



CIRCUMSTANCES SUBJECT TO PROOF IN THE INVESTIGATION OF ROBBERY CRIMES

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ABSTRACT

*The effectiveness of investigating robbery crimes is closely
linked, first and foremost, to the timely and accurate
detection of these crimes, as well as to a comprehensive,
complete, and impartial study of the circumstances that
need to be proven. The authenticity of evidence in the
investigation process and the precise determination of the
motives and conditions for committing the crime ensure the
effectiveness of the investigation and create the foundation
for making a fair decision*

When investigating robbery crimes, the investigator must establish all the circumstances of the criminal case. Some of these represent elements of the subject of proof, while others serve auxiliary (intermediate) functions.

When investigating robbery crimes, the investigator must determine the subject and limits of proof based on the specific characteristics of this crime. This helps the investigator to correctly choose the direction of the investigation and conduct investigative actions purposefully and in sequence.

To prosecute and convict a person who has committed robbery, the circumstances established by Article 82 of the Criminal Procedure Code of the Republic of Uzbekistan must be proven. If the person who committed the robbery is a minor, in addition to the circumstances specified in Article 82 of the Criminal Procedure Code, the circumstances provided for in Article 548 must also be proven. Furthermore, if the robbery was committed by a person in a state of insanity, then the circumstances specified in Article 566 of the Criminal Procedure Code must also be proven. This is because the issue of applying compulsory medical measures to a person is determined based on these circumstances.

According to E.A.Abzalov, "the study of the circumstances to be proven is of great importance in the matter of collecting, verifying, and evaluating evidence in the case. A comprehensive, complete, and objective examination of all circumstances subject to proof ensures the effectiveness of the preliminary investigation." [1]

Z.F. Inogomjonova and G.Z. Tulaganova emphasized that "in criminal proceedings, evidence and circumstances subject to proof are considered among the most important issues

and are of great importance in solving the crime, exposing the accused, and ensuring the inevitability of punishment"[2].

B.B.Murodov stated that "the threshold of proof should be understood as the activity that determines the volume of evidence, their sources, as well as investigative hypotheses, the scope of verification of the circumstances to be proven, in order to confirm the validity of the conclusions drawn in the case"[3].

E.M. Nishanov emphasizes that "the circumstances to be proven are an integral part of the private methodology for investigating crimes, since the circumstances to be proven include the identification and verification of not only the forensic aspects of the act, but also all the signs and characteristics of the act that have criminal-legal and criminal-procedural significance"[4].

In addition, such scientists as A.M.Kustov[5] and A.G.Filippov[6] emphasized that the circumstances to be proven should be developed separately for each criminal case, indicating that the following circumstances should be proven:

- whether the robbery occurred, if any, through illegal entry into the dwelling, or in public;
- where the attack took place (address, street name, block, house, entrance, floor, apartment number, etc.); the time of the robbery (date, year, month, day or time of day);
- method of committing the crime of robbery;
- the amount of damage caused as a result of committing this crime, what specific items and objects were stolen, the specific characteristics of these items and objects;
- the identity of the person (s) who committed the crime of robbery;
- the number of persons who committed the robbery, the purpose of each of them;
- whether weapons or objects that could cause actual harm to human health were used at the time of the crime of robbery, and if so, exactly what weapons or objects that were used as weapons were used, who, when, and in what way used these objects;
- cohesion, stability of the criminal group and who carried out the leadership;
- the presence of prior agreement or division of duties between the group;
- circumstances characterizing the personality of the victim, his social and material status;
- whether bodily harm was inflicted on the victim, and if so, what is the severity of the harm;
- motive for committing the crime, methods of concealing or selling the stolen items;
- motives and conditions that prompted the act of aggression.

In the cases of robbery, developed by A.M.Kustov and A.G.Filippov, the amount of another's property provided for in Article 164 of the Criminal Code, the fact that it was committed by illegal entry into a residential building, warehouse, or other premises, and other circumstances were not taken into account. Therefore, we consider it necessary to review them again.

