Tactical and psychological features of interrogating suspects with interpreter’s participation

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Abstract. The work aims to consider issues related to the peculiarity of interrogating suspects with the participation of an interpreter in the investigation of crimes during the preliminary investigation. The specificity of this situation is determined by the fact that the criminal procedural legislation of the Russian Federation for a person who does not speak language of legal proceedings or does not have a sufficient level of this language provides for the right to use the services of an interpreter free of charge. At the same time, the tactical recommendations for interrogation that exist in forensic science are developed for a situation when the subject of law enforcement and the interrogated person communicate in the same language. In addition, a significant difficulty in interrogation is the very terminology related to various spheres of human activity, which is as important for an interpreter as the ability to translate. The method of achieving the stated goal is to compare tactics typical for the situation of monolingualism and multilingualism of participants in criminal proceedings. The article deals with the organizational, tactical and psychological features of interrogation of a suspect: characteristics of pre-interrogation situations, interrogation tactics, features of presenting evidence in order to obtain truthful testimony. The article shows significant differences in interrogation of a suspect with the participation of an interpreter in the investigation of crimes.

1 Introduction

The Russian Federation is a multinational state. According to the All-Russian census, more than 190 nationalities speaking 160 languages live in Russia. In this regard, the issues of conducting procedural actions with the participation of persons whose native language differs from the language of legal proceedings are topical.

In addition, due to the lack of visa requirements with most of the countries being the former republics of the USSR and the political and economic processes taking place in them, the number of foreign citizens living in Russia is increasing. Consequently, there is an increase in the number of crimes committed by foreign citizens. According to the official statistics of the Ministry of Internal Affairs of the Russian Federation for January-December 2021, foreign citizens and stateless persons committed 56 thousand crimes on the territory of the Russian Federation, including 52.4 thousand crimes by citizens of the CIS states, their share was 87.1 %. The number of crimes against foreign citizens and stateless persons amounted to 14.8 thousand crimes [1].

According to scientists, by 2025 the share of crimes of foreign citizens and stateless persons can reach 11 % of the total number of crimes registered in the country.

Under such conditions, criminal proceedings cannot be carried out without the participation of translators [2].

The right to use one’s native language, including in criminal proceedings, is enshrined in the Constitution of the Russian Federation, the Code of Criminal Procedure of the Russian Federation, and a number of federal laws of the Russian Federation. However, ensuring this right is more of a declarative nature since the Russian Federation does not have a system for training qualified court interpreters; there is no mechanism for checking the quality of their professional knowledge and skills.

In each specific case, the subject of law enforcement practice is forced to independently solve the problem of attracting and verifying the competence of persons who speak a language other than the language of legal proceedings for involving them as interpreters in the criminal process.

Issues of the procedural status of an interpreter remain urgent and require resolution. The very procedural regulation of an interpreter’s participation in criminal proceedings fails to verify the correctness of the translation, and to bring the interpreter to criminal liability for knowingly wrong translation.

The recommendations available in the domestic scientific literature regard the organizational and tactical issues of conducting investigative and judicial actions but neglect the specifics of their implementation if it is necessary to involve an interpreter.

The current situation related to ensuring the linguistic rights of participants in legal proceedings requires a deep theoretical rethinking and the development of new
concepts and ideas aimed to improve legal proceedings that function in the conditions of multilingualism of its participants.

2 Tactical features of suspect’s interrogation

Suspect’s identification and interrogation are the main elements of the tactical operation “Checking the involvement of a person in the commission of a crime” when investigating crimes committed without witnesses. The person who committed the crime is identified through a system of investigative actions, operational-search and other measures [3].

According to Russian criminal procedure law, a suspect is a person who is pointed out by witnesses, a detained suspect, against whom a criminal charge has been launched, or against whom the investigator has information that he has committed this crime. No special resolution is issued; a person is considered a suspect at the reasonable discretion of the investigator.

A suspect is identified at the initial stage of the investigation through a system of interrelated investigative and operational-search actions. Forensic science and the practice of investigation have developed the main directions for searching for information about the identity of the suspect [4, 5]. These include:

1) study of the forensic characteristics of the crime under investigation, during which information about the identity of a possible suspect for a given situation is revealed;
2) incident site inspection and study of the surrounding area aimed to identify traces indicating the identity of the person who committed the crime;
3) analysis of information about the identity of the suspect in the process of initial investigative actions and law enforcement intelligence;
4) study of information about a possible suspect contained in forensic records and law intelligence materials;
5) study of materials of previously investigated similar crimes.

