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Obstruction of law enforcement and judiciary functions: criminal offense in comparative dimension

Перешкоджання правоохоронним та судовим функціям: кримінальне правопорушення у порівняльному вимірі

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Abstract

The research paper addresses, via comparative approach, issues of criminal liability for obstruction of law enforcement and judicial functions in several jurisdictions. It is argued that the primary responsibility of law enforcement officers is to safeguard the established social interactions, as defined by the law, against specific violations. They are tasked with restoring the lawful position when individuals, public interests, legal norms, or public order are harmed.

Through the utilization of diverse academic research techniques and methodological tools, a comprehensive exploration of statutes related to the obstruction of law enforcement across different jurisdictions has been conducted.

In the concluding section of the paper, it is underlined that obstruction of justice refers to the intentional interference with the administration of justice by seeking to hinder or influence an ongoing legal process. It involves deliberately impeding or influencing officially authorized

Анотація

У науковій роботі за допомогою порівняльного підходу розглядаються питання кримінальної відповідальності за перешкоджання виконанню правоохоронних та судових функцій у декількох юрисдикціях. Стверджується, що основним обов'язком працівників правоохоронних органів є захист встановлених соціальних взаємодій, визначених законом, від конкретних порушень. На них покладено завдання відновлення законного становища, коли було заподіяно шкоду особам, суспільним інтересам, правовим нормам чи громадському порядку.

Завдяки використанню різноманітних академічних дослідницьких методів і методологічних інструментів було проведено комплексне дослідження законів, пов'язаних із перешкоджанням діяльності правоохоронних органів у різних юрисдикціях.

У заключному розділі документа підкреслюється, що перешкоджання правосуддю означає умисне втручання у

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procedures with the aim of preventing detection, apprehension, or punishment of individuals involved in illegal activities.

Key words: criminal offense, criminal liability, crime investigation, justice, law enforcement agency, obstruction, interference with activities.

Introduction

This research paper will discuss various parameters of such crimes as obstruction of law enforcement agencies and courts. Our study reveals that such offense is committed in various national jurisdictions. It corrupts national judiciaries as well as law enforcement agencies. Thus, by employing the comparative research method, we research such criminal offense in a global perspective.

Traditionally, law enforcement officials are the embodiment of the state itself; they perform critical functions for the wellbeing of the whole population at different levels of governance. Law enforcement agents usually operate at the frontline of any criminal justice system (Borovyk et al., 2023). Law enforcement actions and programs are aimed at preventing the occurrence of conditions and causes of potential or already committed socially dangerous phenomena, while stopping their development and liquidating the negative consequences.

As summarized by one Ukrainian commentator, the task of official activity of law enforcement officers is the protection of public relations enshrined in the legal provisions from specific encroachments, restoration of the legal status in case of damage to subjects of law, public interests, law and order, prosecution of persons who have committed offenses, ensuring law and order and maintaining legality, as well as ensuring the national security of state (Yermolaeva-Zadorozhnyia, 2017).

Protection of the rights of a natural or legal person is carried out by applying publicly established procedures. Being a protective tool of the state, law enforcement activities influence behavior of subjects of legal relations through the use of permits, prescriptions, prohibitions, control over their compliance and the

відправлення правосуддя шляхом спроби перешкодити або вплинути на поточний судовий процес. Ідеться про умисне перешкодження чи вплив на проведення офіційно дозволених процедур з метою недопущення виявлення, затримання чи покарання осіб, причетних до протиправної діяльності.

Ключові слова: кримінальне правопорушення, кримінальна відповідальність, розслідування злочину, правосуддя, правоохоронний орган, перешкодження, втручання в діяльність.

implementation of legal liability (Karapeichyk, 2012).

As a matter of key concept, an act is considered obstruction of justice when it partially or completely hinders the entire law enforcement procedure, spanning from its initiation to its conclusion. The obstructive conduct does not necessarily need to yield specific outcomes, but rather entails an intention to impede the lawful process. Additionally, an act can be classified as obstruction of justice if it is intentionally carried out with the purpose of causing delays in legal proceedings (Isra et al., 2017).

The *purpose* of the article is to discuss elements of the 'obstruction of justice' offense in various world jurisdictions and to demonstrate how it is enforced. It will be argued that obstruction of justice refers to the deliberate interference with the proper functioning of the legal system, with the intent to hinder or influence ongoing legal proceedings. We will also elaborate that such form of unlawful behavior can manifest itself in various ways, including providing investigators or law enforcement officials with false or deceptive information; destroying, modifying, or concealing evidence, failing to comply with a court order etc.

