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ВИКОРИСТАННЯ СПЕЦІАЛЬНИХ ЗНАТЬ ПІД ЧАС ДОСУДОВОГО РОЗСЛІДУВАННЯ ЗЛОЧИНІВ, ЩО ПОСЯГАЮТЬ НА НАЦІОНАЛЬНУ БЕЗПЕКУ УКРАЇНИ

Анотація. Розкрито зміст і форми використання спеціальних психологічних знань під час провадження допиту в досудовому розслідуванні злочинів, що посягають на національну безпеку України. Визначено, що використання спеціальних психологічних знань на стадії досудового розслідування, безумовно, може бути корисним для встановлення істини у справі, а відсутність широкого й ефективного їх застосування в кримінальному процесі зумовлена насамперед недосконалістю теорії використання спеціальних психологічних знань і правової регламентації діяльності експертів та інших осіб, які володіють спеціальними психологічними знаннями. Це обумовлено передусім нечіткими і неоднозначними теоретичними визначеннями поняття спеціальних психологічних знань, суб'єктів, способів використання та форм їх реалізації. В науковій статті на основі аналізу теоретичного й емпіричного матеріалу визначено науково обґрунтований понятійно-категоріальний апарат щодо поняття спеціальних психологічних знань, які використовуються у досудовому слідстві, сформульовано висновки і пропозиції, спрямовані на вдосконалення процесуально-прикладних аспектів практичного застосування правоохоронними органами. Це, на думку автора, не тільки сприятиме поглибленню наукового знання, а й дасть змогу використовувати отримані дані в слідчій практиці, допоможе правоохоронним органам швидко та якісно розкривати, розслідувати і проводити заходи щодо запобігання злочинам проти національної безпеки України. Результати дослідження можуть бути застосовані також під час провадження кримінального судочинства, у процесі доказування та при оцінці доказів, у кваліфікації вчиненого злочину та встановленні пом'якшуючих покарання обставин. Досліджено особливості використання спеціальних психологічних знань під час розслідування злочинів, що посягають на національну безпеку України та вчиняються організованою злочинною групою.

Ключові поняття: злочин, національна безпека, криміналістика, експертиза, спеціальні знання, експерт, допит.

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USE OF SPECIAL KNOWLEDGE DURING THE PRE-TRIAL INVESTIGATION OF CRIMES THAT ENCROACH ON THE NATIONAL SECURITY OF UKRAINE

Abstract. The author aimed to reveal the content and forms of use of special psychological knowledge during the proceeding of interrogation in the pre-trial investigation of crimes that encroach on the national

security of Ukraine in the provisions of the scientific article. Namely, for fulfilling the intended goal, the author determines in the provisions of the scientific article that the use of special psychological knowledge at the stage of pre-trial investigation, of course, can be the great benefit for establishing the truth in the case and the lack of their wide and effective application in criminal proceedings is caused, first of all, by imperfection of the theory of use of special psychological knowledge and of legal regulation of the activity of experts and other persons with special psychological knowledge. This is resulted from primarily to vague and ambiguous theoretical definitions of the concept of special psychological knowledge, subjects, methods of use and forms of their realization. Based on the analysis of theoretical and empirical material, scientifically substantiated conceptual and categorical apparatus concerning the concept of special psychological knowledge, which are used in pre-trial investigation, is defined; the conclusions and proposals that are aimed at improving the procedural and applied aspects of practical application by law enforcement agencies are formulated by the author in the scientific article. According to the author, this will not only deepen scientific knowledge, but also will give the opportunity to use the obtained data in investigative practice, help law enforcement agencies quickly and efficiently to disclose, investigate and conduct measures to prevent of the committing crimes against national security of Ukraine. The results of the research can also be applied during the criminal proceedings, in the process of proving and evaluating evidence, during the qualifying the committed crime and establishing of circumstances mitigating of punishment. The author explored the features of the use of special psychological knowledge during the investigation of the crimes that encroach on the national security of Ukraine, which are committed by the organized criminal group.

Key concepts: crime, national security, forensics, expertise, special knowledge, expert, interrogation.

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Introduction

The urgency of the theme is due to the fact that criminal, who is scot-free, is dangerous not only because he becomes impudent and from committing petty crimes, often commits more serious, but also because the impunity significantly affects the formation of criminal attitudes in other unstable individuals and contributes to the creation of criminal groups. The creation of an organized criminal group to commit crimes against national security is not only a quantitative but also a qualitative increase in social danger in society. Intentional joint participation in the committing of a crime by several persons, according to the current legislation, constitutes a greater public danger than the committing of a crime by one person.

