

The ethical aspect of interrogation

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One of the objectives of building law-governed state is legal and moral culture, in particular, the legal and moral culture of investigative activities. Therefore, the development of ethical principles in the investigator's activities is relevant.

Today, little attention is paid to the questions of ethics and psychology of interrogation.

Questioning was used in the criminal proceedings since ancient times, which was based on violence as a means of obtaining evidence. But we live in a legal, democratic state where human rights and freedoms are the supreme value, and the use of illegal methods contradicts to the principle of humanity and, therefore, unacceptable.

Legality and interrogation ethics are inextricably linked: any violation of criminal procedure at the same time is a violation of ethical standards.

With regard to the legislative regulation of the interrogation, it is limited by its general rules of providing for the basic order and conditions of the investigative action. For example, Art. 189 of the Criminal Procedure Law of the Russian Federation prohibits the staging of leading questions, and Art. 302 of the Criminal Code prohibits obtain evidence by means of threats, blackmail, violence and abuse [1].

Although the issue of the inadmissibility of mental and physical violence against the person questioned is not debatable, however the verge of what is permitted and forbidden in this area is not outlined clearly enough to be able to avoid mistakes.

The law prohibits the use of violence and threats to interrogate, as well as other illegal actions.

Often, in order to obtain the necessary information, investigators use such a tool as a hoax. So, to get his wife truthful testimony about the criminal activities of her husband, operatives decided to compromise him in her eyes. When she brought the transfer to her husband who was contained in the remand center, she saw a beautiful young girl also "passing" transfer on her husband's name. After that, the wife of the accused gave evidence incriminating her spouse. But a fraud and ethics, as we know, are not compatible, no matter what good intentions an investigator did put.

Among illegal and immoral interrogation techniques are posing leading questions that contain in their formulation desired answer for the questioner. They are extremely dangerous to find the truth and for the objective, impartial investigation.

Such examples create the danger of compromising law enforcement agencies in general, and the evidence of the system, collected during investigation of a particular case.

However, the prohibition of use of the above techniques should not conclude that the interrogation must be passive. For this purpose there are enough ways that do not violate any legal and ethical norms.

The negative behavior of the investigator, his rudeness, lack of objectivity, as well as indifference to the fate of the accused lead to the fact that the person in the course of the interrogation does not give truthful testimony. And this, of course, is extremely unprofessional and unethical. The investigator should be based on the fact that among the persons interrogated there can not be his enemies.

For the effective interrogation it is also very important to make contact with the interrogated. It must be remembered that "to split" and to find the "contact" are not the same things. Yes, you can "crush" accused by the weight of evidence, but that does not mean that he is going "to contact" with the investigation. Only appropriate moral behavior of an investigator, his calm, steady tone and respect can provide confidence of the interrogated.

In addition to the above, it would be advisable, in our opinion, to make some changes in legislation governing the interrogation procedure.

1. We propose to take any instructions or guidelines, which will regulate the procedure of questioning as the most significant investigative action. In our view, it should be included a list of recommended for use tactics (the belief, the method of associative links, fomed interrogation tempo, creating an impression of a good investigator's awareness, distraction), as well as secure the prohibition of deception and psychological pressure.

2. We offer to interview with an independent psychologist, which will allow to monitor the legality of interrogation methods and prevent the use of psychological pressure on the accused.

3. In order to improve the qualifications of the investigators we offer to conduct the courses or seminars teaching effective training and legal questioning.

4. To ensure compliance with the requirements of ethics it would be useful to fix mandatory audio and video recordings (in addition to the protocol) in the course of interrogation, and make the appropriate changes in the position of part 4 of Article 189 of the CP Code of the RF. Presence of fonovideogrammy allow at any stage of the investigation to check the correctness of the tactics of the consideration of the investigative actions, and will also give the court the opportunity to objectively evaluate the evidence obtained.

5. We propose to create a Code of Professional Ethics of investigator and to establish disciplinary responsibility of investigators for the violation of ethical norms prescribed in the said Code.

6. In our view, part 1 of article 302 of the Criminal Code requires amendments, as it does not specify the term "other unlawful means" and thus creates a lack of clarity in the implementation of this norm.

In conclusion, the efficiency of the investigation depends on the methods chosen by the investigator. At his disposal there is always a certain set of tactics, skillful use of which will without much difficulty and, most importantly, without compromising the health of the interrogated (both physical and mental) effectively carry out the interrogation and that, at the same time, fully meet the requirements of morality.

Источники и литература

- 1) The Criminal Code of the Russian Federation of 13.06.1996 number 63-FZ (ed. By 12.30.2015) // "Collection of the legislation of the Russian Federation», 17.06.1996, №

25, Art. 2954.