Methodology

By employing a variety of academic research techniques and methodological instruments, it has become possible to extensively examine obstruction of law enforcement statutes in various jurisdictions, which address various issues of liability for such offense. A well-chosen combination of methods has allowed to investigate the crime of law enforcement obstruction from various standpoints.

The *comparative law method* has been chosen as the key one for the purposes of this study. It has enabled the authors to research various aspects of criminal liability for obstruction of justice in several world jurisdictions and also to compare various liability models. The comparative method has been actively used in legal scholarship (Minchenko et al., 2021; Movchan et al., 2022). This might be a positive indicator of further globalization developments.

Next, the *method of systemic analyses* was used to comprehend the structure and elements of various countries' criminal law systems with reference to liability mode for obstruction offenses. In particular, using this method has enabled the authors to clarify connection between any given criminal law system and the specific framework for obstruction offense liability.

The *observation method* also made it possible to identify legislative trends throughout the world with regard to the offenses discussed while also strengthening of the integrity and protection of law enforcement agencies (and courts). The observation method has also indicated the need for further academic research in this evolving and vitally important area of law.

Finally, the formal-dogmatic method has been applied to analyze the external, normative forms of obstruction offenses and to correctly interpret specific legal provisions. This enabled to comprehend key principles, which encompass adoption of legislative acts and norms of both international and national law.

Overall, the elaborated combination of research methods has proved to be an effective one – it enabled in-depth legal analyses while also allowing to formulate novel conclusions and observations.

One important point should be made here. For the purposes of this study, we use the terms “obstruction of law enforcement investigation” and “obstruction of justice” as synonymous, explaining essentially the same concept. After all, our analyses has revealed that despite somewhat different meanings and approaches to this phenomenon in national criminal laws, the core meaning of obstruction remains the same – that is illegal intrusion into the due course of official proceedings conducted by various law enforcement agencies and courts.

Literature Review

A rather impressive body of academic literature covers various aspects of criminal liability for obstruction of justice, including its comparative aspect. Both European and American scholars have actively addressed these issues over the past decades. Such close academic attention makes good sense, since it is obvious that any country is much interested in protecting the integrity and transparency of its law enforcement and judiciary systems. The wheels of justice and wheels of policing have to rotate smoothly and deliver law & order – this is one of the key principles of the ‘rule of law’ society.

American commentator E. Podgor is her research paper on the issue explores the concept of obstructing justice in the federal system from three different perspectives: as a criminal act, as a factor that can increase sentencing, and as a basis for initiating judicial or presidential impeachment. The paper presents a comprehensive overview of the elements involved in obstruction of justice crimes, the legal challenges faced in court, and the parties responsible for handling these matters. Podgor’s analyses primarily focuses on the prosecutorial practices employed in federal courts when pursuing obstruction charges, highlighting how it is sometimes used as a convenient offense that can be easily proven in certain situations, but also acknowledging the differences in other contexts, such as impeachment inquiries (Podgor, 2021).

Another Western author, S. Green has dedicated a separate chapter on the issues of illegal interference in law enforcement business in his highly regarded treatise on white collar crime. Professor Green writes that the public’s conflicting moral stance on white-collar crime, particularly in relation to obstruction of justice, is evident. Doubts have emerged regarding whether the actions of defendants in high-profile obstruction cases truly warrant criminal treatment. The mentioned book chapter is a comprehensive framework that can be universally applied to assess both the statutory approach to various types of criminal conduct and the prosecution and sentencing of individual cases. This framework aims to establish a consistent theoretical basis for evaluating obstruction offenses, allowing for a more thorough analysis of their moral implications (Green, 2007). Thus, one can observe in Green’s research a very interesting combination of both legal and moral grounds behind the obstruction charges in any given white collar crime case.

Based on the results of her monograph research, I. Chub has introduced several proposals and recommendations with the goal of the improvement of certain criminal law provisions, including a new version of Art. 343 of the Criminal Code; a number of recommendations have been put forward regarding the debatable issues of qualification for intervention in the activities of law enforcement agency and executive service employees. In addition, while relying on the research results, the treatise author has formulated recommendations for the Ukrainian judiciary (Chub, 2017).

