

ABSTRACT

Vakhrushev O. V. Methods of investigating official negligence. –
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The scientific work is devoted to the formation of methods for investigating a criminal offense, the responsibility for which is provided by Art. 367 of the Criminal code of Ukraine "Official negligence". The relevance of this topic is due to the difficulties in the practical activities of law enforcement agencies to identify and investigate official negligence and the lack of appropriate scientifically sound separate forensic methodology.

The author made a critical analysis of scientific works on the qualification and investigation of criminal offenses in the field of official activities and activities related to the provision of public services, studied regulations governing legal relations related to pre-trial investigation of official negligence, summarized the relevant investigative and case law. On these grounds, a method of investigating this type of criminal offense has been developed.

Based on the analysis and generalization of scientific approaches to the structure of a separate forensic methodology, it is determined that the methodology of investigation of official negligence includes theoretical and examples of the basis of its formation, as well as scientific and practical recommendations of legal, organizational and tactical nature. this type of criminal offense. In this regard, the research methodology includes forensic classification of official negligence, forensic characteristics of this type of criminal offense, a list of circumstances to be established, recommendations for proposing versions and planning of the investigation, the organization of the investigation in typical investigative situations at the initial and subsequent stages features of carrying out separate procedural actions and use of special knowledge.

The dissertation developed a forensic classification of official negligence depending on the field of activity where the criminal offense was committed, the place in the mechanism of criminal activity and the nature of the consequences. By analyzing scientific works on the theoretical foundations of forensic characterization of crimes, study and generalization of materials of investigative and judicial practice in criminal proceedings on negligence, the internal structure of forensic characterization of this type of criminal offense, which includes typical information about the signs, time and circumstances of official negligence. Thus criminalistic classification of ways of commission of a criminal offense is carried out depending on sphere of activity of the official, a stage of illegal activity and its scale.

Typical methods of official negligence are established and the basic methods and operations that take place in the commission of this criminal offense in relation to each method are described. Typical traces of official negligence, which are mainly contained in the documents and in the form of changes in the material environment, are also highlighted. Documents are classified according to the content of the information contained in them and is important for establishing the circumstances to be proved in criminal proceedings. It is emphasized that traces in the form of changes in the material situation are formed during the implementation of certain actions by persons who have used negligence to their advantage, or arise due to the impact of harmful factors on the environment.

It is substantiated that in the forensic description of official negligence the general and special information about the person of the offender is important. Among the general ones demographic and psychological features are included, and special data on the official status and functions of the official are included. Typical common features that characterize offenders, in particular, adulthood, family, no past convictions. On the grounds of special nature, it is established that offenders are usually heads of institutions, enterprises and organizations, their deputies, heads of individual departments (departments, offices), accountants and other categories of officials (inspectors, specialists, state registrars, etc.). Among the official functions are the disposal of financial resources in the institution, supervision in the field of

nature management (forestry, land use, subsoil protection, etc.), supervision of life safety in the institution, law enforcement, supervision and control in the social sphere, public services and more.

Analyzing the typical situation of official negligence, the author found that the place of its commission in most cases is the place of work of the official. Over time, a criminal offense can last several months and years. That is, from the moment of the beginning of negligent actions or inaction to approach or revealing of its consequences the long period of time passes. In addition, the nature and conditions of the institution where the events took place and the negligent official (the nature and state of regulatory regulation of the sphere of activity; organizational conditions of the institution and a particular official; the state of external) are important for the situation of this criminal offense. and internal quality control), as well as the behavior of others involved in negligence processes.

The circumstances to be established during the investigation of official negligence have been streamlined, namely the circumstances related to the composition of a criminal offense, criminal proceedings in criminal proceedings and circumstances that are not part of the evidence, but have forensic significance. Typical general versions of the nature of the criminal offense as a whole and individual versions of the person who committed it, the method of the criminal offense and the individual circumstances of the event, which are subject to verification at the initial stage of investigation of official negligence.

The author chose the source of information about the criminal offense and the amount of available information about the event of the criminal offense and about the identity of the offender as the basis for the typification of investigative situations of the initial stage of the investigation of official negligence. The first ground is considered to be the situations when the law enforcement body received a statement or notification of official negligence or the fact of official negligence was revealed during the investigation of another criminal offense. The second ground highlights situations where there is sufficient information about the main circumstances of the criminal offense and a known person who committed negligence or there is

information about the main circumstances of the criminal offense, but it is not known which official committed the negligence. Typical investigative situations of the next stage of the investigation of official negligence are determined depending on the position chosen by the defense after notifying the person of the suspicion. In this regard, there are situations when the suspect admits his guilt in negligence, cooperates with the investigation, or when the suspect does not admit guilt in negligence, the defense insists that his actions or omissions were lawful. features of pre-trial investigation in each situation.

In order to form recommendations for the seizure, review and study of documents at the stage of pre-trial investigation of official negligence, a forensic classification of such documents depending on the content and significance for criminal proceedings contained in them, the executor of the document, location and form of the document. Recommendations are given on requesting or seizing documents in order to implement the decision on temporary access in a conflict-free and conflict situation, as well as on reviewing documents as a separate investigative action.

Based on the study of materials of investigative and judicial practice, an approximate circle of persons subject to interrogation as witnesses in criminal proceedings for negligence has been established. The subject of the interrogation was determined for each category of witness, as well as the tactical features of its conduct. It was also found that both non-conflict and conflict situations are typical for the interrogation of suspects of negligence. In this regard, the dissertation formulated recommendations for establishing and maintaining psychological contact and obtaining the most complete testimony during the first interrogation of the suspect. The list of the most effective tactics of interrogation in conflict situations is formed, which includes appeal to the positive personal qualities of the suspect, conviction of the interrogated in the falsity of his arguments, explanation of the content of violations and their consequences, presentation of evidence, logical and logical analysis the circumstances referred to by the interrogated, as well as the involvement of a specialist in the interrogation.

According to the results of the analysis of materials of criminal proceedings, it is determined that as specialists in conducting certain investigative (search) and other procedural actions in criminal proceedings on official negligence most often involve persons who are familiar with the specifics of the field of activity in which official negligence was committed. forensic scientists and specialists in the field of accounting, finance, business economics and commodity science. In turn, among the types of forensic examinations conducted in criminal proceedings for negligence, the most common and significant in this method of investigation are forensic economic, construction and technical, commodity, handwriting, technical examination of documents. In this regard, the author presents typical tasks to be solved by forensic experts in these specialties and emphasizes that specific objects of forensic examination, as well as the sequence of appointment and conduct of various examinations are determined depending on the circumstances of specific criminal proceedings.

Key words: forensic methodology, official, official negligence, pre-trial investigation, investigation of official negligence, non-performance of duties by an official.