Thus, according to the official data of the Security Service of Ukraine in the period 2013-2020, the following dynamics of the investigation of cases that are related to the sphere of state security is determined: 2013 – 239 crimes; 2014 – 2021 crimes; 2015 – 1487 crimes; 2016 – 2356 crimes; 2017 – 1964 crimes; 2018–1564crimes;2019–1227crimes;andduring 6 months of 2020 – 1420 crimes [1].

The methodological basis of this study were the works of such Ukrainian scientists as: I. V. Gora, V. A. Kolesnykov, V. K. Matviychuk, L. V. Moshnyaga, A. V. Savchenko, I. O. Tomchuk, M. I. Khavroryuk, V. O. Khodanovych, R. L. Chorny and others.

The goal of this article is to disclose the content and forms of the use of special psychological knowledge during the proceeding of interrogation in the pre-trial investigation of crimes that encroach on the national security of Ukraine.

1. The statement of the main provisions

In our opinion, the assertion of V. O. Khodanovych that the implementation of a special pre-trial investigation of crimes against the foundations of national security is quite common in the practice of the Security Service of Ukraine. The explanation for the specified, in our opinion, lies in the specifics of those categories of crimes, the investigation of which is allowed to be conducted in a special procedural form of special pre-trial investigation. In turn, these crimes are serious or particularly serious, and information cannot be obtained other than by conducting counterintelligence and police operations. That is why the investigative judges, when granting the permission to conduct a special pre-trial investigation, checking, in particular, the validity of the suspicion, usually use the data that have been obtained as the result of the holding of the police operations [2, p. 428].

The crimes that have been committed by criminal groups that encroach on the national security of Ukraine are more complex and differ from other crimes by a significant amount of work and multi-episode, it is perceived that for a full, objective and comprehensive investigation of cases in this category, it is necessary to create investigative teams, which should include both investigators and operatives. The interaction of investigators with employees of operational units should continue until the end of the pre-trial investigation. In our opinion, in order to improve the coordination of the activity of the investigative team in a criminal case, it is necessary to develop a single agreed plan of investigative and preventive measures, police operations, which should include all versions that have been based on investigative

and operational materials, data that in this connection belong to the inspection, the list of investigative actions, of the circumstances that are clarified operatively; determine the term and executors for each item of the plan. It also provides for measures that have been aimed at preventing repeat offenses during the investigation, studying and eliminating the causes and conditions that contribute to the committing of crimes by organized groups, exposing all accomplices. We consider it expedient that an investigator with some work experience and organizational skills should be appointed as the head of such a group.

Let's note, that for the successful detection and investigation of these crimes that encroach on the national security of Ukraine, the investigator must, using the special knowledge of professional psychologists, identify among the members of the criminal group "the weak link" – a member of the group, who for one or another reason agrees to cooperate with the pre-trial investigation authorities in this direction.

In our opinion, namely a professional psychologist, whom the investigator can in this case involve in the investigation of a criminal case as a consultant, should, having read all the materials of the criminal case and analyzed the situation, give advice on identification among the suspects the person, who is most capable of establishing psychological contact with the pre-trial investigation authorities. Similar tactics of investigating criminal cases of crimes that have been committed by organized groups that encroach on the national security of Ukraine are important, because the correct solution to the question of the order of the holding of interrogation of members of a criminal group is most conducive to obtaining truthful testimony. When choosing an episode, the interrogation should begin with the most proven case by materials. Having the already received from the first interrogated person testimony about the criminal activity of an organized group, it is possible to more accurately plan the interrogation of other suspects, to imaginatively reproduce the picture of the crime, to identify the role and level of severity of guilt of each member of the criminal group in the committed crime.

In our opinion, during the holding of interrogation of a person that is suspected of a crime that encroaches on the national security of Ukraine, careful preparation must precede, for which it is necessary to find out what kind of people do surround him, in what conditions does he live, how does he work or study, as well as to determine the level of his development, capabilities, range of his interests and features of character. We agree with V. L. Vasylyev, that in the process of preparation for interrogation the psychologist helps the inves-

tigator not only to plan the sequence and formulation of questions, but also to predict possible variants of answers and depending on this, based on the available to him information and all the circumstances of the case, to prepare in advance all the materials of case, possible questions. Prepared with a deep knowledge of all the materials of the case and conducted taking into account all the personal qualities of the interrogated person the interrogation, of course, convinces the interrogated not only in the futility to resist, but also clearly reflects the weight of his criminal behavior, the inevitability of detection and the inevitability of punishment with all the consequences for both the perpetrator and his nearest [3, p. 434].

2. Use of special knowledge during interrogation

Let's note that the interrogation on the use of special knowledge with the involvement of a psychologist should be divided into certain stages. Thus, at the initial stage of interrogation, the investigator, with the help of a professional psychologist, usually receives his personal data from the interrogated juvenile verbally. At this stage of the interrogation, both interlocutors roughly outline the line of their further behavior in relation to each other. The main task of the investigator is to correctly diagnose the identity of the suspect.