It should be added that illegal interference with the activities of law enforcement agents has been actively discussed in Ukrainian legal scholarship on the level of dissertations as well. This underlines the importance of in-depth analyses of such types of criminal behavior. For example, one PhD candidate writes that the criminal law concept of “interference in activity” follows takes into account the following main points: 1) intervention in the activity can be manifested only in active actions; 2) intervention can only take place in relation to legitimate activities – thus counteraction is illegal activity that cannot be recognized as interference; 3) interference can be expressed only in illegal behavior (committing actions that are not permitted by law); 4) only deliberate interventions can be considered as deed. Doing acts that interfere with the activities of someone, if the person is not was aware of their socially dangerous nature, cannot be assumed intervention; 5) finally, based on the position of the Supreme Court of Ukraine, the following actions should always be recognized as intervention: persuasion, blackmail, intimidation, threats, disclosure of statements or information compromising the person, resistance, violence, intentional destruction or damage to property, encroachment on life (Blazhivsky, 2010).

Overall, various issues of criminal liability for obstruction-related offenses, including elements, proof of guilt and sanctions, are quite actively discussed in both civil law and case law jurisdictions.

Results and Discussion

In the following pages of this research paper, we will pursue the goal of interpreting the key elements of criminal obstruction statutes in several world jurisdictions. Such multi-jurisdictional, comparative approach, as we envision it, will allow to better comprehend how national criminal law systems function and

develop and, more specifically, how various national legislators protect their law enforcement agencies and courts from various obstruction of justice offenses.

Our analyses will be based on posing a specific research question and then searching for an answer to it.

Question 1. How is obstruction of justice defined?

Obstruction of justice refers to the act of interfering with the administration of justice, typically by impeding or hindering the work of law enforcement, investigators, or judicial proceedings. It involves intentionally obstructing or influencing the legal process in order to prevent the discovery, apprehension, or punishment of individuals involved in criminal activity.

The widely recognized Merriam-Webster Dictionary defines obstruction of justice as the crime or act of willfully interfering with the process of justice and law especially by influencing, threatening, harming, or impeding a witness, potential witness, juror, or judicial or legal officer or by furnishing false information in or otherwise impeding an investigation or legal process (Merriam-Webster Dictionary (n/d)).

Another reference authority, the Black’s Law Dictionary, defines this concept as “the noncompliance with the legal system by interfering with (1) the law administration or procedures, (2) not fully disclosing information or falsifying statements, and (3) inflicting damage on an officer, juror or witness (The Law Dictionary (n/d)).

Obstruction of justice broadly encompasses the actions taken by individuals to unlawfully impede or influence the outcome of a government proceeding. Although the classic example of obstruction of justice involves tampering with a judicial proceeding, multiple laws address obstruction of justice, spanning across all branches of government and targeting different forms of obstruction. Instead of a single law, obstruction of justice is addressed in various criminal statutes, as there are numerous methods through which obstruction can be committed.

Question 2. What are the key elements of the ‘obstruction of justice’ offense?

While these statutes differ in their specifics, each obstruction of justice provision typically

necessitates evidence that the defendant 1) had knowledge of a government proceeding and 2) intentionally acted to disrupt the said proceeding.

As a matter of law enforcement practice, obstruction of justice can take various forms, including the following.

1. *Interfering with the investigation.* This involves actions such as providing false information, destroying evidence, or concealing evidence to mislead investigators or prevent the truth from emerging.
2. *Tampering with witnesses.* This type of illegal activity includes actions like intimidating, threatening, bribing, or otherwise influencing witnesses to withhold or alter their testimony.
3. *Lying under oath.* Giving false statements while under oath, whether in a courtroom or during a sworn deposition, can be considered obstruction of justice.
4. *Resisting arrest.* Engaging in physical resistance or evading arrest in an attempt to obstruct the lawful actions of law enforcement officers.
5. *Bribery or corruption.* Offering, soliciting, or accepting bribes or other forms of illegal gratification to influence the outcome of legal proceedings or investigations.

Globally, obstruction of justice is a serious offense in many jurisdictions, as it undermines the integrity of the legal system and the pursuit of justice. Thus, penalties for obstruction of justice can include fines, imprisonment, or both, depending both on the jurisdiction and the severity of the offense.

Question 3. How is obstruction of justice prosecuted in various world jurisdictions?

