant enterprise; carriers; accountants, cashiers working at restaurants and hotels and travel agencies; other categories of witnesses who have information relevant to the case, etc. Persons who worked at a tourist enterprise but later resigned may be of interest.

It is important for the investigator to establish whether the interrogated are in an official relationship with the head of the tourist or hotel and restaurant enterprise and what their nature is. This need is due to the prevalence of situations where persons who declare themselves as witnesses are involved in criminal acts.

The line between suspect and witness status is so thin that a number of tourism actors may be mistakenly questioned in the wrong status. Hence the red tape, the closure of criminal proceedings, litigation for violation of the rights of participants and the rules of criminal procedure, etc. At the same time, interrogation in the status of a suspect who has not committed a criminal offense causes documentary red tape: a number of complaints and explanations, drafting decisions to close criminal proceedings against this person, and others. That is, the same tourism entities may act as suspects and witnesses in different circumstances. Therefore, the primary task of the investigator is to clearly determine before the interrogation what the person has to do with the crime [1].

Conclusions. Thus, interrogation in the investigation of crimes in the field of tourism is accompanied by a number of difficulties of both procedural and organizational and tactical nature. The most significant problem is the lack of time for full preparation for the interrogation, with the study of legislation in the field of tourism, taking into account all the circumstances to be established and drawing up an interrogation plan. The use by investigators of the full range of tactics recommended by forensics and developed in practice is also not used to a sufficient extent. Investigators lack the time and technical ability to accompany the process of obtaining evidence by audio or video recording.

Therefore, the possession of law enforcement information on the basic techniques, methods and methods of interrogation of various categories of persons, as well as the specifics of crimes of this type, will contribute to the success and establishment of objective truth in the proceedings.

References

1. Калюга Т. О. Розслідування шахрайства у сфері надання туристичних послуг : дис. ... канд. юрид. наук : 12.00.09 / Міжрегіональна академія управління персоналом. Київ, 2019. 240 с.
2. Біденчук Т.М., Павлова Н.В. Установлення психологічного контакту під час допиту громадянина іншої держави за участю перекладача. *Jurnalul juridic national: teorie și practică*. 2019. № 2-2 (36). С. 94-97.
3. Весельський В. К. Сучасні проблеми допиту (процесуальні, організаційні і тактичні спекти) : автореф. дис. ... канд. юрид. наук : 12.00.09 / НАВСУ. Київ, 1999. 18 с.
4. Особливості провадження допиту підозрюваного (обвинуваченого) з метою недопущення тортур та інших порушень прав людини : посібник / В. К. Весельський, В. С. Кузьмічов, В. С. Мацішин, А. В. Старушкевич. Київ : Нац. акад. внутр. справ України, 2004. 148 с.

Submitted 10.12.2020

1. Kalyuha T. O. (2019) Rozsliduvannya shakhraystva u sferi nadannya turystychnykh posluh [Investigation of fraud in the field of tourist services] : dys. ... kand. yuryd. nauk : 12.00.09 / Mizhrehional'na akademiya upravlinnya personalom. Kyiv. 240 p. [in Ukr.].
2. Bidenchuk T. M., Pavlova N. V. (2019) Ustanovlennya psykholohichnoho kontaktu pid chas dopytu hro-madyanyina inshoyi derzhavy za uchastyu perekkladacha [Establishing psychological contact during the interrogation of a citizen of another state with the participation of an interpreter]. *Jurnalul juridic national: teorie și practică*, no 2-2 (36), pp. 94-97 [in Ukr.].
3. Vesel's'kyy V. K. (1999) Suchasni problemy dopytu (protsesual'ni, orhanizatsiyni i taktychni spekty) [Modern problems of interrogation (procedural, organizational and tactical aspects)] : avtoref. dys. ... kand. yuryd. nauk : 12.00.09 / NAVSU. Kyiv, 18 p. [in Ukr.].
4. 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'kyy, V. S. Kuz'michov, V. S. Matsyshyn, A. V. Starushkevych. Kyiv : Nats. akad. vnutr. sprav Ukrayiny, 2004. 148 p. [in Ukr.].

Abstract

The article deals with problematic issues and difficulties that arise during the preparation and conduct of interrogation of various categories of persons in the investigation of crimes in the field of tourism. Recommendations on the most effective organization and tactics of interrogation in proceedings of this category have been given.

Keywords: *crimes, tourism, tourist activity, tactical reception, interrogation, witness, victim, suspect.*