During the interrogation of the first member of an organized criminal group, who is suspected of a crime that encroaches on the national security of Ukraine, it is necessary to establish psychological contact with him. To do this, you need to involve a specialist psychologist in the investigation of this criminal case. The period of entering into psychological contact between the interrogated person and the person, who interrogate is the essence of the second stage of interrogation. It should be noted that psychological contact is not achieved in all cases; however, every investigator should try to achieve this with the help of a specialist psychologist. During the interrogation, a specialist psychologist helps the investigator to identify the positive qualities of the interrogated person, on the basis of which the achievement of psychological contact with him and re-education is only possible. He should be encouraged to self-knowledge and self-assessment, because no accurate knowledge of the psychology of the offender will not give the desired result, if the person who committed the crime is not sure of the correctness of this assessment, does not realize the intolerance of his shortcomings. At this stage, the theme of conversation are the usual, insignificant questions; as a rule, they relate to the biography of the interrogated person, the circle of his interests, hobbies, etc. The interlocutors develop a general line

of behavior in relation to each other at the end, as well as such general parameters of the conversation as its pace, rhythm, basic states of interlocutors, verbal language techniques, postures, facial expressions and in some cases the main argumentation are determined.

The second stage is the main part of the interrogation, which is that the investigator tries to get basic information on the case from the interrogated person. With a properly organized interrogation, this is usually reached. After that, the investigator must compare the information that has been obtained during the interrogation with the data that is already available to him in the case and try to eliminate contradictions, ambiguities, inaccuracies etc.

The third stage is the final stage of the interrogation, during which the investigator enters the information that has been obtained as a result of the interrogation to the protocol and provides this information in writing to the interrogated person, who, confirming the correctness of what was written from his words in the protocol, signs it.

In our opinion, namely the greatest public danger in cases of crimes that encroach on the national security of Ukraine that have been committed by organized criminal groups, is the organizer, that's why, even at the stage of preparation for the first interrogation, the investigator should take into account the need to identify him and establish his real role. It is important to remember that members of a criminal organized group try to hide the real organizers for a variety of reasons and often take the blame. The role of organizers of criminal groups is mostly played by persons, who were previously convicted, more experienced and physically stronger than others, or persons who hold senior positions in state and law enforcement agencies. Using physical force, blackmail or other pressure, the organizers subjugate the members of an organized criminal group to their will, often terrorizing them. The identification of such an organizer is a priority task for the investigator. Therefore, when collecting materials for identification and exposing the leader of an organized criminal group, the investigator should obtain not only evidence that he committed a crime, but also facts that show his real role in the committing crime. In preparing for the interrogation of the leader, the investigator should also consider the sequence and formulation of the questions, the sequence of presentation of incriminating material evidence, documents, testimony of victims, witnesses, other suspects or accused in the case. In determining the role of each of the accomplices, one should ensure the evidence that could objectively expose the behavior of all members of the group.

In our opinion, special psychological knowledge should be considered acquired by a per-

son, who is involved in criminal proceedings as a consultant, specialist or expert, in the process of studying or working in psychological specialties, professional knowledge of human mental regularities that can be used in criminal proceedings to ensure the tasks of criminal justice. The application of special psychological knowledge contributes to the correct solution of tasks regarding the detection and investigation of crimes and re-education of persons who have committed a crime.

We believe that based on the interests of the case, the investigator must decide the issue regarding the use of audio or video, which can provide significant assistance in the case of persuading other accomplices to give truthful testimony, and in some cases to waive the need for a holding identification parade and thus will not only relieve the investigator from conducting another investigative action, but also will free the interrogated person from additional psychological burdens.

When investigating crimes that encroach on the national security of Ukraine that have been committed by an organized criminal group, it is advisable to appoint a forensic psychological expertise of the social psychological features of members of the criminal group. This type of expertise may be ordered during the pre-trial investigation, when the crime was committed in the conditions of creating an informal group that was associated with the criminal direction. Before the investigation, questions often arise about the group role of the accused persons, whereas the investigation of cases on crimes in the field of organized crime causes significant difficulties for investigators, which are related to identifying the structure of a criminal group, determining the role of each of its members and the features of the links between them. It is very difficult to decide on the differentiation of the specific role of each participant in criminal episodes, especially in murders that have been committed by members of a criminal group jointly.

