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**CRIME INVESTIGATION:  
FORENSIC METHODOLOGY**

*Textbook*

**Team of authors**

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A complex and multifaceted phenomenon—the investigation of certain types of criminal offences—is analyzed. In the course of the presentation, taking into account the modern state of development of the sciences of criminology and criminal process, the peculiarities of investigation of some of the most widespread illegal acts in the practice of law enforcement agencies were considered. The structure of the forensic characteristics of various types of criminal offences has been worked out, as well as a detailed analysis of their elements. Typical investigative situations that may occur in certain categories of criminal proceedings are highlighted. Considerable attention is focused on highlighting the organizational and tactical features of conducting separate investigative (search) actions of the initial and subsequent stages of the investigation.

For experts in criminology, criminal process, operational and investigative activities, scientists of other law professions, scientists and pedagogical staff of higher education institutions, applicants, cadets, listeners and practical employees of law enforcement agencies.

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Проаналізовано складне та багатоаспектне явище – розслідування окремих видів кримінальних правопорушень. В процесі викладення з урахуванням сучасного стану розвитку наук криміналістики та кримінального процесу розглянуто особливості розслідування одних з найбільш розповсюджених в практиці правоохоронних органів протиправних діянь. Опрацьовано структуру криміналістичної характеристики різних складів кримінальних правопорушень, а також здійснено докладний аналіз їх елементів. Виокремлено типові слідчі ситуації, котрі можуть мати місце в визначених категоріях кримінальних проваджень. Значну увагу зосереджено на висвітленні організаційно-тактичних особливостей проведення окремих слідчих (розшукових) дій початкового та подальшого етапів розслідування.

Для фахівців криміналістики, кримінального процесу, оперативно-розшукової діяльності, науковців інших юридичних спеціальностей, науково-педагогічного складу закладів вищої освіти, здобувачів, курсантів, слухачів та практичних працівників правоохоронних органів.

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## CONTENTS

Authors .....	6
Introduction .....	7
<b>Chapter 1. GENERAL THEORETICAL PRINCIPLES OF INVESTIGATION METHODOLOGY OF CERTAIN TYPES OF CRIMINAL OFFENCES .....</b>	<b>9</b>
1.1. Content, meaning and structure of investigation methodology of certain types of criminal offences .....	9
1.2. Forensic characteristics of criminal offences .....	14
1.3. Characteristics of other elements of investigation methodology of certain types of criminal offences .....	19
Test questions .....	22
Topics of essays .....	22
<b>Chapter 2. INVESTIGATION OF MURDERS .....</b>	<b>23</b>
2.1. Forensic characteristics of murders .....	23
2.2. Initial stage of investigation .....	30
2.3. Further stage of investigation .....	33
2.4. Peculiarities of investigation of certain types of murders .....	35
Test questions .....	39
Topics of essays .....	39
<b>Chapter 3. INVESTIGATION OF CRIMINAL OFFENCES AGAINST PROPERTY .....</b>	<b>40</b>
3.1. Forensic characteristics of thefts .....	40
3.2. Initial and further stages of the investigation of thefts .....	49
3.3. Forensic characteristics of robberies and burglaries .....	54
3.4. Peculiarities of investigation of robberies and burglaries .....	56
3.5. Forensic characteristics of fraud .....	59
Test questions .....	71
Topics of essays .....	72
<b>Chapter 4. INVESTIGATION OF KNOWINGLY FALSE REPORTS OF A THREAT TO THE SAFETY OF CITIZENS, DESTRUCTION OR IMPAIRMENT OF PROPERTY .....</b>	<b>73</b>
4.1. Forensic characteristics of knowingly false reports of a threat to the safety of citizens, destruction or impairment of property .....	73
4.2. Initial stage of investigation .....	77
4.3. Tactics of individual investigative (search) actions .....	78
Test questions .....	84
Topics of essays .....	84

Chapter 5. INVESTIGATION OF RIOTS .....	85
5.1. Forensic characteristics of riots .....	85
5.2. Typical investigative situations of investigation and appropriate algorithm of police officers' actions .....	92
5.3. Organizational and tactical features of individual investigative (search) actions .....	95
Test questions .....	103
Topics of essays .....	103
 Chapter 6. INVESTIGATION OF HOOLIGANISM .....	 104
6.1. Forensic characteristics of hooliganism .....	104
6.2. Typical investigative situations of investigation and appropriate algorithm of police officers' actions .....	113
6.3. Organizational and tactical features of individual investigative (search) actions .....	117
Test questions .....	126
Topics of essays .....	126
 Chapter 7. INVESTIGATION OF PIMPING AND SOLICITATION PERSONS ENGAGED IN PROSTITUTION .....	 127
7.1. Forensic characteristics of pimping and engaging persons in prostitution .....	127
7.2. Typical investigative situations of investigation and appropriate algorithm of police officers actions .....	134
7.3. Organizational and tactical features of individual investigative (search) actions .....	136
Test questions .....	145
Topics of essays .....	145
 Chapter 8. INVESTIGATION OF CRIMINAL OFFENCES RELATED TO THE CIRCULATION OF NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES, THEIR ANALOGUES OR PRECURSORS .....	 145
8.1. Forensic characteristics of criminal offences related to the circulation of narcotic drugs, psychotropic substances and precursors .....	146
8.2. Typical investigative situations of initial stage of investigation .....	158
8.3. Organizational and tactical features of individual investigative (search) actions .....	164
Test questions .....	182
Topics of essays .....	182

Chapter 9. INVESTIGATION OF CRIMINAL OFFENCES AGAINST TRAFFIC SAFETY AND TRANSPORT OPERATIONS .....	183
9.1. Forensic characteristics of criminal offences against traffic safety and transport operation s.....	183
9.2 Concepts, signs, classification of traffic accidents .....	186
9.3 Organizational and tactical features of conducting individual investigative actions and assigning examinations .....	187
Test questions .....	192
Topics of essays .....	192
Chapter 10. INVESTIGATIONS OF CRIMES RELATED TO PUBLIC FUNDING OF HEALTHCARE .....	193
10.1. Forensic analysis of crimes related to public funding of healthcare sector .....	193
10.2. Participation of a specialist in certain procedural actions .....	213
10.3. Use of forensic examinations in the investigation of crimes related to state financing of the healthcare sector .....	216
Test questions .....	242
Topics of essays .....	242
Chapter 11. INVESTIGATION OF ENGAGING MINORS IN CRIMINAL ACTIVITY .....	243
11.1. Forensic characteristics of engaging minors in criminal activity .....	243
11.2. Typical investigative situations of investigation the engaging of minors in criminal activity .....	247
11.3. Conduct of separate investigative (search) actions during investigation of engaging minors in criminal activity .....	248
Test questions .....	254
Topics of essays .....	254
Chapter 12 FORENSIC SUPPORT FOR OVERCOMING OPPOSITION TO INVESTIGATION	
12.1. Concept and essence of forensic support for overcoming opposition to pre-trial investigation .....	255
12.2. Forms of counteraction at the stages of pre-trial investigation .....	258
12.3. Characteristics of subjects and objects of counteraction to pre-trial investigation .....	261
Test questions .....	264
Topics of essays .....	264
References .....	265

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## INTRODUCTION

In the current context of our country's development as an independent state governed by the rule of law and its approximation to European standards, the problem of combating crime is becoming increasingly important. The main European values are human life and freedom, as well as constitutional rights protected by the state. The protection of these rights is one of the main functions of the relevant state bodies, institutions and organisations. Forensic support for the investigation of criminal offences is a priority for law enforcement agencies in any European country, including Ukraine. Unfortunately, the political and economic situation in our country does not allow us to fully ensure the proper investigation of criminal offences, as evidenced by the statistical data that has remained unchanged in recent years. Criminal offences such as murder, bodily harm, robbery and theft remain dangerous and widespread. Weapons and explosive devices are often used in these crimes, and their circulation has recently increased. Due to negative socio-economic factors, such offences as rioting, hooliganism, pimping, involvement in prostitution, drug trafficking, etc. are becoming more common.

This indicates an urgent need to strengthen the fight against crime. One of the areas of this activity is to equip law enforcement agencies and future law enforcement officers with scientifically sound recommendations for investigating certain types of criminal offences. That is why we believe that the proposed publication will contribute to improving the qualifications and level of knowledge of practitioners of the relevant forensic recommendations.

The proposed material is presented in eight chapters. The first chapter, «General Theoretical Principles of the Methodology of Investigation of Certain Types of Criminal Offences», highlights the most general and important aspects of this scientific category: its essence, concept, structure, and content with relevant components. The second «Investigation of murders», the third «Investigation of criminal offences against property», the fourth «Investigation of deliberately false reports of a threat to the safety of citizens, destruction or damage to property», the fifth «Investigation of riots», the sixth «Investigation of hooliganism», the seventh «Investigation of the establishment and maintenance of brothels and pimping houses, brothels and

pimping» and the eighth «Investigation of criminal offences in the field of trafficking of narcotic drugs, psychotropic substances and precursors» chapters formulate a system of scientific provisions and practical recommendations on the specifics of organising and conducting investigations of these groups of criminal offences. The relevant subsections of each chapter analyse the issues of forensic characterisation of the relevant unlawful acts, the procedure for police officers to act in specific typical investigative situations, and forensic support for certain investigative (search) actions.

Each chapter ends with a list of test questions to consolidate the material and check that students have mastered it. The material on the relevant topics is also accompanied by a list of essay topics.

The applied nature of this publication makes it useful and accessible not only for cadets, students, masters, postgraduates and academic staff of higher education institutions, but also for practitioners. Thus, this textbook is an attempt to provide a theoretical basis for the future effective investigation of various categories of criminal offences by law enforcement officers of Ukraine.



**Chapter 1**  
**GENERAL THEORETICAL PRINCIPLES**  
**OF INVESTIGATION METHODOLOGY**  
**OF CERTAIN TYPES OF CRIMINAL OFFENCES**

**1.1. Content, meaning and structure of investigation methodology of certain types of criminal offences**

Scientific research into the methodology of investigation of certain types of criminal offences as a forensic category has been going on for decades. However, there is no final formulation of its content and concept. In addition, forensic scientists have not yet provided the structural elements. It should be noted that the need to develop certain methods may arise after changes in criminal law, and in general, many corpus delicti of criminal offences do not yet have a developed algorithm for investigation.

In general, the methodology of investigation of certain types of criminal offences is a means of practical implementation of the provisions of forensic techniques and forensic tactics, since outside the actual conditions of investigation of specific unlawful acts there is no real possibility of their use. In other words, the essence of this scientific category is a system of methods and techniques proposed for the purpose of investigation and prevention of criminal offences, which are used to consistently study the circumstances of an unlawful act and expose the perpetrators of such an act in the course of investigation.

It can also be defined as a branch (subsystem) of Criminalistics that contains forensic recommendations based on legal acts for the investigation of specific types (groups) of criminal offences.

The development of investigation techniques is based on an integral system of general provisions (principles), which include the following

–these developments are conditioned by the needs of law enforcement practice;

–implementation of the principle of legality of scientific recommendations, which must comply with the principles of criminal procedure, ethics and humanity;

–integrated use of legal and other sources of information;

–use of new achievements of scientific and technological progress and

advanced law enforcement experience, as well as other areas of practice;

–an optimal set of procedural actions, i.e. in any particular methodology, it is advisable to use the full range of ISA, UISA, which ensures the resolution of the investigative situation, achievement of the investigation goal.

Its main task is to equip authorised persons (investigators, inquirers, detectives, prosecutors) with the scientific and methodological complex of knowledge and skills necessary for their professional activities to investigate and prevent certain types of unlawful acts in various investigative situations arising in the course of such activities.

In general, the task of forensic methodology arise from the general objectives of criminal proceedings, formulated in Article 2 of the CPC of Ukraine, and can be divided into two groups:

General:

- ensuring the correct application of laws and regulations
- timely and reasonable initiation of an investigation;
- prompt and complete investigation of criminal offences;
- comprehensive, complete, objective investigation of all circumstances of an unlawful act and bringing the perpetrators to justice.

Special:

- development of scientific recommendations for the effective investigation of certain types of criminal offences;
- determining the forensic significance of the circumstances to be established, investigated and proved;
- studying and generalising the practice of using operational data in the investigation process;
- development of the most rational forms of interaction of authorised persons with other services and units of law enforcement agencies;
- development of preventive measures to prevent the commission of certain types of criminal offences.

In other words, the development of a system of the most effective methodological recommendations for the investigation of certain types of criminal offences is created on the basis of knowledge of criminal patterns.

*Thus, the methodology of investigation of certain types of criminal offences is a system of scientific provisions, as well as methodological and practical recommendations developed on their basis for the investigation of certain types and groups of unlawful acts.*

The system of this branch of the science of Forensics consists of two interdependent components:

- conceptual (general, theoretical) provisions;
- methods of investigation of certain types of criminal offences (individual, private forensic techniques).

**Conceptual provisions** is the theoretical basis of the chapter, which deals with the issues that ultimately determine the creation of effective individual methods used by law enforcement. In particular, these are the following issues:

- concept, system, tasks, principles of the methodology, its relationship with other branches of forensic science;
- classification of individual techniques and their structure;
- concept and structure of forensic characteristics;
- general provisions of interaction, preventive activities in the course of organising and conducting an investigation;
- concept of the investigative situation, stages of investigation and their content.

**Certain forensic techniques** are independent, internally structured sets of recommendations on the organisation and conduct of investigation and prevention of certain types of criminal offences, developed in accordance with the needs of practice.

Within the section, individual techniques are divided into types. This makes it possible to immediately determine the general purpose and the degree of specificity of the recommendations contained in a particular type of methodology.

***Types of individual forensic techniques:***

**Species-specific techniques** – are distinguished on the basis of the criminal law classification of criminal offences. These are mainly complexes of forensic recommendations for investigating an offence of one type (for example, a methodology for investigating theft). Also included in this category are sets of recommendations for investigating groups of similar criminal offences (for example, a methodology for investigating robberies and assaults - contains forensic recommendations for two criminal offences separately identified in the Criminal Code of Ukraine, which differ in the degree of impact on the victim). The specific methodology covers the entire investigation process from the decision to initiate criminal proceedings to their completion. It is used independently to investigate a specific unlawful act. It has an average degree of generalisation of recommendations and is used regardless of whether the act was committed with or without qualifying features.

**Intraspecific techniques** – are distinguished within the same type (group) of criminal offences by any individual forensically significant or qualifying features (for example: distinguished by the method of commission–methodology for investigating pickpocketing; by the method and place of commission– methodology for investigating burglary). Like the species methodology, this type of methodology can be used independently or together with the species methodology. It has the lowest degree of generalisation of recommendations and is used to investigate an act committed in the presence of a qualifying feature or a forensically significant feature that is the basis for the formation of this methodology.

**Non-species-specific techniques** – are distinguished by certain forensically significant or other features that are important for the investigation of any criminal offences without regard to their type (for example: distinguished by the subject of the offence–methodology for investigating criminal offences of minors; methodology for investigating criminal offences committed by organised criminal groups; distinguished by the impact of time–methodology for investigating criminal offences in hot pursuit; distinguished by the impact of time and the state of investigation–methodology for investigating).

*The system of principles of the section includes:*

1) **general principles**, defining the content, system and significance of the section as a whole;

2) **special principles**, which include the main provisions of building methods for investigating certain types and groups of crimes.

The general *principles of forensic methodology* include:

1) **compliance with the law** (recommendations on detection, investigation and prevention of criminal offences must comply with the law and regulations; i.e. recommendations must be not only appropriate, but also legal);

2) **unity of theory and practice** (recommendations developed within the framework of the forensic methodology are based on the results of generalisation of practice; in turn, recommendations developed by science influence practice and improve investigation processes);

3) **independence of the forensic methodology** (as a branch of forensic science, it has its own subject matter, specific tasks, and represents a system of independent original theoretical provisions and scientific and practical recommendations for effective investigation);

4) **integrity of the forensic methodology** (forensic methodology is a set of theoretical provisions and scientific and practical recommendations that are interdependent, mutually complementary and form a single system of

knowledge).

***The special principles of forensic methodology are:***

**1) scientific nature of investigation methods** (on the one hand, each methodology has a certain level of theoretical justification, explanation of the processes of investigating criminal offences of a particular type; on the other hand, it is saturated with scientific knowledge from other areas of Criminalistics and related sciences);

**2) specificity of investigation methods** (they are designed to organise the investigation of not all, but only certain types, groups or categories of criminal offences, depending on the degree of generalisation of the forensic recommendations that make up this particular methodology);

**3) planned basis of investigation methods** (each individual methodology adapts the general provisions of planning to the specific conditions of investigating certain types of criminal offences; the result of applying the recommendations of a particular methodology is an investigation plan for a specific criminal proceeding);

**4) stages of investigation methods** (the process of investigating criminal offences is usually divided into separate stages, during which certain tasks are solved; the forensic recommendations that make up the methodology are precisely focused on solving these tasks in accordance with each stage, and the structure of the methodology reflects these stages);

**5) situational and multivariate investigation methods** (some methodologies take into account typical investigative situations that arise during the investigation of a particular type of criminal offence and, depending on them, recommend a particular variant of the investigation);

**6) structural unity of investigation methods** (most individual methods, mainly species and intraspecific, have the same structure, which can be used to develop a new methodology for investigating criminal offences of a particular type; however, the content of the same structural elements of different methods differs significantly. Extra-species techniques, as a rule, have a peculiar structure, which should be taken into account when developing such a set of recommendations);

**7) the principle of combining investigative (search) actions (ISA), undercover investigative (search) actions (UISA) and operational-search measures** (reflected both in the interaction of authorised persons with operatives and in the independent performance of certain actions by each of these subjects within their powers. Forensic recommendations in the form of investigation algorithms (programmes) contain a combination of ISA, UISA and other procedural actions and measures.

With regard to the structure of this scientific category, it should be

noted that any investigation methodology has relevant components. With the adoption of the current Criminal Procedure Code of Ukraine (CPC), certain aspects of certain methods of investigating criminal offences have changed.

In particular, the concept of a criminal case at the pre-trial investigation stage is currently absent – there is only the entry of information into the Unified Register of Pre-trial Investigations (URPTI) and the commencement of a pre-trial investigation; no operational search activities are carried out during criminal proceedings – but covert investigative (detective) actions have emerged. Despite these changes, the need to develop certain forensic techniques remains: to provide the most effective and appropriate recommendations for investigating certain types of criminal offences.

Thus, *structure* of the studied scientific category is as follows:

- forensic characterisation of criminal offences;
- analysis of primary information and initiation of criminal proceedings;
- circumstances to be established in criminal proceedings;
- typical investigative situations of the investigation;
- peculiarities of conducting initial investigative (detective) actions, covert investigative (detective) actions and other measures;
- peculiarities of further investigative (detective) actions, covert investigative (detective) actions and other measures;
- peculiarities of using specialised knowledge in the investigation of criminal offences;
- preventive activities of authorised persons;
- peculiarities of activity of authorised persons at the final stage of investigation.

## **1.2. Forensic characteristics of criminal offences**

Any methodology for investigating certain types of criminal offences has a certain structure, an important element of which is a forensic characteristic. The concept of forensic characterisation as an element of the methodology, the number, content and meaning of the structural elements of this scientific category remain uncertain and controversial. Moreover, at the turn of the millennium, the issue of the expediency of the existence of a forensic characteristic as a scientific category in general arose.

The significance of the criminalistics of criminal offences can be divided into practical and theoretical. For police officers who are directly involved in the investigation, the most important thing is the practical

application of a particular tool that will help in the investigation process. That is, the real value of a criminalistic characteristic of a particular type of unlawful act is the possibility of its practical application, the ability to resolve certain issues based on it and, of course, the ability to make the investigation of a certain category of criminal offences faster and more efficient.

The forensic characterisation of criminal offences is a dynamic category. In other words, it can change depending on the specific conditions of reality. However, its use may have different directions in the activities of law enforcement officers. For example, based on the method, place and time of the offence, a version of the offender's identity may be put forward, and vice versa, if the offender is detained and there is data on the circumstances of the offence, a version of the commission of other, not yet solved crimes may be built.

*Thus, the forensic characterisation of criminal offences is a system of information about the forensically significant features of an unlawful act, which reflects the natural connections between them and serves to build and test versions to solve the main tasks of the investigation.*

As the methods and means of criminal activity change, the specific quantitative and qualitative components of the forensic characteristics of certain types of criminal offences are also transformed. The elements that are now included in the forensic characteristics were taken into account when developing certain methods at the time of their emergence. Firstly, the system of information includes only those criminally significant features (not all, not the same for all types of criminal offences) that can assist the investigation within a particular type (group). Secondly, this information becomes important not by itself, but through the natural connections identified between them: what exactly (actions, tools, traces, etc.), what is connected with what, how, what follows what, what can be detected and established, etc.

When researching and building a forensic characteristic, as already noted, it is very important to identify and establish correlations and dependencies between its elements, using pre-developed programmes.

That is, the number of elements of a criminalistic characteristic depends on the specific type of criminal offence and the possibility of studying a particular element should be varied. At the same time, their large number also raises doubts about the practical feasibility of their use.

Thus, the elements of the criminalistics characterisation of criminal offences are quite diverse. It is almost impossible to provide an exhaustive list of them, as it is constantly changing. Therefore, we will limit ourselves to

a generalised list. All elements of the forensic characterisation form a single structure.

The **general structure of the elements of the forensic characterisation of criminal offences** is as follows:

- the method of committing the crime;
- the subject of criminal activity;
- the setting of the crime;
- »trace picture» of the crime;
- the identity of the victim;
- the identity of the offender.

The number of these elements varies depending on the specific criminal offence.

***Method of crime commitment.*** One of the main elements of the criminalistics characterisation is the method of committing the crime. It is extremely important in the structure of the forensic characterisation of certain types of criminal offences. By examining the method of commission, it is possible to determine certain characteristics of the offender, the victim, establish the circumstances of the crime, etc.

A method of commission is a system of actions during the preparation, commission and concealment of an unlawful act, determined by environmental conditions and psychophysical properties of a person, which may be associated with the choice of using appropriate tools or means and conditions, place and time.

Of course, for forensic scientists, full-structured methods are of the greatest importance. Therefore, the establishment of structural methods that took place in the criminal offence under investigation allows the authorised person to identify its traces to the fullest extent possible, to predict the relationship between them, which often leads to the investigation of a criminal offence.

***The object of criminal activity.*** When considering the object of a criminal offence, it is necessary to understand that the object should be considered not as any object of the crime scene that interacted with the subject of the crime, but the object with which the harmful consequences are associated.

For example, when committing hooliganism, the offender may affect many objects (for example, break a glass bottle, etc.). However, such objects will not be the objects of a criminal encroachment, because the harmful consequences are not related to them, but to the foul language and bodily harm caused by the offender's actions. Other objects are elements of the environment of the crime.



The object of a criminal offence and the objects interacting with it form a multi-component system. If the properties of one element of the system are changed, the entire nature of the relationship will be disrupted. It is in this regard that the legislator in some cases directly refers to the object of the crime. The object of criminal activity can be viewed as the final product, the result of the unlawful activity of the subject, which the authorised person faces at the stage of entering information into the URPTI. While the object of criminal activity may be the subject of a crime, the tools and means of committing a crime are outside the sphere of public relations and are not such.

***The environment in which the criminal acts were committed.*** An important element of the forensic characterisation of a crime is the setting of its commission. It is defined as part of the material environment that includes, in addition to the area of the territory, a set of various objects, the behaviour of the participants in, and the psychological relationships between them.

In forensic science, the setting of the crime combines a number of elements (time, place, conditions, etc.), that are important for a complete investigation of the crime. We believe that a consistent consideration of all the components of the circumstances of a crime under the relevant articles of the Criminal Code of Ukraine will allow us to more accurately to build its integral system.

***The «trace pattern» of the crime.*** When considering the traces of a crime, it should be noted that they are a source of information about the crime and, accordingly, the identity of the offender.

Most traces remain at the scene of the crime, so their relationship with the environment is clear. Information about the traces of a crime can be obtained after appropriate confirmation by sources of evidence and generally provide information about the methods of committing the crime, the environment, the identity of the perpetrator, etc.

The «trace picture» includes ideal reflections and material traces as sources of visible and invisible, predictable traces formed at the time of the commission of the unlawful act.

***The identity of the victim.*** An important place in forensic characteristics is occupied by information about the victim. In turn, the forensic study of the victim's identity in cases of criminal offences under investigation is to obtain the necessary data about him or her in order to use it to investigate the unlawful act, to select the most appropriate tactical techniques for conducting individual ISA, UISA, and to increase the effectiveness of the investigation as a whole. At the same time, it is necessary to find out the basic data that characterise the victim as a person; data on their

lifestyle, relationships with others; the relationship between the victim and the suspect; the victim's position on criminal proceedings and possible punishment of the offender, etc.

Information about the identity of the victim of criminal acts can be divided into three groups: 1) information about the relationship between the victim and the perpetrator of the offence; 2) information about the victim's behaviour when the offence was committed against them; 3) information about the victim's character traits.

Situations often arise when the victim provokes the commission of unlawful acts by their appearance, behaviour, etc. The task of law enforcement officers is to identify possible criminogenic situations and prevent them. For this purpose, it is necessary to identify specific groups of victimisation situations.

***The identity of the offender.*** Studying the identity of the offender is one of the most important actions of law enforcement officers, which subsequently ensures the elimination of the causes and conditions of crime, recidivism, etc. Information about the identity of the offender, as an element of the forensic characterisation of the crime, constitutes data that can help determine an effective way to search for and expose the suspect and other tasks related to the investigation. This information makes it possible to identify the data that is needed to organise the most effective search for the person who committed the crime and, subsequently, to expose him or her. The personality of a criminal is a broad concept that includes the essence of a person, a set of features that characterise them, their moral and spiritual world in interaction with social and individual life conditions that to some extent influenced the commission of an unlawful act.

The essence of the forensic characterisation of a criminal is to consider a person as a certain system whose properties and signs are reflected in the environment and used in the investigation of an unlawful act.

Data on a person who has committed a criminal offence consists of the following properties: 1) biological and physical; 2) socio-demographic; 3) moral; 4) psychological. Based on the analysis of these characteristics through the prism of a particular type of criminal offence, it is possible to create a «probable portrait of the offender».

### **1.3. Characteristics of other elements of investigation methodology of certain types of criminal offences**

Any activity, including the investigation of criminal offences, requires structuring and planning. Planning is the process of modelling future activities, which forms the optimal ways to achieve the goals through the rational allocation of funds, effort and time.

The planning system can be viewed as a set of the following elements: 1) analysis of initial information; 2) putting forward versions and determining the tasks of the investigation; 3) determining ways and means of performing the tasks; 4) drawing up a written plan and other documentation on the planning of the investigation; monitoring the implementation and adjustment of the investigation plan.

Thus, by analysing the initial information, based on the investigative situations that have arisen at certain stages of the investigation, actions are planned to fulfil the tasks.

The investigation should be organised and focused, with the SIDs being carried out in a certain sequence and coordinated with operational measures. To this end, planning is carried out (in oral or written form). The oral form means that, having received a report of a criminal offence, the investigator evaluates it and determines whether there are sufficient grounds to input information into the Unified Register of Pre-trial Investigations (Article 214 of the CPC of Ukraine).

**According to Part 1 of Article 214 of the CPC of Ukraine**, investigator, coroner, prosecutor shall immediately, but not later than 24 hours after filing an application, notification of a criminal offence or after independently discovering from any source circumstances that may indicate the commission of a criminal offence, input the relevant information into the Unified Register of Pre-trial Investigations, initiate an investigation and, within 24 hours of inputting such information, provide the applicant with an extract from the Unified Register of Pre-trial Investigations. The investigator who will conduct the pre-trial investigation is assigned by the head of the pre-trial investigation body, and the coroner – by the head of the coroner’s office, and in the absence of an inquiry unit – by the head of the pre-trial investigation body.

In accordance with the Instruction on the organisation of the activities of investigative units of the National Police of Ukraine, the investigator plans his work in such a way as to ensure timely performance of the necessary investigative (detective) actions and covert investigative (detective) actions in all criminal proceedings in which he conducts pre-trial investigation. He/she draws up a general calendar plan for all criminal proceedings, as well as investigation plans for each criminal proceeding.

The analysis of primary information and the initiation of criminal proceedings is an important component of the investigation, the quality of which ensures the further effective conduct of the investigation.

The scope of circumstances to be established in the investigation of criminal offences should be determined based on

- the subject of proof (circumstances to be established);
- the limits of proof in criminal proceedings as defined by law;
- the signs of the criminal offence under investigation, which are specified in the dispositions of the relevant articles of the Criminal Code;
- circumstances that are determined by the peculiarity of each individual unlawful act.

The subject of proof in the investigation is a system of interrelated elements, and the exclusion of any of them makes it problematic to solve the task of criminal prosecution. The principles of building this system include: the need to establish all the signs of an unlawful act provided for by the Criminal Code; clarification and specification of elements of criminal law characteristics through its forensic characterisation, taking into account the patterns and connections typical for this act; compliance with the circumstances provided for by the CPC.

That is, the **subject** of proof is considered as a unity of five groups of circumstances that determine the direction and scope of the investigation, namely

- circumstances related to the establishment and proof of a criminal offence;
- circumstances related to establishing and proving the guilt of suspects in committing a criminal offence;
- circumstances affecting the degree and nature of the suspects' liability;
- circumstances related to establishing the nature and extent of the damage caused by the offence;
- circumstances that contributed to the formation of a criminal group and the commission of an unlawful act.

The circumstances to be established also include: spatial and temporal

connections between individual traces of the crime and the circumstances of the event; identification and situational properties of traces and their evidentiary value; reasons for the absence or presence of traces as facts contrary to the natural course of similar events (negative circumstances).

The structure of each individual investigation methodology contains a certain number of elements, among which are typical investigative situations. All criminal offences are investigated in specific conditions of time, place, environment, interconnection with other processes of objective reality, behaviour of persons involved in criminal proceedings, and under the influence of other factors that remain unknown to the authorised person.

