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**Problems of establishing of a fact of crime's commission
by organized criminal group**

Abstract: In order to establish the fact of committing a group crime, an investigator must use all possible sources for obtaining information on this, to conduct an analysis of the initial data, which will allow him to assess correctly the appeared investigative situation, to determine the tasks of investigation, and to put forward versions. Timely advancement of versions of the commission of a crime by the group provides an opportunity to purposefully search for criminals, determine the range of suspects, and choose the right direction in disclosure and investigation of a crime.

Keywords: organized criminal group; disclosure and investigation of crimes; investigative actions; operative information.

Disclosure and investigation of group crimes begins with establishment of the very fact of commission of crime. In the practice of law enforcement bodies, as well as in the special literature, under the disclosure of a crime is understood the solution of the main tasks of preliminary investigation - establishing an event of crime and persons who are guilty in committing of it.

There is no single notion of disclosure of crime in legal science; therefore authors of many scientific works interpret in different way this notion in criminal procedural, operational searching and criminalistical aspects [9, p. 6; 5, p. 25; 1, p. 10; 2, p. 321].

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We share the position of V.E. Sidorov, who interprets disclosure of crimes as a certain system of organizational measures, investigative actions, criminalistical, operation searching and other searching measure, which, in stipulated by law order, provide in initial stage of investigation quick and full disclosure, fixation of traces of crime, committed in the terms of non-obviousness and detection of guilty person [10, p. 19].

First information on commission of crime by a group of criminals an investigator, as rule, receives from inquiry offices or at production of initial investigative actions, which are conducted with purpose of version checking about an event of crime and clarification of the facts and circumstances subject to investigation, collection and fixation of evidence, search and detention of criminals.

Main initial investigative actions at investigation of group crimes, which are the main means of information about the crime committed, are the interrogation of a victim or witness and inspection of a scene. In criminalistical practice, a lot of research has been devoted to interrogation [6, p. 18-23; 7; 3, p. 15-30; 4, p. 19-22], therefore we will focus only on issues related to establishment of the fact of commission of a crime by a group of criminals.

As rule, testimonies of a victim at group crimes is one of the main sources of evidence and takes an independent place in the system of proofs. They have many similarities to testimonies, but they cannot be identified with them or regarded as a variety of them. From witness' testimonies a victim's testimonies are differed in their subject, in procedural nature and content. These testimonies are given by a person who has suffered moral, physical or material harm and who, in his procedural position, is a party to the proceedings. The victim is endowed with rights that enable him to seek satisfaction of his legitimate interests, violated by a criminal.



However, unfortunately, we need ascertain that reliability of the victims of crimes to state agencies falls down. Legislative policy of the latter was not in side of a victim: concept of judicial reform, on core, hardly has mentioned on a victim of crime; legislative norms that adopted for the last 5 years, mainly, were directed to strengthen of legal status of accused person.

Therefore, an important factor in investigation of crime is a legal awareness of a victim, his attitude towards crime and criminals. The completeness, reliability and accuracy of his testimony often depend on the fact how a victim wants and ready to help to investigation. It is important for an investigator and operational officer to take these factors into account when establishing the fact of committing a group crime and conducting subsequent investigative and operational-search activities.

Particularities of interrogation of a victim on group crime is not only establishing of the fact of crime and number of its participants, but also itemization of actions of each of them.

Independence of circumstances in every concrete case an investigator should make clear: events preceding a crime; the way of life and social status of a victim and his relatives; character and size of damage etc.

Tactics of interrogation of victims on group cases must take into account of psychology of victims. Common for psychology of all types of victims is objective opportunity to give testimony reflecting truth course of crime and characterizing of an identity of criminals. Wherein on objectiveness of testimonies impacts two group of factors: external situation associated with particularities of perception criminal events by a victim; subjective factors determined by particularities of his identity and lived through by him situation.

On psychology of a victim and his behaviour in preliminary investigation impact: a fact of causing to him or his close a moral, physical or property harm; a role of the victim in commission of crime, characteristic of his personality,



interests, which he pursues in course of preliminary investigation; degree of his familiarity with criminals and his attitude to them; ties and the environment of the victim.

In the practice of investigation of crimes committed by organized groups, are met cases when victims themselves try to hide the fact of committing a crime from investigation and inquiry bodies.

M.K. Kaminsky drew attention to the fact that concealment of crime by a victim can be expected in three cases: when crime has a disgraceful nature, indicating, for example, such qualities of victim as greed, dishonesty, cowardice, etc.; when disclosure of crime threatens with criminal liability to victim himself; when a victims of criminals-recidivists wants to settle personal score with somebody of criminal or protection of the group interests of persons of this category [8, p. 94].