Various national statutory provisions address the issue of criminal liability for obstruction offenses by providing harsh penalties. A few are worth referring to in the following lines.

A. United States

In the United States, obstruction of justice is addressed in a number of federal laws. Among those, 18 U.S.C. § 1503 “Obstruction of justice in judicial proceedings” is perceived as the key one. Over the years, there have been numerous arguments presented in obstruction of justice prosecutions that require judicial interpretation. These arguments often revolve around the *mens rea* (mental state) required to satisfy the statute

and what qualifies as a “corrupt intent.” In practice, such issues can give rise to constitutional dilemmas, particularly when the individual accused of the obstruction offense is an attorney and the alleged conduct is connected to their representation of a client. Courts have also grappled with determining whether matters of obstruction should be classified as issues of law or fact, which is a significant consideration in determining the decision-maker. The generic obstruction of justice statute, as outlined in 18 U.S.C. § 1503, encompasses obstructions that can arise from both criminal and civil proceedings. Thus, an important side note here: American law addresses issues of liability for obstruction violations via means of both criminal and civil action.

Here are several other “obstruction” statutes under the federal law: 18 U.S.C. § 1505 “Obstruction of proceedings before federal departments and agencies”; 18 U.S.C. § 1512 “Tampering with witnesses, victims, or informants”; 18 U.S.C. § 1519 “Destruction, alteration, or falsification of records in federal investigations”; 18 U.S.C. § 1520 “Destruction of corporate audit records”.

These are just a few examples of federal obstruction statutes in the United States. There are also a few state-specific laws addressing obstruction of justice as well.

As a prominent American commentator Ellen Podgor puts it, in order to promote consistency and predictability within the criminal justice system, which are crucial for achieving deterrence, it is essential to pay attention to the framework of obstruction of justice. Merely relying on sentencing guidelines to ensure consistent sentencing is inadequate if the charging process itself lacks uniformity. To establish a consistent charging framework for obstruction of justice, it must be tailored to individual cases, take into account the specific circumstances of a trial, sentencing, or impeachment, and maintain fidelity to the contextual setting. Additionally, it should have a structure that is not subject to arbitrary changes based on the discretion of the United States Attorney, prevailing political climate, or the interpretations of government officials (Podgor, 2021). Such scholarly arguments have rational basis.

Another interesting point: conspiracy to commit obstruction of justice is a separate criminal offense under American law. Conspiracy to Obstruct (18 U.S.C. 371). The statute provides: if

two or more persons conspire either to commit any offense against the United States or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

Section 371 of the U.S. Code encompasses both a general prohibition on conspiracy and a specific prohibition on conspiracy to obstruct in the form of a conspiracy to defraud. To establish the offense of conspiracy to defraud the United States, the following elements must be present: (1) an agreement between two or more individuals; (2) with the intention to defraud the United States; and (3) the commission of an overt act by one of the conspirators in furtherance of the scheme. The term “fraud” as defined in the statute encompasses any conspiracy aimed at impairing, obstructing, or defeating the lawful functions of any government department through deceit, cunning, dishonesty, or similar means (Doyle, 2014).

We will add that based on American legal approach to prosecution obstruction of justice offenses this offense can be classified as white collar crime of global character. Indeed, there is almost not violence involved in the course or committing such illegal act. On the contrary, fraud, evasion, concealment of documents and information are the right words to describe the illegal nature of obstruction. As correctly put by some commentators, modern “globalization leads, at least in some cases, to the emergence of new types of economic crimes, the expansion of economic crime in general and its adaptation to various socioeconomic changes” (Lutsenko et al., 2023).

B. England

In England, obstruction of justice is covered under several statutes, including:

Section 1 of the Perjury Act 1911: Prohibition on perjury and other offenses against public justice;

Section 51 of the Criminal Justice and Public Order Act 1994: Offense of obstructing a constable in the execution of their duty;

Section 2(1) of the Criminal Attempts Act 1981: Offense of attempting to obstruct, pervert, or defeat the course of justice;

Section 5(2) of the Criminal Law Act 1967: Prohibition on conspiracy to obstruct justice.

Being a part of the English common law system, its criminal law incorporates such a common law offense as “Perverting the Course of Justice”. This offense is committed when an accused: does an act or series of acts; which has or have a tendency to pervert; and which is or are intended to pervert; the course of public justice.