This complex system of interrelationships forms the specific environment in which the authorised person and other entities involved in proving the event under investigation operate. In Criminalistics, this environment is generally known as the investigative situation. In other words, it is the current reality in which the investigator operates. The situation in its literal sense is the reality itself, which arises at a certain stage of the investigation.

The formation of an investigative situation depends on the following components: psychological; informational; procedural and tactical; material; and organisational and technical. The combination of all these components determines the individual nature of each investigative situation at each moment of the investigation. This definition of the concept allows us to typify investigative situations.

An investigative situation is a set of conditions that objectively arise in the course of crime investigation and form a peculiar situation at a certain point in time, which poses the investigator with the problem of choosing an appropriate course of further action and making tactical decisions. That is, having identified the investigative situations in the investigation of criminal offences, we will provide an appropriate algorithm of the investigator's actions depending on the conditions of objective reality at a certain stage of the investigation.

It is also important to have sufficient theoretical and technical equipment of specialists during certain investigative actions, which allows to seize a large amount of material evidentiary information. This is especially important during the OMP, as the evidence that will be discovered during its conduct allows for certain versions to be put forward that will specify further areas of investigation. By building and testing these versions, it is possible to work out the relevant investigative situations, identify and conduct other SIDs.

It is important to divide typical investigative situations depending on

the stage of the investigation. In particular, typical investigative situations at the initial, subsequent and final stages. Having given this classification, we will consider typical investigative situations in the course of investigation of criminal offences under study.

***Test questions:***

- 1. The concept of methods of investigation of certain types of criminal offences.*
- 2. Structure of the methodology for investigating certain types of criminal offences.*
- 3. The concept of forensic characteristics of criminal offences.*
- 4. Elements of the method of committing a crime.*
- 5. Components of the environment of a crime.*
- 6. Elements of forensic characteristics of crimes.*
- 7. The concept of the investigative situation.*
- 8. Circumstances to be established during the investigation of criminal offences.*

***Topics of essays:***

- 1. Methods of investigation of certain types of criminal offences as a forensic category.*
- 2. The essence and content of the forensic characteristics of criminal offences.*
- 3. Investigative situation: a mandatory algorithm or the possibility of improvisation?*
- 4. Version: essence, concept and classification.*
- 5. Forensic aspects of analysing primary information about the committed unlawful act.*

## **Chapter 2 INVESTIGATION OF MURDERS**

### **2.1. Forensic characteristics of murders**

Murder is a crime against the life of a person and is the intentional wrongful infliction of death on another person. Criminal liability for committing murder is provided for in Art. 115-119 of the Criminal Code of Ukraine. The most dangerous are premeditated murders, which belong to the category of especially grave criminal offences (Article 115 of the Criminal Code of Ukraine).

The number of murders registered in Ukraine in recent years is significant, and the results of their investigation do not meet the modern needs of society. Thus, in 2018, 5557 premeditated murders were registered, qualified under Art. 115 of the Criminal Code of Ukraine. At the same time, only in 1363 cases a notice of suspicion was issued. In 2019 – 5465, notices of suspicion – 1304, in 2020 – 3809, 1242, respectively. Despite the efforts of law enforcement agencies in combating crime, there has been no significant improvement in the situation with the investigation. Concern is caused by the growing professionalism and organization of illegal manifestations. The dominant tendency of crime is its mercenary orientation. The number of murders committed with the use of firearms, explosive devices, explosives committed on sexual grounds, newborns and underage children related to the disguise of traces of an offence, including the dismemberment of a corpse, is increasing.

As practice shows, the investigation of premeditated murder presents serious difficulties for pre-trial investigation bodies. Largely, this is due to the special nature of this category of criminal offences: the thoughtfulness of their commission, careful preparation, and the participation of a number of people in the implementation of the plan. To carry out the planned murder, a plan is increasingly drawn up for its preparation, implementation and concealment, people with criminal experience, or persons who have undergone special training, are involved, which makes its detection even more difficult. The above-mentioned and many other circumstances that characterize the criminal offences under consideration create significant difficulties on the way to their investigation. The complexity of the

investigation of murders is due to the absence, as a rule, of witnesses, a large number of versions of the investigation, the nature of material evidence, and in some cases the staging of the circumstances of the offence. To the above, it is necessary to add an insufficient number, and for some types, the absence until recently of scientific developments and practical recommendations that take into account the specifics of the investigation of certain categories of premeditated murder.

Effective investigation of criminal offences is facilitated by finding out the data that make up the forensic characteristics of murders, that is, a set of criminalistics significant elements that contribute to their rapid investigation. Elements of the forensic characteristics of murders include:

- 1) the method of preparation, commission and concealment;
- 2) place, time and other elements of the circumstances in which the offence was committed;
- 3) the most characteristic traces that arise during the commission of murders;
- 4) characteristics of the offender's personality;
- 5) characteristics of the victim's personality.

These elements are considered in interdependence on each other.

Thus, when considering the first element of the characteristic – the way the offence was committed – it is important to find out how exactly the murder was committed – in conditions of non-obviousness or obviousness. Clarification of this circumstance affects the planning and organization of the investigation.

**Obvious murders** are characterized primarily as those committed for family and domestic reasons: jealousy, revenge, domestic hooliganism, personal hostility. As a rule, such criminal offences are situational in nature – they are committed without prior preparation, under the influence of conflicting relationships between acquaintances. They are characterized by the fact that the place of their commission is most often a dwelling (premises, yard), there are eyewitnesses and, as a rule, at the time of finding out, the suspect is known. Most of the murders of this category are committed in the evening and at night, quite often in a state of alcoholic intoxication. Therefore, finding out a corpse with signs of violent death in the home is already the basis for putting forward versions that the killer is a person from the victim's inner circle.

Murders committed in conditions of obscurity are usually associated with the subsequent concealment of the identity of the victim, the destruction of traces, and sometimes the corpse. This category of murder includes those characterized by the following circumstances: the corpse or its parts were



found outside the home: in the street, in the field, in the forest, etc.; the identity of the victim is unknown; there are no eyewitnesses, there is no information about the identity of the suspect in the murder.

In the course of the investigation of murders committed in conditions of non-obviousness, the investigator and employees of operational units feel active opposition to the investigation in identifying the offender, and the system of actions of the offender to achieve the goal is accompanied in certain cases exclusively by the preparation, commission and concealment of the murder.

Murders committed in conditions of non-obviousness can also include those that we have listed above, but a significant difference will be the fact when the investigator does not have (or partially has) significant information about a number of essential circumstances of the murder, which may be:

- *disappearance of a person, if there is information indicating his murder;*
- *absence of identification traces of the offence;*
- *finding remains or parts of a dismembered corpse;*
- *the identity of the corpse has not been established;*
- *absence of witnesses and eyewitnesses of the offence;*
- *disguising the murder as a non-criminal event.*

Let's consider the main elements of the forensic characteristics of murders.

**The method of committing** an offence is one of the main elements of forensic characteristics and constitutes a complex of interdependent, purposeful acts of behavior of a person to prepare, commit and conceal an offence, the choice of which is determined by the peculiarities of the social and natural environment, the personality of the offender, the nature of the object and subject of the criminal encroachment.

Based on the peculiarities of premeditated murder, the analysis of the methods of preparation, commission and concealment of this offence is the basis for it. Preparation begins with the choice of the place and time of the murder and is decisive for the future murderer, because it indicates the ways of approaching and leaving the alleged scene of the offence so that the process of committing the murder takes place under the most appropriate conditions for the offender. In order to achieve the desired result in the shortest possible time, the offender searches for or obtains everything necessary for these purposes. Such tools from among cold weapons can be brass knuckles, butts, pigs, bats, sticks, as well as knives, daggers, sabers, razors, sharpeners, etc. The most commonly used firearms for premeditated

murder are machine guns, sawed-off shotguns, converted starting, construction and installation and gas pistols, as well as grenades, mines and explosive packages. In the case when the murder intent arose suddenly or in a short period of time, random objects can also be used for the purpose of killing.

Preparation may include the actions of the offender aimed at studying the lifestyle of the future victim by a person preparing to commit murder, which includes the following activities: 1) making a volitional decision to commit murder; 2) establishing the victim's place of residence and daily routine; 3) establishing the victim's routes of movement, availability of vehicles and personal security; 4) establishing the victim's place of work and position.

After the identity of the future victim is sufficiently studied, the future murderer begins to develop a false alibi, which consists of the following: 1) identifying a place that can be referred to as being in that place at a certain time; 2) searching for persons who would confirm the presence of the person under investigation in a certain place at the time of the murder; 3) instructing the persons providing the alibi in detail on the answers to the questions put to them regarding the alibi provisions put forward.

With the direct commission of murder can be: 1) strangulation (with fingers, elbowjoints, palm, with the help of gags, pillows, nooses, nooses); 2) drowning; 3) poisoning (gas, poison, radioactive isotopes, food alkaloids); 4) running over or throwing from a motor vehicle; 5) explosion; 6) use of high or low temperatures (burying in snow, heating, burning); 7) use of natural and technical means (dropping from a height, burying in the ground).

The last element of the method of committing the offence is the method of concealing the murder. They can be concealment, falsification, disguise of what happened as a non-criminal event, dismemberment, or destruction of a corpse and murder weapons, moving to another place of residence, etc. Concealment of a corpse by destroying or dismembering it, as well as the destruction of the murder weapon and its parts, is also a common method of concealing the offence and is used practically in cases where the offender was acquainted with the victim, or was in close relations with him. Mixed methods of concealing an offence are various staging aimed at concealing the fact of the offence, its traces, the personality of the offender, and individual circumstances by creating an artificial picture of the event. Its content includes: destroying traces or leaving new ones, creating a false environment or the appearance of one state instead of another, misconceptions about its details.

**Time, place and circumstances of the offence.** The setting of the offence is also one of the main elements of the forensic characteristics of criminal offences. The event of the offence in all its phases, the immediate preliminary preparation and subsequent immediate concealment of traces and other objects of the committed act occur in specific conditions of the place with its material environment, time, lighting, manifestation of certain natural and climatic factors, production activities, everyday life, etc. These conditions have a varying degree of influence on the setting of the offence. They are formed independently or by the will of the participants in the offence and mainly characterise a certain external environment and certain other factors of objective reality.

The concept of the situation in which the offence was committed has an important forensic meaning, because it is most closely related to the issue of optimizing both practical and research activities of forensic orientation. In particular, the analysis of the concept under consideration allows us to determine the range of its constituent elements, and therefore the circumstances to be clarified in a particular criminal proceeding: time of day, day of the week, month, place of offence, weather conditions adjacent to the specified place of communication, the presence of nearby residential buildings, production facilities, etc.

Usually, the offender chooses a time when there are no witnesses, when the victim is alone in the house or office or in another place, often in the evening or at night. The place of the murder is most often a deserted area or apartment, in which the victim can be alone, destroyed houses or those under construction, other places where the victim finds himself for various reasons. It can also be transport: road or rail. The crime scene, as well as the situation, is an extremely important source of information, because it contains a large number of traces and material evidence that determine the direction of the investigation and is the primary material for putting forward investigative versions.

**The most characteristic traces that arise in the commission of murders.** From a forensic point of view, a crime is characterised by certain changes in the material environment in which it is prepared, committed and concealed. These changes at the scene remain in the form of traces, which in Criminalistics are divided into three large groups: traces-objects, traces-substances and traces-reflections. Traces of an offence have an important evidentiary value, because they are often carriers of information about the time and place of commission, as well as about the method of committing and concealing the murder, about persons who are somehow involved in the offence committed.

Their identification, analysis, establishment of causal relationships allow you to build a picture of the event, form imaginary or real models of the offence, the mechanism of its commission. Examination of such traces and material evidence can indicate the identity of the offender, the identity of the victim and the circumstances of the incident identify negative circumstances, traces of concealment of the offence.

At the same time, it is expedient to distinguish groups of typical traces that indicate the nature of the offender's actions: a) injuries on the corpse; b) the posture of the corpse; c) the bed of the corpse; d) the presence (absence) of instruments and means of committing murder; e) the condition of the clothes on the corpse and its damage; e) traces in the environment (traces, microparticles, odorological traces, etc.). In particular, clothes can be torn, cut, with torn off buttons, hooks, locks, «snakes» with traces of damage formed as a result of striking the victim with a piercing and cutting tool. Typical traces of murder are most often traces of contact interaction: violent actions on the victim's body and traces of resistance on the suspect's body (bites, abrasions, bruises, wounds, tears, layers of various substances, torn clothes of the victim, hematomas on the face, neck, arms, thighs); traces at the scene of the offence (traces of feet, hands, teeth, lips, struggles, drops of blood, saliva, traces of vehicles, etc.); damage and biological secretions (blood, semen, etc.) on the clothes of the victim, offender, as well as on surrounding objects; traces of imposition and microparticles on clothes, shoes, in the subungual contents of the offender and the victim; changes in the situation of the scene, traces of illegal actions and the presence of the suspect and the victim at the scene of the offence (traces of human body secretions, underwear, hairpins, hair, lint of clothing).

Sometimes, after the murder, which is characteristic of sexual murder of both men and women, the corpses are dismembered, which is done not to conceal them, but to fulfill necrophilic needs. Some offenders take with them the head, other parts of the body, internal organs, which are a fetish for them. It can also be the victims' clothes, women's toilet items, children's clothes, toys. In some cases, money, jewelry, rings, earrings, as well as low-value items in the form of a bar of soap or things that have no value at all are taken away.

Traces of concealment of the offence may include: a) traces of impact on the corpse; b) traces of concealment of the corpse or its parts. Traces of concealment of the offence are reflected in the environment and depend on the factor of the offender-victim relationship. If there is a fact of prior acquaintance of the offender and the victim, then in this case, as a rule, the offender affects the victim's corpse in order to complicate its identification

and chooses appropriate places to hide it (corpses are moved to other places, destroyed, dismembered, damaged, etc.). Some scientific interest is shown by the approaches of those researchers who try to differentiate traces of murder depending on the conditions in which the crime was committed and the peculiarities of identifying the corpse. Sexual homicides are characterised by the absence of so-called traditional traces, and this circumstance requires the investigator to conduct an active, targeted search for microtraces, which in most cases are found at the scene and on the corpse. In addition, the traces depend on the conditions of discovery of the corpse: the place of discovery of the corpse is a water basin or a pile of earth, a long time has passed since the offence was committed, etc.

The personality of the offender, being one of the main elements of the criminalistics characteristics of criminal offences, is in a natural connection with its other elements. The criminalistics aspect in the doctrine of the offender's personality covers a wide range of personality traits.

In this regard, it is expedient to consider the structure of personality as a set of social, psychological and physical properties. Different personality traits play different roles in evil behavior. For example, skills and abilities can significantly influence the choice of one or another object of criminal encroachment, one or another method of committing and concealing an offence. The analysis of the solved criminal proceedings on premeditated murder gave us the opportunity to schematically group the killer's personality into different categories.

First of all, these are persons of both sexes, adults and minors, of different age categories from 14 to and over 70 years old. Due to the fact that forensic examinations were conducted in all criminal proceedings on murder, therefore, in fact, all persons detained for premeditated murder had mental abnormalities in one form or another, only one part of criminals have hidden mental anomalies (84 %), and the rest of them have various pronounced forms of mental disorder (16 %). Moreover, both of these categories were registered in psychiatric institutions (21 %) and were not previously registered in these institutions (79 %).

Characteristic of these groups is that the vast majority of these persons had a criminal past (71 %), general and special recidivism (54 %). Moreover, premeditated murders were committed alone (16 %) by persons with obvious mental disorders, while the opposite category was characterised by measures to prepare, commit and conceal the murder (84 %) and almost always such murders were committed as part of a group (76 %). It should be noted that there was no significant disparity between people living in urban and rural areas. The vast majority are unemployed (52 %), do not study (26 %), and

have a low level of education (7 %). The only exceptions were those convicted of contract killings, where the indicated testimony differed from the above.

Socio-demographic characteristics (gender, age, education, place of residence, place of work, etc.) are given enough attention in the legal literature, so we will not dwell on their consideration. It should only be noted that at present, for example, Criminology has accumulated enough data necessary for Criminalistics on the personality of offenders who commit various types of criminal offences. Many of them are within the framework of Criminalistics. For example, in the case of criminal offences, the methods of committing an offence may be included in the criminalistics characteristics of criminal offences. The social and psychological portrait of the offender's personality has a variety of features depending on whether the crime is intentional or committed negligently. An offender who committed murder intentionally is characterized negatively, has qualities such as aggressiveness, cruelty, selfishness, cynicism, contempt for other people's interests, promiscuity, etc. Among the offenders of this category, drug addicts, sexual psychopaths, and persons with mental disorders predominate. In cases of reckless homicide, offenders generally do not have these qualities. The actions of the offender at the scene of the incident allow us to draw conclusions about his caution, thoughtfulness of actions, availability of professional skills, strength, cruelty, etc.

**Identity of the victim.** The identity of the victim often indicates the identity of the offender (the victim's ties with the offender, the nature of their relationship, the motives for the offence committed). Therefore, the study of the victim's personality allows us to put forward versions about the murderer, the motives for committing the offence, and in some cases about the victim's behavior.

## 2.2. Initial stage of investigation

The main tasks of the initial stage of the murder investigation are:

- 1) *establishing the identity of the deceased person and the immediate cause of death;*
- 2) *establishing the place, time and method of committing the murder;*
- 3) *detection, fixation and seizure of traces of murder, including those that allow the identification of the offender;*
- 4) *identification, search and detention of a person suspected of committing an offence;*
- 5) *collection of evidence sufficient to suspect a person of committing an offence.*

In the process of investigating murders, it is necessary to clarify a number of *circumstances that are subject to establishment and proof*. These include:

1) the immediate cause of death (what took place – violent infliction of death or death occurred from other causes (accident, illness));

2) in what way, with the help of what instruments the murder was committed;

3) time of death (important for establishing many circumstances, including the time of the offence, determining the range of possible witnesses, organizing covert investigative actions related to the search for the offender, etc.);

4) the place where the murder was committed;

5) the circumstances under which the murder was committed;

6) the identity of the victim (can be established in case of detection of identity documents, as well as presentation for identification to persons who were the first to discover the victim, or those who live near the scene of the incident; the identity of the victim can be established by referring to forensic records, in particular, to fingerprint and records of missing persons);

7) accomplices to murder and the role of each of them in the commission of the offence;

8) the identity of the murderer (can be established by interviewing witnesses, drawing up a portrait, showing it on television);

9) motives for murder (revenge, benefit, jealousy, desire to eliminate a competitor, «showdown» of mafia groups);

10) circumstances that contributed to the murder (intentional or reckless), measures to be taken to prevent such criminal offences.

These circumstances constitute the main issues of the murder investigation, but do not exhaust them.

Initial actions in the investigation of murders include *urgent investigative (search) actions*. Covert investigative (search) actions and organizational and search measures are also carried out: organization of persecution of the offender, interrogation of citizens who were the first to discover the corpse, or those who were at the scene of the offence, organization of surveillance in places of possible appearance of the offender: at railway stations, restaurants, beer bars, arrangement of ambushes, etc.

The initial urgent investigative (search) action is the examination of the **scene of the incident and the corpse** (Articles 237 and 238 of the CPC). The peculiarities of the inspection of the scene in cases of this category arise from the specifics of the nature of the murder (use of firearms, strangulation with a noose, poisoning, etc.). The search and examination of

traces and material evidence is also important. The nature of the murder orients the investigator to search for traces characteristic of the use of certain tools and means of committing an offence. Thus, traces of the use of firearms can be shell casings, fired bullets, sometimes a pistol, as well as traces of blood, traces of resistance (struggle) and, most importantly, micro-traces and traces of layering. Analysis of such traces will allow us to conclude about the type of weapon from which the shot was fired; when examining microtraces (grains, threads), it is possible to establish the group affiliation of the fabric of the offender's clothes.

In cases where there are signs of poisoning, it is necessary to seize dishes with food residues, medicines (powders, bottles of medicines), and the victim's excretions at the scene.

When strangling with a noose or hanging, special attention should be paid to the material of the noose, its shape, and the method of knitting, as this is often associated with the professional skills of the person who committed the crime, and may indicate a certain circle of persons who could be involved in the event. For example, in the investigation of the murder of a woman whose corpse was found in a reservoir by strangulation with a noose, the study of the nature of knitting a noose indicated that it is inherent in the professional actions of calf shed—this is how calves are tied. The victim's son-in-law was a calf shedder. Despite the false alibi put forward by him, his guilt was proven.

Examination of the scene and the corpse is carried out with the participation of a forensic medical expert, who performs the functions of a specialist in this case. He assists the investigator in carrying out the examination, focusing his attention on the examination of the corpse. However, this does not mean that the examination of the corpse is carried out only by a forensic medical expert, the investigator takes an active part in it. Examination of the corpse is carried out in a certain sequence, in the same sequence its results are recorded in the protocol. When examining a corpse, the protocol shall include: a) general data (height, age, sex, posture, position); b) clothing (its condition, signs, the presence of traces of the murder weapon); c) body structure, skin color, special features; d) injuries on the body (size, shape, location).

Of great importance is the examination of the bed of the corpse (that is, the place of its discovery). Documents, items lost by the offender, murder weapons and other traces that are important for clarifying the nature of the offence can be found here.

In the process of inspecting the scene, as a result of the analysis of what was detected, the investigator in the course of modeling the picture of the



offence may identify negative circumstances that contradict the data on the natural development of events. In particular, it may be the postmortem nature of the strangulation sulcus in the case of the victim's suicide, the absence of blood with a considerable number of knife wounds, etc.

The initial investigative (search) actions include the **assignment** of a forensic medical examination. Among the issues to be resolved by **forensic medical examination** may be the following:

- cause of death, time of its occurrence;
- the nature and sequence of damages;
- whether the victim could have injured himself/herself;
- in case of viability or mortality of injuries to the corpse;
- its Rh factor, which helps to determine the characteristics of blood, traces of which can be found on the suspect's clothes.

Forensic examination opens up the possibility of individual identification of a person by blood, muscle lobes, bone fragments, etc.

Along with forensic medical examination, other examinations may be assigned, including examination of weapons, trace, dactyloscopic, biological, molecular-genetic, etc.

### 2.3. Further stage of investigation

The further stage of the investigation is associated with the presentation of a notice of suspicion to a person in accordance with Art. 276-279 of the Criminal Procedure Code of Ukraine. Immediately after the notice of suspicion is submitted, the investigator is obliged to interrogate this person. At the beginning of the interrogation, it is necessary to ask the person whether he or she pleads guilty to committing a criminal offence, after which he or she is asked to testify. Thus, the nature of the investigative situation depends entirely on the position of the suspect during the interrogation, which can have four options: 1) the person refuses to testify and answer questions; 2) the person pleads guilty partially; 3) the person pleads guilty in full; 4) the person pleads not guilty.

In the first situation, the investigator, paying attention to the fact that testimony is the right of the suspect, must nevertheless encourage him to enter into communication and give appropriate explanations regarding the circumstances of the murder. In the second and third situations, the factor of admission of guilt is decisive and the task of the investigator is to verify the testimony obtained at the end of the interrogation. In the fourth situation, the task of the investigator is to expose the suspect in the commission of murder

by operating with the evidence already collected, as well as directing efforts to identify and use other sources of evidence.

In addition to the tasks of the investigation, which are determined by the position of the person regarding the notice of suspicion, the tasks of the next stage of the murder investigation are:

- 1) identification of all accomplices of the offence and collection of evidence for their prosecution as suspects;
- 2) examination of the personality of suspects in order to obtain information necessary for the delivery of a fair sentence;
- 3) establishing the causes and conditions that contributed to the commission of the murder, and taking measures to eliminate them;
- 4) ensuring compensation for material damage caused by a crime and possible confiscation of property;
- 5) ensuring the safety of participants in criminal proceedings in the presence of a threat.

To solve these problems, complexes of organizational, investigative (search) actions and covert investigative (search) actions are carried out, the sequence of which is determined by the peculiarities of a particular investigative situation in a particular period of time. Typical for the further stage of the investigation of murders are the following investigative (search) actions and operational-search measures:

- search measures and covert investigative (search) actions to identify all accomplices to the murder, as well as possible witnesses;
- interrogation of witnesses who appeared in criminal proceedings after the interrogation of the suspect;
- measures to ensure the safety of witnesses, as well as persons recognized as victims in criminal proceedings on murder;
- simultaneous interrogation of two or more persons (conducted to eliminate contradictions between previously interrogated persons);
- an investigative experiment with the participation of a suspect who pleaded guilty to murder;
- assignment of expert examinations of material evidence discovered after the interrogation of the suspect;
- assignment of forensic psychiatric, forensic narcological examinations of the suspect.

## 2.4. Peculiarities of investigation of certain types of murders

In the general methodology of homicide investigation, there are several special techniques that differ in specifics, which are determined by the situation. These include methods of investigating murders masquerading as an accident; methods of investigating murders in the absence of the victim's corpse; methods of investigation of murders related to the dismemberment of a corpse; methods of investigating murders on order.

Each of these methods has peculiarities in the organization of initial investigative and operational-search measures.

### **Murders masquerading as an accident or suicide**

The most important investigative (search) action in the investigation of such murders is the examination of the scene and the corpse. During the examination, special attention is paid to the circumstances of the discovery of *the corpse*, its position, the condition of clothing, traces of struggle or resistance. In the course of the inspection, certain inconsistencies (negative circumstances) may be revealed, the nature of which allows us to put forward a version that the event was staged. These include traces that contradict the overall picture of the event or clearly indicate that the event took place in a different location or was of a different nature. Thus, when inspecting the scene of a motor vehicle accident, the availability of cut wounds on the body of the victim as a result of a collision is a circumstance indicating a murder staged as an accident. The discovery of a postmortem strangulation groove on the corpse as a consequence of a train collision is also the result of staging and indicates a different nature of the event than that anticipated. Murders masquerading as an accident at work also require a careful analysis of the traces when inspecting the scene, their location, their relationship to the parts of the moving mechanisms, the correlation with the time of turning the mechanisms on or off. In these cases, it is very important to compare the testimony of witnesses with the results of the examination and the data of the forensic medical examination, which may reveal a discrepancy indicating murder.

In the investigation of murders staged as suicide, the real picture of what happened can be clarified as a result of both immediate and subsequent investigative actions. Thus, when inspecting the scene, it is important to establish whether the deceased could have injured himself, tied a noose (the latter may indicate professional skills), whether there are traces of struggle or resistance, which are reflected both on the corpse and in the situation of the incident (broken furniture, traces of blood on furnishings). In the case of the

use of firearms, it is important to establish the distance from which the shot was fired, to find fingerprints on the pistol belonging to the victim or another person.

*Forensic examination of the corpse* makes it possible to establish traces of a lifetime or postmortem injury, mainly a strangulation sulcus. In cases of suicide by hanging *by an investigative experiment* using a weight equal to the body weight of the deceased, it is necessary to establish whether the rope can support the weight of the body.

In the practice of investigation, it is not uncommon for a person who has committed suicide to leave letters and notes before death. If the fact of writing a letter to the deceased is in doubt, it is necessary to *assign a handwriting examination*. When investigating a suicide, it is important to collect data on the lifestyle of the deceased, establish his psychological state, and find out if there were any statements about the desire to die. If necessary, it is possible to *assign a forensic psychiatric or forensic psychological examination based on the materials of criminal proceedings*.

### **Murders in the absence of the victim's corpse**

In cases of disappearance of a person, when the circumstances indicate the possibility of murder, the reason for initiating a criminal case and investigation is statements or other information about his disappearance. The initial investigative action in this situation is the *interrogation of the applicant and witnesses in the criminal proceedings*. In the course of interrogation, the time of departure of the missing person (hours and minutes), the possible route of his/her movement, signs of appearance, clothing, the purpose of departure, the place where the person was supposed to arrive, data on the state of health, mental state, mood are clarified. It is also necessary to find out whether the missing person has valuables, money, identity documents, small things, key fobs, lighters, keys, etc.

With the help of covert investigative (search) actions, it is necessary to check the places of possible stay of a person – place of work, residence, places of residence of relatives and acquaintances; hospitals, morgues, places of detention by the police, etc.

The purpose of the interrogation of witnesses is to find out certain information about the missing person, in particular, his/her family relations, intentions to leave in a certain direction, relations with acquaintances, friends, concealed intimate ties. Based on the testimony of witnesses, it is possible to draw up an approximate route of the person's movement to his disappearance and conduct an inspection in the places of his possible stay in order to *identify the corpse*. It is recommended to send separate inquiries to the places of residence of relatives and friends of the missing person in order

to find out their whereabouts.

In the course of the investigation, the investigator must draw up a plan for the search for the corpse in accordance with the place of its possible concealment. At the same time, when compiling a registration card of a missing person, the investigator makes inquiries to the police of other regions about the possible finding of an unidentified corpse, the signs of which are similar to those of a missing person. Therefore, it is necessary to remove as many photographs of the disappeared person as possible, mostly close to the time of disappearance.

For crimes in this category, the applicants are often persons who have committed murder. In order to establish their possible involvement, the investigator must *inspect the possible scene of the incident*. It can be an apartment, outbuildings, basements, a personal plot. The grounds for the inspection may be the testimony of witnesses about hostile relations, threats, property harassment, etc. During the inspection, negative circumstances should be identified (she went to the store in winter – a hat and coat were in place; she went to relatives – did not take wearables and shoes), as well as traces of blood, excavations in outbuildings and on a personal plot. Thus, in the case of the disappearance of citizen B., who allegedly went to his daughter, the investigator during the inspection drew attention to the freshly painted kitchen panels in the apartment of the missing person. According to witnesses, the repairs were made a week before the person's disappearance, while he painted the panels himself with blue paint, which was sharply different from the new brown coating. The scrapings carried out and their examination confirmed the presence of traces of blood. According to witnesses, the wife of the missing person transplanted currants on the site during their flowering, which surprised the neighbors. During the excavations, a corpse was found.

