

**Ганна БІДНЯК, Любов СОКОЛЕНКО
ДОСЛІДЖЕННЯ РУКОПИСІВ, ВИКОНАНИХ
З ПЕРЕМІНОЮ ЗВИЧНОЇ ПИШУЧОЇ РУКИ**

В науковій статті розглянуто особливості експертного дослідження рукописів, виконаних незвичною для письма рукою, а саме ліворучне письмо. Привернуто увагу до етапів дослідження зазначених рукописів, факторів, які впливають на зміну почерку. Ґрунтуючись на наукових досягненнях видатних почеркознавців та результатах узагальнення висновків судових експертів, де об'єктами дослідження виступають ліворучні рукописи, зроблена спроба виокремити комплекс кваліфікуючих ознак почерку та підписів, за якими розрізняється письмо з переміною звичної пишучої руки.

На фоні загального зниження письмово-рухомої навички громадян, встановлені ознаки проявляються в рукописах різного ступеня виробленості. Зазначене дозволяє встановити факт виконання рукопису з переміною звичної пишучої руки та ідентифікувати особу виконавця на певних стадіях експертного дослідження (роздільній або порівняльній). При середньому ступеню володіння письмово-рухомою навичкою письма лівою рукою в рукописі, поруч із загальною некоординованістю, виокремлені елементи автоматизованості рухів, набагато рідше дзеркальність. Для високого ступеню розвитку навички письма лівою рукою зазначено також швидкий темп письма. Акцентовано на поділі ознак почерку та відмінностях тих, що характеризують почерк незвичної лівої руки, від тих, що притаманні маловиробленому почерку і почеркам осіб похилого, старечого віку, хворим особам. Для підтвердження наведених ознак були використані приклади з експертної практики.

Акцентовано на необхідності проведення порівняльного дослідження з рукописами лівши, виконаними ним правою рукою, для встановлення рівня володіння навичками письма правої руки, що дає можливість оцінити розбіжні ознаки.

Ключові слова: *почеркознавча експертиза, зміна звичної пишучої руки, ліворучне письмо, діагностичні завдання, дослідження рукописів.*

UDC 343.1

DOI 10.31733/2078-3566-2021-5-200-205



Oleksii BOIKO[©]

PhD in Law, Associate
Professor
(Dnipropetrovsk state
University of Internal
Affairs, Dnipro,
Ukraine)

**WAYS TO IMPROVE THE INTERACTION OF INVESTIGATORS WITH
CRIMINAL INVESTIGATION UNITS AT THE PRE-TRIAL INVESTIGATION**

Abstract. It is almost impossible hold rapid and effective investigation of criminal offenses in some cases without the help of criminal investigation units. Currently, the state of interaction of the investigator with the criminal investigation units continues to remain low in terms of combating criminal offenses. That is why it is so necessary to study this problem and find ways to improve the interaction of investigators with criminal investigation units at the pre-trial investigation.

As a result of the study the authors formulated a set of proposals for making changes and additions to the CPC of Ukraine.

Keywords: *criminal investigation units, interaction, pre-trial proceedings, investigator, criminal offense, investigation, criminal proceedings.*

Relevance of the study. In recent years in Ukraine crime in general is steadily increasing and a significant number of crimes, including serious and especially serious, remain unsolved. At the present stage, the fight against crime requires not only the maximum use of all

© O. Boiko, 2021

ORCID iD: <https://orcid.org/0000-0002-2316-4871>

yurpetrikovka@i.ua

law enforcement forces, but also a clear organization that ensures their high efficiency, coordination all services' efforts and units of different law enforcement agencies, when everyone acts with maximum efficiency within the given powers and the capabilities of one unit are combined with the capabilities of other bodies and complemented by them. This comprehensive combination of efforts is realized through the cooperation of law enforcement agencies, primarily investigators and criminal investigation units.

