

Investigative situations as the elements of informational system of investigation of crimes

Abstract: Difference of investigative situations determines a tactics of concrete investigative actions. Correctness of the actions of an investigator in situation appeared is depended in the most extent on its exact assessment of the latter. Right assessment of investigative situations and choice of investigative tactics are the most significant terms of the purposefulness of investigation, adoption of scientifically substantiated and optimal decisions of tactical, methodical and technical and criminalistical character. In addition, awareness and experience of real situation by the participants of preliminary investigation have always probabilistic nature, and it is impossible to take in account all variety factors that impact in a content of procedural and tactical situation.

Keywords: situation; investigation of crimes; information; tactical technique; objective and subjective factors.

There drawn considerable attention in criminalistical literature to the problem of investigative situation [3; 7]. R.S. Belkin was one of the firsts, who took attention in significance of investigative situation and necessity its consideration for effective criminalistical recommendations. He noted in his works that investigative situation is related to number of notions of criminalistical tactics and in this quality like and others tactical criminalistical notions, is realized in criminalistical method [2, p. 129-130].

There is no unity of views in criminalistical theory concerning notion of investigative situation. So, some authors determine an investigative situation like a

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combination of the conditions, in which an investigation is performed, i.e. environment, in which occurs process of proving [7; 8]. Other authors consider an investigatory situation like a combination of circumstances on a case, which might be favourable or non-favourable (in deferent extent) for any conclusions and actions of an investigator or like combination of factual data, which reflect essential features of an event, what it is presented in that or other stage of crimes' investigation [4; 5].

Stated positions characterize investigatory situation in wide and narrow meaning. In wide meaning an investigative situation presented to be a combination all conditions impacting in investigation and determining its particularities. This combination characterizes in details and reflects everything that impacts and can impact in crime's investigation, and, consequently, allows determining in details the ways and means purposeful influence into occurred investigative situation.

In narrow meaning, notion of investigative situation is more significant. It is as an element of informational system of crimes' investigation, i.e. criminalistical information, which an investigative body has at specific stage of investigation. In this kind a content of investigative situation is more concrete, exact and real for establishing of the measures for disclosure and investigation of crimes. Main is the both in theoretical and practical plan concluded in the fact that there are different numbers of criminalistical information on every concrete criminal case that determine also distinction of a system of direct informational tasks [16, p. 57-58].

Criminalistical literature fairly pointed out dynamic nature of investigative situation. It is subject of influence of various factors, in virtue of which occurs its modification. Depending on volume of available criminalistical information, there are formed favourable or unfavourable situations. Investigative situation is some movable continuously changing state of investigation. It is a managed system and amendable purposeful change. The change of investigative situation might be linked with right (or wrong) fulfillment of tactical techniques (their complexes, systems), which facilitate the reception certain criminalistical information [18, p. 99].

There are considered different kinds of investigative situations in criminalist theory and suggested their characteristics. Classification of investigative situations offered by L.Y. Drapkin is presented to be an interesting. He distinguishes simple and complex investigative situations. In addition, depending of quality, nature and content of forming factors, all complex situations are differentiated to the following classification groups: actual, problematic, conflict, tactical risk, organizationally non-ordered and combined (mixed) situations [6, p. 43].

R.S. Belkin concludes that from number of existed classifications of investigative situations is substantiated of their division into typical and specific; initial, interim and final; non-conflict and conflict (with their further subdivision) [2, p. 143-145].

To the main elements of real investigative situation are related:

- Criminalist information about an event, which contains signs of crime;

This information inextricably linked with its sources – traces, other material evidences, documents, experts' reports, testimonies of witnesses, suspected, accused, victims;

- Objective conditions that characterized a mechanism of crime (place, time, climatic conditions, environment of crime etc), from which depends criminalist information about an event;

- Behaviour of suspected, accused, witness, victim after crime's commission, their attitude to investigation, in particular, actions on concealment of crime or vice versa, actions favourable to investigation;

- State of health of these persons, their ability to evaluate events and to give testimonies on them;

- Reaction of people and mass media to act of crime, their activity to disclose a crime;

- Factors that impede a disclosure of crime.

Conflict situations are considered to be such situations, for which are inherent negative attitude to a process of investigation by suspected, accused, victim or witness that impede to establish the truth under a case [15, p. 157].

Organizationally non-ordered situations occur at absence of effective interrelation between an investigator and other services, lack of working time, insufficient material and technical base and other objective and subjective reasons. Problem is any situation, in which is present a peculiar contradiction between knowledge one facts and non-knowledge other ones, correlation of certain and uncertain, when sought is not contained in available data and one needs to design some versions [12, p. 64].

During investigation of every crime are met typical and specific situations, which depend only on this crime and conditions of its investigation.