### **Murders involving the dismemberment of a corpse**

In criminal proceedings related to the finding of a part or parts of a corpse, the purpose of the inspection of the scene is to identify all parts of the corpse, to inspect the surrounding area, packaging materials, as well as the means of delivering parts of the corpse to *the* place of their finding. To identify other parts of the corpse, it is necessary to send requests to neighboring areas, indicating the approximate time and method of dismemberment. The found parts of the corpse must be kept in the morgue during the period of the possible finding of other parts. It should be noted that the packaging materials must not only be carefully examined (there have been cases when the addresses of the persons involved were found on the newspapers), but also photographed and involved in the case as *material*

*evidence* that can be *presented for identification*.

One of the urgent investigative actions when parts of a corpse are found is the *assignment of a forensic medical examination*, during which the following questions can be asked and resolved:

- 1) whether the detected are parts of a human body;
- 2) whether all the found parts belong to the same corpse;
- 3) gender, age, height of the victim, whether there are signs (scars, tattoos) that may contribute to the identification of the person;
- 4) the cause of death, the time of death, whether the corpse was dismembered during life or posthumously;
- 5) what object caused the death, what instrument (for example) was used to dismember the corpse, whether there are traces of the instrument of dismemberment on the bones and cartilage of the corpse, which have individual characteristics;
- 6) whether there are any peculiarities in the method of dismemberment of the corpse, which indicates the professional skills of the offender;
- 7) whether the victim was ill, signs of the disease.

Along with the assignment of a forensic medical examination, *actions related* to the identification of the person of the deceased should be performed, in particular, demonstration of a photo on TV, fingerprinting in order to verify the previous conviction against forensic records, filling out a card of an unidentified corpse in order to compare it with the cards of missing persons, presenting body parts for identification to persons who reported the disappearance of their relatives or friends. When establishing the identity of the deceased, further investigative actions are aimed at clarifying his family, friendly, intimate ties to identify the persons involved in the offence and the place of its commission.

In the process of *conducting searches*, attention should be focused on the search for traces of blood, dismemberment tools, packaging materials (their parts), which can later be used to establish the engaging person in the offence committed. When *apprehending and examining a suspect*, it is necessary to pay attention to traces of blood, as well as traces of struggle or resistance.

**Test questions:**

1. *The structure of the forensic characteristics of murders.*
2. *The circumstances in which the offence was committed.*
3. *Methods of committing an offence.*
4. *Time and place of the offence.*
5. *»Trace» picture of the offence.*
6. *Characteristics of the offender and the victim.*
7. *Typical investigative situations at the initial stage of a murder investigation.*
8. *Typical investigative situations of the subsequent stage of the murder investigation.*
9. *Features of the inspection of the scene.*
10. *Search tactics.*
11. *Peculiarities of detention of suspects.*
12. *Tactics of interrogation and simultaneous interrogation of two or more persons.*
13. *Features of different types of presentation for identification.*
14. *Use of special knowledge in the investigation of murders.*

**Topics of essays:**

1. *The use of forensic characteristics in the investigation of murders.*
2. *Features of the investigation of contract killings.*
3. *Features of the investigation of murders in the event of disappearance of a person and the existence of grounds for his murder.*
4. *Peculiarities of investigation of grievous bodily injuries that led to death.*
5. *Features of the investigation of the murder of newborns.*

### **Chapter 3**

## **INVESTIGATION OF CRIMINAL OFFENCES AGAINST PROPERTY**

### **3.1. Forensic characteristics of thefts**

Crimes against property are one of the most common and dangerous groups of criminal offences, as they encroach on one of the most valuable social goods – the right to property. In accordance with Art. 41 of the Constitution of Ukraine, everyone has the right to own, use and dispose of their property. No one shall be unlawfully deprived of the right of property. The right of private property is inviolable.

The responsibility envisaged in Chapter VI of the Special Part of the Criminal Code of Ukraine for all encroachments on property, regardless of their form, provides all subjects of property rights with the same criminal law protection, as required by the Constitution of Ukraine. The generic object of criminal offences provided for in Section VI of the Special Part of the Criminal Code of Ukraine is social property relations, i.e. relations regarding the possession, use and disposal of property. The subject of these criminal offences is the property, which is the things of the material world with their inherent features of a physical, economic and legal nature. Physical signs – meaning that things can be removed from legal possession, damaged or destroyed. Economic attributes are that things must have exchange and use value and be separated from the natural environment or be created anew. The legal characteristics of property are that it must be alien to the perpetrator; must belong to another subject of property rights and must not be the subject of offences, the responsibility for which is provided for by other sections of the Special Part of the Criminal Code of Ukraine (weapons, drugs, etc.).

Low living standards, unemployment, lower wages, inflation, insufficient social protection of the population, rising prices for utilities, basic necessities, refugees, associated with the armed confrontation with Russian aggression in the east of our country leads to the emergence of persons capable of obtaining material benefits by criminal means. In the context of the economic downturn in Ukraine, there is an increase in mercenary crime, in particular theft, as evidenced by the statistics of the Prosecutor General's



Office of Ukraine. At the same time, the level of their disclosure is quite low and ranges from 31% to 37 %. Thus, in 2016, out of 282947 thefts, notices of suspicion were served in 59418 cases, in 2017 out of 231931 – 71722, in 2018 out of 208182 – 69500, in 2019 out of 175758 – 60308, in 2020 out of 153776 – 60776. The number of thefts of private property in the total structure of crime is less than 50 %. Thus, in 2020, out of 360622 criminal offences registered, 153,776 thefts of private property were committed, which is 42 %.

Any offence, including theft, is an event characterized by a combination of unique properties and distinctive features. At the same time, these criminal offences have common features that allow them to give a generalized characteristic and at the same time highlight certain specifics of the investigation of certain types of theft. Criminalistics characteristics of theft as a scientific category, which is a system of interconnected information consists of the following elements:

- 1) the environment in which thefts are prepared and committed;
- 2) the subject of criminal encroachment;
- 3) methods of committing thefts;
- 4) typical traces of the offence;
- 5) characteristics of the offender's personality (type and nature of criminal groups);
- 6) characteristics of the victim's personality.

One of the elements of the forensic characteristics of theft is the **environment in which the thefts are prepared and committed**. First of all, it is the place where the offence was committed. In view of this, theft stands out:

- from the premises of enterprises and organizations: shops, kiosks, warehouses, hotels, sanatoriums, wardrobes, etc.;
- from private property of citizens: dormitories, apartments, estates, summer cottages, etc.;
- from workshops of industrial enterprises, enterprises of the agro-industrial complex, utilities and construction sites, as well as cargo by rail, river, sea and air transport;
- personal belongings (bags, backpacks) of citizens at railway stations, from train compartments, etc.;
- pocket (in bazaars, in crowded places, public transport).

Theft belongs to the group of criminal offences, the place of commission of which is localized spatially, in most cases limited to a small area (area, premises, etc.). According to the nature of the connection between illegal actions and the peculiarities of the place of their commission, three

types of theft can be distinguished:

a) the place is chosen in advance by the offender and is one of the factors in the formation of the method of preparation and commission of theft. Thus, burglaries are committed mostly in cities, mainly in areas of new buildings. At the same time, convenient design features of the entrance door are used (the presence of cracks, opening inside the dwelling, imperfection of latches, etc.), the lack of a burglar alarm, the «vulnerability» of the first and last floors of apartment buildings, a limited number of apartments on landings, etc.;

b) the place associated with the subject of theft (warehouses of individual products, construction sites, etc.);

c) theft in which the choice of the place of illegal actions is accidental (pickpocketing).

The clandestine nature of thefts determines the choice of the appropriate time of their commission, which is closely related to the place of criminal acts. Thus, burglaries are committed mainly from 10 a.m. to 4 p.m. on weekdays; thefts from shops, storerooms are committed in the evening and at night, on holidays or weekends; A significant number of pickpockets are committed in the morning or in the evening (rush hours), when there is a favorable situation for them in public transport, shops, markets and other crowded places.

An important place among the elements of the criminalistics characteristics of theft is occupied by information about **the subject of criminal encroachment**. This element is closely related to the place where the offence was committed. Thus, during burglaries, the following items are stolen: money (including foreign currency); products made of precious metals, stone and glass, antiques, laptops, modern technical devices (power bank, mobile phones, tablets, etc.), fur products. TVs, video and audio equipment, personal computers, clothes, shoes and other household items, and food are stolen less often.

In addition to the above-mentioned items, the following items can be stolen from homesteads and country houses: green spaces: tree seedlings, bushes; agricultural products: fruits and vegetables and products of their processing; recreational facilities: inflatable boats, boat motors, mopeds, motorcycles, bicycles, air mattresses, fishing tackle, etc.; agricultural implements, tools; building materials; metal products.

The subject of pickpocketing is money, jewelry, mobile phones. The subject of theft can be parts of a vehicle: a car, a motorcycle, a moped, a tractor as sets of units and parts that can be disassembled (engine, chassis, wheels, tape recorder, etc.). In the field of public utilities, the objects of theft

are electricity meters, television antennas, parts of elevator units, electrical wiring made of non-ferrous metals, etc. Certain types of finished products, tools and production equipment, raw materials are stolen from warehouses, bases, workshops. The number of thefts of firearms, ammunition and explosives from military units, warehouses and other storage facilities is increasing every year.

Determination of the subject of theft during the investigation of a specific offence contributes to the establishment of its other elements, in particular, certain characteristics of the offender's personality, the situation of the commission, etc. Thus, the orientation of the offender at the scene of theft, the speed and purposefulness of actions in the selection of hiding places and the selection of jewelry indicates a fairly good awareness (awareness) of the offender about the location of the items of interest to him; Thefts from cars, equipment, electricity meters, television cables, antennas, etc., are committed, as a rule, by persons who have certain professional and technical knowledge and skills.

The most informative source in the criminalistics characteristics of theft is information about the **methods of committing criminal offences** of this type. In recent years, theft of other people's property has acquired features of an organized and professional orientation, differs in qualified ways of committing them, including various actions to prepare for theft, direct seizure of material values (property), as well as concealment of traces of criminal encroachment. The actions of offenders in preparation for the commission of theft include:

- selection of the object of theft. When choosing an object of theft, the following factors are taken into account: availability of security equipment; additional control systems for the object (video surveillance, alarm); the quality of the locking devices. The choice of the object is also influenced by: the appearance of the room or building (the presence of modern renovation and design, the number of floors), the presence of technical devices to ensure the life of the owners (air conditioning, heating, satellite dishes, etc.); the possibility of an inconspicuous approach to the object and disappearance with the stolen goods (the presence of neighbors);

- observation of the object. In most cases, offenders commit such acts on their own. They consist of studying the number of residents at the facility, the schedule of their working day, the time in which they are absent; the degree of protection of the object, the placement of surveillance cameras; determination of possible ways of unhindered penetration into the territory, etc. Observation can be carried out in close proximity to the object or at a distance using binoculars or other equipment;

–getting into has some necessary technical means of committing and concealing a criminal offence. The means of getting into the premises should be considered burglary tools, classified into three types: specially designed for criminal purposes: «wistiti», «fomka», «ballerina», «houndstooth»; those that have a household purpose: tools, devices for cutting metal; those who happened to be at the scene: strips of iron, a metal rod, part of a water pipe, etc. In modern conditions, battery-powered tools are more often used: drills, grinders, portable gas welding machines, sliding pneumatic devices. Professional offenders are more likely to use lockpicks or bumping devices. Concealment of traces of a criminal offence is carried out by the use of rubber gloves, putting shoe covers on shoes or destroying traces by wiping the surface. Bags and backpacks are prepared in advance for packing stolen items. To disappear from the scene of a criminal offence, cars with a driver who drives up at the time of the theft are most often used.

– in the event of a criminal offence in the group, the selection of participants and the distribution of roles are carried out. Accomplices in theft investigations are usually selected according to the following criteria: reliable and loyal in terms of behavior in a wide variety of situations; with criminal experience or tested in pre-criminal situations; who have criminal authority and are able to resolve issues related to the division of areas of activity of organized criminal groups; physically developed, who have the skills of using weapons, fighting techniques, etc.; with the possession of certain professional skills (breaking obstacles in a certain way, using cutting devices, etc.); who have information about the activities of enterprises, organizations, institutions or their former employees; dealers of stolen goods; 8) with personal transport, premises for storing stolen goods, etc.

The method of committing a criminal offence, of course, is the most important component and includes the actions of the offender to take possession of property. According to the method of committing the offence, theft should be divided into two categories:

a) those committed in an open way: entry into the dwelling using free access through a door or window left open; breaking into the dwelling under a pretext previously invented for the victim (introducing himself as a police officer, electrician, plumber, etc.); using cohabitation with the victim or establishing a trusting relationship with him/her.

b) related to the breaking of obstacles:

– entering the apartment through the door by: a) knocking down (squeezing) the door with the body, legs (gross burglary); b) squeezing the door with burglary tools or household tools adapted for this purpose; d) drilling a hole in the door to open the lock from the inside; e) knocking out,

cutting out panels; f) sawing out the lock; g) damage to the door hinges, knocking out the hinge key;

- getting into the door of the dwelling by picking up keys or lockpicks to locking devices;
- getting into a window or balcony.

Let's note in more detail the main modern methods of getting into residential buildings:

*1. Effect on the lock mechanism:*

– by bumping, locks with a cylinder mechanism are opened. A key that is approximately the size of a hole in the lock or a special device in the form of a key is inserted and hammered with a hammer, without striking too hard. In this case, the pins of the locking mechanism are detached or destroyed and the lock opens;

– locks of any design can be opened with the help of a master key. Professional thieves are able to open the lock with improvised means: pins, knitting needles, pins, knives, wire or a set of specially made lockpicks, picking them up in each case. A modern master key is of electromechanical design;

– drilling out the locking system or knocking out the lock. This is done by striking the cylinder hard at the point of the keyhole with a hammer or its action on a chisel or chisel, after which the cylinder pops out of the lock body; drilling out a part of the cylinder mechanism of the lock at the location of the pins; sawing or biting the shackle of the padlock;

– due to the impact on the crossbar from the outside by pressing on its protruding part with the help of a hard flat object – a screwdriver, a knife blade, a metal plate, a chisel, etc., in order to force it to move to an open position;

– selection of the key. Typical inexpensive locks are often installed en masse, due to the low price of the products, so that having a suitable key will not be a problem for a burglary specialist;

– destruction of the lock mechanism by acid. Acid is poured into one of the holes, destroying the mechanism and the door is opened with a simple screwdriver.

*2. Breaking the front door or window of the house by destroying it:*

– knocking out with a shoulder, leg or using a sledgehammer or an axe of a door that opens inwards;

– neutralization of the door leaf or hinge near the hinges or sawing the hinges themselves with a grinder or squeezing them with a crowbar;

– sawing the door leaf around the lock and removing its fragment along with the lock. Such actions are sometimes carried out using a specially made

thieves' tool—the «claw of cancer», the action of which is based on the cutting properties of metal scissors. Overhead locks are opened by making a hole in the door leaf, followed by sticking your hand in and opening the lock from the inside;

– destruction of the door by spinning. To do this, a crowbar or mount is inserted between the door and the hinge and a part of the hinge is broken with a rotational movement, or a part of the door is broken or a crowbar is inserted at the bottom of the door and lifted by destroying the hinge or hinge. Recently, offenders, implementing this method, began to use specially modified jacks that are driven by both mechanical, and pneumatically;

– when entering through a window – it is broken by a foreign object or squeezed out or cut out with a glass cutter or a thieves' tool – a »ballerina«. It is possible to open the window using a crowbar or a mount that is inserted into the gap between the window sashes and squeezed out. In this case, the window locks or the window frame along with the glass are destroyed. If bars are installed on the windows, then depending on their fixing, they are sawn off or pulled out with a crowbar or mount along with nails or screws.

3. Entry into the building without breaking, or the «tool-free» method consists in using the keys to the front door stolen from the owner in advance. Sometimes the owners hide the key in the agreed city or leave the front door, windows, balcony open, which thieves successfully use;

4. Without getting into or with getting into the building secretly from the owners or with the permission of the owners, abusing their trust. Such methods of theft occur when the owners: are engaged in work in the garden or in the garden of a private house; often rest with the use of alcoholic beverages, as a result of which they lose vigilance and do not pay attention to the presence of strangers or fall asleep without taking measures to preserve property; Together they rest with offenders who have entered into their trust.

It should be noted that in most cases, offenders use a combination of methods of penetration. Unsuccessful use of one of the methods forces the offender to use the other, that is, there is a situational conditionality of the methods of committing a criminal offence.

Common methods of concealment of a criminal offence are concealment, destruction, masking or falsification of information obtained during the investigation.

Concealment is a method of concealment, which consists in not providing the investigator with information about a criminal offence committed. Characteristic features of this method are the concealment of burglary tools and stolen valuables by the thief; concealment or refusal to give truthful testimony; failure to comply with the lawful requirements of the

investigator, etc. Concealment can be carried out in active and passive forms. The active forms in this category of crimes include: the use of favorable conditions: the absence of witnesses, eyewitnesses, on weekdays and at night, remoteness from cities, lack of security, etc.; quick sale of stolen property; storage of stolen goods in pre-prepared caches. In a passive form, concealment manifests itself in failure to convey information about the crime, refusal to testify, failure to comply with the requirements of the investigation.

Destruction is manifested in the removal of traces at the scene of the criminal offence: hands, shoes, broken locks, obstacles, removal of uneaten food, etc. The elimination by the offender of traces that incriminate him/her in the theft may be complete (for example, erasing papillary handprints from the surface of the apartment furnishings on which they were left; burning the offender's clothes and shoes, etc.) or partial, for example, before leaving the burgled apartment, offenders sprinkle the floor with caustic substances (mustard powder, tobacco, kerosene, cologne, etc.) that neutralise (destroy) the floor. ), which neutralise (destroy) odour traces and exclude the possibility of using a sniffer dog.

Disguise is a change in the perception of persons who witnessed the theft or the investigator regarding the criminal nature of the actions and the involvement of a certain person. Characteristic signs of disguise are the following: preparatory actions for the theft under a motive that is acceptable to the victim regarding the purpose of visiting his or her home; breaking and entering while external sounds are present (increased rumble of a nearby tram, cutting tools used by neighbours); changing the thief's appearance (hairstyle, using a wig, dark glasses, nylon stockings with a slit for the eyes, growing a beard before committing a criminal offence with subsequent shaving or, conversely, changing clothes, etc.), which makes it difficult and even impossible for possible witnesses of the theft to remember the offender's face and subsequent identification; use of rubber gloves, shoe covers, etc.; restoring broken doors to their original appearance, inserting window panes, and pushed glass.

Falsification is the creation of false information about an event or the forgery of carriers of such information and may be expressed in the intentional leaving of other people's handprints and other «material evidence» of a person's involvement in the theft; substitution, duplication of theft items; full or partial forgery of documents for stolen numbered items; partial processing of stolen goods to change their appearance or purpose; slander of an accomplice. A combined method of falsification is a «false alibi»-the thief creating a false impression of his or her presence in another place at the time of the theft.

The above methods can be used both separately and in close intertwining, creating the so-called mixed methods of concealing a criminal offence.

The actions of offenders to prepare, commit and conceal a criminal offence constitute a dynamic system of interaction of material objects, which is accompanied by the formation of various types of traces which are sources of information about the criminal offence and its participants.

As is well known, traces in forensic science are divided into traces-objects, traces-substances and traces-reflections. Traces-objects are all material objects that have a stable external form, such as a cigarette butt, hat, handkerchief, knife, bullet casing, left at the scene of the incident, as well as parts of the whole. Trace-reflections are material copies of trace-forming objects. Substance traces are parts of a liquid or gaseous substance, such as bloodstains, particles of dust, dirt, dye, odourous substance, etc.

Traditional traces for theft are trace evidence. When a house or apartment is broken into by forcing open a door, traces of burglary tools and instruments, fingers and palms of hands, shoes, layers of various substances, fibre, pieces of thread, etc. are left on its surface, depending on the mechanism of impact on the door. The appropriate localisation of traces may occur when the offender, after breaking down the door to prevent attracting attention, puts it back in place. Hand or glove marks, if used, may be found in the house itself. The location of these traces depends on the offender's actions and the location of the stolen items. Usually, surface footprints remain on the floor, linoleum, and blankets in rooms, possibly with a layer of soil. There are also items left behind by offenders: micro-particles of clothing, small items, pocket contents (micro-objects), cigarette butts; traces of biological origin: saliva, sweat, dandruff, and other body secretions.

Among the characteristics of the offender's personality, social and legal features are significant from a forensic point of view. Thus, according to the degree of professional skills, thieves can be divided into the following groups:

*a) non-professional thieves who are usually first-time offenders and who are in a difficult financial situation due to circumstances (dismissal from work, illness) or*

*b) occasional offenders who steal unguarded property, usually while intoxicated;*

*c) skilled criminals with a strong focus on committing an offence, who have experience in committing thefts and the appropriate professional tools.*

The qualifications of the offenders correlate with the identity of the victim: professional criminals tend to target wealthy individuals, despite the



possible difficulties in breaking into a house or apartment. Conversely, non-professional thieves choose less secure targets, regardless of the presence and quantity of material assets there.

### **3.2. Initial and further stages of investigation of thefts**

The content of the initial stage of the investigation of thefts of other people's property is determined by the investigative situation that has developed depending on the time that has passed since the theft or the discovery of its traces, the object of the theft, the behaviour of the perpetrators, victims, witnesses, etc. At the initial stage of the investigation, each specific theft is characterised by a unique investigative situation. However, the generalisation of investigative practice allows us to identify some of the most typical investigative situations that determine the general direction of the investigation, its tactical tasks, the means of solving which are tactical techniques, their combinations and tactical operations—a set of coordinated investigative (detective) actions and organisational measures united by a common goal.

The most typical investigative situations at the initial stage of the theft investigation are as follows:

1. The fact of theft has been established, but there is no information about the identity of the suspect. A statement or report of theft has been received from the victim, his or her relatives, neighbours, or other persons who have found obvious signs of theft (broken doors of an apartment, house, garage, missing items, etc.). Such an investigative situation is the least favourable in terms of information and the most difficult in terms of organisation. The main task in this situation is to identify the person who committed the theft and to identify the object of the theft. For this purpose, tactical operations such as «collecting information about the offender» and «searching for stolen property» may be carried out. They begin with a preliminary questioning of the victim about changes made by the offender's actions to the scene (unusual location, appearance of unknown items, disappearance of items, etc.). The inspection of the theft scene is carried out consistently, purposefully, using methods to detect footprints, handprints, burglary tools, if the offender has overcome any obstacles, and objects with possible microtraces on them are seized. Attention should be paid to items that could have been left behind by the offender: a scarf, gloves, lighter, handkerchief, etc. Simultaneously with the inspection of the scene, a dog handler should be employed, and operational units should be instructed to

interview neighbours and relatives of the victim in order to identify possible eyewitnesses living or working in the immediate vicinity of the theft, collect information about the persons who may have committed the crime, and establish their whereabouts.

Some information about the person who committed the theft can be obtained by questioning witnesses who saw, for example, strangers near the scene of the theft shortly before or shortly after the theft. It is very important to determine the exact time of the theft. The identification and subsequent detection of the offender is facilitated by the discovery of traces and instruments of the criminal offence (injuries, layers of various substances, lockpicks, a set of keys, other devices, stolen property) on the suspect's body, clothing, shoes or in his or her home. It is also important to inspect the premises and the area adjacent to the place of theft, and to check the most likely places of sale of the stolen goods (markets, pawnshops). Certain types of examinations may be ordered to resolve diagnostic issues. Most often, in this situation, a fingerprint examination is ordered to resolve the following issues: a) whether the traces of papillary patterns found at the scene of the theft are suitable for identifying the person who left them; b) the period of limitation of the traces found; c) whether the same or different persons left handprints at the scene; d) what is the mechanism of formation of handprints (as a result of what actions they were left); e) whether the handprints at the scene of the theft were left by the victim or another person.

If clear traces of papillary fingerprint patterns that do not belong to the victim are found, they are checked against the criminal registration data.

2. The fact of the theft has been established, and there is information about the alleged offender: age, gender, appearance, special features, clothing, etc. The main tasks are to detain the thief and identify the stolen property. In particular, tactical operations are organised to track down the offender, detain him in hot pursuit, and search for stolen property, including various investigative (search) actions, including covert ones using the capabilities of operational units.

The identification and interrogation of witnesses is of great importance. Thus, the circle of witnesses in the theft proceedings is determined depending on the specifics of the event under investigation. In the case of burglaries, witnesses should be identified, first of all, among the residents of the building where the burglary was committed and who are most often at their place of residence: pensioners, housewives, students. Employees of the service staff of housing and maintenance institutions (janitors, cleaners, locksmiths, electricians, etc.) are also subject to the survey. When investigating thefts

committed from the premises of state or collective organisations, dacha cooperatives, witnesses are identified from among clients, employees, including security firms. A special group of witnesses includes pawnshop workers and taxi drivers.

When a suspect is detained, he or she should be immediately searched to identify the stolen goods, tools and traces of the criminal offence. Positive results can be obtained by conducting simultaneous searches of the suspect's place of residence and work, as well as his or her family and friends. In this situation, the task of examining the theft scene is to identify, record and remove traces of the criminal offence in order to clarify the data available to the investigator about the person who committed the theft. Interrogation of the victim should be aimed at identifying the object of the theft and determining the amount of damage.

3. The fact of the theft has been discovered and the suspect is detained at the scene of the criminal offence. The main tactical task in this situation is to record the event of the criminal offence and to remove traces of the offence. The investigator (or an officer of the investigating authority) must immediately arrive at the place of detention and take measures to clarify the circumstances of the theft, preserve and secure evidence. Typical versions in this situation are: the theft took place and was committed by the detainee; the detainee purchased the stolen property or took it for storage, etc. In order to verify these versions, investigative (detective) actions are carried out to obtain information about the criminal offence and the offender: inspection of the theft scene, interrogation of the victim and eyewitnesses, detection of traces on the detainee, personal and place of residence searches, examination.

4. The fact of the disappearance of personal property in the absence of traces of the offender's entry into the place of residence is revealed. This situation is typical in cases where the disappearance of property is not immediately detected, but later, one or more items stored in hidden places: cabinets, desk drawers, clothing pockets, hiding places are found to have been stolen. There are no traces of theft that significantly change the situation: the locks are in good condition, and other items are in order. The victim, upon discovering the disappearance of an item, usually makes an attempt to find it: examines the room, furniture, clothing, etc. and only then, after interviewing relatives, reports the theft. Typical general theories are: a family member or acquaintance has stolen the property; the theft is being staged. In this situation, it is possible to organise tactical operations aimed at finding the stolen property, identifying persons informed of the crime, and checking the relationship between the victim and the suspect. In carrying out these operations, along with interrogating the victim (identifying the object of

the theft, its individual characteristics, identifying the persons who last saw the stolen property), it is important to interview relatives and neighbours in order to establish the circle of persons who knew about the stolen items, their storage location, had access to them, visited the victim, and showed interest in the stolen property. If the testimony is contradictory, it is advisable to interrogate them simultaneously. When inspecting the scene of the theft, attention is paid to the condition of the locks on the doors and cabinets where the stolen goods were taken. If necessary, the locks are seized and sent for trace evidence to determine whether they were opened with selected, counterfeit keys.

5. Stolen goods are found, but there is no information about the victim or the person who committed the theft. In this situation, at the initial stage of the investigation, in addition to the perpetrator, the place of the theft and the identity of the victim are subject to establishment. Investigative (detective) actions in this situation include inspection of the stolen items, as well as the place of discovery, and questioning of persons who discovered the stolen items. When inspecting the place of discovery of the stolen items, the main attention is paid to the method of concealment (temporary or long-term), traces leading to the place of discovery (vehicles, animals, human feet). The stolen items are examined to detect handprints, micro-trace marks, and signs of their owner. Sometimes, among the stolen items, the victims' personal documents, travel documents indicating their routes of movement, and store receipts indicating the place and time of purchase are found. When questioning the persons who found the stolen goods, the description of the persons (appearance, clothing, etc.) whom they saw nearby is established.

6. The fact of the theft was reported by a suspect who is involved in another criminal proceeding, and no statement was received from the victim. The main task is to establish the fact of the theft and the identity of the victim. To do this, the investigator must, by conducting an investigative experiment, accurately establish the place of the theft, conduct a thorough inspection of it, detect and record traces, question persons living in that place about the missing property, its value, distinctive features, and take measures to search for the stolen property. It is important to establish the identity of the victim and the reasons why he or she did not report the theft (often the subject of the theft is illegally acquired property or property purchased with non-working income).

Thus, in most cases, the initial investigative (detective) actions in the investigation of thefts of personal property are interrogation of the victim and eyewitnesses, inspection of the scene, the results of which give grounds for putting forward reasonable versions, and planning

investigative (detective) actions to verify them. At the beginning of the investigation, as a rule, general versions of the event as a whole are put forward (a theft was committed, a theft was staged) or individual versions of the subject of proof: persons involved in the theft (the theft was committed by a group or one person; a person aware of the value of the stolen property and its location; a person with certain skills, etc.), places of possible stay of the offender (apartments, country cottages of relatives, friends, hotels, railway stations, etc. ), about the location of the stolen property: at the place of residence, work of the offender, his/her relatives, acquaintances; pawned; sold; taken outside the settlement; sent by postal parcel, etc. The degree of detail of the issues to be included in the investigation plan at the initial stage depends on the amount of data collected and the current investigative situation.

The issues in the plan should be grouped according to the elements of the criminal offence: object - what items are targeted by the criminal intent; who was injured; the value of the stolen goods; objective - where the stolen goods were located; the offender's actions in preparing the theft, breaking and entering, hiding traces and stolen goods; the time of day and duration of the offender's stay at the scene of the theft; the circumstances that contributed to the theft; the subject - committed by one person or a criminal group; the role of each member of the group; on the subjective side—the motive for the theft; the specific purpose.

