



## TACTICS OF CONFRONTATION IN CASES OF WITNESS OR VICTIM KNOWINGLY GIVING FALSE TESTIMONY

Abdullayev Akmaljon Yulchiboyevich

Instructor of the Department of Preliminary Investigation and Inquiry  
at the Law Enforcement Academy of the Republic of Uzbekistan

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**Abstract:** This article examines the specific characteristics of confrontational investigative actions in cases of knowingly false testimony by witnesses or victims. It also highlights aspects that investigators or inquiry officers should focus on during the preparatory stage before conducting a confrontation.

**Keywords:** false testimony, confrontation, refusal, preparation, organizational aspect, tactical aspect.

The role of confrontational investigative actions is invaluable in exposing perpetrators through qualitative, complete, and comprehensive investigation of crimes involving deliberate false testimony by witnesses or victims, as well as in ensuring the effectiveness of investigative actions carried out during the investigation.

Confrontation is conducted when there are serious contradictions between the testimonies of two previously interrogated persons to determine the cause of these contradictions [ 1 ].

Confrontation is a type of interrogation, which is a complex of questioning and verification operations carried out to obtain and consolidate testimony about case circumstances that are important for making correct decisions in criminal cases. It is considered a procedurally tactical and psychologically complex investigative action.

Based on the results of the confrontation, the investigator or inquiry officer establishes the factual circumstances of the case and eliminates serious contradictions in the testimonies of previously interrogated persons. In this process, the investigator or inquiry officer alternately asks questions about the same circumstances (facts, events) to two previously interrogated persons

[ 2 ], verifies and compares information received from the interrogated persons, and establishes the truth in accordance with disputed facts and events [ 3 ].

In the type of crime under study, confrontation is carried out in cases where the suspect or accused does not admit guilt in giving knowingly false testimony but does not refuse to testify during the investigation. On this matter, A.R. Belkin emphasized that conducting a confrontation with a process participant who refused to testify or did not answer certain questions during questioning is a problematic issue, stating that such cases should also be established in legislation as grounds for conducting a confrontational investigation [ 4 ].

R.S. Yanovsky stated that since the right to refuse testimony belongs to suspects and the accused, it is necessary to amend the legislation so that confrontations conducted with their participation are only carried out at the request of these participants [ 5 ].

We cannot agree with A.R. Belkin's views on the aforementioned problematic situation, as it is extremely illogical to force a suspect or accused who has the right to remain silent to

confront others using procedural law. Even if this were to occur, the intended purpose of the confrontation would not be achieved.

Regarding R.S. Yanovsky's opinion, we can partially agree with his views. In our opinion, it is more appropriate for the confrontation to be conducted not at the request of the suspect or accused, but with their consent, based on the decision of the investigator or inquiry officer.

In cases of knowingly false testimony by a witness or victim, compared to other types of crimes, confrontation requires strong professionalism from the investigator and inquiry officer. In practice, an investigator or inquiry officer may, due to inexperience or overconfidence, disregard the tactical rules and recommendations that should be followed during confrontation, unnecessarily jeopardizing the outcome of the investigation in a specific criminal case. As A.A. Stepanov puts it, the investigator bears a difficult and important role, being obliged not only to objectively reflect the main content of the confrontation in the report but also, as the organizer of crime disclosure, to professionally prepare and conduct it for the triumph of truth [6].

In our opinion, the investigator or inquiry officer should thoroughly prepare before conducting a confrontation in cases of knowingly false testimony by a witness or victim. We have analyzed the opinions of scholars on this issue and

based on judicial and investigative practice, we propose to distinguish between the organizational and tactical aspects of the preparatory stage for the investigator or inquiry officer before conducting a confrontation.

In our view, from an organizational point of view, the investigator or inquiry officer should resolve the following issues during the preparation process:

- determines the place where the investigative action should be carried out (office room, penitentiary institution, pre-trial detention center, and other places), and the persons subject to confrontation during the conduct of the investigative action in this place communicate with each other.