The offense is contrary to common law and is triable only on indictment. It carries a maximum penalty of life imprisonment and/or a fine. The course of justice must be in existence at the time of the act(s) (Legal Guidance, 2022).

C. China

In China, the criminal offense of obstructing justice is recognized in several provisions of the Criminal Law of the People’s Republic of China, including:

Article 277: Obstructing witnesses, experts, or appraisers.

Article 310: Perverting the course of justice.

Article 382: Hindering the execution of judgments or orders.

Article 383: Escaping from prisons, detention centers, or custody, or refusing to accept judgments or orders.

These are examples of provisions within the Chinese Criminal Law related to obstruction of justice. The Criminal Law of China encompasses a wide range of offenses and provisions related to the obstruction of justice and may vary depending on the specific circumstances and nature of the obstruction.

Here is an interesting case involving obstruction of justice charges brought in the U.S. against two Chinese nationals. The criminal complaint was unsealed on October 24, 2022, in federal court in Brooklyn charging two People’s Republic of China (PRC) intelligence officers with attempting to obstruct a criminal prosecution in the Eastern District of New York.

Guochun He and Zheng Wang were charged with attempting to obstruct a criminal prosecution of Company-1 in federal district court in the Eastern District of New York. Defendant He also was charged with two counts of money laundering based upon bribe payments totaling approximately \$61,000 in Bitcoin, made in furtherance of the scheme.

According to the complaint, the defendants were PRC intelligence officers conducting foreign intelligence operations targeting the United States, on behalf of the PRC government and for the benefit of Company-1. Starting in 2019, they directed an employee at a U.S. government law enforcement agency (GE-1), whom they believed they had recruited as an asset, to steal confidential information about the criminal prosecution of Company-1 in order to interfere with that prosecution. In reality, GE-1 was working as a double agent on behalf of the FBI.

In particular, in October 2021, GE-1 used an encrypted messaging program to send the defendants a single page from a purported internal strategy memorandum from the U.S. Attorney's Office for the Eastern District of New York regarding the Company-1 case. The document appeared to be classified as "SECRET" and to discuss a plan to charge and arrest two current Company-1 employees living in the PRC. Guochun He responded that the document was "exactly what I am waiting for" and that he was "waiting for the feedback from some guys" about whether there were any questions about the document. Guochun He then paid GE-1 approximately \$41,000 in Bitcoin for stealing that document (U.S. Department of Justice press release, 2022).

D. Germany

In Germany, obstruction of justice is addressed under various provisions of the Strafgesetzbuch (German Criminal Code), including:

Section 258: Obstruction of justice.

Section 258a: Disruption of public services.

Section 258b: Obstruction of justice by using false evidence.

Section 258c: Coercion of witnesses.

Back in September of 2021 the German prosecutors have raided the country's finance ministry as part of an investigation into alleged obstruction of justice, in a move that could prove embarrassing for Olaf Scholz, then the finance minister and frontrunner to succeed Angela Merkel as chancellor. The raids on both the finance and justice ministries were part of an investigation that started in February last year into the Financial Intelligence Unit, a unit of German customs, which is the government's main anti-money laundering agency.

Prosecutors were looking into whether FIU employees failed to pass on warnings from banks about possible money laundering "to the tune of

millions of euros" to law enforcement agencies (Financial Times, 2019).

E. France

In France, obstruction of justice is covered under several provisions of the Code pénal (French Penal Code).

Under Art. 433 of the Penal Code, a three-year prison term and a fine of 45,000 euros can be imposed for a threat to commit a crime or misdemeanor against persons or property made against a person holding a public elective office, a magistrate, a juror, a lawyer, a public or ministerial officer, a member of the national gendarmerie, an official of the national police, customs, labor inspection, the prison administration or any other person vested with public authority.

Furthermore, a penalty of five years' imprisonment and a fine of 75,000 euros can be imposed for the use of threats or violence or any other act of intimidation towards any person participating in the execution of a public service mission, in order to obtain for oneself or for others a total or partial exemption or a differentiated application of the rules which govern operation of the said service (Code penal, 2022). Thus, we are talking here about interference in the official conduct of business by means of threats or intimidation.

Other provisions of the French Penal Code include:

Article 434-9: Obstruction of the administration of justice.

Article 434-15: Obstruction or violence against a judicial officer.