Of particular importance at this stage is the development of coordinated plans of investigative (detective) actions and covert investigative (detective) actions to eliminate duplication. The organisational start in this activity belongs to the investigator. The plan should include: issues to be resolved by search activities (location of the offender, possible places of sale of stolen goods, etc.); investigative (detective) actions with specific goals of their conduct, taking into account operational information. The agreed plans determine: the order of investigative (detective) actions and covert investigative (detective) actions, the timeframe for their implementation, and specific performers. Upon completion of the actions outlined in the plan, the investigator analyses their results and, if necessary, taking into account the current situation, makes adjustments to the investigation plan.

### 3.3. Forensic characteristics of robberies and burglaries

**The objects of criminal encroachment** are usually money, securities, jewellery, mobile phones, fur clothing, and the victim's bags with any property that the offender recognises after the attack.

**The methods of committing robberies** and assaults are generally stipulated in Articles 186 and 187 of the Criminal Code of Ukraine, which state that these types of criminal offences may be combined with violence (threat of violence) or breaking and entering into a dwelling, other premises or storage. As for robbery, it does not necessarily have to be accompanied by violence. The methods of committing robberies and assaults are quite diverse and are chosen by offenders taking into account the specific circumstances in which they will need to act. Quite often, preliminary preparation is used, which consists of work on studying the object of attack: approaches; territory; obstacles at the entrance; lifestyle or work schedule; habits, reactions of the owner, guard, employee to certain actions, etc.; development of a plan for committing an offence, including the selection of participants and distribution of functions among them, selection of time and place of attack, preparation of weapons, burglary tools, disguises, transport, etc.

Methods of committing robberies and assaults, according to the dispositions of the above articles of the CC of Ukraine, can be divided into

- methods of robbery not combined with violence: tearing off a hat; snatching a briefcase, bag, etc;
- combined with violence or the threat of violence: taking a vehicle from its owner; taking money from a car driver, passerby, cash collector; inviting a person to a certain place with further taking money, property, etc;
- combined with violence or the threat of its use with breaking into a dwelling, other premises or storage: bank premises, places of storage of money; breaking into a person's dwelling under a good pretext - by announcement, as an employee of public utilities, police, etc.; breaking into a dwelling with the use of burglary tools, etc.

**Traces of robbery or assault found at the scene of the offence** are characterised, depending on the circumstances of the offence, by the presence of handprints, footprints, vehicle wheels, burglary tools, etc. In the case of a struggle between the attacker and the victim, when the latter suffered bodily harm, traces of blood, micro-objects from the clothes of each of them may be found on the soil, the victim's and the offender's clothes, elements of the scene, etc. Bruises, scratches, and other injuries can be found on the body of

the victim or offender. At the scene or near the scene, the instrument of the offence, weapons, and items accidentally lost or abandoned by the attacker are sometimes found.

The environment of the offence is usually characterised by its time, place, security conditions (alarms, strong doors, locks, other obstacles) and the security of the object, which may differ significantly depending on the method of robbery or assault. Attacks on banking institutions and their branches, cashiers of enterprises, cash collectors, and other institutions or organisations are committed during their working hours and taking into account the time of the greatest accumulation of the objects of the offence. Street robberies or muggings are committed in the evening and at night, attacks on housing—both during the day and at night, depending on the lifestyle of the owner.

**The identity of the offender.** Most of them are men, women make up a small percentage (approximately 3%) and usually do not act alone, but only in a group with men. The age profile of robbers and assailants is predominantly between 16 and 30 years old, but they may act in a group with a more experienced and senior organiser (possibly a repeat offender). These offenders generally have a high rate of repeat offending. They may also be distinguished by a low cultural level, lack of employment, and a penchant for alcohol or drugs.

**The identity of the victim.** Victims are often people who return home late through crowded places, in a state of intoxication, teenagers, women, elderly citizens, and others whose appearance suggests that they will not offer significant resistance to one or more thieves. Another group of victims is made up of representatives of the wealthy part of society, who may have not only large sums of money in their homes, but also valuable jewellery, clothes, luxury goods, etc. Individual employees of enterprises, organisations and institutions (cashiers, security guards, vehicle drivers, cash collectors, etc.) may also be among the victims.

The success of the investigation of criminal offences of robbery or assault is determined by how urgently the issue of conducting initial investigative (search) actions is resolved. The process can be complicated by the fact that there are virtually no traces at the scene (e.g., street robberies - tearing off a hat, snatching a bag, etc.) and no witnesses who saw and can recall certain details of the incident. If the investigation is delayed, all evidence may be lost.

### **3.4. Peculiarities of investigation of robberies and assaults**

The content of the initial stage of the investigation of robbery or assault in each case is determined by the investigative situation, which is somehow related to the circumstances that characterise the crime, i.e. the time that has passed since the robbery or assault, the use value of the stolen items, the behaviour of the victim, witnesses and offenders.

After receiving information about the crime, the investigator assesses its practical significance and veracity. Taking into account the collected and documented information, the investigator determines its reliability, sufficiency to initiate an investigation and decides whether it will provide a judicial perspective for criminal proceedings. At the same time, it is necessary to pay attention to the specific features inherent in this type of offence.

These include:

- a) signs of diligent preparation, audacity shown by the attackers;
- b) careful observation of the victim, as evidenced by traces left at the place of observation
- c) the nature of the actions: an attack on a person, an apartment, a summer house, committed with the aim of seizing money, valuable property, documents or concealing a more serious offence;
- d) the method of disappearing from the scene;
- e) methods of concealment and sale of criminally acquired property and valuables;
- e) data on persons who have previously committed similar criminal offences and their connections.

The above-mentioned features are identified both at the stage of preliminary investigation and at the initial stage of the investigation. The identification of these features is carried out in stages, as they are closely interrelated.

Thus, a robbery or a robbery is characterised by a certain investigative situation, as well as features that allow formulating typical main areas of investigation, i.e. to determine a set of public and covert investigative (detective) actions. The availability of the necessary information about the crime, the perpetrators, their location, the commodity value and significance of the stolen goods, places of concealment and sale provides not only an investigative and judicial perspective, but also allows to determine a set of investigative (detective) actions.

In proceedings on robberies or robberies, the investigator, as a rule,



already at the initial stage of the investigation, has certain information about the circumstances of the offence, and often about the perpetrators. This information comes to the investigator from statements of victims and other sources. By assessing this information and the results of the initial check, the investigator is able to start checking the versions put forward and planning the investigation at an early stage.

The nature and sequence of investigative (detective) actions in the investigation of robberies and assaults is determined by the specifics of the commission of these criminal offences, as well as the investigative situation that has developed depending on the time elapsed since the act, the traces found, the behaviour of the attacker, the victim, etc.

The generalisation of investigation practice allows us to **identify the most typical investigative situations**, namely:

1. The offender is detained during or immediately after the offence.
2. An unknown offender has disappeared after committing a robbery or assault.
3. The offender has disappeared after the robbery or assault, but there is some information about his or her identity.

In cases where the offender is known, the investigator has the task of verifying his or her involvement in the offence. It is necessary to carefully check the version of the victim's possible reporting of false information and staging of a robbery or assault. In addition, the plan should include measures aimed at checking the suspect's alibi. When the offender is apprehended at the scene of the offence, the plan should include measures such as questioning the victim, inspecting the scene, examining the suspect's clothing, and questioning witnesses and other persons. The investigation of robberies or assaults where the offender is not known to the victim has its own specifics. In these cases, it is necessary to check the versions of the persons who could have committed the robbery or robbery. In this case, it is necessary to clearly assess the available evidence and other information, namely

- a) analyse the statements of victims, witnesses and other persons;
- b) checking the file for unsolved robberies or assaults in the area or locality, identifying possible «touring» criminals
- c) check the forensic records for handprints, bullet marks, bullet casings, weapons, vehicles, if they were used in the commission of the offence.

This set of measures aimed at identifying the perpetrators of the attack may be expanded, taking into account the investigative situation and specific circumstances.

When planning the detention of offenders with material evidence, if the investigator is aware of it, it is necessary to provide for

- a) the location of the operatives involved in the detention, taking into account all possible circumstances of resistance from the offenders;
- b) the time and moment of the operation;
- c) possible ways of recording unlawful actions;
- d) methods of proper procedural detention.

When collecting procedurally and forensically relevant data, an important role in the investigation is played by the inspection of the place of detention. Here, traces of the offence can be found, including firearms and cold steel, property seized by the offenders and thrown away at the time of arrest, various documents, etc.

When inspecting vehicles that have been used, it is necessary to examine the interior, trunk and other places where stolen valuables, as well as the instrument of the offence and other material evidence, can be hidden.

Detainees' clothing is subject to a thorough inspection. During a personal search, you can find not only documents, weapons and valuables, but also other documents that indicate accomplices, the method of committing the offence, etc. It is important to search the detainees' places of residence and work immediately after the arrest, where various evidence of their criminal activity can also be found.

After the detention, the results should be analysed and the available information should be subject to a procedural and forensic assessment. Such an assessment should be carried out not only in terms of criminal procedural significance, but also in order to identify signs in the information received that would confirm the facts set out in the statement of the victim or other persons. This is also necessary to establish the fact of the event; if the crime was committed by a group of persons, to establish its size, structure and distribution of roles. After a detailed analysis and assessment of the results of the detention and search, the investigator should draw up a plan for interrogating the suspect, taking into account the investigative situation. It should include questions that also relate to the circumstances that were established at the initial stage of the investigation.

Drawing up a plan for interrogating a suspect requires special preparation from the investigator, since at this stage of the investigation he or she does not yet have all the information necessary to expose the offenders. At the same time, the investigator must determine the possibility of using evidence during the interrogation. When interrogating a suspect, it is first and foremost necessary to obtain information about the circumstances of the preparation for the offence. They are of particular importance in cases where

the robbery was committed by a group of persons using weapons, sophisticated technical equipment, motor vehicles, and other instruments of the offence. It is important to find out what material assets the offenders have seized, where and who has them, and what are their characteristic features.

Investigative (searching) actions in cases of robbery and assault include: interrogation of victims and witnesses, inspection of the scene, examination of victims, identification and assignment of forensic examinations. The sequence of these investigative (searching) actions is determined in each individual case by the investigative situation. In particular, it depends on the source from which the investigator received information about the attack, whether the offender was detained or fled the scene, what kind of property was stolen (private, state or collective), its commercial value, and the method of transportation of the stolen goods. If a short period of time has elapsed between the time of the offence and the time of filing the report, the scene of the incident should be immediately inspected. If some time has already passed since the attack, it is more advisable to first question the victim and witnesses, and then inspect the scene.

### 3.5. Forensic characteristics of fraud

**The objects** of fraudulent encroachment are usually money, securities, jewelry, mobile phones, fur clothing, and the right to property.

**The methods of committing fraud** are generally stipulated in Article 190 of the Criminal Code of Ukraine, which states that such types of criminal offences can be committed by deception or abuse of trust.

The method of committing fraud is characterized by the presence of a system of interrelated actions to prepare, commit and conceal traces of fraud. The actions of fraudsters, especially when they act as part of an organized group, are distributed and coordinated among themselves in advance and are carried out with great precision. For example, the stage of preparation for a criminal offence of this category in many cases has a complex structured nature, in particular:

*1. Searching for the object of fraudulent encroachment and collecting information about it.* At this stage, fraudsters, as a rule, use ads in the media, learn about the object of encroachment through acquaintances, employees of housing maintenance institutions (hereinafter referred to as housing and utilities institutions), employees of the State Migration Service, etc.

*2. Searching for accomplices to the crime.*

3. *Planning a fraudulent operation.*

4. *Choosing the method of taking possession of property or the right to it.* As a rule, fraudsters have certain knowledge of housing, civil, family law, know the procedure for carrying out transactions, as well as the list of necessary documents. Applying the relevant knowledge, fraudsters choose the most acceptable way for them to commit fraud. At the same time, they usually rely on a certain situation.

5. *Gaining trust in the victim.* At this stage, fraudsters establish a trusting relationship with the person who owns the property and persuade the latter to conclude a deal that is beneficial to them.

6. *Forgery of documents.* As a rule, it consists in the search for persons who have the skills to forge documents necessary for the conclusion of a transaction. But often fraudsters themselves forge documents for the purpose of their further use for criminal purposes.

7. *Acquisition of genuine documents,* when criminals deceive the owner of the property using his real documents and powers to own, use, dispose of property or the right to such property. Meanwhile, fraudsters also obtain real documents, in addition to deceiving the owner, by stealing them or finding them as lost.

The methods of committing fraud are quite diverse and are chosen by offenders taking into account the specific circumstances in which they will need to act.

*Methods of fraud can be divided into:*

a) type of fraud (in the field of promissory note relations, insurance services, housing turnover, employment, housing construction, investment fraud, Internet fraud, fraud in the securities market, other types of fraud);

b) the subject of encroachment (misappropriation of someone else's property; misappropriation of funds);

c) a person of the offender (has special skills; does not have special skills; is in an employment relationship with an enterprise; a third party; has not been previously convicted; has been convicted of other crimes; has been convicted under Article 190 of the Criminal Code of Ukraine);

d) duration of the crime (one-time; long-term);

e) the nature of localization (aimed at a narrow circle of victims; covering a large circle of the population).

*The most common methods are:*

– misappropriation of material funds by obtaining this property under false documents;

– misappropriation of material funds through illegal receipt of cash payments;

- misappropriation of material funds by obtaining certain goods on credit under false documents and evasion of payment of the remaining amount;
- misappropriation of property mistakenly released in greater quantity or better quality;
- receiving an advance payment for a promise to perform certain work or for the supply of goods with subsequent evasion of obligations under the agreement;
- delivery of goods in smaller quantities, of lower quality;
- misappropriation of sums of money in banking institutions through the use of forged documents in settlements between organizations (enterprises);
- cheating while gambling;
- marriage scams;
- use of money or material «dolls»;
- collection of «donations»;
- seizure of material values without the intention to fulfill obligations under the agreement;
- sale of products of lower quality than stipulated by the agreement.

**Traces of fraud.** The specificity of fraud is the use of various forged and fictitious documents (as traces in the broad sense).

In criminalistics, different types of documents are analyzed: written (texts, numbers and other records); graphic (drawings, diagrams); photographic documents; film and video documents, etc.

In this regard, there are the following main types of documents, taking into account their relationship with the criminal behavior of the person who committed fraud.

1. *Documents, the content of which is the subject of fraudulent encroachment.* Distortion of the content of such documents is the ultimate goal of criminal intent. By distorting the content, the fraudster thereby commits a completed criminal offence. An example of this kind of document is the forms of financial statements containing information about the state of affairs at the enterprise or in business associations. By overstating or decreasing the information contained in them, the fraudster thereby falsifies the actual information.

2. *Documents that are the means of committing a crime.* This type of document is the most common. The documents used in the commission of fraud are especially numerous and varied. In such cases, forged payslips, work orders for allegedly performed work, acts for the write-off of material values, orders for the receipt of money or inventory items, various kinds of

certificates, receipt and expenditure documents, waybills and much more are widely used. The content of these types of documents is the subject of forensic research due to the fact that it reflects the method of criminal actions, which reveals the mechanism of fraud.

3. *Documents that are the means of concealing the crime committed.* Almost all business processes are formalized by numerous documents. In this regard, documents are not only the subject of criminal encroachment or means of committing crimes, but also the means of its concealment. In such cases, forged documents are issued, indicating that people who were allegedly hired, who previously illegally received salaries, forged orders are issued for allegedly performed work for which money was accrued.

4. Documents characterizing the identity of the *offender*. This type of document, unlike the previous ones, is not official. These are personal correspondence, statements, complaints, etc. The subject of forensic research in such cases is the content of written documents of this kind, as well as the form of presentation of the written language. The documents characterizing the identity of the fraudster include photo and video documents with the image of the criminal. Phonodocuments with recording are of the same importance the voice of the perpetrator.

5. *Documents containing information about other significant circumstances in the case.* This type includes such documents that can be used to obtain information about various circumstances of the fraud event.

Traces-objects are also of great value. Such traces include: seals, stamps used to forge documents, blank forms of documents necessary for the conclusion of transactions; lost or stolen documents of citizens, forged documents of non-existent citizens, etc. These traces can provide information on the preparation, commission and concealment of fraud and be material evidence of criminal activity.

When fraud is committed, not only material but also perfect traces are formed. The predominant source of evidence is the testimony of witnesses, victims, and suspects. Ideal traces in the form of an imaginary image of a fraudster are most often formed in victims, since they have been observing the criminal for the longest time.

**The circumstances in which the offence was committed.** Each criminal offence is always committed and concealed in specific conditions of reality and has its own spatio-temporal characteristics. In this regard, the place and time of the criminal offence are important for establishing the truth in the case. The definition of the place of fraud is very specific and is very

diverse, since the process of misappropriation of property and the right to it is often stretched over time and space, and fraud is long-lasting if the fraudsters' actions start in one place and end in another. Therefore, the place of fraud is most often the street, parks, railway stations, office premises, travel agencies, notary offices, etc.

Fraud is mostly committed on weekdays, from 9 a.m. to 6 p.m. This is due to the fact that the conclusion of agreements is carried out in accordance with the mode of operation of state institutions that conduct civil law operations. Since frauds are long-term in nature, establishing the beginning and end of fraudulent activities and their duration over time is of great importance in determining the time of the immediate end of fraud. Actions to carry out transactions, which often accompany fraud, end with the preparation of any document (power of attorney, sale and purchase agreement, etc.) or the implementation of any legal fact (transfer of rights to property, state registration of rights to property, etc.). The moment of receipt of the relevant (confirming) documents and is the time when the fraud was committed.

Street scams are often committed on weekends between 10 a.m. and 6 p.m.

**The identity of the offender.** The vast majority of fraudsters are committed by persons who have higher education, sufficient knowledge of transactions, are well versed in economic and legal issues, and easily come into contact with people. 60% of fraudsters are male, the age of fraudsters is mostly 26-45 years old. The number of frauds committed by a person with a criminal record is only 7.5%. Many frauds are committed by officials, entrepreneurs, and intermediaries. At the same time, the number of working fraudsters exceeds the number of unemployed. Most scams are committed by a group.

The identity of the victim. The result of fraudulent actions often depends on the will and consciousness of the victim, who, during the conclusion of the transaction, himself shows a useful interest, the desire to satisfy his needs contrary to the established rules. These circumstances are immediately exploited by fraudsters to achieve a criminal goal.

*Signs that are most typical for a victim of fraud:* insufficient knowledge of the procedure for making transactions, credulity, gullibility of such persons. The peak victimization of fraud victims falls on people over the age of 45. At the same time, increased victimhood is characteristic of women. The educational level of the victims cannot be considered high, since only 30% have higher education. As a rule, victims of fraud are people who abuse alcohol or drugs, those with mental disabilities, lonely elderly people. Often,

during the commission of fraud, the victim is in a state of alcohol or drug intoxication, which is explained by the easy entry into the trust of a person in such a state.

*Features of fraud investigation.* After receiving information about the incident, the investigator assesses its practical significance and truthfulness. At the same time, it is necessary to pay attention to the specific signs inherent in this type of offence during the inspection process.

It is possible to resolve the issue of the presence of signs of fraud in the actions of a certain person, or vice versa – to conclude that a civil tort has taken place, only by a careful assessment of the following circumstances:

- 1) verification of a person's ownership of property;
- 2) verification of the person's right to make a transaction;
- 3) verification of the fact of the suspect's appeal to legal entities and individuals on issues related to the execution of documents related to the transaction;
- 4) verification of the fact of forgery of documents used during the conclusion of the transaction;
- 5) checking the possibility of fulfilling the terms of the agreement in advance, etc.

The content of the initial stage of fraud investigation in each specific case is determined by the investigative situation, which is in one way or another related to the circumstances that characterize the criminal offence.

*The sources of typical investigative situations* are the practice of fraud investigation and the methods of investigation of certain types of criminal offences developed in criminalistics.

Generalization of the practice of investigation allows us to identify **the most typical investigative situations**, namely:

- 1) the fraudster is apprehended at the scene of a criminal offence or immediately after it has been committed;
- 2) the person who committed the fraud is known, but there is no information about his whereabouts;
- 3) information about the identity of the fraudster and the way of his behavior is absent or extremely insignificant;
- 4) there is information about the event of the crime, the method of its commission, the identity of the fraudster is unknown;
- 5) there is information about the event of a criminal offence, but the mechanism of fraud and the person who committed the crime is unknown.

In the case when the offender is known, the investigator is faced with the task of checking his involvement in the commission of the offence. It is necessary to carefully check the version of the possible disclosure of false



information to the victims and the staging of fraud. In addition, the plan should include measures aimed at verifying the suspect's alibi. When the fraudster is detained at the scene of the offence, first of all, it is necessary to provide for such measures as interrogation of the victim, inspection of objects and documents, interrogation of eyewitnesses, etc.

The most difficult situation is when the fraudster is known, but his criminal actions are veiled under the guise of legal transactions. This situation causes significant difficulties in the investigation and is characterized by the fact that the fraudster often uses not forged documents, but real ones, which he obtained by deception or abuse of trust. In this way, the appearance of a bona fide transaction is created, although the criminal intended to commit fraud.

If there is a problem of distinguishing a criminal offence from a civil tort, the main tactical task of the investigation is to establish the intention of the offender aimed at taking possession of the right to property by deception or abuse of trust, and to prove the circumstance of the emergence of a criminal intent in a person in advance. The difficulties in investigating fraud disguised as lawful actions lie in the fact that the investigator has to learn not the external, perceptible side of the criminal's behavior, but his psychology: thoughts, motives, intentions, etc. This requires special methods. In addition, the difficulty of knowing the subjective side of fraud are due to the obstruction of the investigation. Accordingly, in such a situation, the investigation should be carried out in the direction of establishing the true motives and goals of the individuals' actions.

*Evidence of a person's intent to commit fraud can be considered as follows:*

–testimony of the victim regarding: the circumstances of the transaction, the relationship between him and the fraudster, the fraudster's expressed real intentions regarding the transaction;

–testimony of witnesses who were involved in the preparation of the documents under study or the implementation of transactions regarding the circumstances of the certification of the transaction, the subjects of the transaction, their intentions and the legal grounds for the transaction and issuance of documents, etc.;

– items, documents and their forms, records seized from the fraudster, which indicate criminal activity;

– documents seized from various institutions, which reflect the circumstances, the content of which reveals the actual intentions of the fraudster;

– the results of wiretapping;

– conclusions of forensic examinations on the forgery of the examined documents.

Checking versions and planning a fraud investigation when the offender is not known to the victim has its own peculiarities. In these cases, it is necessary to check the versions of persons who could have committed fraud. At the same time, it is necessary to clearly assess the available evidence and other information, namely: a) analyze the testimony of victims, witnesses and other persons; b) check the card index for the presence of unsolved frauds in a given district or settlement, identify possible «guest performers»; c) according to the data of forensic records, check the prints of handprints, vehicles, if they were used in the commission of an offence, etc.

After entering information into the Unified Register of Pre-Trial Investigations for verification of applications and reports of a criminal offence, the current criminal procedural legislation allows for the full range of procedural measures: investigative (search) actions, including covert ones, measures to ensure criminal proceedings, and in certain cases – all measures of operational and investigative activities. The directions of investigation of any crime, including fraud, are primarily closely related to the circumstances that are subject to proof in criminal proceedings and which are regulated in Art. 91 of the Criminal Procedure Code of Ukraine.

*The circumstances to be established during the investigation of fraud can be divided into groups, namely:*

1) circumstances related to the fraud event itself (information about the time and place of fraud; information about the method of its commission; information about the instrument (means) of the crime, information about the traces of the crime; information about the subject of the criminal encroachment (its quantitative and qualitative characteristics), etc.);

2) circumstances related to the identity of the victim and the offender (characteristics of the subject of the crime: individual, sanity, age, qualifying features related to the subject; number of criminals, the distribution of roles among fraudsters, the functions of each of them);

3) causal circumstances: the existence of a causal link between the actions of the guilty persons and their consequences; identification of the causes and conditions that contributed to the commission of the crime, and the measures that need to be taken to eliminate them, etc.);

4) other circumstances (type and amount of damage caused by a criminal offence; qualifying features regarding the amount of damage caused by a crime; circumstances that aggravate or mitigate punishment; circumstances that exclude criminal liability, which are the basis for closing criminal proceedings; circumstances that are grounds for exemption from

criminal liability, as well as circumstances that exclude the fact that a suspect has committed another crime, etc.).

Investigative (search) actions in fraud cases include: interrogation of victims, witnesses and suspects, inspection of the scene, objects and documents, presentation for identification and assignment of forensic examinations.

When planning an **interrogation** (at the preparatory stage), the investigator must find out a number of facts that are important for the investigation, and determine the specifics of the proceedings, as well as the specifics of the implementation of criminal intentions. To do this, you should familiarize yourself with a number of legislative norms that regulate legal relations in the area where the encroachment was committed; determine the order and procedure for the emergence of relations between entities operating in a certain segment; understand which violations contain elements of a criminal offence, and under what circumstances it is possible to talk about a civil tort. To do this, the investigator must study in detail the legal literature in this direction, and it is better to seek help from a specialist. In addition, it is necessary to carefully study the materials of the criminal proceedings and the documents contained therein. If the results of the examinations are available at the time of the interrogation, it is advisable to analyze the conclusions of the experts and think about how they can be used during the interrogation. In order to identify certain contradictions in the testimony and use them during further interrogation, the investigator must analyze the testimony of other persons, the results of other investigative (search) actions that contain evidence of the event under investigation. At the same time, it is advisable to study additional information that will help to detail, clarify the testimony of the interrogated, and identify inconsistencies in certain facts. At the same time, an important element of preparation for interrogation is to find out the personal interest of the interrogated person in certain results.

The investigator should take into account the fact that one of the essential characteristics of these persons is the constant readiness to use deception, ingenuity in its application. This type of criminals is characterized by psychological stability and mastery of techniques and methods of psychological influence on a person – persuasion and suggestion. This requires the investigator to show decisiveness in establishing certain circumstances of the case, a critical attitude to the behavior of the interrogated person and the content of his testimony.

In a conflict situation, which is typical for the interrogation of *suspects* (especially members of criminal groups), it is necessary to use tactical techniques aimed at changing the investigative situation and

overcoming counteraction, in particular: gradual presentation of evidence, detailing of testimony, persuasion, putting forward counterarguments to the testimony of the interrogated, a combination of forced and slow pace of interrogation, announcing the testimony of other accomplices, using conflicts and contradictions, etc.

Particular attention in the process of interrogation should be paid to finding out the signs of the transferred property, its value. Clarification of this circumstance to some extent contributes to the search for seized property, compensation for material damage, and sometimes a purposeful search for suspects. In the course of interrogation, the investigator must find out the reasons and conditions that contributed to the commission of the crime. In some cases, fraud is facilitated by the improper behavior of persons to whom the property is entrusted. As a result, they sometimes give incomplete and false testimony. In this regard, the assessment of the testimony of such witnesses is very difficult.

The specifics of **conducting a search and temporary access to things** and documents in proceedings of this category are due to the need to seize a large number of documents located in different places and drawn up by a number of persons in different time periods, in particular:

- 1) documents, the evidentiary value of which is related to their substantive part, which are seized at the location of certain institutions;
- 2) documents – material evidence that was a means of committing fraud.

At the same time, the list of documents to be seized during a fraud investigation depends on the specifics of the transaction, its terms, the method of committing a criminal offence, as well as the investigative situation.

*Objects to be seized during the search:* business licenses; contracts; insurance policies; e-tickets; payment receipts; falsified vouchers; documents that reflect the fact of fraud, connections of the members of the OG, the nature of their activities; contracts with clients; seals, stamps and signature clichés; advertising booklets; computer equipment; flash cards; hard drives; webcams; electronic notebooks; mobile phones; bank cards; badges; cashier's checks; passports; items obtained by criminal means, etc.

The peculiarities of the **inspection** in fraud cases are that during its conduct it is possible to obtain information about the circumstances, terms of the concluded contract, the persons who entered into it, the place and time of fraud, as well as possible signs of forgery.

In case of fraud in the process **of inspecting the scene**, it is necessary:

- 1) identify and seize traces confirming the presence of the offender

(criminals) at the scene (footprints, handprints, vehicle tracks);

2) inspect and, if necessary, seize accounting or other documents certifying the fact of fraud;

3) inspect computer and copying equipment;

4) inspect and seize objects and things found at the scene.

When inspecting computer equipment, the objects of inspection are: computer and radio-electronic equipment, data carriers (IP addresses, CACHE memory data of the system unit, etc.). During the inspection, it is necessary to identify traces that will become the objects of hardware-computer or traditional forensic research.

In the process of **reviewing documents** in fraud cases, the following tasks should be solved:

1) clarification of general data that characterize the document;

2) establishing the location of the text to be examined, its fragments, signatures;

3) by whom and when the document was issued or produced, to whom it was addressed;

4) on whose behalf the signatures were made, what is the content of the document, which testifies to the facts and circumstances that are important for the case; what details it has;

5) whether there are any signs or texts in the document that are inextricably linked with the signatures to be examined;

6) what facts or events are certified by signatures, seals and stamps, when the text (signatures) is filled in;

7) establishment of the fact of execution of the document or its individual parts by a particular person;

8) establishment of signs indicating the introduction of changes to the document;

9) what dye is used to make the main text, filled in details, individual fragments;

10) how the text of the manuscript is written;

11) whether the time of filling out the document corresponds to the date and time of production of the document form;

12) establishing signs of forgery of seal impressions, stamps by their mirror image, as well as other tasks.

**The tactics of presentation for identification** are determined by procedural, psychological and tactical features.

Among the objects that can be presented for identification in the investigation of fraud, the following can be distinguished:

1) a person;

- 2) subjects;
- 3) documents;
- 3) the premises of a notary's office (including a fictitious one) where the illegal transaction took place;
- 5) a plot of land that was shown to an investor who invested in the development of this site, etc.

