

METHODICS OF INVESTIGATION OF INCITEMENT TO SUICIDE OF MILITARY PERSONNEL: PROBLEMS OF FORMATION AND IMPLEMENTATION

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Abstract. *Actual problems of formation of a methodics of investigation of incitement to suicide of military personnel are investigated. It's substantiated that incitement to suicide of military personnel is a crime with a high level of latency, which causes certain difficulties in the investigation of such crimes. The list of circumstances to be established is offered, features of nomination and check of investigative versions during investigation of such criminal offenses are considered, the analysis of typical investigative situations and algorithms of their decision, the organization and planning of investigation is carried out, tactics of carrying out separate investigative (search) actions, unspoken (search) actions, as well as the application of special knowledge are considered. It's noted that now there is an urgent need for criminalistic opposition to these criminal manifestations, which necessitates theoretical development of the problem of forming a criminalistic methodics for investigating of incitement to suicide of military personnel.*

Introduction. In modern conditions, suicides have become quite common among military personnel of the Armed Forces of Ukraine, today they are one of the main causes of death of of military personnel. Among suicides among military personnel today, suicide attempts are becoming more widespread, the number of

which far exceeds the number of suicides committed. In turn, the attacks, as a rule, entail irreversible health disorders of military personnel, inability to perform their duties. Suicides among military personnel have a demoralizing effect on personnel, have a negative impact on the future climate in the unit and combat training, cause a sharply negative attitude to service in the army by society and the public, reduce the combat effectiveness of the Armed Forces of Ukraine [9].

As practice shows, the motives for suicide of military personnel can be different, in particular: 1) conflicts related to the sphere of military service activities of military personnel: a) conflicts related to the difficulties of military service; b) conflicts between military personnel of different periods of service; c) conflicts between superiors and subordinates; d) conflicts between servicemen called up from different regions of Ukraine (other nationalities); 2) personal and family conflicts: a) betrayal of his wife or girlfriend, tragic love or unrequited love; b) divorce; c) illness, death of loved ones; d) sexual incapacity; 3) conflicts related to the antisocial behavior of a suicide military personnel: a) fear of criminal or administrative liability; fear of shame for immoral and other negative acts; 4) state of health: a) mental illness; b) somatic diseases; c) mutilation and infliction of grievous bodily harm; d) physical problems and shortcomings of the suicide; 5) material and household; 6) other motives [2; 3; 6; 13].

The practice of investigating the incitement to suicide of military personnel has significant difficulties, which are primarily related to the peculiarities of evidence in this category of crimes, the specifics of investigative (search) actions, the need to involve special psychological knowledge. In addition, as evidenced by the study of the literature, today in the theory of criminalistics, the problems of investigating this type of suicide among incitement to suicide of military personnel are insufficiently studied [17; 20], which necessitates the theoretical and applied development of this issue.

Results and discussions. The generalization of the practice and research of individual scientists shows that incitement to suicide of military personnel is a crime with a high level of latency, which causes certain difficulties in the investigation of such crimes. In this connection, there is an urgent need for criminalistic counteraction to these criminal manifestations, the need for theoretical developments to develop the basic provisions of the methodics for investigating of incitement to suicide of military personnel.

Today in criminalistic doctrine the problems of construction of criminalistic characteristics of incitement to suicide of military personnel, research of typical investigative situations of such criminal offenses and algorithms of their decision, organization and planning of investigation, tactics of carrying out separate investigative (search) actions, unspoken investigative actions, acquire special significance in the time of investigation of such crimes, as well as the development and application of tactical operations [15; 7; 16]. These and other circumstances make it possible to classify the issues under consideration as important and very relevant.

The main feature of the investigation incitement to suicide of military personnel is that the investigator must gather enough evidence to convincingly prove the fact of suicide, so that no one has any doubt that the military personnel could have been killed. Therefore, during the investigation, it is necessary to check not only the version of suicide or incitement to suicide, but also the version of possible murder of a military personnel disguised as suicide. It is also necessary to check the investigative version of the possibility of committing mutilation disguised as suicide, regardless of whether death occurred or not [12].