Article 434-20: Intimidation or retaliation against witnesses, experts, or interpreters.

Article 434-22: Destruction, concealment, or falsification of evidence.

These provisions of the French Penal Code are relevant to obstructing justice or related offenses.

In 2021, the France's Constitutional Court has ruled that the legal provision used by the national competition enforcer to fine companies for obstructing investigations is unconstitutional, because another provision also allows the authority to penalize the same conduct (Craig, 2021).

F. Ukraine

The Ukrainian criminal law has long recognized the need to address the issue of obstructing law enforcement activities, including criminal investigations and other types of official inquiries.

In particular, Ukrainian legal scholars have been actively studying foreign experience of criminal law regulation in their treatises (Movchan et al., 2021). Thus, using comparative method of research is essential for the development of emerging criminal law system of Ukraine. This argument is fair not just for obstruction of justice offenses but for other offenses as well (Vozniuk et al., 2021).

Under the current national law, methods of obstructing official activity of a law enforcement officer can be both violent and non-violent. Violent methods include: inflicting bodily harm injuries; threats of murder, violence, or harm to property; physical resistance; murder of a law enforcement officer, destruction of his property, etc.

The Criminal Code of Ukraine defines interference in the activities of employees of law enforcement bodies, state executive bodies in Art. 343 of the Criminal Code as influence in any form on law enforcement officer or employee state executive service in order to prevent his performance of official duties or achieve making an illegal decision. At the same time, the Criminal Code provides in the articles 342, 345, 347, 348, 349 for liability for resistance, threat or violence, intentional destruction or damage to property, encroachment on the life of a law enforcement officer. In connection with this, a question arises regarding the ratio of such norms (Chub, 2014).

As one Ukrainian researcher puts it, circumstances to be ascertained in the course of the investigation of obstruction of the activity law enforcement officer, play a significant role during relevant criminal investigations, because they are the defining landmarks that shape the direction of the investigation. They also make it possible to determine the set of measures that should be taken into account to ensure full, quick and objective investigation. Accordingly, the circumstances to be investigated during intervention in the activities of a law enforcement officer should include: 1) circumstances related to the occurrence of a criminal offense; 2) circumstances related to the person of the victim; 3) circumstances related to the person of

the criminal (Guseva, 2021). As a result, forensics, criminal investigation techniques become very important in the course of investigating obstruction of law enforcement offenses.

Real case examples of nonviolent obstruction include blackmail; an offer, promise or giving unlawful benefits to a law enforcement officer; official forgery; illegal commissions or orders; other influence on the employee of the law enforcement body through abuse of power or official authority position, etc.

Among the most typical forms of interference with law enforcement in Ukraine are the following.

1. Resistance to a law enforcement officer or intervention in the performance of his official duties, combined with the application violence or with the threat of its use and committed directly during the performance of his official duties, as well as malicious disobeying the legal requirements of a law enforcement officer (conducting investigative or operational search actions, patrolling territories, arresting offenders, responding to applications and messages, etc.). These are included in Part 3 of Art. 296, articles 342, 343, 391 of the Criminal Code of Ukraine.
2. Encroachment on the life and health, property, personal integrity of a law enforcement officer or his relatives for revenge or intimidation of official duties. Such actions are proved for in articles 341, 345, 347, 348, 349, 392 of the Criminal Code of Ukraine (Yermolaeva-Zadorozhnyia, 2017).

The following examples reveal, at least to some degree, the essence of the obstruction of justice offense.

Imagine a scenario where a person is facing trial for a serious criminal offense. During the trial, it becomes evident that there is strong evidence against the defendant, and their chances of being convicted are high. In an effort to obstruct the court proceedings and evade justice, the defendant engages in the following actions:

1. *Intimidating witnesses.* The defendant contacts witnesses who are scheduled to testify against them and threatens them with physical harm or other forms of retaliation if they proceed with their testimony. This intimidation is aimed at dissuading

- witnesses from providing incriminating evidence and weakening the prosecution's case.
2. *Fabricating evidence.* The defendant creates false documents or manipulates existing evidence to mislead the court and cast doubt on their own guilt. This fabrication is intended to undermine the credibility of the prosecution's case and confuse the judge and jury.
 3. *Disrupting court proceedings.* The defendant engages in disruptive behavior during court sessions, such as shouting, interrupting witnesses, or refusing to comply with the judge's instructions. This disrupts the orderly conduct of the trial and may create an atmosphere of confusion and disorder.
 4. *Engaging in witness tampering.* In an attempt to sway the testimony of witnesses, the defendant contacts family members or acquaintances of the witnesses and tries to coerce or bribe them into influencing the witnesses' statements or persuading them to withhold crucial information.