The largest percentage of forensic examinations are «traditional» (forensic) **examinations**: handwriting; technical examination of documents; trace. In addition, commodity examinations are also assigned; forensic accounting examinations; computer and technical; forensic medical examinations of material evidence (biological examinations of human secretions); forensic psychiatric; forensic psychological.

The variety of methods of committing fraud and the use of a number of documents necessitates the assignment of **handwriting and technical-forensic examinations of documents**. However, their implementation is complicated by a number of reasons: 1) the presence of short texts and signatures; 2) impossibility of taking experimental samples of a person's handwriting and signature without his/her consent; 3) the prevalence of texts and signatures in documents with imitation of another person's handwriting; 4) the need to provide official forms from various institutions for comparative research, etc.

The following issues can be resolved by technical examination of documents: 1) how the image in the document is applied; 2) whether the image in the researched document is: a) an imprint of the printed form; b) drawn; c) copied from another document; 3) whether the document was made by using gluing fragments of other similar documents.

The following questions are submitted for the handwriting examination: 1) whether the handwritten text was made by a certain person; 2) whether the handwritten text is made in intentionally altered handwriting; 3) the person of what gender the handwritten text was made; 4) Is the signature made by the person on whose behalf it is indicated or by another person? That is, we are talking about both diagnostic and identification issues.

**Control questions:**

1. *The structure of forensic characteristics of criminal offences against property.*
2. *Ways of committing theft.*
3. *The situation of thefts.*
4. *Time and place of thefts.*
5. *Typical traces of theft.*
6. *Characteristics of the offender and the victim.*
7. *Typical investigative situations of the initial stage of the theft investigation.*
8. *Typical investigative situations of the subsequent stage of theft investigation.*
9. *Features of conducting a crime scene investigation in the investigation of theft.*
10. *Tactics of interrogation and simultaneous interrogation of two or more persons in the investigation of theft.*
11. *Tactical search techniques in the investigation of theft.*
12. *Features of different types of presentation for identification in the investigation of theft.*
13. *Features of the investigative experiment in the investigation of theft.*
14. *Ways of committing robberies and burglaries.*
15. *The situation of robberies and burglaries.*
16. *Time and place of robberies and burglaries.*
17. *Typical traces of robberies and burglaries.*
18. *Characteristics of the robber and the victim.*
19. *Typical investigative situations of the initial stage of the investigation of robberies and burglaries.*
20. *Typical investigative situations of the subsequent stage of the investigation of robberies and burglaries.*
21. *Features of the examination of the scene of the incident in the investigation of robberies and burglaries.*
22. *Tactics of interrogation and simultaneous interrogation of two or more persons in the investigation of robberies and burglaries.*
23. *Tactical search techniques in the investigation of robberies and burglaries.*
24. *Features of different types of identification in the investigation of robberies and burglaries.*

25. *Features of the investigative experiment in the investigation of robberies and burglaries.*

26. *The use of special knowledge in the investigation of criminal offences against property.*

***Topics of essays:***

1. *Features of the investigation of pickpocketing.*

2. *Forensic support of interrogations of various categories of persons in the investigation of criminal offences against property.*

3. *Assignment of examinations in the investigation of criminal offences against property.*

4. *Features of the investigation of fraud related to the sale and purchase of real estate.*

5. *Forensic aspects of analysing primary information in the investigation of criminal offences against property.*

6. *Features of the investigation of fraud in the field of tourism services.*



## **Chapter 4**

### **INVESTIGATION OF KNOWINGLY FALSE REPORTS OF A THREAT TO THE SAFETY OF CITIZENS, DESTRUCTION OR IMPAIRMENT OF PROPERTY**

#### **4.1. Forensic characteristics of knowingly false reports of a threat to the safety of citizens, destruction or impairment of property**

Among the criminal proceedings that affect the state of public safety, a significant place is occupied by knowingly false reports about a threat to the safety of citizens, destruction or damage to property.

The composition of the specific forensic characteristics includes a number of components, among which the method of committing a criminal offence is one of the main ones. According to the results of the study of judicial and investigative practice, it was established that in 27 % of their total number, criminals took measures to prepare for their commission, which consisted in: 1) developing a crime plan, which was carried out by 27 % of criminals; 2) selection of the object of encroachment – 27 %; 3) searching for equipment and preparation of tools of a criminal offence – 20%; 4) distribution of roles between co-participants – 13 %; 5) selection of accomplices – 7%; 6) writing the text of the message about the security threat, which was later transmitted – 6 %.

It was found that in 34% of cases the information was received directly by the object to which threats were made, and, accordingly, in 66 % – by other addressees.

Among the total number of messages sent directly to the object of threats, offenders addressed them: in 95 % of cases – to a civilian; 5 % – employees of the Ministry of Internal Affairs. In the event that criminals transmit messages about a threat to another object, they were received: in 81 % of cases – by units of the Ministry of Internal Affairs; in 11 % – civilians; in 5 % – Security Service of Ukraine.

The methods of proving information about committed criminal offences are determined by the possibilities of proving information with the relevant content. If fifteen years ago, knowingly false information was transmitted using telephone communication in 91 % of cases, today these messages are carried out using social networks, messengers, official websites

of relevant state institutions, etc. At the same time, in 75 % of cases the message was duplicated only once, in 25 % – twice. Previously transmitted messages were received again in 74 % of cases by units of the Ministry of Internal Affairs and in 13 % by the Ministry of Emergency Situations and emergency medical aid stations.

Among the methods of committing criminal offences of the considered category, mostly (66 %) messages were sent to certain addressees. Quite often (34 %) the information about the security threat was received directly by the «victim», i.e. the object to which the purpose of teaching actions by the offender was directed.

Trace picture. Forensic investigative practice determines that in 100 % of cases, perfect traces remained in the memory of persons who received messages about a threat.

In 41 % of cases, the traces were found at the place of commission of the criminal offence and in 59 % – in other places. At the same time, out of the indicated number of traces at the crime scene, the following were found: traces of hands – in 75 % of cases; devices similar to explosives (mock-ups of explosive devices) – in 12.5 %; carriers of information from surveillance cameras – in 12.5 %.

When criminals use telecommunication networks, traces remain in 100% of cases in the form of information related to the output data of the number from which the criminal made the call and the input data of the number of the person who received the message. In addition, the transmission of messages using the Internet leads to the formation of electronic traces.

Circumstances of committing a criminal offence. Place and time are mandatory circumstances that must be established during the investigation of each criminal proceeding. Knowledge of the exact place and time of the investigated act forms the basis, based on which, the process of identifying and using information for search and cognitive purposes takes place. Time should be considered as the moment of committing a socially dangerous act from the standpoint of its components, such as day, week, month, season. In turn, setting the time according to these characteristics determines the differences in lighting conditions and, accordingly, the presence of certain weather conditions, as a result, leads to the determination of the probability of observing the process of committing a criminal offence by outsiders, primarily witnesses.

By studying judicial and investigative practice, we found out that 90 % of criminals reported an already existing threat, defining it in the present tense. The rest (10 %) indicated that the moment of threat to public safety will come after a certain time in the future. Out of the total number of these

cases, 80 % of the criminals specified the time period before the security threat occurred. At the same time, they all indicated the moment of danger during the day. The other 20 % of people did not determine the time of the threat in the future.

Notifications are received according to the time of day: in the morning in 13 % of criminal offences; during the day – 51 %; in the evening – 23 %, at night – 13 %. 77 % of socially dangerous acts are committed on weekdays, 23 % on weekends. The considered socially dangerous acts are committed: in summer – in 18 % of cases; in winter – 20 %; in spring – 28 %; in autumn – 34 %.

At the time of the transmission of information about the security threat, the perpetrators were at their place of residence: in 34 %; another person – 9 %; works – in 5 %; education – in 16 %; recreation – in 11 %; no connection with the place of stay was found – in 25 % of cases.

In relation to the object of threats, the criminal was on its territory in 32 % of cases; in the immediate vicinity – in 14 %; in one city (population) – 48 %; in another city (population) within the region – 4 %; in another region – 4 %.

The specified information determines the organization of search activities by police officers for the perpetrator, who is mostly a local resident and is located in the same city as the injured party.

The injured party Criminal offences of the studied category are mainly addressed to legal entities, among which a significant number are educational institutions (39 %), trade institutions (19 %). Expressing a threat to a certain object, the criminal realizes that his actions will affect a certain number of both legal entities and individuals who are currently on the territory of the threatened object. In turn, addressing a threat to a legal entity, rather than a natural person, in a number of cases can be considered as an attempt by the criminal to hide the pursued goal, motives and thus avoid exposure. In 94 % of criminals, they identify a specific object to which messages with the appropriate content are addressed.

*The identity of the offender.* Criminal offences of the specified type are mainly committed by single convicted male persons aged 14 to 25 with an incomplete secondary or secondary education. The main number of these crimes are probably committed by persons without a permanent place of work, the possibility of involvement of working people and those studying in secondary or higher education institutions is significant. At the same time, almost all of these persons are local residents who had no prior criminal experience. Also important in drawing up a probable portrait of a criminal is the fact that a number of these persons report the threat to the institution,

organization where they work (study) or try to get a job. One of the important aspects of forming a portrait of a given person is to find out the motives, the main of which is hooliganism, and the goals pursued by the criminal, among which the most common are fun and jokes, and quite likely—revenge for any purpose. A characteristic feature of the person under consideration is the commission of almost half of the crimes qualified under Art. 259 of the Criminal Code of Ukraine, in a state of alcoholic intoxication.

### ***Peculiarities of initiation of criminal proceedings***

Law enforcement officials must take a number of measures against the object of the threat. The fire brigade, the explosives service, the division of the fire department in whose service territory the relevant object is located, the ambulance team and other agencies are immediately sent to the facility that has been threatened.

All people are evacuated from the threatened facility to an open area no closer than 300 m or to capital buildings located no closer than 50 m from the threatened facility. The latter is surrounded by police officers who control and record every person leaving the building using technical means (primarily video cameras). In addition, all possible persons observing the evacuation and search operations are secretly recorded. The obtained video recordings are further analyzed for the absence of certain persons at the object or, conversely, the presence of outsiders who should not be there.

The inspection of the object must be started from the area adjacent to it, later entering the premises. The building is inspected from the basement and lower floors, gradually rising to the upper floors. In order to speed up search activities, it is recommended to involve the staff of the institution on whose territory verification activities are carried out. This is especially important for those enterprises (institutions, organizations) whose activity is difficult, and sometimes impossible, to stop (for example, a nuclear power plant). In this case, as well as in similar cases, each employee of this institution should check his workplace and the area adjacent to it for the presence of foreign objects. The time of conducting search operations is significantly accelerated when using specially trained dogs of the canine service.

If the exact time of the explosion is specified in the message, the authorized person must ensure that all persons involved in the verification measures at the threat object leave it 10 minutes before the specified time. After inspection of the object by the explosives service, the authorized person makes a decision on the necessity of conducting an inspection of this building.

Verification measures at the place of transmission of the corresponding message are aimed at establishing the place from where it was transmitted,

which will be used to search for evidence of the criminal's actions.

An investigative team is immediately sent to the place where the message came from. After arriving at the place of transmission of the message, the members of the group should orient themselves to the place. Further actions to identify the criminal, witnesses, and eyewitnesses will depend on this.

## **4.2. Initial stage of investigation**

Typical investigative situations that arise at the initial stage of the investigation of knowingly false reports about a threat to the safety of citizens, destruction or damage to property are as follows:

- 1) the criminal is known, he was detained during the illegal act or immediately after it was committed;
- 2) the criminal is known, but he disappeared from the scene of the crime;
- 3) the criminal is unknown, but there is some information about him;
- 4) the criminal is unknown and no information about him has been found.

For each typical investigative situation, the law enforcement officers can carry out an appropriate set of actions.

So, in the case when the criminal is known, he was detained during the illegal act or immediately after the commission, we consider it most expedient to carry out: inspection of the object of threat by the explosives service; inspection of the scene with the involvement of employees of the Ministry of Emergency Situations, groups of emergency medical aid, gas emergency service and others; interrogation of witnesses, victims, suspects; simultaneous interrogations of previously interrogated persons; presentation for recognition; extraction of printouts of incoming and outgoing information of telephones, audio cassettes, disks from the duty unit of the Ministry of Internal Affairs, to which the message was received; voice samples of the suspect; mobile phones used to send messages; assignment of examinations; investigative experiment.

In the event of a situation where the criminal is known, but he has disappeared from the scene of the crime, the following actions should be taken: inspection of the object of threat by the explosives service; inspection of the scene with the involvement of employees of the Ministry of Emergency Situations, groups of emergency medical aid, gas emergency service and others; interrogation of witnesses, victims, suspects; extraction of

printouts of incoming and outgoing information of telephones, discs from the duty unit of the Ministry of Internal Affairs, to which a notification was made; simultaneous interrogations of previously interrogated persons; assignment of examinations; investigative experiment.

The investigative situation, when the criminal is unknown, but there is some information about him in the primary materials, determines the following investigative (search) actions: inspection of the object of threat by the explosives service; inspection of the scene with the involvement of employees of emergency services, groups of emergency medical aid, gas emergency service and others; interrogation of eyewitnesses, victims, suspects; conducting searches; extraction of printouts of incoming and outgoing information of telephones, discs from the duty unit of the Ministry of Internal Affairs, to which a notification was made; telephones using which messages were transmitted; presentation for recognition; simultaneous interrogations of previously interrogated persons; assignment of examinations; investigative experiment.

According to the investigative situation, when the criminal is unknown and no information about him has been discovered, the actions of the law enforcement officers are primarily aimed at identifying the perpetrator. This is possible by taking actions that will contribute to the discovery of the maximum amount of information about him. They can be: inspection of the object of threat by the explosive engineering service; inspection of the scene with the involvement of emergency services, emergency medical teams, gas emergency service and others; interrogation of victims; extraction of printouts of incoming and outgoing information of telephones, discs from the duty unit of the Ministry of Internal Affairs, to which a notification was made; assignment of examinations. It is significant in establishing the criminal for the crimes of the considered category that the investigative body conducts operational measures.

### **4.3. Tactics of individual investigative (search) actions**

**Review.** It was established that the review was conducted by an investigator in 79% of cases. We have already been informed of the circumstances of occurrence and locations of traces of this criminal offence. This should help law enforcement officers determine priorities regarding the sequence of conducting their searches. The implication of this is that law enforcement officers must give priority to inspecting those locations where the criminal's images are most likely to be defaced or destroyed. In the

future, traces will be removed where the possibility of their damage or destruction is less.

Among the total number of committed criminal offences, investigative inspection was carried out at the object of the threat in 59 % of cases, as a result of which traces were found in only 12 %. From the obtained data, it can be assumed that the overwhelming number of authorized persons attach importance to the inspection of the threat object. However, the number of criminals identified as a result of its implementation remains insufficient.

Regardless of how much time passed from the moment of receiving the message to the discovery of the place of its transmission, the latter must be examined in a mandatory manner. The visit of an authorized person and other law enforcement officers to a given place will provide orientation to the area, will contribute to making assumptions that connect the criminal with this area, why the message was sent from here, thus forming a circle of suspects.

In 14 % of cases, the place of transmission of the message and the object of the threat coincided. In these cases, efforts were directed not to establishing the place of transmission of the message, but to carrying out the necessary actions on it. The information necessary for making a decision is immediately collected based on the relevant fact. This contributes to the detection and removal of a significantly larger number of images of the criminal, since the time during which the law enforcement officers arrived at the given place did not allow to destroy the traces of illegal actions.

By studying the forensic practice, we found out that the following specialists were involved in conducting search activities at the immediate object of the threat: explosives service (73 %); emergency services (32 %); canine service (5 %); gas emergency service (2 %). We believe that the involvement of explosives service specialists should be mandatory. Other specialists are at the discretion of the investigator, taking into account each specific fact.

Appendices are an important aspect of drawing up a protocol for any investigative (search) action, and especially an inspection. Unfortunately, investigators do not pay due attention to the preparation of appendices to the inspection protocol, namely diagrams, plans, photo tables, etc. However, it is the applications that provide a visual perception of the examination site during the study of the protocol.

**Search.** A search is an investigative (exploratory) action, the essence of which is a forced search of premises, areas of the area, other objects and individual citizens with the aim of identifying and seizing crime tools, things and valuables obtained by crime, as well as objects and documents, which are important for establishing the truth in the proceedings.

In proceedings qualified in accordance with Art. 259 of the Criminal Code of Ukraine, there may be a need to conduct a search at the place of residence of the suspect. The effectiveness of searches increases if preliminary information is collected about the searched person (his personality, lifestyle, skills, profession, etc.).

Depending on the method of transmission of the message with the appropriate content, searches for relevant images of the criminal's actions will be carried out. If an object similar to an explosive device is discovered during the search, it is advisable to stop the search and remove all persons from the building to a safe distance. At the same time, no actions with this object are carried out until it is examined by the relevant explosives specialists. The search can be continued only if the threat to the safety of the participants and third parties is eliminated.

It is expedient to involve in the search those employees of the explosives service who participated in the inspection of the object of the threat, during which the mock-up of the explosive device was discovered. This will contribute to better orientation of these specialists during the search and detection of those tools that were used to make the mock-up of the explosive device.

Temporary access to things and documents is carried out in cases where it is necessary to remove only specified objects and documents, when it is known exactly where and with whom they are.

All objects removed during temporary access to things and documents should be examined and described in detail in the corresponding protocol. In addition, it is advisable to photograph the removed objects and, accordingly, make a photo table as an appendix to the inspection report.

Each of these items has its own significance for criminal proceedings. In addition, the evidentiary value is small individually, but in combination with other information, they create an evidentiary base. That is, if there is a certain amount of information, it can be said that the truth in the proceedings has been established.

***Interrogation.*** During the questioning of witnesses who have information about the notification of a threat to the safety of citizens, the destruction or damage of property, the following is revealed:

- date, time, place and how the message was received;
- the environment in which the message was received (time of day, lighting conditions, extraneous noises, the distance at which persons were);
- characteristics of the person who perceived the message (state of health, sense organs);
- presentation of the content of the message and its duration;



- characteristics of the speaker;
  - whether the identity of the criminal is known to the person who received the message;
  - a description of the signs that were remembered, by which identification is possible in the future;
  - further actions of the criminal after the transmission of the message;
  - description of further actions of the person after receiving the message.
  - the presence of third parties who could witness this event;
- However, individual questions may also be highlighted.

In the process of questioning the representatives of the injured party (representatives of the administration, employees of the facility, residents of the house against which the threat was expressed) find out:

- have similar violations been committed before in relation to this object, a person who works in this institution, lives in the building (if so, when, by whom);
- does the enterprise (institution, organization) have competitors (if so, who, since when);
- does the enterprise (institution, organization) have debts to legal entities, individuals, lawsuits (if so, to whom, from when);
- what is the situation in the team, the house (possible relationships, conflicts between employees, neighbors);
- what activities were planned for the current day at the facility (conclusion of important agreements, conducting exams, assessments, control works at the educational institution);
- which of the employees (students) was fired (dismissed) recently;
- whether recruitment of employees was recently carried out and whether someone was refused employment or admission to an educational institution;
- which of the residents of the house leads an immoral lifestyle and is capable of committing this crime;
- whether losses were caused to the enterprise (institution, organization), which, and their size.

Persons possessing information that will contribute to the establishment of the truth regarding a criminal offence qualified in accordance with Art. 259 of the Criminal Code of Ukraine.

The specified list of questions during the questioning of relevant persons in proceedings of the considered category is not exhaustive and may be adjusted at the discretion of the authorized person.

During the questioning of the suspect in the proceedings of the

considered category, the authorized person may face two situations:

- the person does not plead guilty;
- the person admits guilt.

When the criminal does not admit involvement in this criminal offence, the authorized person must conduct an interrogation as thoroughly as possible. The tactics of interrogation of the suspect are determined taking into account the situation in the case. Regardless of how much time has passed, it is necessary to find out from the interrogated:

- where he was, what he was doing at the relevant time;
- who can confirm this.

When the suspect immediately admits the fact of involvement in a criminal offence qualified according to Art. 259 of the Criminal Code of Ukraine, it is necessary to clarify the following:

- when, in connection with what, under what circumstances, that preceded the emergence of the intention to transmit a knowingly false message about a threat to the safety of citizens, destruction or damage to property;

- what preparatory actions were performed before the transmission of the message;

- where, when, under what circumstances the message with the relevant content was transmitted;

- literal content of the message;

- in connection with what exactly this method was chosen, the situation of the transmission of the message;

- what are the motives, purpose of the message;

- whether he was aware of the false nature of the message, managed his own actions, anticipated the occurrence of socially dangerous consequences and wished for them to occur;

- whether he was in a state of intoxication at the time of the commission of the offence;

- whether there were accomplices, persons who know about the actions of the criminal;

- what measures were taken to hide socially dangerous actions;

- has he not committed similar actions before?

As a rule, examinations are assigned when, without the use of special knowledge, it is not possible to find out the circumstances that are important for criminal proceedings.

Usually, for criminal offences of the considered category, especially at the initial stage of the investigation, except for the phonogram, or the test of the message with the relevant content about the person who owns the voice,

law enforcement agencies do not know anything. Under such circumstances, there is a need to conduct a phonoscopic examination.

Autorecognition expertise solves identification tasks (regarding the identification of the person of the author of the text), as well as non-identification tasks (diagnostic) about the conditions of compiling the given text, the fact of distortion of written speech, etc., classification tasks about the place of formation of speech skills, native language, education of the author of the document.

A dactyloscopic examination may also be ordered, the main task of which is to identify a person based on handprints left at the scene of the incident.

The need to carry out an explosive examination may arise in the event that a mock-up of an explosive device is detected at the facility. The object is sent for examination in the form in which it was removed from the scene, but in a necessarily neutralized state.

A forensic psychiatric examination is prescribed if there are doubts about the suspect's mental health. Reasons for the emergence of doubts and the assignment of a forensic psychiatric examination can be:

- statements by the suspect or his relatives that he was being treated in a psychiatric hospital or was registered with a psychiatrist;
- responses to inquiries from a forensic psychiatric dispensary or a psychiatrist that the relevant person is registered or was under treatment;
- availability of information about the person's brain injury;
- the indication of various persons on the strangeness of the suspect's behavior, or their establishment by an authorized person directly.

Forensic psychological examination is prescribed during the investigation of criminal proceedings committed by minors to establish specific features related to the psychological characteristics of age groups of minors. It establishes those features of mental activity and their manifestations in a person's behavior, which have legal significance and cause certain legal consequences.

Taking into account the need, investigators may also order other examinations. Cases of assignment of repeated, additional examinations are not excluded.

**Control questions:**

1. *The structure of the forensic characteristics of knowingly false reports about a threat to the safety of citizens, destruction or damage to property*
2. *Ways of committing*
3. *The situation of practice*
5. *Trace pattern.*
6. *The injured party and the person of the offender.*
7. *Peculiarities of initiation of criminal proceedings.*
8. *Typical investigative situations of the initial stage of the investigation.*
9. *Organization and planning of the investigation at the initial stage in accordance with typical investigative situations.*
10. *Peculiarities of the inspection.*
11. *Tactics of interrogation and simultaneous interrogation of two or more persons.*
12. *Peculiarities of the search.*
13. *Use of special knowledge.*

**Topics of essays:**

1. *Peculiarities of the initiation of an investigation into the fact of a knowingly false report about a threat to the safety of citizens, destruction or damage to property.*
2. *Circumstances that must be proven during the investigation of a knowingly false report about a threat to the safety of citizens, destruction or damage to property.*
3. *Typical investigative situations and corresponding sets of investigative (search) actions at the initial stage of the investigation of known false reports about threats to the safety of citizens, destruction or damage to property.*
4. *Peculiarities of searching for evidentiary information about knowingly false reports about threats to citizens' safety, destruction or damage to property.*
5. *Possibilities of using special knowledge in the investigation of known false reports about threats to the safety of citizens, destruction or damage to property.*

## **Chapter 5**

### **INVESTIGATION OF RIOTS**

#### **5.1. Forensic characteristics of riots**

Riots can be considered primarily as one of the possible ways of developing crisis in the social sphere. And they precede riots and in fact are signs that indicate the possibility of the beginning of riots: the presence of a conflict situation in the national, ethnic, religious spheres or social tension in youth circles (mainly in the sphere of activity of informal youth movements; football fans; representatives of extremist political movements, etc.)

In the future, the conflict escalates in the form of meetings, demonstrations, picketing, other mass actions (including civil disobedience); spreading rumors; incitement of the situation; creation of weapons stockpiles, preparation and distribution of printed propaganda materials (leaflets, etc.); uttering threats against representatives of the authorities. And all this primarily has one goal – to create a «face the enemy».

Thus, within the framework of establishing the circumstances of the occurrence riots in order to establish forensically significant information, it is proposed to consider: what was the reason for the concentration (clustering) of people in large groups; actions of individuals in the form of calls for further actions (calls for pogroms, seizure of government buildings); provocation of the crowd to riot (turning an ordinary gathering of people into an arbitrary crowd).

Forensic characterization of riots consists of the following elements:

- the method of committing the crime;
- subject of criminal activity;
- the circumstances of the commission of criminal acts;
- «trace picture» of the commission of the crime;
- identity of the victim;
- the identity of the criminal.

The method of committing the crime. The analysis of information about the method of committing riots shows that it depends on situational factors and mostly does not have well-defined signs of preliminary preparation, careful planning, collective execution with the distribution of roles, good technical support and high professionalism in the actions of the performers.

This can be evidenced by the crowd's use of various items that they found during the pogroms. But if riots were carefully prepared or continued for a long time, then most of the active participants in the riots might have specially prepared weapons, which are used during both the destruction and damage of property, and resistance to law enforcement officers.

According to the disposition of Art. 294 of the Criminal Code of Ukraine, the methods of committing riots are the organization of riots and active participation in riots.

The methods of organizing riots are as follows:

- searching for people to participate in riots, paying for their participation in riots;

- carrying out measures to transport these persons from different regions (oblasts, districts) of the state to the place where riots are planned (searching or provision of motor vehicles, its rental, payment transport services, etc.);

- development of plans for inciting the crowd, distribution of roles between individual active participants of the riots;

- speeches at rallies, announcement of various appeals with the aim of gathering a crowd to commit riots, number of appeals, dissemination information that distorts the actions of government officials,

- incitement to the crowd that had gathered for holding a rally or other peaceful actions, to violence, pogroms, arson, seizure of buildings or buildings, forced eviction of citizens, destruction of property, armed resistance to representatives of the authorities. Typical spreading false information among the crowd is a way of organizing riots;

- committing provocative actions with the aim of provoking the appropriate behavior of large groups of people, inciting them to committing riots;

- leadership of the crowd or its individual groups when committing riots and others.

Active participation in riots is characterized as follows. Crimes are committed through actions aimed at destruction, damage to property, and causing bodily harm. At the same time, firearms, improvised explosive devices, incendiary devices, melee weapons, as well as other things that are used as weapons necessary for destruction, damage to property, and armed resistance to representatives of the authorities are used.

The most widespread actions of a criminal mob during riots are the destruction or damage of state property (when the mob is politicized, for example, riots on the basis of an inter-ethnic conflict) or the property of citizens, legal entities (most often we are talking about commercial

structures), when the main motive for the actions of active participants in riots may be clear disrespect for society or a negative attitude towards specific groups of people who are associated in the crowd with the face of the enemy (foreigners, immigrants, Roma (gypsies); football fans of the rival team, employees of internal affairs bodies, etc.). The end of riots is usually accompanied by armed resistance to the authorities. Destruction or damage to property is committed by means of arson, explosion or mob action using as weapons means that could have been prepared in advance for use during riots or that active participants of the riots already received during pogroms.

If we are talking about the thorough preparation of pogroms, the elements of concealment can be planned and foreseen (for example, an alibi) by a pre-developed plan for carrying out criminal actions (attacks, pogroms, destruction of property, etc.). In addition to the destruction of traces of crimes and material evidence (in order to oppose the investigation), it is also possible to hinder the activity of the investigative-operational group in the disclosure and investigation of the crime in other forms: in particular, the creation of situations when it is impossible to carry out individual investigative actions (for example, the impossibility of conducting an inspection of the scene immediately after the end of the riots - due to the threat to the life and health of the investigators from the part of the participants), as well as mass «processing» of witnesses (primarily eyewitnesses) and victims by creating an atmosphere of inevitable revenge on the part of the persons exposed by them, etc.

**Subject of criminal activity.** The typical objects of attack during riots include government buildings (buildings where internal affairs bodies are located, in the first place), as well as buildings of commercial structures, the owners of which are associated with persons who are personified with the face of the enemy (for example, believe that their business is related to the interests of criminal groups; they belong to a certain nationality, religion, family clan, etc.). Quite widespread attacks on places of residence (houses).

Representatives of national minorities (in Ukraine, the buildings of Roma (Gypsies) in places where they live compactly were repeatedly the object of attacks and pogroms). Citizens (passers-by, law enforcement officers, etc.) are also subject to attacks. The circumstances of the commission of criminal acts. The choice of the place where crimes are committed is determined by the direction of movement of the crowd: from the place of formation (stadiums, large premises or squares where events related to the gathering of a large number of people are held) to the objects of the attack (buildings of commercial structures, government buildings, etc., depending on the purpose of the crowd; it can also be a place of compact

residence of persons of a certain nationality) and places where the crowd was stopped and dispersed by law enforcement agencies (the choice of the latter depends on the situation), or places, where the crowd lost the signs of arbitrariness without the influence of law enforcement officials and broke up into groups that also later broke up or into individuals (for example, at a place where there is a transport «interchange» from which people can get to their homes, places of work without hindrance etc.).

Mostly this is a city (usually a big one) and its nearby suburbs. The area is characterized by a high concentration of population. Typical places of events in cases of riots are squares, sections of streets; territories adjacent to houses; residential and service premises (state institutions, organizations, enterprises; commercial structures, etc.). The crime scene can sometimes have specific characteristics. For example, riots in prisons. In this case, these crimes are committed only on the territory of the relevant institution of the State Department of Ukraine for the execution of punishments (which is under guard) or even on some part of it (residential or industrial zone).