In addition, some difficulties in law enforcement are caused by the problem of

qualifying for suicide and establishing the circumstances to be clarified. This especially concerns the establishment of the fact of bringing a military personnel to suicide, establishing a causal link between the actions (inaction) of the perpetrator and suicide (suicide attempt) of the victim, establishing guilt, distinguishing the crime under Article 120 of the Criminal Code from related crimes (murder). 115 of the Criminal Code of Ukraine), torture (Article 127 of the Criminal Code of Ukraine) and a number of other problems.

Bringing to suicide differs from other criminal acts in the way it is committed. According to Art. 120 of the Criminal Code of Ukraine (as amended on 05.03.2018), it is determined that bringing a person to suicide or suicide attempt, which is the result of ill-treatment, blackmail, systematic humiliation of his human dignity or systematic unlawful coercion to actions that contradict her will, suicidal tendencies, as well as other actions that contribute to suicide. The legislator also provided for the criminal liability of those who incite suicide via the Internet, in particular through social networks.

As practice shows, the conflict between a military personnel (victim) and the person who led him to suicide (criminal) can be caused by various actions, in particular, systematic humiliation of human dignity, cruel treatment of the criminal with the victim, systematic illegal coercion to actions contrary to liberty, suicidal tendencies, blackmail [9; 10]. Therefore, in our opinion, bringing a military personnel to suicide should be understood as inducing a military personnel to commit a suicidal act using his mental and physiological state using a system of methods of physical or psychological influence, a certain complex of physical and mental violence.

Determining the direction of the investigation incitement to suicide of military personnel is determined by his subject, ie the set of circumstances to be clarified. For the development of a separate criminalistic methodics for the investigation of crimes, the circumstances to be established during the pre-trial investigation are of fundamental importance [18; 19; 20; 21; 22]. As we know, the crime can be solved and investigated only by correctly and completely establishing the circumstances related to the event under investigation [1]. Therefore, in the process of investigating the incitement to suicide of military personnel, it is important to take into account the *typical circumstances* that need to be established during criminal proceedings, depending on: a) the event of the crime; b) time, place and circumstances; c) the mechanism of leading to suicide; d) the person of the offender; e) the person of the victim; e) the presence (absence) of signs of staging; e) the method of committing suicide; f) the presence or absence of a death note.

As for the scientific terminology used to denote the range of these circumstances, experts use different terms - "circumstances to be proved" [4, c. 38-42], "circumstances to be established" [1], as well as "circumstances to be clarified" [8; 10; 11] etc. Researchers using the term "circumstances to be established" rightly point out that this concept is not identical to the subject of evidence under criminal procedure law.

In our opinion, among the circumstances to be established during the investigation of the crimes in question, it is necessary to highlight the following: 1) the circumstances relating to the event of the crime, the mechanism and its consequences; 2) circumstances related to the guilt of the accused and the motive of the crime; 3) circumstances that affect the severity of the committed criminal offense, aggravate or mitigate the punishment; 4) circumstances relating to the identity of the victim; 5) circumstances related to the nature and extent of damage caused to the health of the victim; in cases where there was a suicide attempt; 7) circumstances

that are grounds for release from criminal liability and punishment; 8) circumstances that contributed to the commission of the crime. These circumstances are the main issues in the investigation of the crimes in question, but do not exhaust them.

Evidence of the real fact of incitement to suicide of military personnel is of paramount importance in the investigation of such crimes. It should be borne in mind that leading to suicide can be manifested in: a) physical impact (violence) or psychological impact (mental violence), b) a certain complex of physical and mental violence.