These circumstances must be taken into account when establishing the fact of committing a group crime. Disclosure of group crimes depends to a large extent on an ability of operational personnel to induce victims to give truthful testimony.

Here, in our opinion, it is necessary, first of all, to consider the problem of psychological training of operational personnel using various methods of inducing victims to give truthful testimony. It should be kept in mind that psychological training includes not only formation of certain personal qualities, but also professional training, which determines a high degree of knowledge and skills of operational officer.

Practical activities of both operative officers and investigators indicate that establishment of, in particular, the fact of committing group extortion largely depends on the position of victims, on ability of employees of t internal affairs bodies to induce the victims to submit an application for a committed crime and give true testimony. At the same time, investigators and operational personnel should have appropriate psychological training, take into account the psychological



state and motivation of the victim's behaviour, and tactically persuade him to file an extortion application, having formed his firm position on giving truthful testimonies.

In addition to questioning of victims and witnesses, information about commission of group crime can be obtained by examining a scene of the incident. A qualified inspection with participation of a specialist can help to establish additional information about the crime committed and its participants.

Common tasks facing the inspection of the scene of an incident are formulated in criminal procedural legislation - this is the clarification of situation of the incident, detection and collection of proofs, fixation and investigation of traces, collection of search express-information in order to quickly establish the identity of an offender.

It is important in first timely and soundly to put forward a version on commission of investigated crime namely by a group of persons. Information that attests this can be obtained during the inspection of scene of an incident and as a result of subsequent expert studies of material evidence seized upon inspection. In particular, the group character of the crime is indicated by:

- traces of fingers or feet that are left by different persons;
- cigarette butts of different brands of cigarettes, as well as a different bite on cigarette butts of the same brand of cigarettes, or presence of a mouthpiece on some of them in the absence of traces of it on others;
- the number of used dishes, cutlery (forks, knives, etc.), food and drink residues;
- cartridges and bullets from cartridges to various systems of firearms, or cartridges and bullets from cartridges to weapons of one system, but released, according to the conclusion of forensic ballistics expert examination, from various trunks;



- traces of blood, sperm, saliva, other excretions of the human body, which, according to the conclusions of appropriate expert examinations, could not belong to one person;
- facts of transfer and movement of heavy objects that cannot be moved or transferred by one adult person;
- a significant amount of stolen goods, which required the use of a motor vehicle or other transport for its transportation;
- multiple body injuries on the corpse, various in the mechanism of their infliction, etc.

Careful study of the whole set of signs that are found when inspecting a scene of an incident and pointing to commission of a crime by a group of persons provides obtaining of quite substantiated conclusions on the number of accomplices. However, the absence of such features in principle does not exclude a group crime. Some of members of criminal group may not directly participate in its commission, but perform other roles.

An important role in establishing of the fact of crime's commission by an organized criminal group is played operational information obtained in the course of conducting operational search activities by operative officers. The bodies of inquiry receive operative information on a group crime being prepared, committed, or committed as a result of a survey of citizens; inquiries; collecting samples for comparative study; research of subjects and documents; observation; Identification of the person; inspection of premises, buildings, structures, terrain and vehicles; control of postal items, telegraphic and other messages; listening to telephone conversations; removal of information from technical communication channels; operational implementation; operational experiment. During conducting of operational search activities are used information systems, video and audio recording, film and photography, as well as other technical and other means.



As a rule, operational information contains information not only about the facts of group crimes and the perpetrators, but also of victims, witnesses and all those, who involved in commission of crime. There may be two situations. In one case, an organized criminal group becomes aware of a crime by the time the criminal case is initiated and in another one - operational information comes after institution of a criminal case as a result of operational search activities.

The specified situations are associated with features of use of operative information at investigation of crimes. The results of operational-search activity can be used for preparation and implementation of investigative actions, may serve as a reason and ground for initiating a criminal case, and also be used in proving on criminal cases in accordance with provision of criminal procedural legislation of Russian Federation, which regulate collection, verification and evaluation evidence. At the same time, it should be noted that operational and investigative work of the bodies of inquiry in the study and documentation of organized criminal activity must be not only tactical, but also strategic and analytical one [11, p. p. 46]. In this intelligence work, operational personnel should not only tactically correctly apply various operational and search measures, but also they have to solve strategic intelligence tasks.

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