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CHARACTERISTIC OF THE FURTHER STAGE OF THE INVESTIGATION OF THEFTS FROM PRIVATE HOUSES

Ігор Пиріг. ХАРАКТЕРИСТИКА ПОДАЛЬШОГО ЕТАПУ РОЗСЛІДУВАННЯ КРАДІЖОК З ПРИВАТНИХ БУДИНКІВ. У статті автором визначено поняття подальшого етапу розслідування, окреслено та конкретизовано завдання подальшого етапу розслідування крадіжок з приватних будинків. Визначено типові слідчі ситуації цього етапу розслідування, які можуть бути сформовані таким чином: 1) підозрюваний повністю визнає свою вину у вчиненні злочину та співпрацює зі слідством; 2) підозрюваний частково визнає свою вину у вчиненні злочину, замовчує окремі епізоди злочинної діяльності; 3) підозрюваний не визнає своєї вини у вчиненні злочину, відмовляється від співпраці зі слідством.

Залежно від слідчої ситуації для забезпечення доказової інформації проводяться різні слідчі (розшукові) дії, які в загальному вигляді полягають у такому: допит підозрюваних, зіставлення їхніх показань для з'ясування ролі кожного з них у механізмі вчинення конкретної крадіжки; опитування родичів та близьких підозрюваних як свідків для отримання інформації про їхню обізнаність щодо злочинної діяльності; обшук за місцем проживання підозрюваного та можливих схованок (місце роботи, сараї, гаражі, дачі тощо); пред'явлення підозрюваного та викрадених речей для впізнання; слідчий експеримент з відтворення дій злочинців на місці події; призначення ідентифікаційних експертиз, відбір зразків для порівняльного дослідження: слідів рук, біологічного походження (кров, слина, сеча), залежно від виявлених на місці події слідів.

Також наведено перелік можливих організаційних заходів та негласних слідчих (розшукових) дій, які необхідно здійснити при розслідуванні крадіжок з приватних будинків.

Ключові слова: кримінальне правопорушення, подальший етап розслідування, типові слідчі ситуації, слідчий, слідчі (розшукові) дії.

Relevance of the study. One of the principles of building a forensic methodology as a system of scientific provisions and practical recommendations (algorithms, programs) that ensure optimal organization of the investigation of criminal offenses is the sequence of activities of authorized persons in the course of collecting evidence [1, p. 411]. Other principles of the construction of the forensic methodology are the situational nature and stages of the investigator's (inquirer's) activity, since depending on the situation that arises at each stage, the investigator, after assessing the degree of its difficulty, determines the task, outlines ways to solve it, using for this forensic tactics means, and receives a result, which, in turn, affects the formation of the next investigative situation. The investigation process in forensics is divided into three stages: initial, next (subsequent) and final.

In the conditions of martial law in the territory controlled by Ukraine, the problem of investigating personal property thefts from private houses remains relevant. The number of committed thefts remains consistently high, and the results of their investigation are quite low. According to the Office of the General Prosecutor of Ukraine, 723 thefts were committed from summer cottages and garden houses in January-October, 2022, not including private houses with permanent residence, of which a notice of suspicion was served in 410 cases [2].

Undoubtedly, there are a number of objective reasons related to the insufficient staffing of investigative units, the significant workload of investigators with the work of documenting

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and investigating the category of war crimes. In addition, a significant number of thefts are latent, since, especially in the front-line area, such crimes are simply not registered due to the lack of private houses owners and insufficient staff of investigative units. The development of forensic recommendations for their use in the practice of investigating criminal offenses at all stages of the investigation is relevant for all types of crimes, including theft from private homes.

Recent publications review. The problems of investigating criminal offenses against property were considered by many scholars in criminology and criminal procedure, in particular, such as: Yu. Alenin, L. Arkusha, V. Bakhin, A. Volobuyev, V. Zhuravel, A. Ishchenko, I. Kogutych, O. Kolesnichenko, H. Matusovskyi, M. Pohoretskyi, O. Pchelina, M. Saltevskyi, R. Stepanyuk, V. Stratonov, V. Tyshchenko, S. Chernyavskyi, Yu. Chornous, V. Shepitko, B. Shchur and others. Despite the sufficient number of publications, in these scientists' works not enough attention is paid to the algorithm of actions of the investigator (inquirer) at the next stage of the investigation of private houses thefts.