- take measures to prevent the occurrence of bodily harm or other negative circumstances to each other. Ensures the absence of various bladed stationery and office equipment, pointed objects, and objects that can cause bodily harm near the participants of the confrontation;

- organizes the participation of the forensic expert in the process of the investigative action to ensure video and photo recording of the conduct of the investigative action. If a forensic expert is not required, they check the operability of the technical equipment they have for video and photography;

- if one or both persons subject to confrontation must be brought from the place of detention, takes measures to bring them to the investigative body, ensure their escape and the safety of other participants in the course of the investigative action, as well as ensure the direct participation of operational officers and convoy service personnel in the course of the investigative action;

- takes measures to prevent persons subject to confrontation from simultaneously appearing at the investigative body and meeting and conversing with each other before the investigative action is carried out in order to ensure its effectiveness.

Tactically, the investigator or inquiry officer must resolve the following issues during the preparatory process:

- to avoid the "counter-effect" of the results of the investigative action, the person being confronted, who testifies to the correctness of the evidence in the criminal case, is fully convinced of his readiness for this investigative action;

- psychological preparation of the person being confronted, testifying to the correctness of the evidence in the criminal case, to help overcome fear, shame, and other negative circumstances for a certain period (determined based on the capabilities of the person conducting the confrontation and the person being confronted) before the conduct of the investigative action;

- if a defense attorney participates in the course of an investigative action, ensure that during the conduct of the investigative action they do not sit side by side or face to face with the defendant, directly or indirectly influencing him, that is, directing and controlling his thoughts, testimony, and answers to questions with the help of his eyes, mouth, or hand movements, or with the help of his feet, unnoticed from under the table;

- clarifying, based on the logic of the circumstances established during the investigation of the criminal case, with the testimony of which specifically confronted person the investigative action should begin;

- maximum study of the personality of the confrontation participants;

- dividing the content of the confrontation into parts (episodes) related to the circumstances under which the witness, victim gave knowingly false testimony during the preliminary investigation;

- based on the psychology of the participants in the investigative action

development of a "scenario" for the "separate identification" of a potential supporter of the investigator and the inquiry officer with a premeditated awareness of their actions and the application of tactics with their active participation;

- Determining who should be asked what questions during the investigative action and formulating the questions.

Tacticalally, if a witness or victim who gave accurate information during questioning about knowingly giving false testimony during the previous investigation refuses to participate in the confrontation or indicates that they cannot repeat their testimony, it should not be conducted.

It is very important to clarify which participant will be given the opportunity to give testimony first during the confrontation by the investigator or inquiry officer. On this issue, M.Kh.Rustambaev and A.Norbaev initially emphasized that, according to the investigator's opinion, it is necessary to give the opportunity to testify to the person giving the truthful testimony [7]. T.B. Mamatkulov, Sh.Kh. Khasanov [8] and K.A. Solovyov [9] also supported this opinion.

We do not support the opinions of M.Kh.Rustamboev and other scholars mentioned above regarding the crimes of knowingly giving false testimony by a witness or victim regarding the necessity of giving the opportunity to give testimony to the person giving the truthful testimony during the confrontation.

In our view, during confrontation, it is first necessary to give the opportunity to testify not to the person giving the truthful testimony, but to the person who knowingly gave false testimony. Because if we initially give the opportunity to testify to the person giving the truthful testimony during the confrontation process, we will allow the person who heard these testimonies and knowingly gave false testimony, while analyzing and synthesizing these

testimonies in their consciousness, to show false information that could mislead the investigation until they are given the opportunity to testify.

In conclusion, these proposals and recommendations serve the correct organization of confrontational investigative actions in the practice of judicial and investigative bodies in cases of crimes related to the giving of knowingly false testimony by a witness or victim, thereby exposing the perpetrators on the basis of a qualitative, complete, and comprehensive investigation of the crime, in turn, preventing the prosecution of innocent persons and, conversely, preventing the escape of guilty persons from criminal prosecution.

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