Recent publications review. O. Bandurka, P. Bernaz, D. Grebelskyi, O. Dolzhenkov, O. Kerevych, M. Pogoretskyi, O. Snigeryov and others studied in their works problems of interaction of investigators with other law enforcement agencies, but most of their studies were carried out until 2012, ie before the adoption of the new Criminal Procedure Code of Ukraine (hereinafter - the CPC of Ukraine).

Issues of interaction of law enforcement agencies in the current CPC of Ukraine were the subject of study of such scientists as M. Bagriy, S. Bondar, V. Izotov, S. Knyzhenko, L. Mazur, V. Topchii and others, but they haven't studied the issues of interaction between investigators and criminal investigation units at the pre-trial proceedings.

The article's objective is to obtain new scientific results on how to improve the interaction of investigators with criminal investigation units at pre-trial proceedings. To achieve this goal, it is necessary to solve the following tasks: to consider the objective and subjective factors that determine the need for interaction of investigators with criminal investigation units at pre-trial proceedings; to consider the problems of interaction between these entities, which are related to the adoption of the CPC of Ukraine on April 13, 2012; identify areas for improving the interaction of investigators with criminal investigation units at pre-trial proceedings.

Discussion. The need for cooperation between investigators and criminal investigation units is due to a number of objective factors.

The most important of them are the presence of common goals and objectives in the activities of the subjects of interaction. The interaction of investigators and criminal investigation units should facilitate the implementation of the tasks of criminal proceedings. They are protection of the individual, society and the state from criminal offenses, protection of the rights, freedoms and legitimate interests of participants in criminal proceedings, and ensuring a prompt, full and impartial investigation and trial so that everyone who has committed a criminal offense has been prosecuted to the extent of his guilt, no innocent person has been charged or convicted, no person has been subjected to unreasonable coercion and proper legal procedure was applied to each participant in the criminal proceedings [1].

Tasks of operative-search activity are formulated in Art. 1 of the Law of Ukraine "On operational and investigative activities"[2]. They are the search and recording of factual data on illegal actions of individuals and groups (the Criminal Code of Ukraine provides responsibility for it), intelligence and subversive activities of special services of foreign states and organizations to stop offenses and in favor of criminal proceedings, as well as obtaining information in favor of the security of citizens, society and the state.

Thus, the purpose of cooperation between investigators and criminal investigation units can be considered as the implementation of measures aimed at maximizing the forces, means, methods and other available resources of investigative and operational units in the fight against criminal offenses. At the same time, operative-investigative and procedural functions must be used correct during criminal proceedings to achieve the most effective results in the implementation of the tasks of operational-investigative activities and criminal proceedings. There is an organic connection between operative-investigative and criminal proceedings. Analysis of the Art. 1, 6, 7 and 10 of the Law of Ukraine "On operational-investigative activities" allows us to conclude that operational-investigative activities are not self-sufficient and basically related to the interests of criminal proceedings and only in close connection with them it will be able to successfully solve problems on counteraction to criminal offenses.

The second factor that determines the need for investigators to interact with criminal investigation units in pre-trial proceedings during the investigation of criminal offenses is the difference in the means and methods of activity of the subjects of interaction. When investigating criminal proceedings, the investigator has the right to conduct investigative (investigative), covert investigative (investigative) and other procedural actions. The investigator has the right to conduct investigative, covert investigative and other procedural actions during investigation of criminal proceedings.

Employees of operational units (except for detective units, internal control units of the

National Anti-Corruption Bureau of Ukraine) don't have right to carry out procedural actions in criminal proceedings on their own initiative or to apply to the investigating judge or prosecutor [1]. In the process of their activity, operative-search subdivisions carry out operative-search measures in accordance with the Law of Ukraine "On operative-search activity" and departmental normative legal acts. The investigator cannot carry out these activities and even does not have the right to participate in them or be presented during them.