By engaging in these obstructive actions, the defendant is intentionally interfering with the court's ability to conduct a fair and impartial trial. Obstructing a court proceeding is a serious offense and can result in additional criminal charges and severe penalties if proven. It undermines the integrity of the judicial process and hampers the pursuit of justice.

Question 4. Are there any 'big time' cases involving the discussed criminal offense?

A few high-profile cases involving obstruction of justice are further illustrated:

1. *Watergate Scandal* (United States, 1972-1974). The Watergate scandal led to the resignation of President Richard Nixon. It involved the break-in at the Democratic National Committee headquarters, and during the subsequent investigations, evidence emerged of Nixon and his administration attempting to cover up their involvement in the break-in and obstructing the investigations.
2. *Martha Stewart* (United States, 2001-2004). Martha Stewart, a prominent businessperson and television personality, was convicted of obstruction of justice and making false statements. The charges stemmed from her involvement in a stock trading scandal where she was accused of insider trading and providing false information to investigators.

3. *Enron Scandal* (United States, 2001-2002). The Enron scandal was a major corporate fraud case involving the energy company Enron. Executives at Enron, including CEO Jeffrey Skilling and CFO Andrew Fastow, were charged with obstruction of justice and other offenses related to the manipulation of financial statements, destruction of documents, and misleading investigators.
4. *Silvio Berlusconi* (Italy, ongoing). Silvio Berlusconi, the former Prime Minister of Italy, has faced multiple legal cases, including charges of obstruction of justice. These charges stemmed from allegations of bribery, tax evasion, and other criminal activities. Berlusconi has been involved in several high-profile legal battles over the years.

These and similar cases from various world jurisdictions highlight notable instances where individuals or organizations have been accused or convicted of obstructing justice. It is important to note that the details and outcomes of such cases can vary, and such list is not exhaustive.

Donald Trump, the 45th President of the United States, faced allegations and investigations related to obstruction of justice during his presidency. However, it is important to note that I can provide an overview of the situation, but I do not have access to real-time information or any knowledge beyond my September 2021 cutoff.

During his tenure, several significant events occurred that led to discussions of potential obstruction of justice. One notable instance was the investigation conducted by Special Counsel Robert Mueller, who was appointed to examine Russian interference in the 2016 U.S. presidential election and any potential coordination with the Trump campaign.

In his report, released in April 2019, Mueller examined potential obstruction of justice by President Trump. While the report did not conclude that Trump had committed a crime, it did not exonerate him either. The report outlined multiple instances where Trump's actions may have constituted obstruction of justice, including efforts to curtail the investigation and influence witnesses (Rizzo, 2019).

It is important to add that the Mueller report did not result in criminal charges against Trump, and the question of whether his actions constituted obstruction of justice remained a topic of debate

and interpretation among legal experts and policymakers.

Based on the results of our comparative research, we argue that obstruction of justice and law enforcement proceedings can take place at any level of official functions – both at ‘lay criminal’ level and up to the highest ranking officials of the state, including heads of the government. Also, countries with a stronger embodiment of the rule of law principle into the national legal systems demonstrate a much more aggressive approach to prosecuting the discussed offense when compared to nation with developing legal systems.

Conclusions

Obstruction of justice refers to the act of willfully interfering with the administration of justice, by attempting to impede or influence an ongoing legal proceeding. The public danger lies in the fact of obstructing proper functioning of the legal system, commonly by impeding or hindering the efforts of law enforcement, investigators, or judicial proceedings. It entails deliberately impeding or influencing the legal procedures with the intention of preventing detection, arrest, or punishment of individuals engaged in illegal actions.

This criminal phenomenon can take various forms, among them: providing false or misleading information to investigators or law enforcement officials; destroying, altering or hiding evidence; threatening or intimidating witnesses or jurors; attempting to bribe or influence a judge or other official in a legal proceeding; failing to comply with a court order.

Obstruction of justice is a serious criminal offense under the laws of most world jurisdictions. This offense can carry severe penalties, including fines, imprisonment, and in some cases, disbarment or removal from public office.

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