Having conducted a thorough analysis of law enforcement practice, we have developed a list of circumstances that must be established and proven within the framework of this type of criminal case, as well as the following investigative and procedural actions that must be carried out to prove them:

The event of the crime (time, place, method of committing the crime of robbery, the presence of a causal link between the crime of robbery and its consequences, as well as other circumstances for which liability for the crime of robbery is provided):

at what time and where exactly the crime of robbery was committed (by inspecting the scene, questioning victims and witnesses, inspecting surveillance cameras);

whether unauthorized persons were present at the time of the robbery, and if so, whether there were minors among them (by questioning the suspect (accused), victim, and witnesses);

whether preparations were made for the crime of robbery, if any, what actions were taken, and by whom (by inspecting the scene, questioning the suspect (accused), witnesses, and victims);

what caused the commission of the crime of robbery by the person (by questioning the suspect (accused), victim and witnesses, inspecting surveillance cameras);

when and how the person who committed the crime of robbery arrived at the scene and in which direction he hid after committing the crime of robbery (by inspecting the scene, questioning the victim and witnesses);

whether the person who committed the crime of robbery used a cold weapon or objects that could cause actual harm to human health, if so, what its type, model, color, appearance, distinctive features, etc., whether this object was pre-prepared for the crime, modified in order to make it more aggressive or facilitate camouflage, how the person who committed the crime of robbery acquired the weapon, how long and on what grounds he used it, where it is currently located (by inspecting the scene of the incident and the seized objects and items, questioning victims and witnesses, appointing appropriate examinations, presenting the object for identification, seizure and search);

How the crime of robbery was committed, whether it was committed with the demonstration of a cold weapon or objects that could cause actual harm to human health (as weapons), with the threat of their use, if so, what specific actions were taken, what words and phrases the offender used, whether his words expressed threats, whether this was realistically perceived by the victim and other persons (by inspecting the scene and surveillance cameras, questioning victims and witnesses);

did the accused or other persons take measures to cover up the traces of the crime, and if so, what measures were taken (by questioning the suspect (accused), witnesses, and victims);

Do the victim and the accused know each other, and if so, what the relationship between them was (by questioning the victim and the accused, as well as their close relatives, presenting the person for identification, and if the person has fled, presenting them for identification by photographs);

The process of committing the crime of robbery was recorded by surveillance cameras or video recording by the victim and other persons using mobile phones and other devices (by inspecting the scene of the incident, questioning victims and witnesses). Today, surveillance cameras are installed in most public places. According to the Statistics Agency, as of January 1, 2024, the number of mobile subscribers in Uzbekistan was about 32 million[7].

The guilt and form of the person in committing the crime:

the immediate desire to commit the crime of robbery (interrogation of the suspect (accused), victim and witnesses);

motive of the crime of robbery (interrogation of the suspect and victim);

other motives that influenced the behavior of the person who committed the crime of robbery, i.e., revenge, jealousy, and other circumstances (interrogation of victims and witnesses).

Circumstances characterizing the personality of the accused:

age, year, month, day of birth (by questioning the accused, studying passport data, sending inquiries);

social status, type of activity, profession (by questioning the accused and his acquaintances, sending inquiries);

the state of the person at the time of the robbery, whether he acted consciously, whether he was under the influence of alcohol or drugs, and if so, what was the degree of intoxication (by questioning suspects, victims and witnesses, obtaining information from a medical institution);

information received from the accused's place of work, study, and residence (by questioning responsible persons, obtaining characteristics and information);

the living conditions and upbringing of the minor suspect, the level of his mental development, whether he was influenced by adults, whether he was taken into account among minors, if so, when and for what reason (by questioning the parents or persons replacing them, sending inquiries to information and analytical centers, questioning witnesses);

the presence of legal grounds for the presence of a foreign citizen suspected of committing a crime of robbery on the territory of Uzbekistan (by studying passport data and sending inquiries, questioning specialists);

Where, when, and for what actions the person who committed the crime of robbery was previously convicted, or by which court of another state under which article of the Criminal Code he was convicted (by checking the database of the Information Center, and if convicted, by obtaining a copy of the sentence from the relevant court);

Nature and amount of damage caused:

passport data of the victim (by questioning the victim, verifying passport and other data, sending requests to the territorial Department of Internal Affairs and the Federal Bureau of Investigation);

the severity of the harm inflicted on the victim's health, a medical report on this; the amount of the stolen property and the owner of the property (by appointing a forensic medical examination, examining the victim, interrogating him, recognizing him as a victim and civil claimant, appointing a forensic appraisal examination).