The article's objective is the development of the algorithm of investigator's (inquirer's) actions of the at the next stage of the investigation of thefts from private houses.

Discussion. Researches define the investigation stage as a separate period of time within which, under the specific conditions of the investigation, a system of actions aimed at solving joint tactical, strategic, and intermediate tasks is carried out and is determined by the procedural decisions made [3, p. 247; 4, p. 185]. The further investigation stage is marked by solving problematic situations regarding the formation of the evidence base, establishing the event and method of committing the criminal offense, proving the guilt of the person suspected of committing the crime. The information at the investigator's disposal the at this stage is characterized by a greater volume, logical orderliness and specificity, a variety of procedural sources of evidence and a targeted focus on evidence [5, p. 165].

After carrying out a set of investigative (search) actions aimed at identification and detention of the offender, i.e. after solving the tasks of the initial investigation stage, the next one begins, the main task of which is the building of the evidence base. The actions of the investigator (inquirer) should be aimed not only at collecting information, but also at its thorough evaluation and systematization. At the same time, it is necessary to take into account such complete and reliable information as was obtained at the initial stage, the possibility of obtaining new information depending on the position of the suspect and his/her actions, which may contribute to the investigation or oppose it.

V. Tishchenko considers the following to be distinctive features of the next investigation stage:

- 1) constant analysis and synthesis of incoming information, verification of evidence and counter-evidence (for example, reference to an alibi, transfer of guilt to another crime participant, etc.);
- 2) the need to increase the quantity and quality of incoming forensically significant information, as well as its filtering, discarding unnecessary unconfirmed evidence and supplementing it with necessary and evidential information;
- 3) the involvement of a large number of new participants in investigative and forensic activities – witnesses, specialists, experts, investigative and operational workers (especially when creating an investigative and operational group or investigative teams);
- 4) detection and investigation of new episodes of criminal activity of suspects and accused persons;
- 5) development of a detailed investigation plan, which involves checking all versions, solving all assigned tasks;
- 6) making tactical decisions related to the emergence of various conflict situations, which are created both with the accused and with other persons;
- 7) adopting procedural decisions that require detailed justifications (issuance of resolutions on involvement as an accused, on the selection of a preventive measure, assigning forensic examinations, etc.);
- 8) conducting investigative actions that require significant organizational efforts;
- 9) solving forensic tasks by conducting tactical operations;
- 10) making a number of final decisions on the criminal case regarding the criminal activity under investigation, in general and its separate episodes, participants in the crimes, discovered property, physical evidence [6, p. 196-197].

Concerning tasks of the next stage the A. Volobuyev's opinion is considered to be correct. This scholar considers them to be: formation of an evidence system regarding the suspect;

identification of all accomplices and collection of evidence of their guilt; finding reasons and conditions that contributed to the crime commitment and taking measures to eliminate them; ensuring compensation for material losses caused by a criminal offence; collection of information about the suspect's identity, necessary for passing a fair and reasonable sentence [7].

In our opinion, the planning of the investigation of criminal offenses at a later stage should ensure the following tasks: the formation of a system of evidence containing factual data about the circumstances of each criminal episode under investigation and the persons involved in their commitment; establishing the nature and degree of the suspect's participation in other offenses and other circumstances to be proven; optimal and consistent use of all available means of proof: sets of overt and covert investigative (search) actions, tactical combinations and operations, possibilities of using forensic technical means and special knowledge; finding reasons and conditions that contributed to the commitment of a criminal offense and taking measures to eliminate them; ensuring compensation for material losses caused by the crimes commitment, possible confiscation of property (if this task was not resolved at the initial investigation stage).

The tasks of the next investigation stage in general are consistent, detailed, complete and methodical proof. If the offender is detained and enough evidence is collected to bring him to justice, then at the next stage of the investigation, the reasons for the detention are checked, all participants and episodes of criminal activity are identified, the connections between the elements of the crime are worked out and analyzed, and the causes and, if possible, conditions that contributed to committing a crime are established.

Building of investigative situations of the next investigation stage is largely related to the position occupied by the suspect (suspects). Summarizing the materials of criminal proceedings and the results of the interrogation of investigators (inquirers) made it possible to identify three main typical investigative situations of the next investigation stage of thefts private houses.