The suspect may be detained for a period of up to two days, during which a preventive measure against the person is selected.

In most cases a suspect is interrogated before being arrested. Often this happens in conditions of lack of information and time. You need to prepare for the interrogation. It can be very brief and implies an interrogated person is used in an atmosphere of surprise without the possibility of involvement of a person in the commission of a crime. The interrogator and the interrogated.

There are four typical pre-interrogation situations:

1) there is evidence of the involvement of a certain person in commission of the crime;
2) there are data, but they are not enough for a definite conclusion;
3) there is no evidence, but there is law intelligence information about the person’s involvement in the commission of a crime;
4) there is an opportunity to study the surprise factor while interrogating a suspect.

In the first situation, the interrogation is of an active, offensive nature, which aims at suspect’s incrimination [7].

Two other situations necessitate a thorough analysis of the available data, assumptions using the technique of reflexive decision about the position of the interrogated and the possible content of his/her testimony. It is necessary to choose typical interrogation tactics (detailing of testimony, indirect interrogation, etc.) and planning their use in this particular situation. During the interrogation, it is necessary to obtain information about the position of the suspect and, most importantly, about confirming the suspicion, or about doubting their validity. In the first case, an active, offensive interrogation is required in order to obtain truthful testimony [8].

The surprise factor is used when detaining a suspect shortly after a crime has been committed. The second variant of this situation arises when a considerable time has passed after the commission of the crime and the suspect has calmed down believing that he/she has not been identified and, therefore, the interrogation is of a sudden nature for him/her. In both cases, the state of the interrogated person is used in an atmosphere of surprise interrogation.

3 Establishing psychological contact during interrogation with interpreter’s participation

If it is necessary to involve an interpreter for interrogation, the relationship between the investigator and the interrogated person will be characterized by certain specifics [9].

First of all, the very presence of an interpreter during an interrogation is a distraction for both the investigator and the interrogated person. It is well known that using video or audio recordings during interrogation greatly changes the style of speech of the interrogated person, the manner of presenting the material, the pace and volume of speech. Needless to say about the participation in the interrogation of an interpreter, who is not only present, but provides communication between the interrogator and the interrogated.

Further, in the conditions of speech contact in different languages, when the statements of its participants are broadcast by an interpreter, the focus of attention of the participants in communication is constantly changing. If during the act of speech the speaker turns to his interlocutor, looks at him/her, then during the translation, the participant, whose words are currently being translated, most often looks at the translator. The person, who the translation is addressed to, most often looks not at the interlocutor, but at the translator. Such a constant change in the attention of participants in verbal communication does not contribute to maintaining psychological contact [10].

The next specific moment, which characterizes the psychological situation during interrogation with the
participation of an interpreter, follows from the procedural prohibition to knowingly mistranslate and from criminal liability for knowingly mistranslation. The interpreter is obliged to translate all the statements of the participants in the procedural action without any changes or cuts, even if they do not meet the standards of ethics or courtesy. In this case, the translation of negative statements can cause psychological rejection of the interpreter by one of the participants in the interrogation, which as a result can lead to a psychological rapprochement between the interpreter and the other participant in the interrogation.

And, finally, the most important specific feature of interrogation with the participation of an interpreter is the use of non-verbal communication skills by an investigator.

Forensic science has developed various tactics aimed to establish psychological contact, such as conversation, relieving tension, emphasizing the significance of evidence and the significance of the conversation, showing empathy (sympathy), especially for the victim, appealing to the positive qualities of the interrogated, etc. [11].

However, in forensic science there is still no common understanding of what should be the basis of psychological contact. Thus, for example, V.L. Vasiliev believes that interrogation tactics should be determined by the psychological type of the interrogated person. The choice of the correct interrogation tactics largely depends on the definition of a special type of interrogated person. It is stipulated by the fact that the same arguments affect people of different types to various degree [12]. Unfortunately, the classification of psychotypes of people accepted in psychology is mostly theoretical, generalizing in nature, since “pure” mental types are practically never found. In addition, the situation of interrogation is a strong stress for most of the interrogated persons, which often provokes inadequate reactions of the interrogated being unusual for the psychotype they belong to. Therefore, the ability to establish psychological contact is more an art for the investigator than exact “mathematical” knowledge, since each interrogated person requires an individual approach regarding as many circumstances as possible, both directly related to the case being investigated, and not related to it. With this background, the proposal of G.G. Dospulov, according to which it is not the psychotype of the personality of the interrogated person that is of decisive importance for establishing psychological contact, but his emotional state during the interrogation is worth noticing. G.G. Dospulov described this approach as “getting on the same page with the interrogated” [13].