For riots committed with hooligan intentions by fans of sports teams, this is usually a place where sports competitions are held or next to it (stadium), as well as on the way of the crowd to transport interchanges, subway stations, electric trains, where the crowd gradually dissipates. The largest is the coverage of the territory during the politicized period riots. These can be large cities, regions, including several settlements.

The time of committing the specified illegal acts is, as a rule, from 11:00 a.m. to 6:00 p.m. Sometimes the date of the riots can be important—it can be set on the occasion of some event in history (as a rule, such riots are not preceded by a conflict). This makes it possible to search for organizers and active participants of riots among, for example, followers of the ideas of certain historical figures.

The conditions of riots create a situation where the anonymity of the criminal is ensured in one form or another. But, as a rule, their active participants do not hide their actions during riots. At the same time, it will not be entirely true to state categorically that the concealment of such crimes is not characteristic of cases of the specified category. For example, destruction and arson in many cases are not only the culmination of riots (outrages), but also a way to destroy the traces of a crime.

«Trace picture» of the commission of a crime. Physical evidence is a typical source of tangible information. In case of situational explosions of negative emotions (for example, the actions of football fans after their team's loss), improvised means are used, which are sought out already during the riots in the places of the first pogroms. For them, the following things that



can be used as projectiles are most often used: stones, paving stones, bricks, empty glass bottles, various metal things (bolts, nuts, fragments of street garbage cans, fences (turnstiles), seats from stadiums etc.). When they are found during an inspection of the scene, one can conclude that riots are situational, random, and are not characterized by careful preparation. On these things, you can find fingerprints, traces of fuel and lubricants, etc., which is of great importance for the identification and further investigation of the criminals.

A typical trace pattern of committing riots areas follows:

- traces on the bodies of participants in riots and victims in the form of physical injuries of varying degrees of severity, as well as other traces (damage to clothing, traces of layering of substances that were used in the process committing riots), which should be established with linking to the causes and time of occurrence;

- traces in the memory of eyewitnesses, victims, participants of riots who can be questioned according to their procedural status;

- handy tools (metal rods, rubber, wooden sticks, stones), used and unused bottles, canisters and other containers with flammable liquid, packaging of weapons (bags, packages, newspapers), etc.;

- remnants of campaign materials and other subjects at the scene: leaflets, posters, inscriptions of slogans on the walls of buildings, structures, party symbols, flags etc;

- left, lost or forgotten personal things of participants in riots at the scene: documents or their fragments, clothes, shoes fragments, etc.;

- traces of damage property: destroyed or damaged buildings, buildings, fences, CCTV cameras, motor vehicles and other equipment, video and television equipment for journalists, uniforms of military forces, victims, etc.

For riots that were prepared in advance characterized by things that are adapted for their use during riots: bottles that are already filled with an incendiary mixture (for example, kerosene with lye) and with a special wick, which the ignition of the mixture is initiated (fragments of fabric that soaked in kerosene). Metal rods, wooden and metal sticks specially adapted for riots as weapons of impact and crushing action; as well as bottles with a lighter the mixture (usually in standard plastic bottle boxes) can be found when inspecting the vehicles of active participants and organizers of the riots, which they left on the way of crowd; in buses that were used to transport rioters from other settlements and regions to the riot places.

Items that may indicate preliminary preparations for riots include

bullet shells (from rifled or smooth-bore firearms), bullets and their fragments; headbands (headbands and armbands), which are necessary to distinguish organized rioters from the crowd; fragments of improvised explosive devices.

Today's riots, which have already become typical for some countries in the world in recent years (for example, the actions of anti-globalists), are characterized by careful preparation of their participants. In such cases, special bandages, respirators and gas masks can be left at the scene, which are used to neutralize special equipment used by law enforcement agencies (tear gas, for example). As projectiles they use small spray paints (standard cans weighing 200-400 gr.) with nitro paint (it is flammable and is used for arson). To damage or destroy the glass of shop windows they used prepared in advance hammers, baseball bats, hiking axes, and other household items purchased specifically for this aim.

A significant amount of material evidence, which contains information that the investigation is interested in obtaining, can be found on the roadway of the street (and sidewalk) in the direction of the crowd: posters, banners, flags (with appropriate symbols), leaflets, newspapers. These can be inscriptions on the walls, aerosol cans of paint (with the help of which the inscription is made), etc. Household radio, television, video equipment that was previously stolen during riots, etc. Things of random persons, who got into the crowd (bags, documents, etc.). The largest amount of material evidence is seized in places of attempts to stop the actions of a criminal mob (there may be several such attempts) or in places of crowd dispersal by law enforcement agencies: clothes of victims and participants in riots (including protective helmets, shields, rubber sticks), shell casings and bullets (as a result of the use of weapons by police officers), other traces of the use of special equipment (rubber balls, tear gas aerosol cans, etc.); firearms and steal arms, metal rods, posters, banners; things that were stolen during riots; bottles with alcoholic beverages, improvised explosive devices, unused bottles with incendiary mixture, etc.

***The identity of the victim.*** Victims of riots should be grouped as follows:

1. Employees of law enforcement agencies, military personnel who were involved in the protection of law and order during mass events before the start of riots and (or) participated in crowd control.

2. Persons at whom the main aggression of the crowd is directed: managers or owners of institutions, enterprises and organizations, representatives of national minorities, other religions in the event of riots on an international, inter-ethnic, religious basis in their places of compact

residence or stay, fans of the rival team, etc.

3. Persons who were in the territory of riots: employees, managers and owners of enterprises, organizations, institutions, commercial structures, which were in the path of the crowd and were subjected to pogroms; residents of buildings located in the path of a crowd that commits arson, destruction or damage to property, for example, breaking glass in windows, etc.; persons who accidentally got into the crowd, without the intention of participating in riots (pensioners, elderly people, women, minors), as well as owners of cars that were in the territory where riots took place unrest. During the investigation of cases of the specified category, it is necessary to carefully study the data on the victims. This will allow in some cases to establish the motives of the riots. In particular, the victims belong to a certain nationality (Gypsies, for example) or to a group of people united by regional affiliation (immigrants from Asian countries, «persons of Caucasian nationality», etc.). In the case of receiving such information, the investigation can reasonably put forward the version that the basis of the riots is an inter-national, inter-ethnic conflict. Information about the identity of the victim is significant, that is, people who were in the area of action of the crowd (including people who stopped the actions of the crowd), or owners of property that was damaged (damaged, destroyed or destroyed) during the riots, as well as persons, which, as a result of the actions of the riot organizers, are associated in the majority of the population with the «face of the enemy» and are allegedly involved in the state in which the majority of the population found themselves).

The person of the criminal. Mostly, such crimes are committed by young men aged 18 to 30. Women, active participants in the riots, are characterized as individuals who exert a provoking influence on the crowd; impudent, cruel; have no children; with a low level of education. Most often, they are characterized as hysterical personalities.

Crowd participants may have political, socio-economic, religious goals, but the consequences of these actions may be violence against a person, including with the aim of bodily harm and even death, pogroms, arson, destruction of property, seizure of buildings or structures, forced eviction of citizens, resistance to the authorities with the use of weapons or other items that were used as weapons.

The motivation of the actions of the organizers and active participants of riots is characterized by considerable diversity: each of the participants has their own goal—hooliganism, hostile relations on an international basis; dissatisfaction with the activities of law enforcement agencies and courts or local authorities; selfish motives, revenge. The

motivation of the actions of active participants or organizers of mass disturbances can sometimes be relevant to the identification of other crimes and the identification of other participants in the disturbances.

## **5.2. Typical investigative situations of investigation and appropriate algorithm of police officers' actions**

The investigation of riots in connection with their special complexity, associated with a significant number of various ISAs (OMP, interrogation of numerous witnesses, preparation of materials and assignment of a significant number of forensic examinations, etc.), is beyond the power of one investigator. Therefore, the investigation is carried out by a group of investigators, one of whom is assigned senior and accepts materials for his proceedings.

The investigative situation in criminal proceedings on riots can be conflictual and non-conflictual and affect the procedural and forensic activity in different ways, and the latter, in turn, regulates it. Typical investigative situations of the initial stage of the investigation of riots by their nature and completions are the following:

1. A report has been received that mass disturbances of an irrational type, which arose spontaneously, are being committed. Individual active participants of riots were detained, organizers are absent.

2. Actions of the crowd – the riots of the irrational are complete. € data about victims, damage and destruction of property, other material damage.

3. Continued massive unrest, have organized. in advance planning character. Information about the actions of the crowd, the consequences of criminal actions, about active participants and their motives is insufficient.

4. The active actions of the crowd, indicated above, have been completed, but there is reason to believe that What is possible escalation.

In fact, the investigation of riots is always conducted in the conditions of an aggravation of the situation in the city, district, region; the confrontation of the participants of riots with the local authorities, influential commercial structures or criminal formations significantly affects the situation of the investigation, as it can paralyze it as a result of opposition to the investigation in the form of intimidation of witnesses, victims, suspects, and sometimes actual sabotage on the part of the local authorities and even law enforcement agencies .

At the same time, it should be assumed that the possibility of influencing the investigative situation, in contrast to the investigative

situation, is practically absent from the investigator. Moreover, if the investigator is the subject of the analysis of the investigative situation, then in relation to the investigative situation, his qualifications, capabilities and other factors can be considered as an element of the investigative situation by themselves.

During large-scale riots, caused mainly by inter-national or inter-ethnic conflicts, when they cover large territories and the riots are accompanied by murders, rapes, pogroms, etc. criminal acts against persons of the same nationality (ethnic group), for the purpose of protecting life, health, property of citizens and the state, the most effective is the introduction of a state of emergency in this territory.

Taking into account the investigative situation, the IOG (investigational operative group) is formed mainly from non-local employees. This is one of the main factors of a successful investigation. Riots are often associated with a conflict between the majority of the population of a city, another settlement, and the authorities. Thus, the local investigator is automatically included among the formal supporters of the authorities. And this is known to create difficulties in establishing contact of the investigator with witnesses, victims and other participants in the criminal proceedings, which ultimately negatively affects the process of establishing the truth in the case.

Large investigative groups, in order to function normally, must have its own internal structure. The practice offers, in particular, the following structure: a headquarters, an analytical unit (information center), a forensic group, as well as separate investigative groups (subgroups) investigating individual episodes of criminal activity.

If riots are committed on the basis of inter-national or inter-ethnic conflicts, the question of involving translators in the investigation often arises. Part of this problem can be solved, as already mentioned, by including in the group investigators who understand the language spoken by most of the participants in the riots or victims of arbitrary actions. But in general, this does not solve the problem facing the investigation. Therefore, the investigation should have a group (depending on the scale of the riots) of permanent translators. At the same time, it should be taken into account that translators from among local residents are not always objective in connection with possible pressure on them or their relatives from the participants of the riots or the population that supports their demands. Therefore, if riots are committed on an international (interethnic) basis, interpreters from other regions must be called.

When there is a message about group actions of the crowd that have already ended, but it is not known whether it is group hooliganism or riots,

you should check whether there is information about damage or destruction of property, pogroms. It is also necessary to understand whether the victims are random persons and law enforcement officers. Data on specific organizers and active participants of events must be ascertained (there are no detainees for committing administrative offences or on suspicion of participating in riots). The specified situation is typical for riots—hooligan actions of young people, which arise situationally and continue for a short time, after which the crowd disperses without any special forceful influence on it by law enforcement agencies.

The main task of the investigation in this case will be the following: establishing an event related to the gathering of people (concert, sports competitions, demonstration, mass fight in markets, etc.); identification of organizers and active participants of group events that may be riots; eyewitnesses, victims; identification, fixation and removal of physical evidence; inspection of places of pogroms, fires, preparation of materials and assignment of forensic examinations, etc. Carrying out relevant operational and investigative measures.

The task after the end of the riots (conducting, for example, an OMP while riots are still ongoing, may lead to the fact that the investigator will be recognized as a witness, a victim and in the future cannot conduct an investigation) or after the creation of conditions for the safe work of investigators will be to collect evidence (in particular, during the inspection of the scene of the event), identification of the organizers and active participants of the riots (including during the operational and search activities); witnesses, victims. And it is mandatory to initiate measures aimed at stopping or localizing the ongoing unrest.

A variant of this situation can be the transfer of an arbitrary crowd to another settlement, another district, where the riots continue. In this case, in the future, it is necessary to resolve the issue of combining criminal cases of riots organized by the same persons in different settlements. In some cases, the task of law enforcement officers will be to collect evidence, identify eyewitnesses, victims.

In the case of riots, when their organizers and active participants are known, the task of the investigation will be to collect evidence of participation in riots of those detained on suspicion of committing the specified crimes: inspection of the places of events, identification, investigation of the detainees. Sending orders to the criminal police units to carry out operative and investigative measures aimed at establishing the location of the organizers and active participants of the riots and their subsequent detention on suspicion of committing crimes.

In addition, the initial stage of the investigation is being conducted OMP, weapons used by police officers are seized, a check of the legality of the use of weapons is assigned; police officers, victims are interrogated (most often they seek medical help by changing their surnames or use the help of private doctors); work is being done to find such persons; the issue of the presence of signs of mass unrest in the actions of the participants of group actions is resolved.

### **5.3. Organizational and tactical features of individual investigative (search) actions**

The examination is primary and urgent ISA. This is explained by the need to obtain information about the circumstances of the event in its original, unchanged state, because any delay causes the loss of physical evidence and a change in the trail picture. In the cases of the specified category, this may be due to the impossibility of timely departure of the SAO for inspection for valid reasons: riots are still ongoing or there is not a sufficient number of investigators, operatives and specialists to be included in several groups and the absence of which may negatively affect the results of the inspection. Sometimes this led to theft of property from the premises of buildings that were the target of mob attacks and other negative consequences. The examination of the scene during the investigation of mass disturbances with a significant number of participants has certain peculiarities. As a rule, rioters united in a crowd with a common goal. But during the commission of socially dangerous actions in the process of riots, it is impossible for the entire crowd to take an active part in the pogrom of one object. The vanguard of the crowd begins the pogrom of another object, but most of the crowd cannot participate in it due to the high concentration of their participants. Therefore, separate, most active groups of people from the crowd participate in pogroms of specific objects (although such groups can be quite large in number). Therefore, it is very important for the investigation to obtain complete (if possible) information regarding the routes of the crowd and pogroms along the way of its follow-up groups with separate goals, different routes and targets of attacks. Sometimes a helicopter must be used to inspect large areas (squares, streets, large areas) after a large-scale riot. Compiling the inspection report in this case is important first of all for obtaining information that provides a general idea of the consequences of

riots in a settlement or region. At the same time, the use of video and photo shooting is justified. And the result of such an inspection can be obtaining a complete scheme of the places of events that already require a detailed inspection (abandoned cars, corpses, places of fires, etc.). The use of a video recording will make it possible to quickly show the video recording to other participants of subsequent reviews after the end of the flight with an inspection of the pogrom sites. This will give them the necessary insight into the pogrom sites they will be inspecting.

The entire administrative territory, where riots took place, is nominally the place of the event, which actually consists of tens, hundreds or thousands of local places of the event, which relate to specific episodes of committed criminal offences.

The received information will allow the authorized person to plan further actions: to decide on the number of objects for inspection, the number of investigators, operatives, experts and specialists, the use of the necessary equipment, search devices, etc.

Individual objects discovered at the scene and removed during its inspection may be described by an authorized person in the protocol in an improper manner. So, for example, it is desirable to note the identification features of the detected and seized mobile phones (for example, the IMEI of each phone), the individual characteristics of the detected and seized knife, air pistol and cartridges for it. The above indicates the complexity of the survey due to its multi-objective nature. At the same time, this cannot be the reason for a negligent attitude to recording the course and results of the examination as in the protocol—a procedural document that can be recognized as evidence in criminal proceedings, and with the help of technical means of fixation.

As witnesses, it is sometimes necessary to invite respectable persons known in the locality, who enjoy authority among the population and can act as a kind of guarantor of the objectivity and impartiality of law enforcement agencies (sometimes the attitude of the majority of the population to riots should be taken into account, when it comes, for example, to an international or inter-confessional conflicts or when the «face of the enemy» is associated in the majority of the population with representatives of local authorities and, accordingly, law enforcement officers are identified with the latter).

Inspection of the scene involves the selection of methods that determine its sequence. It can be both a concentric (from the periphery to the center) and an eccentric method: from the center to the periphery, when the



center is the place of fire, pogrom, corpse.

The inspection of the scene in cases of the use of explosive devices during pogroms must be carried out with the participation of a specialist (an employee of an expert institution specializing in the study of explosive substances and traces of an explosion, a pyrotechnician or another expert in the field of explosives, including from the composition of special groups on disposal of explosive devices of the relevant units of the Ministry of Internal Affairs). This can make it possible to draw a probable conclusion about the used explosive device at the initial stage of the inspection of the scene, help establish a picture of the crime committed, and also determine the boundaries and areas of the inspection. Traces recorded at the scene of the explosion can be conventionally divided into three groups: ordinary traces of presence and actions at the scene; traces of an explosion; traces characterizing the method of manufacturing explosive devices and the level of professionalism of the manufacturer.

When inspecting the weapon, after fixing it in the place of detection, with the indication of the exact distance from fixed landmarks necessary for large-scale binding, measures are first taken to detect fingerprints on the external parts of the weapon, which can mostly be on its smooth wooden, plastic and metal surfaces. At the same time, it should be taken into account that weapons it is often covered with a thin layer of grease, which is a significant obstacle to the detection and fixation of prints by conventional methods. In such cases, the investigator must take steps to preserve the traces so that the expert can detect and record them in the laboratory. It should also be taken into account that traces of gloves may be found on the weapon. The technical detection of such traces is not a very difficult operation, but in practice it may be difficult to recognize these traces, they do not have such a sign of a bare hand as papillary patterns. At the same time, micro-traces and various types of contamination (dust, dirt, hair, textile fiber overlays) are removed. Most often, these traces can be found on parts of weapons with a hard surface. Examination is a fairly typical SR ISA for the studied category of proceedings. Riots, which are accompanied by large-scale pogroms and committed on the basis of an ethnic conflict, are characterized by a significant number of victims, and sometimes a large number of dead. At the same time, quite often in such cases, corpses are sent to hospitals, morgues of the forensic medical examination bureau without a preliminary examination. In this case, it is practiced to create a group of investigators who, at the initial stage of the investigation of such cases, conduct a preliminary examination in

morgues and immediately assign forensic medical examinations. The assignment of a forensic medical examination in the specified cases, which were accompanied by the death of people as a result of the actions of the crowd (intentionally or due to carelessness), by the actions of law enforcement agencies that stopped the actions of the criminal crowd, is one of the primary actions of the investigator. In order to conduct it qualitatively, the experts are provided with copies of the protocols of the inspection of the scene of the incident, and in the case when the death of the victim occurred in the hospital, the medical history. Sometimes it is necessary to provide testimonies of persons who performed an operation on the victim or provided first aid.

The objects of investigation are traces of a crime, stains, special signs and other signs on a person's body, provided they are obvious. The factual data established by the survey are recorded in the protocol, which contains only those facts that are directly perceived by its compiler. According to the analyzed category of proceedings, both suspects and witnesses from among persons who were in the crowd, but did not commit any socially dangerous actions, are subjected to investigation. The examination is necessary primarily to identify traces of a crime: blood stains, physical injuries on the body, burns (obtained, for example, during pogroms, destruction of property, etc.); saden (as a result of resistance to law enforcement officials who prevented riots; as a result of the fall of building structures during pogroms, etc.).

Interrogation of witnesses is the most common method of obtaining evidence in the investigation of mass disturbances. Undoubtedly, a necessary prerequisite for an interrogation is preparation for it. It covers a number of specific measures: study of case materials; familiarization with data on the person of the interrogated person; if necessary, drawing up an interrogation plan. The greatest difficulty in the investigation of cases of the specified category is the organization of interrogations in the conditions of the need to collect information about the event, which was witnessed by a significant number of people, many of whom could have been its participants. In order for the investigators to work in a coordinated and purposeful way, and the results of their actions could be analyzed and used, special questionnaires are drawn up in each individual case, in which a list of questions is provided, with the help of which all the necessary data are obtained. In cases of riots, eyewitnesses can be conditionally grouped into certain categories. The first is eyewitnesses. Among them can be attributed persons who directly saw the

riots. Of course, these are random passers-by, residents houses that were located near the places of action of the criminal mob (including the so-called «dog walkers» and «wheelchair walkers»), drivers of vehicles passing by; ambulance doctors; employees of institutions, enterprises, organizations that were located near the places of pogroms (especially those that suffered as a result of criminal actions of the crowd) and some others (the list provided by us is, of course, not exhaustive).

During interrogations of eyewitnesses, it is mandatory to use a plan-scheme of the place of the event and the surrounding area with an indication on the plan of the circumstances of the event as described by the eyewitness. The second group includes witnesses from among the participants of the riots who were in the crowd, but are not active participants of the riots or their organizers, that is, they are also eyewitnesses. Such persons are asked the following questions: under what circumstances did they find themselves in the crowd; which of the witness' acquaintances was still in the crowd; what the rioters aimed for, their plans, who were the organizers; whether the witness was an eyewitness to the actions of specific active participants in the riots; can you recognize them? Witnesses from among the persons who took part in measures to stop the riots (police officers, military personnel, firemen, workers of emergency teams, etc.) answer the question: do they know the active participants and organizers of the riots; about the specific criminal actions of the specified persons, including what criminal actions were committed against the witness by the crowd (hitting with batons, throwing stones, committing armed resistance during the cessation of riots, etc.); what exactly were his actions to stop the riots (he was among the main police forces at the time of restraining the crowd; he detained the participants of the riots, used special means (which ones), etc.); can recognize any of the active participants or organizers of the riots?

The nature of the interaction during the interrogation of the investigator with the witness depends on the behavior of the latter. Interrogation of honest witnesses, as a rule, does not lead to conflicts. The tactical task of the investigator in the process of such interrogation, which acquires a non-conflict cooperative character, is to maintain and expand psychological contact, helping the witness to correctly reproduce what was perceived and recorded. Such methods include, in particular: asking questions that contribute to the emergence of associative connections that help recall; presentation of physical evidence; getting acquainted with fragments of testimony of other persons for recall, etc. In conflict situations, the tactical task of the

investigator is to convince the interrogated person to reconsider his position, which does not correspond to the tasks of justice, to give up the intention to give false testimony.

The testimony of the victim is one of the types of evidence, on the basis of which the circumstances that are important for establishing the truth in the case are established. By their procedural nature, subject matter, and peculiarities of formation, they are close to witness statements and represent oral notification of the circumstances related to the crime, which caused moral, physical or property damage to the person giving the testimony. Unlike the witness, the victim is interested in the relevant consequences of the case resolution, because he has been harmed. By testifying, he not only contributes to the correct resolution of the question of the guilt or innocence of the accused, but at the same time seeks to satisfy his interests in the criminal process.

Classification of those drowned in riots: persons who have been directly harmed (such as as a rule, physical, moral and property); persons who are close relatives or family members of a person whose death occurred as a result of physical damage caused to him by riots, or a person who is in a state that makes it impossible for him to submit an application for recognition as a victim; individuals, against which the criminal actions of the participants were directed riots (representatives confrontational organization, political party, religious denomination, ethnic population group; fans of another football team, too); persons who accidentally got into the crowd, pity which is inflicted because of scale riots; persons who, as a result of their professional and responsibilities, participated in the liquidation of riots; persons who suffered material damage as a result of the crime, but who were not eyewitnesses of the riots.

The testimony of the suspect is an important source in criminal proceedings. At the same time, the suspect is, as a rule, the primary source of the information reported, and his testimony is irreplaceable, since the subject of the suspect's testimony is, first of all, his own actions. Having identified the circle of suspects in the organization or active participation in riots, appropriate immediate measures are taken, such as detention, wanted announcement (if there are sufficient grounds for this).

If such a person is not already detained at the scene of the riots. It is clear that in order to carry out a qualified interrogation of a suspect, preparation is necessary, related not only to the knowledge of all the materials of the criminal proceedings, but also to the study of the identity of

the suspect with the help of procedural and non-procedural sources, which include the data of operative and investigative activities, the results of his observation and etc. In the process of questioning detainees suspected of committing the specified illegal acts, the authorized person uses the evidence of their guilt collected at that time: testimony of eyewitnesses, material evidence, conclusions of forensic examinations, etc., to expose the guilty. But in general, in most cases, at the initial stage of the investigation of cases of the specified category, the questioning of the suspect is conducted in conditions of a lack of information that exposes the latter.

Full recognition by the suspect of his active participation in riots or the role of their organizer certainly plays a huge role even when the investigation has at its disposal a sufficient body of evidence before questioning the suspect. It is this recognition of the suspect that binds the entire collection of evidence collected in the case into a single and inseparable whole. At the same time, it is important not only to confirm those facts that are already known in the case, but also those that the investigation did not know anything about (for example, about the place of hiding of the weapons used during the riots, about other participants in the riots, etc.), which indicates that criminal knowledge of the suspect, and what (facts) can be verified with the help of other evidence.

Forensic biological examinations (cytological, immunological) are entrusted to experts of the Ministry of Health of Ukraine (forensic biological departments of regional bureaus of JME) or the Scientific Research Expert Forensic Center (SREFC) of the Ministry of Internal Affairs of Ukraine to carry out research. As part of these examinations, samples of blood, saliva, urine, sebaceous secretions (including sebaceous traces of fingers or palms, unsuitable for identifications found at the scene), hair, etc. At the same time, their group affiliation is established, which reduces the circle of suspects. It is promising to take DNA prints (a DNA profile)—the carrier of genetic information—from formations of living matter (blood, saliva, hair, etc.) found at the scene of the incident, with the following question being posed to the experts: could traces of blood (saliva, etc.) belong to the suspect (victim)? For the corpse of an unidentified person: is the corpse found during the examination of the scene the corpse of the brother (son of the mother) of a particular person? For research, it is necessary to present cellular material with an intact nucleus.

Ballistic examination is quite widespread in cases of this category. It is intended for solving a wide range of identification and non-identification

tasks related to the study of firearms and ammunition, traces of a shot in the weapon itself, on the affected barrier, on the clothes or body of the person who shot. Objects of forensic ballistic examination are firearms, ammunition and their parts (cartridges, casings, bullets, etc.), objects with traces of a shot.

With regard to the explosive device, the following questions are mainly resolved during expert investigations: what type of explosive device was used (grenade, mine, improvised explosive device, etc.); whether the items recovered at the site of the explosion are parts of an explosive system and, if so, what kind; what is the method of making an explosive device, the principle of its operation; which explosive substance and in what quantity was used in the explosion process; what method of detonation (electrical, mechanical or fire) was used during the explosion, whether a retarder was used in the explosive device (for example, a watch or other mechanism); whether the explosive device recovered from the blast site is similar to the explosive device made by the suspect. Regarding the charge of an explosive device: are there traces (products) of an explosive substance on the objects removed from the explosion site and, if so, what kind of substance; where this substance is produced and in which industry it is used; couldn't this one substance to be made in an artisanal way.

The search is carried out in most proceedings of the analyzed category. Special attention during searches is paid to search and extraction.

The tactics of conducting such searches are built taking into account the information available in the case at that time. Unpreparedness of the search (most often due to reassignment of such a procedural action to operative police officers) or their untimeliness can lead to the loss of physical evidence. It is not always possible to immediately carry out such ISA. This is due to fears that in the event of a conflict during the search, it could lead to new disturbances, since there are still reasons to believe that the situation in the region remains such that riots may start again (especially when active participants in the riots have already been detained; those who died during such events have not yet been buried, etc.). This factor, of course, must be taken into account in the case of choosing the time of conducting such ISA.

**Control questions:**

1. *The structure of forensic characteristics riots.*
2. *Typical categories of victims in the studied category of proceedings.*
3. *Characteristic methods committing riots.*
4. *Typical investigators cumvauii initial emany investigation of mass disturbances.*
5. *Investigative (search) actions carried out at the initial stage of the investigation.*
6. *Types of inspections conducted in proceedings of this category.*
7. *Examinations assigned during the investigation riots.*
8. *Categories of witnesses in these proceedings.*

**Topics of essays:**

1. *Peculiarities of the inspection of the scene during the investigation riots.*
2. *Forensic software carrying out interrogations of various categories of persons during investigations of riots.*
3. *Assignment of examinations in the investigation of riots.*
4. *Organizational and tactical aspects of the search investigation of riots.*
5. *Forensic aspects analysis primary information in the investigation of mass disturbances.*

## **Chapter 6**

### **INVESTIGATION OF HOOLIGANISM**

#### **6.1. Forensic characteristics of hooliganism**

Considering the criminalistic characteristics of hooliganism, it should be noted that this illegal act is enshrined in the legislation of many countries of the world.

For example, Art. 221 of the Criminal Code of Azerbaijan defines hooliganism as «...intentional actions that grossly violate public order, show disrespect for society, are accompanied by the use of violence against citizens or the threat of its use, or the destruction or damage of other people's property».

In turn, the Danish Penal Code in § 267 enshrines the provision that «...any person who attacks the honor of another by offensive words or behavior or expresses, disseminates unsubstantiated information about actions that are likely to humiliate him or cause contempt on the part of other citizens, shall be punished by a fine or ordinary detention».

And domestic legislators in Art. 296 of the Criminal Code of Ukraine defined hooliganism as «...gross violation of public order on the grounds of clear disrespect for society, accompanied by special audacity or exceptional cynicism».

The forensic characterization of hooliganism should not be derived from the general concept of a criminal offence. It must combine the study and generalization of materials on illegal acts qualified under Art. 296 of the Criminal Code of Ukraine. The forensic description of hooliganism should also contain typical forensic features of this group of criminal offences committed during a certain period within a certain region or throughout Ukraine.

The system of elements of the forensic characteristics of hooliganism consists of:

- method of committing hooliganism;
- subject of criminal activity;
- the situation of committing hooligan acts;
- «trace picture» of committing hooliganism;
- identity of the victim;



– the identity of the criminal (hooligan).

