

The system of a defense against unjustified accusations

Abstract: It is suggested a system of tactical methods of a defense in criminal proceedings.

It is examined systemic and specific characteristics, such as: goal orientation, selectivity, dynamics, etc.

Keywords: system of defense, situation, tactical method, system's criterions.

Situational methods of defense, its dependence on the various circumstances that arise in the course of implementation of preliminary or court examination in general or at carrying out individual actions, causes necessity of development of a variety tactical methods, the use of each of which are appropriate and efficient in not all cases, but only at presence of a specific investigative situation. At the same time situational of the methods of defense is connected not only with its dependence on investigative situation, but from the situation of procedural action, other circumstances.

As rightly pointed D.I. Suleymanov, the tactical methods of defense according its functional purpose and direction promote to the cognition, because it pursue the goals of obtaining the criminalistic significant information (4, pg. 67-74). As an implementation of investigative and judicial actions are aimed at detecting of evidential information that allows determining the truth, tactical methods of the most effective execution of these actions possess of the cognitive role because contribute to optimal implementation of tasks facing this or that action.

Studying the requirements made for tactical methods of defense, allows more clearly know its essence, the value, to present opportunities it's using. Providing substantial signs of tactical method helps to establish the limits of its permissibility, delimitation from other ways of action.

The state of criminalistic theory allows putting the question of the need for a development and application by a counsel defender of the systems of tactical methods, which are the optimal means of detecting important forensic information

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and it's using in purposes of defense (2, pg. 4-11).

In general form the system can be determined as something whole that representing a unity of the parts which are regular arranged and locating in mutual connection (1, pg. 61).

From our point of view to the main signs characteristic of tactical methods which are used by a defense include:

1. The integrity of the system of methods. Elements of the system should be directly or indirectly interconnected and selectively interact with each other, that is the system should function as a certain holistic ensemble. Any method must occupy a certain place in the system and execute the necessary functions. At the same time system as a unified whole executes a specific function, which cannot be reduced to the function of its every elements taken separately. System should possess by new integral properties which are not in the elements of separately constituting this system (isolated methods);

2. Availability of a particular structure. The systems of tactical methods have a twofold role: on the one hand, by its nature they concern to a certain type of legal procedure; on the other hand, these systems have subsystems that exist consistent with the objectives conducting the particular procedural actions. Therefore, the system is an ordered collection of components. The internal structure of the system has a logical interrelationship between it elements and their structural co-subordination. In its structure, the system of methods for specific procedural actions of defense assumes an availability of relevant subsystems and individual methods, subordinated to the purposes and situations. The location of methods in the system (subsystem) is associated with their tactical expediency and efficiency of use in a particular sequence. System of methods should be a logical sequence of its elements, being in cause and effect and substantial connection between each other.

3. The interdependence system of tactical methods and environments. In relation to the particular system under the environment in this case should be understood the external objects, e.g. psyche of the defendant. In its turn, and the object can have an opposite effect on the system, which is connected with the need to reject the use of

the system or changing its some elements. Thus, in a process of interaction between the system of methods and the subject is happened their mutual influence on each other. The elements of the system can interact with external environment and change its content or an internal structure (3, pg. 354).

4. The hierarchy of the system of methods. The systems of methods of separate of a defense act as components of a wider system - a system criminalistic tactics. In turn, each component of the system of tactical methods (inspection, search, interrogation, presentation for identification etc.) can be considered as a system or subsystem, differentiated according to the purpose and situational causes. Regard to such systems (subsystems) some methods can act as a system of elements of the mode of action. Elements of the system are interrelated and interact within this system, being its sub-systems. At the same time, each component of system as a subsystem of has a certain independence, qualitative separateness, due to this can be considered as an independent system of another level. As a subsystem, it can also be considered as an independent system of another level. As the subsystems, it can also be considered a particular property, the feature, quantity and characteristic or parameter of an object, which being considered as a system. In the process of carrying out procedural action can be applied multiple systems (subsystems) methods that directed on realization of peculiar to them purposes. Each of them is relatively isolated and independent of another system. Relative independence - a relatively isolated multitude of selectively interacting elements are determined by a scope of the specific purpose of procedural actions, and not the global goals;

5. Multiplicity of descriptions of each system of tactical methods. System (subsystem) of methods of defense may be the same in form methods, but to be differing on it specific content and features of use. This provision is caused by a specific type and nature of a crime, the presence or shortage of information based on which are formed certain techniques, dynamic of situation, etc.

From our point of view, the specific characteristics (properties) of system of methods of defense are:

1. A targeting of system of methods. Any system tactical methods have to perform its functions, pursuing strictly defined goals. The goals of procedural actions are an important criterion for systematization tactical methods. Targeting of methods has to correspond to the purposes of procedural actions.
2. A selectivity of a system of methods. The system of methods should operate only in a corresponding optimal situation. Using of systems (subsystems) of tactical methods of specific procedural actions is caused by its targeting and situational characteristics. Selectivity of the system is expressed in the fact that it is applied those subsystems that are designed to work in situation which turned out at the moment. During the formation of the system of methods of separate procedural actions of defense should proceed from the specific conditions of its application;
3. Dynamics (flexibility) of a system. Tactical methods of defense should have mobility, plasticity and flexibility. The system of tactical methods has a wide range of its manifestations in its specific content and features of its use. In this context, during formation of a specific system (subsystem) of methods procedural action the following points should be taken into consideration: a) dynamics operation threshold of a system; b) the possibility of the system response in the absence of this or that a tactical method that is a component of it. The absence of certain system elements or its low quality predetermines an availability and appropriate level of tactical risk in the process of use. The flexibility of system consists in changing leadership of application of tactical methods. Some of them will take the leading positions and their application will ensure the effectiveness of the procedural actions, and another - due to less its informational value - subordinate position. The methods appearing in the system may have a property of interchangeability which, however, does not mean chaos in the use of its systems. That system requires the most appropriate techniques and expedient sequence of application of the methods and their character. Therefore, interchangeability has a certain boundaries (limits) and it is not always absolutely possible;
4. Diversity of the systems of tactical methods. Multiplicity of investigative and judicial actions, as well as a diversity of situations are determined a variation of the

systems (subsystems) of methods. Therefore, during development of systems of tactical methods of defense, first of all, should be traced situations of procedural actions.

5. Algorithm of the systems of tactical methods. Systems of methods constitute specific algorithms (standard program) for a defender during its using. Using such systems make easier an acceptance of the right decisions in different situations. Algorithmic task consists in the fact that, using the scientific recommendations of criminalistics, experience of the best advocate's practices, alleviate to a defenders adoption of right and optimal decisions in the most complex situations. Algorithm of the systems of tactical methods of defense is that it requires a certain order in the use of methods: its form, content, sequence of application, etc.

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