The third factor that determines the need for interaction of investigators with criminal investigation units in pre-trial proceedings in the investigation of criminal offenses is the different legal significance of the results of the interaction. Evidence is the result of the investigator's procedural activity. As a result of operative-search activity of the operative, only materials in which factual data on illegal actions of individuals and groups of persons collected by operative units in compliance with the requirements of the Law of Ukraine "On operative-search activity" can be used as evidence in criminal proceedings, if they meet the requirements of the Art.99 of the Criminal Procedure Code of Ukraine [1].

In addition to the objective factors that determine the interaction of the investigator and criminal investigation units, subjective factors have great importance. They are operatives' ignorance of the essence of the formation of evidence in criminal proceedings, which leads to unsystematic collection of materials in operational and investigative cases; inability of operatives to provide a correct legal assessment of operational information, which is associated with their lack of sufficient knowledge of the provisions of criminal and criminal procedure law and insufficient skills to apply them in practice; a significant number of investigators and operational staff don't have enough of the necessary experience, etc. [3].

Only the integrated use of criminal procedural capabilities of the investigator and operational tools and methods available to criminal investigation units, allows solving the problem of detection and investigation of criminal offenses successfully.

With the adoption of the CPC of Ukraine [1] and such departmental regulations as The order of the Ministry of Internal Affairs of Ukraine of July 7, 2017 № 575 "On approval of the Instruction on the interaction of pre-trial investigation bodies with other bodies and units of the National Police of Ukraine and investigation" [4]; The order of the Ministry of Internal Affairs of Ukraine of February 8, 2019 № 100 "On approval of the Procedure of maintaining a single record of criminal offenses, notifications and other events in the bodies (units) of the police statements" [5]; The order of the Ministry of Internal Affairs of Ukraine of April 27, 2020 № 357 "On approval of the Instruction on the organization of response to statements and notifications of criminal, administrative offenses or events and prompt information in the bodies (units) of the National Police of Ukraine" [6] the legal basis for the interaction of investigators and criminal investigation units has changed, which has led to a change in the process of organizing the interaction of investigators and criminal investigation units in the detection, disclosure and investigation of criminal offenses.

Prior to the adoption of the CPC of Ukraine, covert investigative (search) actions regulated by Chapter 21 of the CPC of Ukraine were conducted as operational-investigative measures. The information obtained as a result of their conduct could be used as evidence in criminal proceedings in compliance with the requirements established by the criminal procedure legislation.

Therefore, under the CPC of Ukraine in 1960 the interaction of investigators with officers of operational units has significant features. The subjects of interaction could perform the tasks of the pre-trial investigation using the same means (by carrying out criminal proceedings) and using different means (the investigator conducts only criminal-procedural actions, and operational units conduct operational and investigative measures [7, p. 350]. In our opinion, in the current CPC of Ukraine the expansion of the powers of investigative units in the context of their interaction with operational units is a rather negative aspect. It gives the investigator the right to conduct covert investigative (search) actions, which is impossible without practical experience of operational and investigative activities.

The adoption of these regulations has not improved the effectiveness of cooperation between investigators and criminal investigation units in the pre-trial investigation. It has led to the fact that today we have an imperfect system of mutual exchange of information, there is inconsistency in investigative and covert investigative actions and other procedural actions. Investigators don't trust operational and investigative information during planning and conducting investigations, and officers of criminal investigation units do not always timely and efficiently carry out their instructions to conduct investigative actions and covert investigative

actions in criminal proceedings.

One of the reasons for this problem is the lack of clear deadlines of the implementation of operational units of the investigator's instructions in accordance with the Art.40 of the Criminal Procedure Code of Ukraine. In connection with the above, it is advisable to supplement the paragraph 3 of the Part 2 of the Art.40 of the CPC of Ukraine with stipulates that the investigator's order must specify the deadline for its execution, and employees of operational units should strive to execute such an order as soon as possible. It is also necessary to provide for administrative liability of persons guilty of delaying or violating the terms of such orders.