V.L. Vasiliev believes that the principles of “getting on the same page with the interrogated” should be based on the pace, rhythm and other external manifestations of the speech of the interrogated.

This approach to establishing psychological contact based not on the content of statements, but on the form of messages, becomes especially important in the case of interrogation with the participation of an interpreter. Indeed, the statement of each of the participants in the interrogation is twice subjected to linguistic transformations, as a result of which the speech statement and its translation are never identical. In this regard, the establishment of psychological contact by the investigator during interrogation with the participation of an interpreter, based only on the content side of his dialogue with the interrogated person, is incorrect, since in this case there is always a danger of misunderstanding (both semantic and cultural). At the same time, the assessment of the emotional state of the interrogated by the external manifestations of his/her speech, even in a language unknown to the investigator, does not cause difficulties [14].

Modern psychology understands the whole variety of human emotional manifestations as the interaction of just a few basic emotions. There are only four pairs of such emotions: pleasure – disgust, joy – grief, triumph – anger, confidence – fear. Since these emotions are paired, they can be combined into two groups: positive emotions and negative emotions [15].

Based only on the external manifestations of the speech of the interrogated person, an investigator can determine which group of emotional manifestations the given state of the interrogated person belongs to. Moreover, the investigator can determine the emotional state of the interrogated person even before he receives the meaningful information of the statement in the form of a translation. In this case, the investigator not only perceives the translation of the speech message, but also correlates it with the psycho-emotional state of the interrogated person, determining to what extent they correlate with each other, since if they do not match, it can be said that the interrogated person gives testimony insincerely. In addition, the calibration of the emotional state of the interrogated person according to the form of the speech signal is a kind of marker for the investigator, indicating the presence or absence of a conflict between him and the interrogated [16]. Indeed, if the emotional coloring of the interrogated person’s speech corresponds to a group of negative emotions, then there is a conflict situation that requires resolution by various tactics. In the event of a change in the form of speech statements of the interrogated person, which attributes them to positive emotions, the investigator receives a signal that the interrogation has moved from conflict to cooperation.

4 Stages of establishing psychological contact during interrogation with interpreter’s participation

Let us consider the process of forming psychological contact during interrogation with the participation of an interpreter in more detail. This process can be divided into three stages. The first stage is the establishment of a communicative interaction between an investigator and an interrogated. At this stage, the position of the interrogated and the tactical actions that the investigator will need to take to establish psychological contact are determined. The second stage is the psychic suppression by the investigator of the interrogated on the basis of the strength of the personality of the investigator. The third
stage is the direct psychological contact, i.e. reaching agreement on emotional and business interaction during interrogation on the terms proposed by the investigator [17].

To form the consent of the interrogated person to emotional and business interaction, it is necessary to convey certain information to this person. First of all, the interrogated person must clearly understand the social role of the investigator, that the interrogation is not the result of the investigator’s personal negative attitude towards the interrogated person, but the implementation of the social function of the investigator being establishing the truth in the criminal case under investigation in accordance with his official powers. The interrogated person should have an image of an honest, incorruptible investigator who is only interested in stopping the illegal act [18]. The participation of an interpreter during the interrogation contributes to the implementation of this task, since the presence of a third person who is not interested in the outcome of the case enhances the formal side of the communication between the investigator and the interrogated. In addition, the same manner of communication between the investigator, the interpreter and the interrogated person indirectly emphasizes the procedural nature of the interrogation for the interrogated person.