The first situation, when all suspects fully admit their guilt and cooperate with the investigation, is the most favorable for the investigation. However, their position should not completely exclude the version of the possible giving of false testimony by these persons in order to facilitate the evasion of criminal liability of certain co-conspirators, or in order to avoid criminal liability of some of them in relation to other, more serious episodes of criminal activity.

The second investigative situation is less favorable, because the suspects of committing a criminal offense may admit their guilt partially and keep silent about certain criminal activity episodes. Incomplete admission of guilt may be a consequence of the suspect's assessment of his/her actions differently than the investigator assesses and describes in the suspicion notification. Such a choice of the suspect's position at the pre-trial investigation may be due to taking into account the presence of evidence about certain circumstances of the criminal offense event: in the presence of direct evidence, it does not make sense to deny one's guilt, and in relation to other circumstances where there are only derivatives, such a position seems appropriate for them. Partial denial of one's guilt can also be caused by slander of a person on the part of his accomplices, the failure to identify which caused the investigator (inquirer) to make an investigative mistake when determining the suspect's guilt.

The third investigative situation is determined by the suspect's categorical denial of his guilt and refusal to cooperate with the investigation, which is accompanied by false testimony or refusal to testify. The suspect's denial of guilt, as a rule, is unfounded.

Considering the investigative situations of the next investigation stage of thefts committed on the territory of horticultural societies and dacha cooperatives, V. Samsonova identifies five possible typical investigative situations: 1) the person who was notified of the suspicion fully admits his/her guilt in crime commitment, all the participants of the criminal group are arrested and they cooperate with pre-trial investigation bodies; 2) all members of the group were detained, all of them partially admit their guilt in crime commitment, there are discrepancies in the detainees' testimonies; 3) the person who was notified of the suspicion fully admits his guilt, but keeps silent about the crime accomplices, although there are factual data on the crime commitment as part of a group; 4) certain participants in the theft have been detained, there are factual data indicating that they committed a crime, but they do not admit their guilt and refuse to cooperate with the investigation; 5) the person who was notified of the suspicion does not admit guilt, although there are factual data indicating that he/she has committed the crime; the suspect refuses to testify about his/her and other persons' involvement in the crime commitment [8, p. 15].

In general, we agree with the author's opinion, but we believe that in fact the second and fourth situations are a variant of the third and it is possible to combine them. In addition, the list

of investigative (search) actions for solving them proposed by this author in her thesis is almost the same.

For all categories of thefts, including from private houses, the main directions of work can be identified, which are as follows:

- studying the identity and lifestyle of suspects or persons who have any relation to the perpetrator, which allows to establish the identity of the aimer or the organizer of the committed offense and other accomplices;

- search for places of storage of stolen goods, identification of persons or organizations (for example, pawnshops) engaged in the sale of stolen goods;

- organization of prevention of committing a new similar crime: training of patrol police officers, preventive talks with the public (sellers of shops, kiosks, employees of transport organizations, residents living at the place of probable commission of the offense, etc.), mobilization of public organizations, etc.;

- search and verification of involvement in theft of persons who do not have a permanent source of income, unemployed persons who do not have a permanent place of residence;

- verification by operational-search means of involvement in theft of persons who lead an antisocial lifestyle, are registered by the police, and have income of dubious origin.

To secure evidentiary information depending on the investigative situation, they carry out various investigative (search) actions, which are generally as follows:

- interrogation of suspects, comparison of their statements to clarify the role of each of them in the mechanism of a specific theft or the entire criminal activity, if several episodes are revealed;

- questioning of suspects' relatives and friends as witnesses to obtain information about their knowledge of criminal activity;

- re-interrogation of witnesses, eyewitnesses to clarify their testimonies, taking into account newly discovered facts;

- search at the suspect's place of residence and possible hiding places (place of work, sheds, garages, cottages, etc.) with the aim of identifying and seizing items related to the criminal offense, including crime tools or stolen property;

- presentation of the suspect and stolen items for identification;

- investigative experiment to reproduce the actions of criminals at the scene, as well as to conduct the necessary experiments or tests in order to establish the mechanism of penetration into a residential building;

- assignment of identification examinations, selection of samples for comparative research: handprints, biological origin (blood, saliva, urine) depending on the traces recovered at the scene.

Of course, depending on the investigative situation, the list and sequence of the said investigative (search) actions may be different.