The effectiveness of cooperation in the investigation of criminal offenses depends on the attention in planning the relevant activities and their proper organization. Planning involves the use of traditional and non-traditional ways. The first includes the development of so-called standard versions, which are put forward on the basis of scientific analysis of data from the generalized experience of investigating criminal offenses of a certain category, the second includes using standard versions and those that do not fit into the usual framework and arise in connection with detection new ways of committing criminal offenses and other data. Therefore, the most important for the investigator is the use of both of these ways, that is the implementation of active mental activity associated with the promotion of different versions [8].

According to A. Gordin, the effectiveness of the interaction of investigative and operational units is the need to improve the legislative and departmental regulations that create conditions for the development of new forms and directions in solving the problem of combating crime [9].

Other scientists in the system of improving the activities of operational units and investigators include raising the educational level of police officers; solving the problem of police staffing; significant increase in the level of information support for police activities; introduction of achievements of science and technology; gradual use of non-traditional means of search; creation a separate position in operational divisions with the authority of job description to indemnify to victims of criminal offenses; improvement of organizational and tactical forms and methods of search [10, p. 165].

In our opinion, improving the planning of joint work of investigators and criminal investigation units, it is advisable to provide for issues of cooperation in the structure of current plans of police bodies in general. In particular, they should reflect:

- the state of mutual exchange of information received by the relevant departments;
- the state of work on the execution of the investigator's instructions;
- the need to train investigators on specific examples of the use of the results of operational and investigative activities;
- improving the system of information support of the investigation on the basis of modern information technologies with the use of operational-investigative and other types of accounting.

In our opinion, all this would allow to identify negative and positive trends in cooperation, raise the level of its organization, control and evaluation, to note specific measures of improving the detection and investigation of criminal offenses.

Conclusions. Thus, we have identified objective and subjective factors that determine the need for investigators to interact with criminal investigation units in pre-trial proceedings.

The authors pointed out the problems of interaction between the specified subjects which are connected with acceptance of the CPC of Ukraine. For the decision of the one of this problem it is offered to supplement the paragraph 3 of the Part 2 of the Art.40 of the CPC of Ukraine with stipulates that the investigator's order must specify the deadline for its execution, and employees of operational units should strive to execute such an order as soon as possible. It is necessary to provide for administrative liability of persons who are guilty of delaying or violating the terms of execution of such instructions.

We also think that to increase the effectiveness of interaction, we can name the following areas of improving the interaction of investigators with criminal investigation units in the pre-trial investigation: planning interaction; professional orientation of each of the interacting parties regarding each other's capabilities and the completeness of their use in solving the tasks of disclosure of criminal offenses; establishing proper official relations between investigators and criminal investigation officers who interact directly; maintaining an atmosphere of trust, cohesion and mutual assistance; regular internships for criminal investigation officers in investigative units and vice versa; specialization of investigators in the investigation of a certain category of criminal proceedings; timeliness of entry into interaction

and its termination; raising the educational level of police officers; solving the problem of police staffing; introduction of achievements of science and technology.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