The method of committing hooliganism. The study of criminal proceedings for illegal acts qualified under Art. 296 of the Criminal Code of Ukraine, it was established that approximately a fourth of their total number was prepared. Stages of preparation: development of a hooliganism plan; selection of the object of encroachment; search, adaptation and preparation of tools of illegal action; distribution of roles between co-participants; selection of accomplices.

That is, hooliganism can have preparatory measures, which is clearly demonstrated by the example of football hooliganism. Example: May 16, 2011 at 2:30 p.m. R. and gr. P., both in a state of alcohol intoxication, came to the football field, located between the premises of the Shakhtar Education Department at the address of the city of Shakhtarsk, str. Vatutina, 1, and the premises of the Shakhtar film technical school at the address of the city of Shakhtarsk, str. Vatutina, 1, where minors gr. M., town L. and gr. A. played football. Acting deliberately and in concert with a group of persons, with hooligan motives, grossly violating public order and expressing clear disrespect for society, acting with particular audacity, c. R. and gr. P. began to express obscene language at the address of the specified persons, c. P. blocked the exit of minors from the football field, and Gr. R. began to run after them, intending to catch up. Then gr. R. approached the bicycle belonging to Mr. M. hid in the fence of the football field, and began to jump on it, and then kicked at least three times on the wheels of the bicycle, causing mechanical damage. Seeing that Gr. R. damages a bicycle, gr. M. approached him, and gr. P., continuing his hooligan actions, grabbed him by the neck with his right hand and began to hold him down, intentionally causing minor injuries in the form of a bruise and a cut on the left side of the neck. Gr. R. at this time caused gr. M. was kicked twice in the back area on the left side, intentionally inflicting moderate injuries on him. Hooliganism R. and gr. P. lasted at least 10 minutes.

So, in this case, there is the preparation of a plan to commit hooligan acts (chosen time, place, environment), selection of accomplices in the commission of a criminal offence, etc.

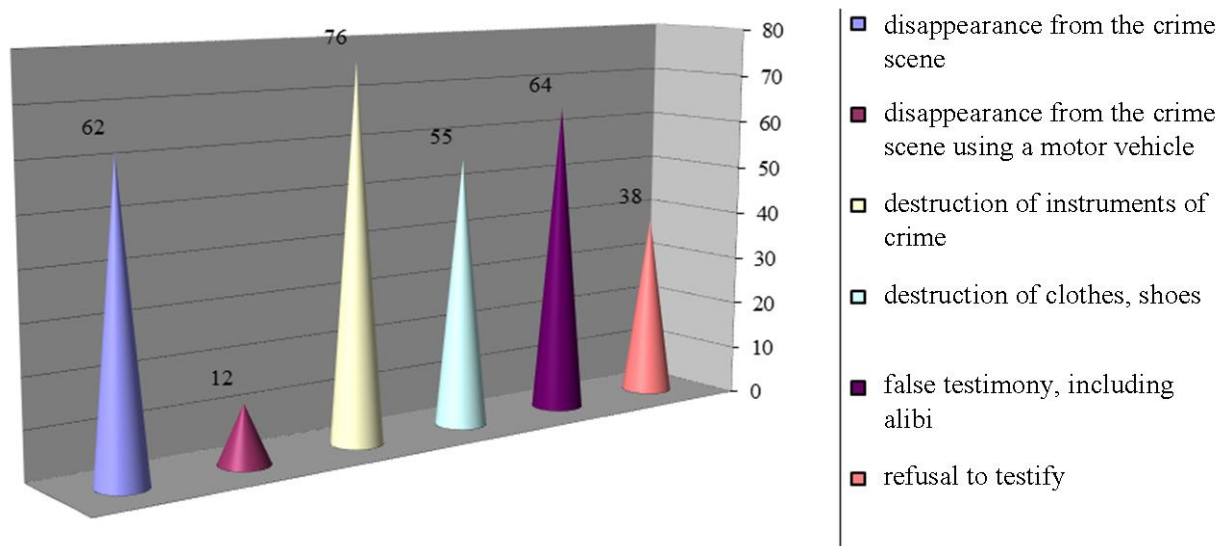
They can also draw up an approximate plan of action and assign roles if the hooliganism is carried out by a group of people. Yes, one of the participants will distract the attention of the stewards, and the other will throw «fireworks» on the football field. Here, the development of the crime plan, the selection of participants and the distribution of roles between them takes place. In addition, other measures may be taken to prepare for the commission of illegal acts.

The most common methods of committing hooliganism are cynical body movements combined with obscene swearing and beatings, among other methods, public exposure of various parts of the body, creating noise that leads to the disruption of public events, disrupting the normal operation of an enterprise, the peace of citizens in residences and public places, resistance to authorities, damage to property, desecration of monuments.

It is also necessary to consider the newest ways of committing hooligan acts. Today, the so-called «prank» (from the English *prank* – leprosy, a joke, a humorous prank) or «telephone terrorism» has gained some popularity. At the same time, the «pranker» calls the chosen victim (usually a person known to society) anonymously or under a fictitious name (for example, an employee of a TV channel) for hooligan motives and, by means of humorous provocations, drives him to a real hysteria, forcing the victim to a certain reaction in response—to hear obscene language from her. Of course, all this is recorded on a tape recorder, and then this «dislike» gets into the Internet collection (for example, on the site [www.prank.ru](http://www.prank.ru)) and instantly spreads to friends in all corners of the world. These actions fall under the sign of hooliganism, which was accompanied by exceptional cynicism, that is, actions combined with a demonstrative disregard for generally accepted moral standards.

A similar picture is observed today in the virtual world—the Internet. Computers and computer networks have become carriers not only of useful information, but also the zone of creation and distribution of various hooligan «abominations». The modern «world wide web» contains tons of not only frank pornography, but also harmful viruses, Trojan programs, hacker attacks and just spam generated by students and schoolchildren who, trying their hand at mastering a programming language, cannot find a more worthy use for them. The most likely reasons that push them to create and distribute a «product» harmful to humanity are the following: an attempt to assert themselves on the basis of the achieved intellectual level, the usual youthful inferiority complex, which is compensated by computer hooliganism. In fact, such computer hooliganism is no different from ordinary street hooliganism, except that self-assertion takes place in different arenas - either in the backyard or in the computer network. And different people suffer from it - either random passers-by or visitors to various sites.

The most typical methods of concealing hooliganism are disappearing from the scene, including using a motor vehicle; destruction of tools of a criminal offence; destruction of clothes, shoes; false testimony, including alibi; refusal to testify (see fig. 1).



**Figure 1. Ways of hiding hooliganism**

Example: June 1, 2011 at 6:26 p.m. R., intending to grossly violate public order due to obvious disrespect for society, arrived at the stadium located on the street. Komsomolska in the village Chornobayivka of Bilozersk district of Kherson region, where, being in a public place, during an official game between football clubs «Krystal» of Kherson and «Torpedo» of Mykolaiv, acting in accordance with the developed plan, together with accomplices (persons not identified by the investigation), ignoring rules of behavior established in society, with particular cynicism, grossly violated public order. Namely: he started a fight with the spectators of a football match in the stands and on the football field, where the match was taking place at that time. During which he inflicted blows with hands and feet gr. A. In connection with a violation of public order due to clear disrespect to society, the football match between the football clubs «Krystal» from Kherson and «Torpedo» from Mykolaiv was stopped for 40 minutes. After committing socially dangerous actions, R. disappeared from the scene in a car. After his detention, during his interrogation as a suspect, he denied his guilt, giving false testimony. At the court hearing, the accused did not admit his guilt. But the totality of other evidence made it possible to convict him under Part 2 of Art. 296 of the Criminal Code of Ukraine.

A criminal offence qualified under Art. 296 of the Criminal Code of Ukraine, has an incomplete structural composition of the method of commission, because in most cases there is no preparation or concealment of the act. The classification of hooliganism methods based on the specified elements makes it possible to clearly visualize the «trace picture», predict the sources of ideal and material traces-reflections.

The forensic significance of the method of committing hooliganism, as well as the use of data related to them in the pre-trial investigation, are based on the property of their repetition in the criminal activities of different persons.

**Subject of criminal activity.** In the criminal sense, it is difficult to identify the object of this crime. In particular, it is possible to refer to the illegal act provided for in Art. 296 of the Criminal Code of Ukraine, to the pointless. However, in the forensic sense, the object has a place, because during the commission of this socially dangerous act, in most cases, interaction with material objects takes place.

It should also not be forgotten that the subject of criminal encroachment and the objects that interact with it form a multi-complex system. If you change the properties of one element of the system, then the entire character of the relationship will be disturbed in it. It is in connection with this that the legislator in a number of cases directly indicates the subject of the crime. The subject of criminal activity can be considered as the final product, the result of the illegal activity of the subject, before which the investigator finds himself at the stage of initiating a criminal case. If the subject of criminal activity can be the subject of a crime, then the tools and means of committing a crime are outside the sphere of social relations and are not such. At the same time, the use of some of them (for example, firearms and cold weapons) when committing hooliganism is a qualifying feature, and their production, storage and sale is an independent component of a criminal offence.

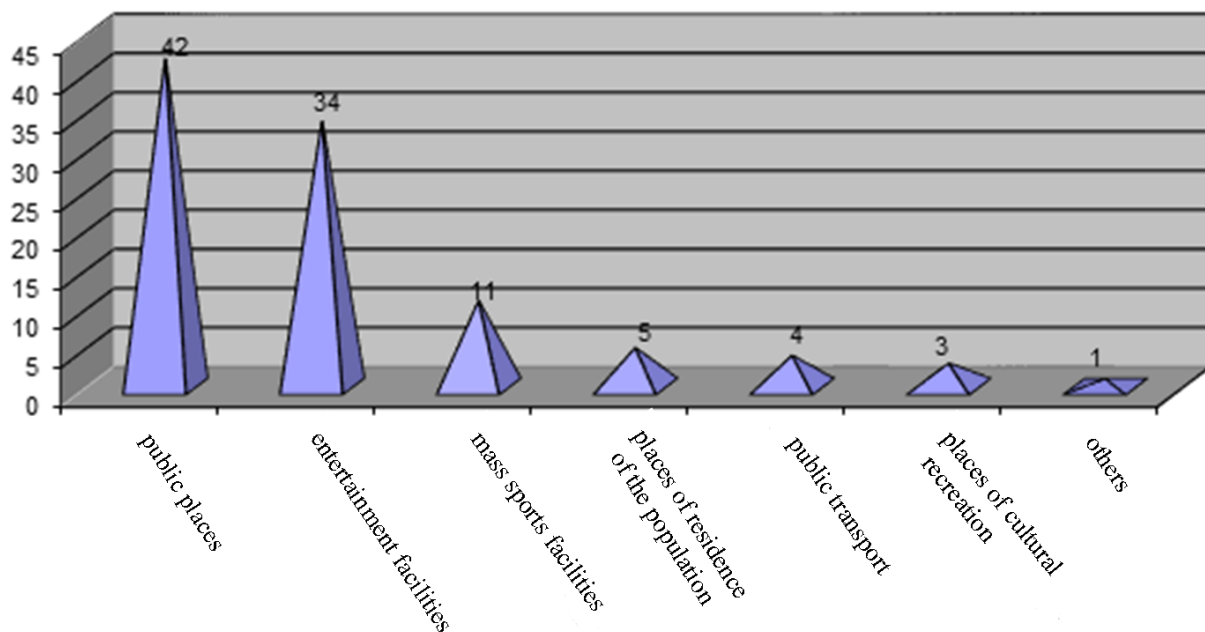
Signs of the object of encroachment in forensic characteristics may have different connections with other elements (for example, the object of encroachment – methods of committing the crime (possession of property), ways of selling stolen property or places of hiding it, as well as information about the identity of the criminal). In this case, the object of encroachment in the criminalistic characteristics of hooliganism is no exception.

Cases of damage to clothing often occur, as well as cases of damage to furniture and destruction of property. There are almost no cases of damage to automatic telephones, ATMs, trampling of flowers in flower beds. This is explained by the drafting of mostly administrative protocols in such cases and the filing of civil lawsuits. Although in the presence of relevant signs, it is possible to enter information about this event into the EDPR according to Art. 296 of the Criminal Code of Ukraine.

The subject of the offence may also depend on the identity of the victim. In particular, during football matches and in general during clashes between fans of different clubs, things that are symbols of clubs (flags,

clothes, uniforms, scarves, etc.) are often damaged. Vehicles (buses, etc.) and other equipment of the football club may also be damaged. Damage can be caused by various objects, including explosive devices. In such cases, the subject of direct encroachment can be divided into objects of biological origin and objects resulting from human activity.

The object of hooliganism, despite its criminal-legal objectlessness, in the forensic sense is the material environment damaged as a result of a socially dangerous act. The circumstances of committing hooligan acts. Hooliganism is mostly committed in a public place. This statement is an example of not only practical, but also legal coverage of it.



**Figure 2. Place of hooliganism committment**

The time of committing an illegal act has criminal-legal, procedural and forensic significance. The last thing is that during the commission of many crimes there is a certain selectivity in the time of actions of criminals. And although hooliganism is mostly a spontaneous act, certain time factors also have an influence on it (a large gathering of people with negative emotions during a football match, etc.).

The largest number of them falls on weekends and rest periods (that is, on a working day from 18:00 to 24:00). Accordingly, the purpose of committing this criminal offence is to interfere with the normal recreation of people, oppose oneself to public interests and, of course, gross violation of public order. However, regardless of the time of day, such a goal can occur on any day of the week, taking into account the state of the criminal (alcohol, drug intoxication) or the victim's actions.

An important characteristic of hooliganism is the determination of the amount of time spent by the criminal on committing it. Mandatory elements of forensic characteristics are sets of information characterizing the place, duration (time), environment, etc. The duration of hooliganism is important from several points of view: first, determining the duration of a socially dangerous act is necessary to distinguish it from petty hooliganism, for which administrative responsibility is established; secondly, to evaluate the actions of the criminal in court, since with its increase, the public danger and the length of the violation of public order correspondingly increase (in particular, striking a single blow when committing hooligan acts or committing them for several minutes, long-term obscene swearing, etc.).

Example: October 7, 2007 around 10 p.m. 30 min. c. S., being in a state of alcohol intoxication, in the premises of the DUPC-2 dormitory in the city of Dnipropetrovsk, approached room No. 84 and for hooligan motives, grossly violating public order, with extreme cynicism, began swearing obscenely, banging on the door and calling out from the room c. D. This lasted for 15 minutes, during which time the peace of other residents of the dormitory was disturbed. After gr. G. went out into the corridor, gr. S. did not stop slandering him and began to humiliate him. After about 5 minutes gr. S. asked in the city G. 5 hryvnias, took them and, without stopping cursing, left.

The situation in which hooliganism is committed is also, as a rule, characterized by a crowd of people, often by the absence of members of the public near police stations. In this regard, the degree of gross violation of order also needs clarification, because it depends on many factors. These include: the duration of hooligan acts, the place and time of their perpetration, the number of people they are targeting, age and gender, the state of health of the victims, etc.

The commission of illegal actions is mostly determined by the following factors: covers the boundaries of a certain public place, that is, the victim's environment; located near transport intersections (streets, traffic area, city transport stops); places where citizens spend their free time.

Hooliganism committed during football matches vividly demonstrates the influence of the circumstances in which this crime was committed on the personality of the criminal. There is a large gathering of people, the release of negative emotions, a clash of opposing interests of fans, and in many cases, alcohol intoxication among the participants of this socially dangerous act.

«Trace picture» of committing hooliganism. Most of the traces remain at the place of their commission, so their relationship with the circumstances of the crime is understandable. Thus, in the case of hooliganism committed with the use of physical force, in addition to ideal reflections in the memory

of the victim and witnesses, material traces of direct contact of the criminal or the instrument of the crime with objects of the material world are formed: traces of hands, feet, vehicles, etc. In these cases, traces of objects (stick, stone) and traces of substances (blood, smell, etc.) are often left at the scene.

But when investigating hooliganism, it is necessary to focus on the detection of traces outside the scene of the crime. Such traces arise as a result of the criminal's actions to conceal socially dangerous actions or their consequences. By studying criminal proceedings of the specified category, we established that traces of hooligan acts were found outside the place of residence of the criminal (stained clothes, shoes, etc.) and in other places: the place of residence of the victim, acquaintances and relatives of the criminal, etc.

In many cases, the information remained in the memory of the persons who were present when hooligan acts were committed, that is, perfect traces remained.

Example: Yes, the use of fireworks leaves behind chemicals at the crime scene, on victims, criminals, etc. In the course of these acts, the property of the stadium (stands, fences, etc.) is damaged, which indicates the use of force by physically developed persons. Inscriptions left by rival fans on football club equipment (buses, posters) indicate the use of certain technical means (cans or bags with paint, etc.).

The person of the victim. Where there are no people, where no one sees illegal actions, there may be signs of other criminal offences, but not hooliganism. After all, the fact of gross violation of public order must be confirmed by the visibility of hooligan actions or their consequences.

Three main victimogenic groups of situations can be distinguished:

1) situations in which the actions or features of the victim are provocative;

2) cases when a person's behavior is related to the occurrence of a situation that contributes to hooliganism;

3) situations in which the legitimate behavior of the victim is a reason for committing hooligan acts.

The first group consists of situations in which the actions or features of the victim's personality are provocative, that is, they themselves have a reason to commit hooliganism. Of course, they can manifest themselves in the form of immoral behavior of the victim (for example, in bragging about certain features, etc.). In this case, it is appropriate to talk about the confrontation of various informal groups or racial contradictions. In the first case, the victim role of such a youth group as emo (from the English «emotion»-emotions, experiences) stands out most clearly, since one of its

slogans is suffering, and even this causes certain informal groups to be violently directed (for example, skinheads).

The second group consists of cases when a person's behavior is related to the occurrence of a situation that contributes to hooliganism. Among these situations, the most vivid are those where there is no resistance to the criminal. Such a situation is characteristic of family or social relations, when the reasons for this behavior of individuals can be both fear of reprisals and pity for this person.

The third group consists of situations in which the legitimate behavior of the victim is a reason for committing hooligan acts. Especially if the victim and the criminal were previously acquainted, hooligan motives are the most likely. Most of the situations in which the actions of criminals cause physical or material damage are related to the legitimate behavior of the victims, who in one way or another intervened in the development of events.

Revealing the essence of this victim group, it should be understood that the motives of legitimate actions can be both personal and a manifestation of the civil position or general culture of the victim. After all, there are cases when, in a bar, cafe, store or other place, a person who speaks obscenely is made a remark, and in response, instead of understanding, they receive a negative reaction.

Example: on May 17, 2008, around 9 p.m. in the store located on the street Yengelsa in the village Horoshyne, Semenivsky District, Poltava Region, c. V. made a remark to one of the young people who spoke obscenely in the store. On this gr. S. for hooligan motives, grossly violating public order, with particular audacity, without stopping to speak obscenities, caused gr. B. bodily injuries

The person of the criminal (hooligan). The physical and biological characteristics of the person who committed the hooliganism are important at the initial stage of the investigation in the investigative situation when the person disappeared from the scene. It is at this moment that the following information comes to the fore: features of the criminal's appearance and clothing; its functional characteristics (gait, facial expressions, gestures, etc.); tone of voice, etc. However, it is not always possible to determine the relationship between certain physical (physique) or biological (voice) properties and a person who commits crimes of the specified category. Indeed, in order to commit hooliganism, sometimes a criminal needs to have appropriate physical strength (in particular, when causing bodily harm or destroying certain property) or possess certain biological characteristics. At the same time, it is impossible to unequivocally call these signs permanent.

A characteristic feature characteristic of age groups from 30 years and



older is that this age accounts for the vast majority of cases of so-called domestic hooliganism. However, the biggest concern is teenage hooliganism.

As the facts convincingly show, favorable conditions for hooligan activity of teenagers are the following: public indifference, silent encouragement of «teenage brawling», position of non-interference held by officials or individual citizens. Victims, in relation to whom offenders commit hooliganism, do not always behave properly, sometimes their behavior is provocative, contributing to hooliganism. During football matches, this age category should also be under the close supervision of law enforcement officers or «stewards», who maintain public order in stadiums, because teenagers are more than anyone else exposed to the influence of others. At the same time, violence against them only makes them more cruel.

Criminal offences of this type are mainly committed by convicted male persons aged 14 to 30, with secondary or secondary special education. Most of the investigated crimes are committed by persons without a permanent place of work, as well as persons studying. The motive of this person is a conscious desire to show clear disrespect for society by committing actions that grossly violate public order. A characteristic feature is the commission of a significant part of the investigated crimes while intoxicated. Such persons live in this area, and may also be previously convicted.

## **6.2. Typical investigative situations of investigation and appropriate algorithm of police officers' actions**

When an event is detected, which can be qualified as the commission of criminally punishable hooliganism, the authorized person must resolve the issue of the need to enter information into the EDPR. The list of circumstances to be established during the investigation of hooliganism is as follows:

- whether hooligan acts were really committed and what they consisted of;
- time of committing hooligan acts; the place of their execution; the situation in which the hooligan acts took place;
- who committed hooligan acts; what data characterize the offender;
- the guilt of the accused in committing the crime;
- circumstances affecting the degree and nature of the responsibility of the accused;
- specific consequences of an action;
- whether the victims provoked hooliganism;

- reasons and conditions that contributed to a specific hooligan manifestation;
- in what was specifically expressed exceptional cynicism or special audacity;
- whether other crimes were committed during the offence;
- circumstances affecting the degree and nature of the responsibility of the person who committed hooligan acts;
- motives of the existing behavior of the criminal;
- what tools were used to commit hooliganism.

The given list of circumstances to be established during the investigation of hooliganism is approximate and is specified depending on typical investigative situations, the circumstances of the illegal act and its participants.

Typical investigative situations at the initial stage:

- 1) the person who committed hooligan acts was detained at the scene; the victim is known, there are witnesses, eyewitnesses and available material traces of the criminal act;
- 2) the person who committed hooligan acts disappeared from the scene and is known only by appearance;
- 3) traces of hooliganism were found, the perpetrator is unknown, there are no witnesses;
- 4) hooligan acts were committed in the past: the victim and the suspect are known.

The first investigative situation is typical for hooliganism committed on the street, in public transport, in public places with a large number of witnesses. Under these conditions, the following actions regarding the investigation of hooliganism are possible:

- cessation of hooliganism;
- detention of the suspect;
- personal examination of the suspect, his clothes and the scene;
- establishing the identity of the detainee, establishing signs of hooliganism in his actions;
- identifying and ensuring the preservation of sources of evidence, which includes conversations, surveys, inspections, interrogations, personal searches, searches at the place of residence, etc.

The second situation is typical for committing hooliganism in public transport, in sparsely populated places, places of rest, where the hooligan was not properly resisted and he disappeared. There are victims, witnesses (in most cases), material traces (for example, legs, damage to clothing, human body, tools of hooliganism).

In such a situation, the sequence of actions of law enforcement officers will be as follows:

- searching for the suspect on «hot» tracks;
- inspection of the scene;
- interrogation of the victim and inspection of his clothes;
- interrogation of witnesses;
- examination of the victim.

The third typical investigative situation is characteristic of hooliganism committed «without witnesses» (painting obscene texts on fences and buildings, causing damage to state or personal property, etc.). In such a situation, at the initial stage of the investigation, the following are carried out:

- interrogation of the victim;
- inspection of the scene;
- carrying out examinations;
- identifying and questioning witnesses;
- search for a criminal.

The fourth investigative situation is characterized by the fact that the applicants in most cases are victims, there are witnesses and some material sources of evidence (in particular, objects used by hooligans to inflict injuries, traces of destruction and destruction of property, photographs, sound recordings, phonograms and film films on which hooligan actions are recorded ).

In this situation, the priority actions, taking into account the time that has passed since the act of hooliganism, can be:

- establishing the fact of committing hooliganism;
- inspection of the scene;
- interrogation of the victim and witnesses;
- examination of the victim;
- detention and questioning of the suspect, search of his home.

In turn, I would like to draw attention to tactical operations that may be necessary during the investigation of hooliganism:

- detention of a hooligan at the scene;
- search and arrest of hooligans;
- exposure of a false witness.

Thus, during the tactical operation «Detention of a hooligan at the scene» to ensure the collection of evidentiary information that will prove his guilt, it is necessary to carry out a number of measures. In particular, it is necessary to stop hooliganism, carry out detention, personal search, investigation, inspection of the scene, interrogation of the detained person, identification and interrogation of witnesses and hooliganism. If these

measures are carried out inconsistently, at different times and, most importantly, without a single goal, this may lead to the loss of sources of evidentiary information, violation of normal tactical support for further investigative (search) actions.

The plan of the tactical operation «Search and arrest of hooligans» provides for: inspection of the scene of the incident, interrogation of witnesses, victims, search, identification, as well as the implementation of operative and search measures (pursuit on «hot» tracks, organization of surveillance of places of probable appearance of the criminal, blocking of recreation parks and other places where he is most likely to be hiding; use of forensic records and information and directory systems of internal affairs bodies for searching; involvement of the public in the search).

Typical investigative situations at the subsequent stage of hooliganism investigation are as follows:

1) situations that are characterized by the presence of complete data on the illegal act, a specific person (persons) who committed hooliganism is identified, and he admits his guilt;

2) situations that are characterized by the presence of complete data on an illegal act, a specific person (persons) who have committed hooliganism have been identified, but they refuse to commit the act;

3) a situation where one person admits guilt, and others refuse to commit this act in the presence of complete data about it;

4) a situation where a person has confessed to committing this act, but the available data is not enough to prove his involvement in committing hooliganism.

The content of the above investigative situations is determined mainly by the nature of the information about the circumstances of the criminal offence, the identity of the suspect or a group of persons, about their possible behavior during the investigation, which provides an opportunity to prevent the occurrence of conflict situations and problematic issues that need to be resolved.

The first investigative situation is typical for most proceedings, and only the following mandatory ISA for the further stage of the investigation should be conducted on it:

- interrogation of the suspect;
- search;
- carrying out examinations.

The second investigative situation is somewhat more complex in nature, and for its implementation it is necessary to conduct the following ISA:

- interrogation of the suspect;
- searches;
- investigative experiment;
- presentation for recognition;
- carrying out examinations.

To implement the third situation, a less complex set of actions is required than the previous one, but its feature is the conduct of the ISA to eliminate contradictions in the suspect's testimony. Their list is as follows:

- interrogation of the suspect;
- simultaneous questioning of several previously questioned persons;
- searches;
- investigative experiment;
- presentation for recognition;
- carrying out examinations.

The fourth situation is characterized by insufficient data to prove the suspect's guilt in committing hooliganism. In this case, the ISA should be aimed at identifying the evidence necessary for a clearer trial. Their list may look like this:

- interrogation of the suspect;
- search;
- simultaneous questioning of several previously questioned persons;
- interrogation of witnesses;
- investigative experiment;
- presentation for recognition;
- carrying out examinations.

However, the indicated investigative situations and algorithms of actions during them are not final. In the course of the investigation, a wide variety of situations may arise that will require the authorized person to make the necessary decisions.

### **6.3. Organizational and tactical features of individual investigative (search) actions**

During the investigation of criminal offences of the investigated category, the following inspections may be carried out: the scene of the incident, areas of the area and premises outside the scene of the incident, objects and documents, bodies of living persons (inspection).

The inspection of the scene of the incident takes on special importance when investigating hooliganism, which in any case left certain traces on

material objects: damage to payphones, breaking glass on windows and shop windows, desecration of monuments, putting obscene inscriptions on fences, buildings, etc.

Inspection of the scene of the incident is not only important, but also one of the most difficult in terms of preparation and conducting investigative (search) actions. This feature is also complicated by the fact that, as a rule, the investigator does not know from the very beginning when, where and under what circumstances he will conduct an inspection of the scene, thereby starting the investigation of the crime. The initial information about hooliganism, which requires a visit to the scene, often comes suddenly, so all preparations for the inspection should be carried out as quickly as possible, determining what and how to do it. Based on the above, it becomes clear that the authorized person must be prepared for immediate trips to the scene of the event, both personally and with technical and documentary support.

The preparatory stage of the inspection of the scene during the investigation of hooliganism should include the following:

- receiving information about the event;
- assistance to victims and protection of the scene of the incident;
- preparation of the necessary technical means both to ensure the trip to the place of the adventure and to conduct the inspection directly;
- ensuring the participation of the necessary participants in the conduct of this investigative (search) action.

Having already arrived at the scene, police officers must:

- make sure that measures to protect the scene of the incident, provide assistance to the victims, eliminate the consequences have been taken, and draw up an inspection plan;
- check the changes that took place at the scene before his arrival;
- decide on the circle of review participants and conduct an instructional meeting;
- establish the identity of the victim (witnesses) and, if necessary, interview them, give tasks to operatives to identify the specified persons;
- to receive operational information for the submission of investigative and investigative versions;
- remove outsiders who are not connected with the inspection from the scene;
- to ensure the preservation of material evidence and protection of the situation at the scene of the incident;
- to organize the pursuit and detention of criminals on «hot» tracks;
- notify territorial authorities about the nature of the crime and signs of criminals;

- organize surveillance in places where hooligans may appear;
- use mass media (if necessary).

Correctly chosen tactics of inspection of the scene of the incident contribute to obtaining important evidence, testifying to the involvement of the specified persons in committing hooligan acts. The tactics of inspecting the scene of the incident have certain features that depend on the specific investigative situation or on what is being inspected: the crime scene or the scene of the incident (area of land, premises or damaged houses, vehicles, fences, etc.). The following should be included among the basic organizational and tactical measures of inspection of the scene during the investigation of hooliganism: determination of inspection boundaries; arrangement of forces and means (their use); sequence of inspection of objects; methods of investigation of the scene of the incident.

The sequence of the review is also important. When investigating hooliganism, the examination of the scene must be carried out using a concentric method—from the periphery to the center. With its help, traces of movement of hooligans and other traces, physical evidence are determined.