The second information block that should be conveyed to the interrogated person is the significance of the investigator. Indeed, if the interrogated person perceives the investigator as a person with a certain social weight, then any information that comes from the investigator will be considered important by the interrogated person. In this case, the investigator has the opportunity to use such a tactic as “exaggerated awareness”: the interrogated person will perceive even the insignificant information obtained by the investigator as confirmation that the investigator knows everything about the circumstances of the crime under investigation. In the case of an interrogation with the participation of an interpreter, the behavior of the interpreter should contribute to the formation of the significance of the investigator in the interrogated person [19]. This can be achieved through both non-verbal and verbal communication methods: the way the interpreter listens and looks at the investigator, addresses him/her, what gestures he/she uses when communicating with the investigator.

The next information block that should be conveyed to the interrogated is that the investigator is more aware about the case than it actually is [20]. Purposeful developing the interrogated person’s doubts about the invulnerability of his/her own position by the investigator should result in confessions.

And, finally, the fourth information block concerning the interaction between the investigator and the interrogated person is an inflated self-esteem of the interrogated person about himself. In this regard, the interrogated person always assesses the situation of the interrogation inaccurately, which can be used by the investigator to exert psychological influence. In the case of an interrogation with the participation of an interpreter, the interpreter can contribute to the strengthening of this delusion of the interrogated person or, conversely, to its weakening, depending on the tactical tasks of the investigator [21]. Of course, this task can be solved by an interpreter only through non-verbal means of communication.

A non-verbal psychological impact on the interrogated person can also be exerted by an interpreter due to the spatial organization of communication during interrogation. Although it would be more correct to say that the influence is exerted by the investigator by placing an interpreter in the part of the room where the interrogation is carried out, where the presence of the interpreter will contribute to the creation of the relations necessary for the investigator with the interrogated, depending on the tactical plan of the investigator.

It is known from psychology that it is possible to predict a person’s reaction in the process of direct communication, using his/her perception of the personal space around him/her. Each person has a subjective zone, which he/she tries to protect from external intrusion [22]. The protection of such territory is one of the main principles of non-verbal communication. A variant of the territorial instinct of a person is a difference in the perception of the interlocutor, depending on how the interlocutors are located relative to each other inside the room.

Depending on the tactical plan, there are three spatial placements of the investigator and the interrogated: angular, competitive-defensive and formalized [23]. However, the presence of an interpreter at the interrogation requires a solution to the issue of the interpreter’s position in the investigator's office, and how his/her position can be used to provide the investigator with the required psychological impact.

Considering that three people are present at the interrogation with the participation of an interpreter (the investigator, the interrogated person, the interpreter), their mutual placement can be represented as a triangle. The participants in the interrogation are at the vertices of this conditional triangle. The determining factor will be the position of the interpreter in relation to the other two participants. If the interpreter is turned towards the investigator, then such a position will be considered as allied by the interrogated. If the interpreter is directed at the interrogated person, then such a spatial arrangement of the interpreter will be perceived as opposing by the interrogated. The interrogated person will subconsciously perceive the interpreter as a person who shares the interests of the investigator.

If the interpreter is located in such a way that he/she makes the same angle both in relation to the investigator and in relation to the interrogated person, then such a position will be perceived as neutral by the interrogated (as well as by the investigator). If the interpreter is located behind the interrogated person, especially if the latter is in a “formalized” position, then this position of the interpreter will be very strong psychological irritant for the interrogated person. The interrogated person will perceive the interpreter quite aggressively [24]. On the one hand, being behind someone’s back causes a feeling of fear and uncertainty, on the other hand, such placement of an interpreter is perceived by the
interrogated person as unwillingness to enter into communication with him.

As you can see, the presence of an interpreter during interrogation allows the investigator to use the spatial organization of this investigative action more subtly. Indeed, instead of 3 traditional placement options for the investigator and the interrogated person, the investigator has 12 options for the mutual placement of interrogation participants, and these options allow for a stronger non-verbal impact on the interrogated person [25, 26]. Thus, the participation of an interpreter during interrogation, on the one hand, limits the possibility of using traditional tactics to establish psychological contact with the interrogated; on the other hand, the investigator has the opportunity to use new tactics.

5 Conclusion

Thus, the following conclusions can be drawn. During a preliminary investigation, the circumstances of ensuring the linguistic rights of participants in criminal proceedings have so far been neglected by forensic scientists. The involvement of an interpreter in investigative actions primarily affects the tactics of investigative actions. On the example of interrogation being the most common investigative action, we can talk about the pronounced specifics of tactics that arise as a result of the participation of an interpreter in the investigative action.

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