Ways to incitement to suicide can be different. So, according to Art. 120 of the Criminal Code of Ukraine stipulates that bringing a person to suicide or attempted suicide, which is the result of ill-treatment, blackmail, systematic humiliation of his human dignity or systematic unlawful coercion to actions contrary to his will, suicidal tendencies, and other actions that contribute to suicide. Ill-treatment should be understood as systematic, ongoing, ruthless and rude acts of the perpetrator, the purpose of which is to inflict physical or mental suffering on the victim; blackmail is considered as intimidation of the victim by harming him by disclosing both true and false confidential information, which the latter wishes to keep secret, as well as the task of other harm in order to put the victim in a dependent position or create another favorable environment for the perpetrator; coercion to unlawful acts - is the intimidation of the guilty victim by inflicting physical harm on him or the threat of such a task in order to force the victim to commit acts undesirable to him.

The structural element of incitement to suicide of military personnel is the act of suicide itself or an attempt to commit it. Thus during investigation of such criminal offenses it is important to establish technologies of commission of various ways of suicides. The method of committing suicide by the victim, as a rule, are: hanging, falling from a height, poisoning, inflicting damage with a sharp weapon, drowning, self-immolation, infliction of damage using firearms, and others. It is also necessary to establish the relationship between the identity of the offender, the identity of the victim (military personnel) and the manner of committing suicide. In particular, such relationships can be traced: in the relationship "lead-subordinate"; in relations between the person of the victim and with colleagues, including in the presence of extra-statutory relations; in family relations between the person of the victim (military personnel) and the person of the criminal, when there are cases of incitement to suicide by parents, brothers or sisters; in family relations (wives have led their husbands to suicide or vice versa), etc.

The nomination and verification of investigative versions becomes important when planning an investigation incitement to suicide of military personnel. In our opinion, the system of standard versions for the investigation of suicide may be as follows: 1) versions of the nature of the event that occurred (murder, staging a suicide, accident, suicide or leading to suicide); place, time, situation and mechanism of suicide; 2) versions of: the victim - the relationship between the victim and the offender; the circumstances that contributed to the decision to commit suicide; writing a death note; 3) versions of the identity of the offender. In addition, in the process of investigating such criminal offenses, various investigative situations arise, which are related to the amount of information that becomes known to the investigator. The following criteria for typification of investigative situations can be distinguished: 1) an event that occurred (suicide, suicide attempt); 2) the identity of the victim (established or not established) and the manner in which he committed suicide; 3) the mechanism and methods of committing suicide; 4) the system of circumstances leading to suicide; 5) the presence (or absence) of the suspect [10].

To address investigative situations in the investigation of this category of crimes, the most appropriate investigative actions are: inspection of the scene; necroscopy; interrogation of a witness, appointment of forensic examinations (involvement of experts); examination; interrogation of the suspect; search; temporary access to things and documents; investigative experiment, simultaneous interrogation of previously interrogated persons, presentation of a person for identification, etc. Today there is a need to develop and propose optimal sets of investigative (search) actions, tactical operations and determine the specifics of their conduct.

The use of special knowledge in the investigation of suicide is carried out in two forms: 1) the participation of a specialist in conducting certain investigative actions (investigative examination, interrogation, search, etc.); 2) involvement of an expert to conduct forensic examinations. The generalization of practice shows that in the investigation of such crimes most often appoint: forensic examination, forensic psychiatric examination, forensic psychological examination (including posthumous forensic psychological examination), handwriting examination, examination of nodes and loops, comprehensive psychological -psychiatric examination, trasological examination, examination of cold steel, soil examination, examination of the whole in parts, examination of firearms and ammunition, forensic narcological examination, etc.

Conclusions. Thus, today there is an urgent need for practice in further theoretical developments on the formation of criminalistic characteristics and provisions for the investigation of incitement to suicide of military personnel. Further solution is needed to develop a number of problems of a separate criminalistic methodics of such crimes, in particular, the formation of criminalistic characteristics of suicide, the establishment of its criminalistic elements and correlations between them, identifying opportunities to improve the organizational activities of the investigator in investigating such crimes, establishment of circumstances subject to clarification, determination of the specifics and features of investigative (search) actions in the investigation of this category of crimes, typification of investigative situations of investigation and determination of the peculiarities of the application of special knowledge [23]. Further research on this issue and the development of criminalistic issues will significantly improve the efficiency and quality of the process of pre-trial investigation of such criminal offenses.