Let's note that the psychological structure of the group, which is preparing to commit the crimes that encroach on the national security of Ukraine, significantly determines the individual behavior of members of group. The structure of an organized criminal group is clearly organized. The criminal group is headed by a leader who is usually an agent of the secret services of foreign countries, whose functions include the organization and management of the crime. Active members in a group can be selected; these are usually "authorities" – the individuals who enjoy the respect of the leader and other members of the criminal group and usually have certain criminal experience. The third category of members of

an organized criminal group who are preparing to commit crimes that encroach on the national security of Ukraine are members of the group (ordinary perpetrators of the crime). There may also exist an oppositionist in a criminal group who is in covert confrontation with a leader or in opposition. Involving professional psychologists as experts, by appointing a psychological examination, is an effective mean of establishing the truth in the investigation of cases in this category. An expert psychologist is able to conclude on the degree of influence of the group on an individual participant, to establish the most typical forms of interaction between members of the group both in the committing of crimes and in the investigation process. The psychologist can establish informal leaders who often try to disguise, downplay their real role, actively opposing the investigation.

Organized criminal groups that are preparing or committing crimes that encroach on the national security of Ukraine, differ by the stability of personnel, they develop group norms of behavior and value orientations. The perpetrator of certain norms of behavior is subject to persecution. The organized group has a clear goal of the crime. The interests of its members differ in a clear criminal direction. It is advisable, in our opinion, to appoint a forensic psychological expertise of the social psychological features of the group for establishing the internal structure of an organized criminal group.

The following questions should be asked to address such an expertise, forensic psychological examination of the social psychological features of the group:

- what are the individual psychological features of the personalities of the subjects;
- who of the subjects has psychological features of personality that allow him to occupy leading positions in the group;
- who of the subjects has such personality features as increased suggestibility, dependence or increased aggression, cruelty (depending on what the investigation is interested in);
- whether there are social psychological signs of high organization, sustainability and, if they are available, how are they specifically expressed in the group;
- taking into account the identified social psychological features of members of group, what is the most probable scenario of their behavior, the development of events in situation of the committing crime.

Conclusions and suggestions

As a conclusion in this scientific article, we consider it expedient to formulate a number of proposals, namely:

First, only with the help of forensic psychological or complex psychological and psychiatric (with the obligatory participation of professional psychologists) expertise is it possible to diagnose the presence of a subject of strong mental anxiety at the moment of the committing of crime, which significantly affects the investigator's qualification of illegal actions of a person, who is prosecuted for preparing or committing a crime that encroaches on the national security of Ukraine.

Secondly, since all the methods that are used by psychiatrists in conducting such expert studies were invented and developed by professional psychologists, it seems more correct that the answer to this kind of questions that have been posed by before the expertise should be given by them, because they have the best knowledge in this field of science.

Thirdly, also in cases of crimes that encroach on the national security of Ukraine, investigative practice proves that the involvement of qualified psychologists in difficult situations to participate in the investigation of criminal cases of the specified category as consultants, specialists and experts on the questions of ability of a person to properly understand the nature and significance of his committed actions, resist and other questions of psychological nature can be useful, because the data of psychological research and its conclusions are successfully used by law enforcement officers as evidences of the availability or absence of helpless condition of a person.

Fourthly, certainly the interaction of investigators with operatives and the attracting to the investigation of crimes that encroach on the national security of Ukraine, of professional psychologists effectively helps to establish the objective truth in the cases of this category. The help of a professional psychologist, who has the special knowledge, provides the investigator with the necessary information about the members of the criminal group, their psychological properties, tendency for psychological contact. It is indispensable in planning the tactics of interrogation, formulating questions, identifying a weak link among members of the group, developing versions of committing crimes, setting psychological contact between the investigator and participants of the interrogation. A specialist psychologist can develop, together with the investigative bodies, an appropriate system of psychological knowledge and skills that could ensure a high level of detection and investigation of crimes that have been committed in the field of organized crime.

Fifthly, the improvement of the activity of investigator on the use of special psychological knowledge in the pre-trial investigation during the investigation of crimes that encroach on the

national security of Ukraine, is the creation of its organizational foundations, that is, it may be the creation of a system of special expert institutions, which would ensure holding of the forensic psychological examination, providing of official psychological consultations, participation of psychologists as specialists in investigative actions.

Sixthly, at the present stage of development of the practice of the application of psychological knowledge in criminal proceedings, can be achieved through greater involvement in holding the forensic psychological expertise, providing the psychological counseling and participation of sci-

entists and practitioners as a specialists, who work in the field of psychology in scientific-research, medical institutions and enterprises. The creation of specialized units that are subordinated to the Ministry of Health, which will include professional psychologists, will be promising in ensuring the application of special psychological knowledge in the pre-trial investigation. It is also necessary to introduce a structural unit of a specialist psychologist in the staff of institutes and laboratories of forensic expertise, forensic psychiatric departments of psychiatric hospitals, bureau of forensic medical expertise.

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