References

1. Kryminal'nyy protsesual'nyy Kodeks Ukrayiny vid 13 kvitn. 2012 r. № 4651- VI. [Criminal Procedure Code of Ukraine: Law of Ukraine of April 13, 2012 №4651-VI] URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> [in Ukr.]
2. Pro jperatyvno-rozshukovu diyal'nist'. Zakon Ukrayiny vid 18 lyut. 1992 r. № 2135-XII [On operative-search activity: Law of Ukraine of February 18, 1992 № 2135-XII] URL: <https://zakon.rada.gov.ua/laws/show/2135-12#Text> [in Ukr.]
3. Voropayev A. A. Nekotoryye problem sovershenstvovaniya vzaimodeistviya organov predvaritel'noho sledstviya I orhanov doznaniya pri rassledovanii prestupleniy [Voropayev A. A. Some problems of improving the interaction of pre-trial investigation bodies and bodies of inquiry in the investigation of crimes] URL: http://www.journal-nio.com/index.php?option=com_content&view=article&id=1964&Itemid=117.pdf [in Ukr.]
4. Pro zatverdghennya Instruksiyi z orhanizatsiyi vzayemodiyi orhaniv dosudovoho rozsliduvannya z inshymy orhanamy ta pidrozdilamy Natsional'noyi politsiyi Ukrayiny v zapobihanni kryminal'nykh pravoporushennyam, yih vvyavleni ta rozsliduvanni : nakaz Ministerstva vnutrishnih sprav Ukrayiny vid 07.07.2017 r. № 575 [On approval of the Instruction on the organization of interaction of pre-trial investigation bodies with other bodies and subdivisions of the National Police of Ukraine in prevention of criminal offenses, their detection and investigation: order of the Ministry of Internal Affairs of Ukraine dated 07.07.2017 № 575] URL: <https://zakon.rada.gov.ua/laws/show/z0937-17#Text> [in Ukr.]
5. Pro zatverdghennya Poryadku vedennya yedynogo obliku v orhanah (pidrozdilakh) politsiyi zayav i povidomlen' pro kryminal'ni pravoporushennya ta inshi podiyi : nakaz Ministerstva vnutrishnih sprav Ukrayiny vid 08 lyut. 2019 r. № 100 [About the statement of the Order of conducting the uniform account in bodies (divisions) of police of statements and notifications on criminal offenses and other events: the order of the Ministry of Internal Affairs of Ukraine from February 08, 2019 № 100] URL: <https://zakon.rada.gov.ua/laws/show/z0223-19#Text> [in Ukr.]
6. Pro zatverdghennya Instruksiyi z organizatsiyi reahuvanny na zayavy i povidomlennya pro kryminal'ni, administratyvni pravoporushennya abo podiyi ta operatyvnoho informuvannya v orhanah (pidrozdilakh) Natsional'noyi politsiyi Ukrayiny : nakaz Ministerstva vnutrishnih sprav Ukrayiny vid 27 kvit. 2020 r. № 357 [On approval of the Instruction on organization of response to statements and notifications about criminal, administrative offenses or events and operative informing in bodies (divisions) of the National Police of Ukraine: order of the Ministry of Internal Affairs of Ukraine from April 27, 2020 № 357] URL: <https://zakon.rada.gov.ua/laws/show/z0443-20#Text> [in Ukr.]
7. Soroka S. O., Rymarchuk G. S. Vzayemodiya slidchoho iz spivrobotnykamy inshyh pidrozdiliv pid chas dosudovoho ozsliduvannya [Soroka S.O., Rymarchuk G.S. Investigator's interaction with employees of other divisions during pre-trial investigation] *Visnyk Natsional'noho universytetu "L'viv's'ka politehnika"*. 2015. No. 825. Pp. 347–354. [in Ukr.]
8. Konoplytskyi Ivan. Puti sovershenstvovaniya vzaimodeistviya sledovately i operativnykh podrazdeleniy OVD v hode passledovaniya prestupleniy [Konoplytskyi Ivan. The ways to improve the interaction of investigators and operational units of the Internal Affairs Directorate during the investigation of crimes] URL: <http://gisap.eu/ru/node/86015> [in Ukr.]
9. Gordin A. V. Vzaimodeystviye operativno-rozysknykh podrazdeleniy I sledovatelya organov vnutrennih del pri raskrytii I rassledovanii prestupleniy : avtoreferat dissertatsyyi na soiskaniye uchenoy stepeni kandidata yuridicheskikh nauk : special'nost' 12.00.09 [Interaction of operational-search divisions and an investigator of internal affairs bodies in solving and investigating crimes] Extended abstract of PhD dissertation. Specialty 12.00.09 Criminal procedure; criminology and forensic science; operational-search activity. S.-Pb. 2005. 22 p. [in Russ.]
10. Tataryn I.I. Zabezpechennya vidshkoduvannya shkody, zapodiyanoi kryminal'nykh pravoporushennyam, na dosudovomu rozsliduvanni [Ensuring compensation for damage caused by a criminal offense in a pre-trial investigation] Dysertatsiya kand. yuryd. nauk [PhD dissertation]. Lviv. 2015. [in Ukr.]