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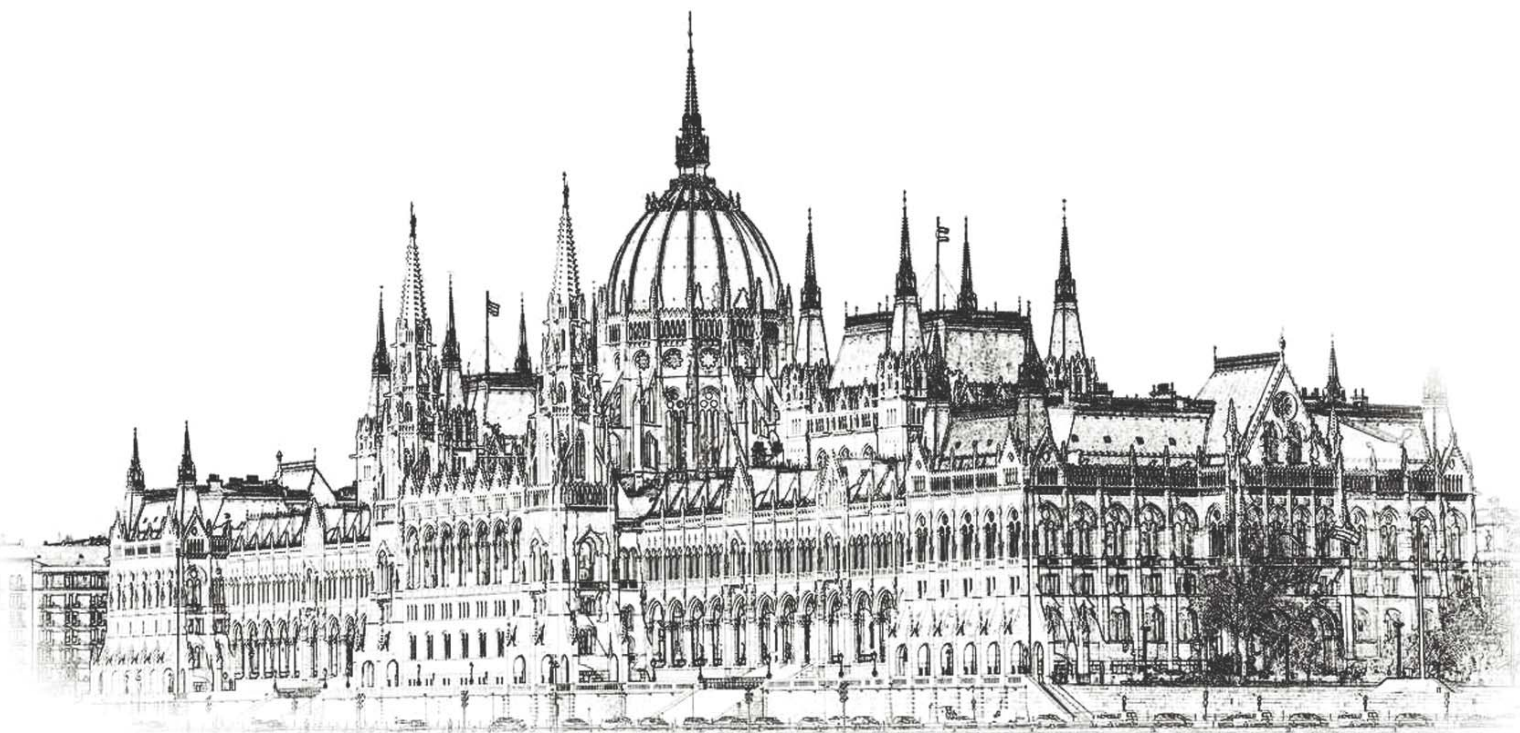
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