Criminality of the act and circumstances that release from punishment and mitigate and aggravate punishment:

commission of a socially dangerous act by a person insane or a person suffering from a mental disorder that precludes the imposition or execution of punishment after committing a crime[8] (appointment of a forensic psychiatric examination, sending a request to a medical institution, questioning close relatives);

whether the suspect was subjected to physical or psychological coercion by members of the criminal group to commit the crime of robbery, if so, how this coercion was expressed, by whom and for how long it was applied (by questioning the suspect and members of the group, confrontation);

The suspect's attitude towards the crime committed, whether he repented of his actions (part one of Article 55 of the Criminal Code), whether he assisted in the detection and investigation of the crime, whether he took measures to compensate for the damage caused by the crime of robbery, whether he immediately after the commission of the crime provided medical and other assistance to the victim (by questioning the suspect, the victim, and witnesses);

has the statute of limitations for bringing to criminal liability (Article 64 of the Criminal Code) not expired (by questioning suspects, victims, and witnesses);

the accused has reached the age of majority at the time of the commission of the crime (by questioning the accused, his legal representative, the victim, and witnesses);

Does the accused conclude a pre-trial cooperation agreement[10] (by questioning the accused);

the presence or absence of grounds for preliminary securing the testimony of the suspect (accused), the victim (civil claimant), the witness, or other participants in the criminal proceedings[11] (by questioning the participants in the proceedings);

if the crime of robbery was committed by an organized group or in its interests, how is this reflected (by questioning members of the criminal group, questioning witnesses);

The crime of robbery was committed by seizing another's property in a large or especially large amount (by questioning the victim, witnesses);

committed repeatedly, the deadline for bringing to responsibility for its recognition as repeated has not expired (by questioning the suspect, victim, and witnesses, verification at the information center);

the conviction of the person who committed the crime of robbery for a previously committed crime, which court recognized him as a dangerous recidivist (by obtaining a copy of the sentence from the relevant court).

Committed by a group of persons:

the composition of the group and the number of its members, the forensic type of the group (situational, episodic); whether there was a prior agreement, if there was an agreement, where, when, and what it was about; the participation of each member of the group in the commission of the crime and their actions; the duration of the group's existence; the presence (absence) of a leader; the presence of older or younger members in the group; the conditions for the formation of the group, cohabitation, study, work, military service, previous criminal and other contacts (by questioning the suspect and members of the criminal group, conducting confrontations).

In cases where the crime of robbery is committed by a group of persons, it is necessary to fully determine the tasks performed by each participant. For this, each participant of the investigative group must carefully study the testimony of the victim and witnesses and give a correct assessment by comparing it with other evidence available in the criminal case. However, in law enforcement practice, such cases are not always given sufficient attention.

Commission of robbery by an organized group:

the structure of the group and the distribution of responsibilities among its members; who is the leader or organizer; the norms of behavior within the group and the liability measures applied to group members; the procedure for planning actions aimed at collusion in committed crimes and criminal activity; the consistency of forms and methods of criminal activity; how new members were selected, recruited, and included in the organized group; the possibility and mechanism for the "removal" of group members from the group (by questioning and confronting the suspect and group members).

Circumstances that led to the commission of the crime of robbery:

circumstances contributing to the robbery, for example, the untimely activation of street lights in the city, the victim's display of valuable items (by inspecting the scene, questioning suspects, victims, and witnesses, submitting a report to the relevant authority);

when the person who committed the robbery became addicted to alcoholic beverages, where and with whom this person purchased and consumed alcoholic beverages before committing the robbery (by questioning the suspect (accused) and their close relatives);

the level of legal awareness and legal culture of the person who committed the robbery, whether there is a disregard for the law in their character, to what extent legal education is organized at the place of residence, education, and work of the offender (by interrogating the suspect (accused) and their close relatives, as well as the chairman of the neighborhood citizens' assembly);

whether control has been exercised over the accused's compliance with the rules for storing and carrying legally held weapons (by questioning the suspect and accused, questioning the person responsible for weapon control, studying the control documents, and, if necessary, submitting a report);

consideration of parents' and guardians' responsibility for fulfilling their obligations to raise minor children and restrict their presence outside the home at night, if the offense was committed after 22:00 at a restaurant, cafe, bar, club, disco, cinema, computer hall, internet club, or other entertainment (leisure) venues[12] (by questioning the victim and witnesses, initiating an administrative offense case and making a decision to send it to the competent authorities).

When determining the scope of circumstances to be proven for the crime of robbery, along with the grounds provided for in part one of Article 164 of the Criminal Code, additional qualifying features provided for in parts two, three, and four of Article 164 of the Criminal Code should also be considered.

In conclusion, it should be emphasized that the scope of circumstances that must be proven in the investigation of robbery is crucial for a complete, comprehensive, and objective establishment of the truth in a specific robbery case. This is especially useful when conducting pre-investigation checks and preliminary investigative actions on robbery by an investigator who lacks sufficient practical experience.

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