Situations have certain sequence, which in its development might be presented the following way:

- Criminal situation, i.e. a situation that characterizes a process of crime's commission; it might be established in details in result of investigation;
- Post-criminal situation, i.e. a situation that reflects objective effects of crime;
- Prior investigation pre-investigation situation that reflects in some cases pre-investigative checking of facts and receiving of criminalistical information about crime;
- Initial investigative situation characterizing primary accumulation and studying of criminalistical information about event, which contains signs of crime, making a decision about institution of criminal case. This situation might be mixed with post-criminal or pre-investigative situation or to be their logical development. The content of it are urgent investigative actions - inspection, questioning of victim, eyewitnesses, examination;
- Searching situation, which is characterized with search of criminal in hot pursuit;
- Situation of detention of suspected person red handed; it can coincide with post-criminal situation and initial investigation situation;

- Situation of giving himself up;
- Situation of studying and evaluation of collected criminalistical information, preparation of evidences for questioning as suspected;
- Situation of interrogation of suspected person;
- Situation of bringing of charges to a person, his interrogation;
- Further investigative situations;
- Situation of completion of preliminary investigation [6, p. 12].

Investigation is characterized with links between all situations and historical background, and also their dynamism, i.e. alterability. Every situation and process their alteration is reflected in conscience of an investigator. It is assessed by him [8, p. 111] that might be presented in formalized interpretation.

Initial investigative situations present certain “projection” of post-criminal situation, i.e. its reflection. Some fragments of post-criminal situations are kept and become a part of investigative situation. For instance, these are place and environment of crime’s commission, sometimes instruments, which are used by criminal; traces of his actions, victim, witnesses, material values, documents, transport means, at last, criminal detained red handed or “in hot pursuit” or giving himself up [14, p. 111].

Initial investigative situation is characterized not only with these fragments. There are also other elements of reality, in turn, forming other situations, e.g., phenomena of nature, behaviour of people impeding investigation, production processes etc. Initial investigative situation is become a fragment of historical background – with part of reality. Distinguishing of this fragment and its consideration as an initial investigative situation is impossible without formulation of informational tasks.

Detection of crime’s signs is not yet investigative situation. Such situation should be considered like a post-criminal or prior to investigation; primary investigative situation depends on its resolution. Preceding situation might be assessed as non-contained signs of crime, e.g., when stating about unknown absent of an individual, this “unknown” person is found; when it stated about theft of

money there established that money taken by members of family etc. In similar situations in order to evaluate the situation should be formulated and resolved various criminalistical informational objectives.

Primary investigative situation might be a development of prior situation, and can be appear at detection of obvious signs of crime, e.g. at detecting of gunshot wounds on the victim's body, broken door of room and absence of values etc. [17, p. 76-77].

Primary investigative situation are, as rule, problematic situations, i.e. such situations, assessment of which allows discovering uncertainty relatively event occurred. In turn, such uncertainty is a ground for formulation of the questions, opens the way to awareness the fact that known contains something unknown, which is significantly important for resolution arising questions and solution of criminalistical informational matters.

Problems arising in result of studying primary investigative situations are the first and very responsible step in disclosure of unobvious crimes as a content of the problems determines further formulation of criminalistical informational tasks and direction their resolution in investigation. Most often problem appears from uncertainty of primary information. In this situation criminalistical information leads out the problem to a way of concrete decisions.

Distinction of investigative situations provides the tactics of specific investigative actions. Correctness of actions of an investigator in forming situation in considerable extent depends on his exact assessment of the latter. Accuracy assessment of investigative situations and choice on this base of investigation's tactics are important conditions of purposefulness of investigatory body, adoption of scientifically substantiated and optimal decisions of tactical, methodical and technical criminalistical nature. In addition, awareness and living of real situation by the participants of preliminary investigation always have a probabilistic nature and it is impossible to take into account all variety of the factors impacting in content of procedural tactical situation. Thus, situational conditionality of tactical

techniques connected with objective (combination of the factors, circumstances) and subjective moments (estimated behaviour of an investigator) [11, p. 161].

There are undertaken attempts on separation of objective and subjective factors impacting in formation of investigative situation. So, the following are related to number of objective factors:

- presence and nature of available criminalistical information in disposition of investigator that depends on mechanism of investigated event and conditions of emergence its traces in environment;
- presence and sustainability of existence non-used sources of criminalistical information and reliable ways of receiving its orienting part;
- intensiveness of processes of dissemination and obsolescence of criminalistical information and force of the factors impacting in these processes;
- existence at the moment in disposal of investigator, inquiry office necessary powers, means, time and opportunity their optimal usage;
- criminal legal assessment of investigated event that exists at the moment.