Submitted: 01.12.2021

Олексій БОЙКО
НАПРЯМИ ВДОСКОНАЛЕННЯ ВЗАЄМОДІЇ СЛІДЧИХ З ПІДРОЗДІЛАМИ
КАРНОГО РОЗШУКУ НА ДОСУДОВОМУ РОЗСЛІДУВАННІ

Анотація. Швидке та ефективне розслідування кримінальних правопорушень у ряді випадків практично неможливо без допомоги підрозділів карного розшуку, які здійснюють оперативно-розшукову функцію. В даний час стан взаємодії слідчого з підрозділами карного

розшуку продовжує залишатися на низькому рівні щодо протидії кримінальним правопорушенням, що викликає необхідність дослідження означеної проблеми та обґрунтування положень про вдосконалення взаємодії слідчих з підрозділами карного розшуку на досудовому розслідуванні, у тому числі у світлі планованої цифровізації вітчизняного кримінального процесу.

В статті розглянуті проблемні питання присвячені щодо напрямів вдосконаленню взаємодії слідчих з підрозділами карного розшуку на досудовому розслідуванні при розслідуванні кримінальних правопорушень. Розглянуто об'єктивні і суб'єктивні чинники, якими обумовлюється необхідність взаємодії слідчих з підрозділами карного розшуку на досудовому розслідуванні. Здійснено порівняння з КПК України 1960 року та КПК України 2012 року щодо проблем взаємодії між означеними суб'єктами. Досліджено взаємозв'язок щодо ефективності взаємодії при розслідуванні кримінальних проваджень та напрямки вдосконалення взаємодії слідчих з підрозділами карного розшуку на досудовому провадженні.

На основі аналізу наукової літератури, правових актів, практики взаємодії слідчих з підрозділами карного розшуку, з метою подолання відомчих бар'єрів, забезпечення виконавчої дисципліни в цілому підвищення узгодженості та результативності здійснюваної з використанням процесуальних та непроцесуальних засобів діяльності з розкриття та розслідування кримінальних правопорушень сформульовано комплекс пропозицій про внесення змін та доповнень до п. 3 ч. 2 ст. 40 КПК України щодо граничного терміну виконання доручень оперативними підрозділами.

Ключові слова: *підрозділи карного розшуку, взаємодія, досудове провадження, слідчий, кримінальне правопорушення, розслідування, кримінальне провадження.*

UDC 343.1

DOI 10.31733/2078-3566-2021-5-205-210



Nadiia BUBLYK®

PhD in Law, Senior lecturer
(Dnipropetrovsk state
University of Internal Affairs,
Dnipro, Ukraine)

PROCEDURAL RESPONSIBILITIES OF THE ACCUSED PERSON: LEGISLATIVE REGULATIONS AND CONDITION OF IMPLEMENTATION

Abstract. This article contains analysis of liabilities of a person under accusation process. It was defined that liabilities are imposed on such a person in the result of executing of a corresponding disclosed procedural decision exclusively. Procedural liabilities are classified depending on the type of rights, which limitation arises out of executing such liability.

The article includes a comparative analysis of procedure for summons in criminal, civil, economic and administrative procedure. Non-efficiency of summons and excessive formalism of summons receipt confirmation has been identified. Handing over summons as a ground for liability to come on-call arising and forwarding summons as a due procedure performance to provide a person's arrival at the place of a procedural action or a court hearing have been separated.

Introduction of an obligatory e-mail submission system for all citizens to receive official notifications from state and self-government bodies to provide real receipt, including summons to pre-trial investigation bodies or a court, as well as for due confirmation of summons sending have been suggested.

Keywords: *summons; person's procedural status; notification; procedural actions; liabilities imposed on a suspect or a person under accusation process by the decision on applying criminal proceedings provision means.*

© N. Bublyk, 2021

ORCID iD: <https://orcid.org/0000-0001-6312-667X>

mail@dduvs.in.ua