In addition to the specified investigative (search) actions, it is also possible to conduct the following actions of a search and organizational nature and covert investigative (search) actions with strict compliance with the requirements of the Criminal Procedure Code of Ukraine (CPC of Ukraine) [9]: audio and video monitoring of a person (Art. 260 of the CPC of Ukraine) can be carried out, including, during the stay of the suspect in places of preliminary detention; arrest of correspondence (Art. 261 of the CPC of Ukraine); inspection and seizure of correspondence (Art. 262 of the CPC of Ukraine); removal of information from transport telecommunication networks (Art. 263 of the CPC of Ukraine); removal of information from electronic information systems (Art. 264 of the CPC of Ukraine); inspection of publicly inaccessible places, housing or other possessions of a person (Art. 267 of the CPC of Ukraine); determining the location of a radio-electronic device (Art. 268 of the CPC of Ukraine) is a very effective means of identifying suspected persons, including not yet arrested accomplices of the event; surveillance of a person, thing or place (Art. 269 of the CPC of Ukraine) can be carried out in public places, at the place of residence of relatives and acquaintances for the purpose of finding person's contacts.

At the same time, special equipment provided by police bodies can be used, including photo and video equipment; the use of confidential cooperation (Art. 275 of the CPC of Ukraine) is an effective means of obtaining information about both the identity of the suspect and the accomplices of the offense and can be obtained from acquaintances, neighbors in the precinct, etc.; analysis of the materials of criminal proceedings, the actors of which were participants in the investigated criminal offense; interviews, and possibly interrogations of persons who were accomplices in offenses previously committed by suspects; check for involvement in the

commitment of other criminal offenses according to the forensic records of the Expert Service of the Ministry of Internal Affairs of Ukraine: fingerprints, burglary tools, shoes, vehicles, etc.; checking the records of the Department of Information and Analytical Support of the National Police of Ukraine: according to the method of committing the crime, stolen items, numbered items, antiques, etc.

The final procedural action, which determines the end of the further stage of the investigation, is the indictment of the person. During the investigation of criminal offenses, the investigator may not always simultaneously make a procedural decision substantiated by the collected evidence to charge a specific person as an accused for committing all the crimes in which he/she is involved, or to charge all co-conspirators as accused. The filing of an indictment has not only important procedural but also tactical significance.

Conclusions. The correct choice of the moment and procedure for carrying out this procedural action (indictment for episodes of criminal activity for which the person does not expect it; indictment for committing several crimes at once; successive indictment of accomplices, starting with persons who give truthful testimony about the circumstances of their crime commitments, ending with those who categorically do not admit their guilt) can affect the formation of the accused's position regarding his/her cooperation with the pre-trial investigation bodies.

Regarding the above, we can note that we have determined the task of the next investigation stage of thefts from private houses, and have defined the typical investigative situations of this stage, and outlined the algorithm of the investigator's (inquirer's) approach to solving them. The given forensic recommendations have a clear practical orientation and will be useful during the investigation of private houses thefts.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

In the article the author defined the concept of the next stage of the investigation, outlined and specified the tasks of the next stage of the investigation of thefts from private houses. Typical investigative situations of this stage of the investigation have been defined, which can be formed as follows: 1) the suspect fully admits his guilt in committing the crime and cooperates with the investigation; 2) the suspect partially admits his guilt in committing the crime, keeps silent about certain episodes of criminal activity; 3) the suspect does not admit his guilt in committing the crime, refuses to cooperate with the investigation.

Depending on the investigative situation, in order to provide evidentiary information, various investigative (search) actions are carried out, which generally consist of the following: interrogation of suspects, comparison of their statements to clarify the role of each of them in the mechanism of committing a specific theft; interviewing relatives and relatives of suspects as witnesses to obtain information about their awareness of criminal activity; search of the suspect's place of residence and possible hiding places (place of work, sheds, garages, cottages, etc.); presentation of the suspect and stolen items for identification; an investigative experiment on reproducing the actions of criminals at the scene; appointment of identification examinations, selection of samples for comparative research: handprints, biological origin (blood, saliva, urine), depending on the traces found at the scene.

Also given is a list of possible organizational measures and covert investigative (research) actions that must be carried out when investigating thefts from private houses.

Keywords: *criminal offense, subsequent stage of the investigation, typical investigative situations, investigator, investigative (search) actions.*