To subjective factors might be related the following:

- psychological state of persons involving in investigated case;
- psychological state of an investigator, level of his knowledge and skills, practical experience, ability to make and performance of the decision in extreme situations;
- contraction to establishing of truth by criminal and his ties, and sometimes a victim and witnesses;
- favourable (non-conflict) course of investigation;
- efforts of an investigator directed in changing of investigative situation in desirable side;
- consequences of wrong actions of an investigator, operation employee, an expert, an attesting witness;
- consequences of divulgation of information of preliminary investigation;
- unforeseen actions of a victim or persons not involved to investigated event

[1, p. 90-91].

Investigator is presented in this situation by his real and potential activity, whereas acting as a component of situation and activity, which he can (ready) commit. Real activity directly develops investigative situation, modifies a status of investigator in it with needs, individual particularities at the same time modifying objective terms [13, p. 76].

Investigative situation actively influences in a choice of the tactical techniques directed to achievement of appropriate aims. As V.I. Komissarov notes that one may learn well the recommendations of criminalistics, understand targeted formulation of their formation etc., but the usage of these recommendations without consideration of the situations may lead to null, if not to negative result [10, p. 86-87].

Interlink between choosing of tactical techniques and investigative situation consists in that such dependence allows:

1) to determine a list of tactical techniques of investigative actions; to carry out a choice of those or other tactical techniques provided by those factual data, which are existed;

2) to determine not only list of tactical techniques, but also their nature and concrete content;

3) to establish consecution of realization of tactical techniques with considering of available criminalistical information.

It seems interesting an activity of investigator on collection of tactical techniques in problematic situation. Such situation is characterized by that or other measure of informational insufficiency, certain contradiction between knowledge and non-knowledge relatively the facts that subject to establishing (person committed crime, motive, way of crime's commission etc.). In our standpoint, problem situation is determined by a lack of criminalistical information.

Psychological structure of problem situation includes:

1) necessity impelling investigator to search action;

2) unknown system of the ways of investigator (different variants of the actions' ways of an investigator directed to achievement of one aim or allowing to solve one task);

3) professional capabilities of investigator including his previous experience and creative abilities [11, p. 163].

Using of tactical techniques in problem situation requires:

- 1) Preparation of few tactical platforms;
- 2) An opportunity of changing of tactical platform in result of unfavourable development of situation;
- 3) Using of the set of typical systems (subsystems) of tactical techniques of separate procedural actions

G.A. Zorin points out necessity of investigation of deadlock conditions, which is the result of regressive development of problem investigative situation, a peak of informational uncertainty about investigated event, absence of visible perspective on positive resolution of the problems faced an investigator [9, p. 179].

G.A. Zorin suggests non-traditional methods of exit from deadlock situations: method of critics and selections of ideas; method of heuristic inversion (permutations); method of heuristic re-combination of the elements of investigative situation; method experimental differentiation (destroying) of investigative process; method of exception of negative factors; method of "sevenfold search" and some others [9, p. 63]. In our opinion, enumerated methods are worthy and required not only critical evaluation, but also further studying and research.

In the classification of the situations G.A. Zorin distinguishes aggressive situations, which, in his view, presented to be a complex system, dominating over others situations of criminalistical nature. Aggression, on his opinion, is present not only in violent crimes against a person, but also it is a reason of any crime. "Aggression is a form of behaviour directed to infliction of harm to person and legal entity. Aggressiveness like a personal feature connected with certain designing of motivational sphere of person, is an integral part of its valuable system. Aggressiveness is a personal position, feature of person, concluding in

availability of destructive tendencies (dispositions) in an area of subjective relationships, readiness and preferring of using of violent means to realize his aims. Aggression is a manifestation of aggressiveness in destructive actions, aim of which is infliction of harms that of other person. Different persons may have various level of expression of aggressiveness – from full absence up to its limit development. Obviously, certain level of aggressiveness should be available even a person, who is harmonically developed” [9, p. 79-80].

Significant step to create effective programmes of detection and investigation of crimes is a method of generalization of situations, so named situational modeling. A gist of this method consists on that most number of concrete situations, which are similar in some essential relation are joined in one or few generalized situations, for which are designed optimal programmes of adoption of decision and conducting practical actions.

There is noted recurrence of situation in investigative practice that creates preconditions for their type assignment. Applicably to type situations, it is possible to outline some image of actions of an investigator in process of receiving of criminalistical information. Knowledge of type’s situations allows forecasting their emergence in appropriate conditions and choosing such tactical techniques, which are more optimal.

Similarity of investigative situations and questions that are subject to clarification in course of investigation gives grounds to speak about opportunity to make algorithm (to program) of investigator’s actions. Algorithmic programmes and type’s decisions of criminalistical informational tasks in certain situations are significant in course of crimes’ investigation.

Designing of the systems of tactical techniques closely interrelated with construction of types’ investigative situations and situations of procedural actions. Systems (subsystems) of tactical techniques of separate investigative actions are presented to be the elements of informational system of investigation.

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