But you can also use the eccentric method – from the center of the scene of the incident to the periphery, if the scene of the incident has its own center (in particular, finding a significant amount of traces of blood, damaged objects, etc.).

According to Part 3 of Art. 237 of the CPC, the victim, suspect, defense attorney, legal representative and other participants in criminal proceedings may be invited to participate in the review. In order to receive help on issues that require special knowledge, the investigator, prosecutor may invite specialists to participate in the review.

When committing hooliganism with the use of physical force and weapons, it is recommended to carefully examine the territory to find traces of struggle (stains of blood, hair, weapons, etc.), since victims of hooliganism often resist. A stick, a stone, etc., can be used as a tool of hooliganism. An obstacle or object destroyed by them retains microparticles in the places of contact, which make it possible to establish the type and material of the tool. Timely, complete recording of material traces at the scene is the key to successful investigation of the crime and exposure of hooligans. Extraction and fixation of evidentiary information can be carried out both directly by the investigator and by another person.

In order to establish evidence of hooliganism, individuals may be subjected to investigation. The signs of traces on the body change over time, the suspect's self-harm for various reasons and, in general, in some cases, the inability to establish which of the involved persons is the hooligan, indicate

the need for an urgent investigation at the initial stage of hooliganism investigation.

Example: October 20, 2008, around 1 a.m. B., being in a state of alcohol intoxication and being in the premises of the restaurant «Berizka» in the city of Karlivka, grossly violating public order, for reasons of clear disrespect for society, for no reason, intentionally, from hooligan motives, acting with particular audacity, began to insult the gr. M., and then hit the latter several times with his hands in the torso and head. Gr. M. tried to defend himself, but the offender continued to injure him. During the investigation and during the trial, the defendant and the victim gave conflicting testimonies. However, the court, having considered the report of the examination, the opinion of the expert in the forensic medical examination and the report of the reproduction of the situation and circumstances of the event, which confirmed the appropriateness of the specified investigative (search) actions, convicted the person under Art. 296 of the Criminal Code of Ukraine.

When investigating hooliganism, both the suspect and victims and witnesses may be subject to investigation. The purpose of examining the clothes of the victims and witnesses is to detect any damage or traces of various substances on them. Since when committing hooliganism, the criminal and the victim are usually at a close distance from each other, it is possible to remove traces of blood or other objects of biological origin. It is not recommended to postpone the examination, as many traces in the form of scratches and bruises may disappear.

Interrogation in criminal proceedings initiated under Art. 296 of the Criminal Code of Ukraine, is the most common investigative action, with the help of which information is collected during the investigation.

A witness in the investigation of hooliganism may be a person who knows the circumstances significant to the case, namely:

- a person who became aware of information about the preparation and commission of this illegal act;
- persons who directly perceived the fact of committing hooliganism;
- law enforcement officers or other persons who detained the criminal or took measures to identify and detain him/her.

The witness is offered to tell everything he knows about the case. A witness in the form of a free narrative tells everything he knows. Most often, a free story does not provide comprehensive information. After all, a witness may not attach importance to any circumstances known to him, considering them irrelevant for the investigation, and therefore does not mention them. Sometimes the witness does not know how to formulate his opinion



precisely, forgets something, etc. At the same time, such a technique as interrogation in the form of questions is used. And indeed, when investigating hooliganism, not all witnesses understand the importance of certain circumstances for the investigation.

Example: March 4, 2011 around 3:30 p.m. K. in the village of Solone, Dnipropetrovsk region, in the yard of one of the private houses, committed hooliganism against the village. B. by inflicting bodily harm, teasing a dog and other actions. Gr. V., who was a witness in this act, during the interrogation did not indicate that the suspect loudly spoke obscenities, which prevented the normal rest of the mother with a small child in the neighboring yard. He also did not mention that the suspect was in a drunken state, which seemed to him a common circumstance that did not require clarification.

That is why asking the witness questions after a free story is simply necessary. After the free story, the investigator (investigator, detective) must ask the person questions about the essence of the case. When questioning a witness to the fact of committing hooligan acts, various circumstances must be clarified (what was the reason for the start of hooligan acts; whether they were provoked by the behavior of the victim; who, apart from the detainee, participated in the violation of public order, etc.).

Circumstances that must be clarified during the interrogation of victims and witnesses include the following:

- when, where and under what circumstances hooligan acts were committed, what exactly did they consist of;
- why illegal actions occurred;
- the presence and nature of the relationship between the bully and the victim;
- the number and signs of hooliganism participants;
- identification of persons who did not directly participate in hooligan actions, but did not interfere with them, and perhaps contributed to them;
- was there a leader or organizer of specific actions among the group of hooligans;
- which of the acquaintances was with the victim at the time of the attack, when and for what reason left him;
- whether the hooligan used a weapon or other objects to cause bodily harm;
- what injuries the victim later discovered on his body and clothes;
- did the victim resist, if so, what was his resistance and what traces could be left on the attacker's body and clothes as a result;
- what material damage was caused by the actions of the criminal;
- whether the victim met the suspect, his acquaintances or relatives

after the crime was committed;

- if there was a meeting, on whose initiative the meeting took place and what was the conversation about.

Circumstances that must be established during interrogation of suspects:

- data on the suspect: marital status, health status, education, place of work, incentives, fines, criminal records, etc.;

- is he familiar with the victim and what is his relationship with him;

- did conflict situations arise; what the suspect knows about the victim, who he resisted, etc.;

- what specific hooligan acts did he commit, under what circumstances, motives and purpose;

- the intention of hooligan actions, i.e. what was the goal, and how do offenders evaluate their actions, which forced them to commit them;

- whether the suspect was sober or intoxicated;

- on what occasion, where, when and with whom he consumed alcoholic beverages;

- whether he had with him a weapon or any objects specially adapted for inflicting bodily harm, if so, what exactly, where and when he acquired or made them;

- did he resist the persons who tried to stop his hooligan actions, if so, to whom exactly and in what form;

- what damage, in his opinion, he caused by his actions;

- his attitude to his actions, their assessment;

- has he committed any offences or crimes before and to what type of liability was he involved;

- circumstances mitigating or aggravating responsibility: whether he repents of what he has done; how he assesses the committed illegal act; in which state he was, or was he in a state of intoxication; did he have a weapon with him; or resisted the representatives of the authorities and the public.

The main tactical technique that should be used when interrogating persons suspected of committing hooligan acts is psychological contact. Psychological contact is a system of interaction between individuals during communication, based on trust, in which they perceive information that comes from each. Therefore, psychological contact must be maintained throughout the interrogation. In this regard, it is clear that tactical methods can be used to establish it, depending on the circumstances of the case, the identity of the criminal, the availability of evidence, etc.

An effective tactical technique for exposing a suspected hooligan who denies his guilt is to present evidence. Among the evidence that can be

presented to a person who has committed actions qualified under Art. 296 of the Criminal Code of Ukraine, it should be highlighted:

- evidence testifying to his hooliganism or participation in hooliganism (testimony of the victim and witnesses, report of the examination, conclusion of the forensic medical examination on the severity of the bodily injuries caused by him; personal items that he left at the scene of the crime, etc.);

- evidence indicating that he used or attempted to use a weapon or objects adapted to inflict bodily harm (weapons and objects of attack, as well as testimony of witnesses regarding their belonging to the suspect; the conclusion of the forensic examination that the fingerprints found on the weapon belong to the suspect, etc.);

- documents characterizing the person being interrogated as a hooligan (certificates on pretexts, convictions, resolutions on bringing to administrative responsibility for petty hooliganism, characteristics, etc.).

When interrogating suspects united by a circular bond (typical of ultras football clubs), there are difficulties in obtaining objective testimony. In this situation, the following tactics should be used:

- simultaneous questioning of all participants in hooliganism in different offices;

- minute-by-minute (if possible) exchange of information about the information reported by hooligans to all employees of the Police Department involved in the investigation;

- presentation of evidence (announcement of testimony of witnesses, victims, expert opinions, etc.) for maximum detail of testimony.

Hooliganism often occurs with a large number of witnesses. Therefore, in its investigation, a special role belongs to presentation for recognition. In general, presentation for identification is a form of forensic identification in which identification or similarity is established by identification. Indeed, in the process of this ISA there is an identification of certain objects with ideal traces left in the human memory.

This ISA acquires special significance in the investigation of facts of group hooliganism, when, along with identifying the suspects, it is necessary to clarify the role and degree of responsibility of each accomplice.

The importance of searches in the investigation of hooliganism is determined by the fact that their results often contain initial information that proves the involvement of individuals in hooliganism and can be the basis for putting forward forensic versions and planning the investigation of criminal offences. In addition, all material traces discovered during the search can be compared with the information obtained during the inspections.

It is appropriate to conduct an investigative experiment to verify

evidence on the spot when hooliganism is committed by a group of people, and individual members of the group try to take the blame on themselves. In this case, it is necessary to invite such persons to go to the scene of the incident and testify how and where they performed certain actions. If a person cannot demonstrate the specific places where hooligan acts were committed and does not indicate the corresponding actions, then it is clear that the crime was committed by another person.

Example: December 17, 2008, around 8 p.m. c. B. and gr. P. committed hooligan acts while in a public place - a computer club. Gr. P. denied his guilt, but in the course of reproducing the situation and circumstances of the events, it became clear that Gr. B. alone could not perform the specified actions. After that c. P. admitted his guilt.

The investigative experiment is one of the most time-consuming and complex ISA, because a significant number of people are involved during its conduct. During the investigation of hooliganism, the investigative experiment is mostly conducted to establish the mechanism of committing an illegal act, to determine the limits of awareness or ignorance of criminals about the event, to check and evaluate the proposed versions, etc. The most appropriate tactical techniques that can be used when conducting an investigative experiment during the investigation of hooliganism are the involvement of relevant specialists, the use of live models, conducting an investigative experiment separately with each person, and the use of appropriate means of recording the investigative (search) action. The use of the mentioned tactics plays an important role in the process of proving the guilt of all participants in hooliganism, especially when they refuse to testify earlier.

The main tactical conditions of an investigative experiment should include: conducting an investigative experiment in an environment as close as possible to the one in which the event took place; repeated repetition of homogeneous experiments under variable conditions; optimal limitation of the number of participants in the research experiment.

When investigating hooliganism, there is a need to conduct various examinations. When investigating such criminal offences, the forensic medical examination of living persons can resolve a wide range of issues, in particular, the nature and degree of severity of bodily injuries; age and mechanism of injury formation; type and kind of tools with which they are inflicted. Their large number is explained by the fact that during the act of hooliganism, as a result of physical contact, the victim and the criminal may receive physical injuries. This examination has an important evidentiary value in the investigation of the specified category of cases, as its results can

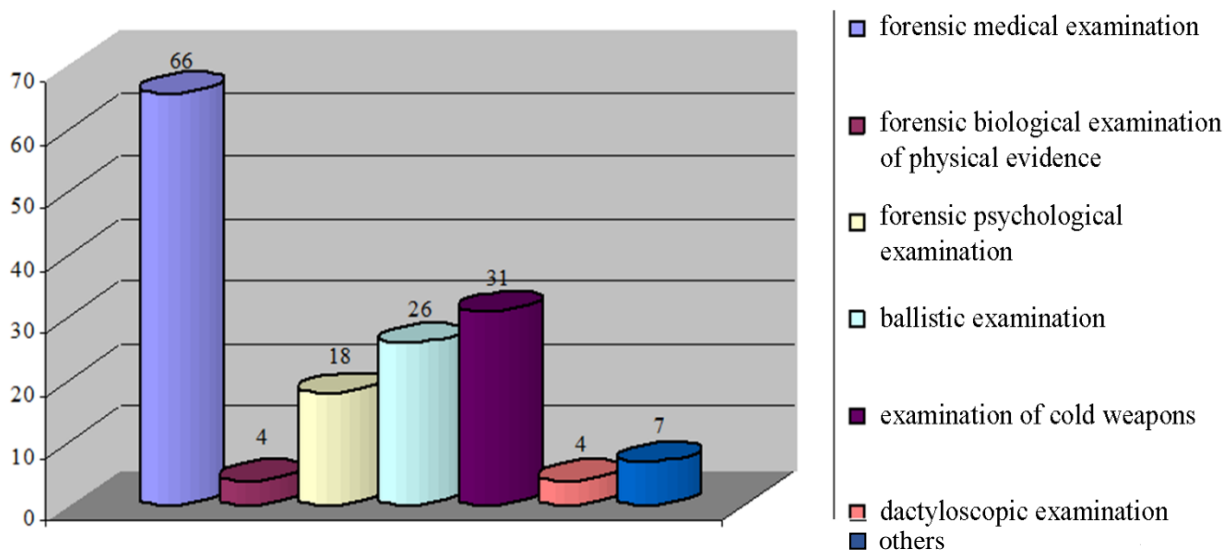
reveal false statements of the suspect.

Forensic biological examination of material evidence should be prescribed to establish the type of substance under investigation, group and typical signs of blood, hair, saliva, semen, urine and other objects. In most cases, the hooligan has physical contact with the subject of the crime or the victim. And with the help of forensic biological examination, many controversial issues can be resolved during the investigation. Most likely, such a low level of their implementation is explained by the specifics of identifying, extracting and fixing material evidence of the specified category.

Forensic psychiatric examination is prescribed to determine the mental state of the suspect, victim or witnesses in the presence of data that raises doubts about their sanity. In the cases of conducting the specified examination during the investigation of hooliganism, the expert may be asked the following questions:

- did the person suffer from any mental illness during the committment of the offence, or did he/she have a temporary disorder of mental activity?
- does the person currently suffer from any mental illness?
- can a person be aware of his/her actions and control them, that is, should he be considered reprehensible?
- could the witness or the victim correctly perceive, remember and reproduce the circumstances that are important in the case?

Bullies, as a rule, do not worry about destroying fingerprints at the scene, so dactyloscopic examination gives positive results. In addition, an immediate check of such traces on fingerprints provides an immediate result in establishing the identity of the criminal, his/her place of registration, residence, involvement in the committment of other illegal acts.



**Figure 3. Examinations conducted during the investigation of hooliganism, %**

When investigating hooliganism, the following examinations may be ordered: forensic medical, forensic psychiatric, forensic biological, forensic examination of cold weapons (see fig. 3.)

Handwriting examination is carried out to identify the identity of the hooligan based on his/her handwriting. The need to conduct it arises in those cases when hooliganism manifested itself in the writing and distribution of obscene texts. Various obscene inscriptions, letters and telegrams with threats directed by the hooligan to the victim can be removed from the scene of the incident.

***Control questions:***

- 1. The structure of the forensic characteristics of hooliganism.*
- 2. Victimological situations in the studied category of proceedings.*
- 3. Characteristic ways of committing hooliganism.*
- 4. Typical investigative situations of the initial stage of hooliganism investigation.*
- 5. Investigative (research) actions carried out at the initial stage of hooliganism investigation.*
- 6. Types of inspections conducted in proceedings of this category.*
- 7. Expertises assigned during the investigation of hooliganism.*
- 8. Categories of witnesses and victims in these proceedings.*

***Topics of essays:***

- 1. Peculiarities of inspection of the scene during the investigation of hooliganism.*
- 2. Forensic support for interrogations of various categories of persons in the investigation of hooliganism.*
- 3. Assignment of expertise in the investigation of hooliganism.*
- 4. Organizational and tactical aspects of the search in the investigation of hooliganism.*
- 5. Forensic aspects of the analysis of primary information in the investigation of hooliganism.*

## **Chapter 7**

### **INVESTIGATION OF PIMPING AND ENGAGING PERSONS IN PROSTITUTION**

#### **7.1. Forensic characteristics of pimping and engaging persons in prostitution**

Pimping and engaging person in prostitution is a social phenomenon that has already been counted for more than one thousand years. Depending on the social relations, time and place of committing the mentioned actions, the society treats them differently, even radically opposite. In particular, in some countries, persons who provide services of an intimate nature are ordinary employees in the field of service provision and pay taxes to the state budget. In other countries, the most severe types of criminal punishments are provided for the commission of such actions, not to mention the rejection of this person by society.

Given the fact that the Criminal Code of Ukraine clearly provides for responsibility for the investigated criminal offence (Article 303), it is clear that in our country this act is an encroachment on relevant social relations (according to the generic object—on moral ones). Therefore, in case of any changes in the legislation, this act must be investigated, the guilt of the persons in its commission must be proven and, as a result, the latter must bear the legal responsibility for it.

The practice of the Netherlands, where the sex industry experienced rapid growth after legalization, is seen by some as proof of the danger of legalization, by others as temporary difficulties in the new situation. Proponents of legalization argue that legalization will help end the exploitation of immigrant women brought into the country illegally. However, according to a report by the government's Budapest Group, 80 % of women in brothels in the Netherlands have been taken and sold from other countries. They also claim that legalization will help end child prostitution. Instead, the level of child prostitution in Holland increased dramatically in the 1990<sup>s</sup>. According to the Children's Rights organization, the number of children involved in prostitution in Amsterdam alone increased from four thousand in 1996 to 15 thousand in 2001. According to the same data, at least five thousand children were brought from abroad. Basically, these are girls

from Nigeria. So it can be concluded that with the help of legalizing prostitution, the country proved unable to stop human trafficking, as well as to eradicate other forms of sexual crime, in particular, pimping.

In view of the above, the investigation of the forensic characteristics of pimping and engaging person in prostitution is beyond doubt. After all, this will contribute to the understanding by law enforcement officers of certain aspects of the studied social phenomenon, which they will be able to apply in practice.

Elements of the criminalistic characteristics of pimping and engaging person in prostitution are as follows:

- the method of committing the crime;
- the circumstances of the commission of criminal acts;
- «trace picture» of the commission of the crime;
- identity of the victim;
- the person of the criminal.

The method of committing the crime. Analysis of the method of committing the investigated offence is of great importance for the correct qualification of the act. After all, only after assessing the appropriate preparatory measures, direct actions of the person and ways of concealing them, the police officer will be able to understand the existence of the fact of pimping, and not another social phenomenon.

Among the typical ways of preparing for pimping and involving a person in prostitution, the most common are the following:

- searching premises where sexual services will be provided or where members of criminal groups and prostitutes will gather;
- search for persons who maintain places of debauchery;
- searching for women who will engage in prostitution;
- creation of a database of women who will engage in prostitution;
- search for co-participants and distribution of functions among them;
- establishment of a communication system between co-participants;
- drawing up «schedules» of work;
- placing ads in mass media or on the Internet;
- production of business cards;
- selection of clients.

Regarding the direct method of committing the crime under investigation, it should be noted that a group and organized method is characteristic of these illegal acts because it is extremely difficult for one person to commit such illegal acts, since they involve systematic and multifaceted actions (for example, recruitment, protection, transportation, material provision of prostitutes, etc.), which requires the division of



functions.

Effective coercion into prostitution, involvement in it, and pimping are possible in conditions of complicity with the division of functions and roles. At the same time, the duration of the activities of such associations depends on the presence of corruption ties in the state authorities, compliance with the rules of conspiracy and discipline, which contribute to the avoidance of criminal liability measures for the guilty.

Typical methods of pimping are as follows:

- actions related to the provision of prostitution by another person (searching for a client, providing premises, transportation, receiving money for providing sex services, transferring part of the money to a prostitute);
- engaging person in prostitution;
- forcing a person to engage in prostitution.

As practice shows, it is rare to force people to engage in prostitution. In most cases, they are involved in this activity in various ways.

Example: In an unspecified period of time, gr. D. decided to engage in criminal activity, choosing pimping as the method of committing it. To implement this, she proposed to create an organized group of the city. Yu. After that, the mentioned persons carried out general management of the organized group, developed a single plan, scheme and methods of committing crimes, bringing this information to the attention of all members of the group; sought out and involved in the commission of crimes the direct perpetrators of criminal acts; established a certain hierarchy in the group, the order of subordination of group members to leaders; distributed responsibilities among group members; instructed them on their performance of relevant criminal acts; took measures to conspire their actions; distributed money obtained by crime; provided financing of criminal activities of members of an organized group. In particular, c. D. made final decisions on the procedure for providing sexual services, their duration, cost, as well as solving all other main issues of the criminal group's activities, established the amount of prostitutes' earnings, posted ads on the provision of sexual services by prostitutes on the website «mister-x.org» board «UKRGO», controlled the placement of photographs of prostitutes on them, communicated via the Internet with male persons who intended to receive sexual services, on behalf of prostitutes; performed the function of a dispatcher—received orders by phone from men to provide the latter with sexual services for a monetary reward; handed over the orders received from men for the provision of sexual services to prostitutes recruited by members of an organized group; organized clients' meetings with prostitutes; kept records of hours worked by prostitutes; kept records of the funds received as

a result of the provision of sexual services to men by prostitutes engaged by members of an organized group.

Involvement in prostitution should be understood as actions aimed at arousing in a person the desire to systematically engage in prostitution both alone and independently, as well as to participate in their joint commission with other persons. Involvement in prostitution will take place only if the end result of the pimp's actions is the systematic entry of a person into sexual relations for the purpose of obtaining material reward. Inclination, coercion to commit a one-time sexual relationship for a fee does not constitute a crime and, depending on the actions committed by the perpetrator, may be considered as other crimes—beatings, torture, harm to health of varying severity, threats to kill or cause grievous harm health, intentional destruction or damage to property, etc.

Typical methods of concealing pimping and involving a person in prostitution are as follows:

- organization of firms under the guise of employment in a legal business (restaurant, hotel or other services);
- a statement during detention (especially by the pimp) that he is unfamiliar with prostitutes, seeing them for the first time;
- destruction of «draft» bookkeeping, used condoms.

The circumstances of the commission of criminal acts. The circumstances of the commission of a crime is a broad concept that includes a number of elements that characterize the environment in which a socially dangerous act is committed. Among them, it is absolutely necessary to distinguish the time, place and conditions of the commission of the crime, which are important for its full investigation. Their consistent consideration in terms of studying pimping and the engaging person in prostitution will help in the complex construction of its forensic characteristics.

The place of pimping and the engaging person in prostitution are part of the event. It contains a large amount of information about the method of committing a criminal offence, certain data about the identity of the criminal. Among them, it is necessary to highlight the following: place of work and residence; sports and recreation complexes; place of leisure and recreation; vehicles; open area

Places of pimping and involving a person in prostitution have the following characteristic features:

- are characterized by a limited circle of eyewitnesses (in most cases, there are no persons who do not use the services of a prostitute in this place);
- located at the place where citizens spend their free time and rest (saunas, hotels);

– are characterized by limited access (owner, customers, prostitutes).

Example: in the period from December 2014 to June 2015, gr. L., being unofficially employed in a night club, organized activities in the specified night club to ensure the employment of prostitution by other persons, which consisted in keeping financial statements of illegal activities in the provision of intimate services, finding clients and mediating with women to enter into sexual relations with them communication in specially adapted premises of the institution, issuing of wages, control over going to work, drawing up schedules for going to work of women who provide intimate services, etc. So, for the purpose of conspiracy to provide intimate services, she developed a plan according to which clients of an entertainment establishment were offered intimate services under the pretext of «treating a girl to champagne», namely, visitors to the establishment, for a fee of 1,000 hryvnias, allegedly bought a bottle of champagne and later for intimate services were provided to them for a fee.

Regarding the time of commission, the largest number of them falls on the time of rest (i.e. weekends and from 6 pm to 6 am).

Among the conditions that characterize the possibility of committing the investigated criminal offence, the following should be included:

- abnormal relations between family members;
- antisocial manners of its members;
- presence of antisocial customs in the family;
- improper parenting of children;
- their non-fulfillment of their educational duties;
- shortcomings of school education;
- underdevelopment of the leisure sector;
- lack of morality and ideology;
- alcoholism and drug addiction of young people;
- the degradation of national culture, combined with the spread of the cult of violence and individualism;
- negative role of mass media;
- ineffective functioning of the law enforcement system;
- imperfection of victimological prevention of criminal offences.

«Trace picture» of the commission of a crime. The trace picture contains a typical description of the traces and their sources (people, things) and the circumstances of the event. It, like any general, is less specific in details, but more meaningful as an ideal model of the offence, which allows for a more complete isolation of the individual on the basis of the general. Therefore, the trace picture, as a complete information system discovered during the investigation, requires an independent scientific analysis in order to identify

the resources of forensic and evidentiary information contained in it.

The majority of traces are distinguished by personal sources of information (testimony of witnesses and eyewitnesses of the event, pimps, prostitutes and other members of a criminal group).

Traces of pimping and engaging person in prostitution were mostly detected at the place of providing intimate services. Outside the place of providing intimate services, these traces were formed as a result of the offender's actions to prepare or hide socially dangerous actions.

Evidential information from material sources is mostly extracted at the later stages of the investigation during individual ISA, UISA and other procedural actions. Most often, investigators at the places of providing intimate services found: traces of hands and traces of blood and other organic substances.

The nodal places, where traces of pimping and engaging person in prostitution can be concentrated, are as follows:

- place of pimping;
- place of providing intimate services;
- the location of pimps and prostitutes.

The person of the victim. The main contradiction in the social sphere, which characterizes prostitution as a phenomenon, is that, on the one hand, the market model allows free development of economic initiative, independence, and personal autonomy in choosing forms of employment. On the other hand, the competition for the workforce of the middle social strata of the population accompanying this model of economic relations pushed them into the ranks of the unemployed, and most of them are women who join the ranks of pimps, pimps and prostitutes. A significant number of women, and recently also men, increasingly find a solution to the problem of unemployment in the trade of their bodies. This strengthens the criminalization of society and the skillful use of this circumstance by persons specializing in the provision of intermediary services in the field of sex business (pimps, matchmakers).

Among the possible victims of pimping and involving a person in prostitution, the following groups should be distinguished:

- minors (Part 3 of Article 303 of the Criminal Code of Ukraine);
- persons who have not reached sexual maturity and minors who have committed lewd acts or other sexually oriented crimes, in particular, rape (Part 3 of Article 303 of the Criminal Code of Ukraine);
- clients who received certain negative consequences from intimate services;
- persons who provided intimate services.

Victims have certain characteristics due to their victimhood. Among them, we can distinguish biological ones—gender, age, physical development (girls who have an attractive appearance, are well developed for their age); social – social roles and status (students and college students who live far from their families); economic (poor); moral and psychological – propensity to drink alcoholic beverages and narcotic substances, immoral lifestyle. An equally important factor in a person’s victimization is casual acquaintances and excessive trust in outsiders. For example, victimological groups of minors involved in prostitution include:

- persons from low-income families;
- persons studying far from their parents’ place of residence;
- persons with an unstable psyche or mental illnesses;
- persons from disadvantaged families;
- persons living in the area of the anti-terrorist operation.

The person of the criminal. The definition of prostitution should reflect the following features: 1) prostitution is a type of activity, that is, a system of single acts of providing sexual services; 2) promiscuity of sexual relations, i.e. multiplicity of clients; 3) usefulness of providing services. An emotional attitude towards the client is not a necessary sign of prostitution. Thus, prostitution is a type of activity aimed at providing sexual services, which consist in satisfying the sexual needs of clients for remuneration, regardless of its type.

The criminological portrait of pimps is characterized by the fact that these persons possess such qualities as aggressiveness, cruelty, cynicism, and the cult of violence. The moral qualities and family ideals of these persons are either underestimated or completely absent.

The forensic porter is as follows: they are mostly men aged 30-40, who have a higher or incomplete higher education, were previously brought to criminal responsibility for crimes against public order and morals, are single, do not have a permanent job. When committing a crime, offenders (pimps, prostitutes) may be in a state of intoxication (alcohol or drugs).

Organized groups, which have a certain structure and consist of a group organizer (pimp); persons who provide intimate services (prostitutes); persons who maintain places of debauchery (home owners, administrators); auxiliary staff (drivers, guards); corrupt representatives of law enforcement agencies who cover up criminal activity.

A peculiar type of «network» is the so-called artil: the pimp pays the rent for the premises, makes utility payments and places the premises at the disposal of persons who are directly engaged in prostitution, who regularly pay him firmly established «brigadas», i.e. a certain amount of money,

regardless of what they were fees from customers. The remaining money is distributed among the persons engaged in prostitution. If at the very beginning of the investigation one does not formulate the correct tactical task of proving the involvement of the head of the pimping organization in the activities of the «artily», then in the future it will be extremely difficult to bring him to criminal responsibility.

## **7.2. Typical investigative situations of investigation and appropriate algorithm of police officers's actions**

During the investigation, the authorized person familiarizes himself with a large number of material evidence and documents. It implements this with the aim of directly obtaining information as a result of the ISA, UISA and other events. Considering this, appropriate decisions are made about the organization and planning of the process of investigation of criminal offences, the use of the assistance of specialists and other units of law enforcement agencies. Data on the circumstances of the crime are the subject of analysis in the investigation process. The totality of the specified information, obtained from various sources, constitutes the content of the investigative situation.

The initial stage begins with the entry of information about the event into the EPDP and ends with the issuing of a written notice of suspicion, which is done in the presence of sufficient evidence (clause 3, part 1, article 276 of the Criminal Procedure Code of Ukraine).

Typical investigative situations of the initial stage of the investigation of pimping and engaging person in prostitution are as follows:

1) the criminal (pimp, prostitute) is known, there are sufficient factual data that testify to the specific circumstances of the criminal offence and his involvement in it;

2) the fact of pimping or involving a person in prostitution is discovered, the criminal is known, but there is insufficient evidence to report the suspicion;

3) the criminal (pimp, prostitute) is known, there are material traces of a criminal offence and there are eyewitnesses to the illegal event, but he is hiding from law enforcement agencies and the court;

4) the criminal is unknown, there are no material traces and eyewitnesses of the criminal offence.

Regarding the first situation, it should be noted that the main task of the investigator is to collect other evidence of the person's guilt in order to

inform him of the suspicion. The authorized person must conduct primary investigative (search) actions, in particular:

- reviews;
- examination of the victim and the suspect;
- searches;
- interrogation of the victim, witnesses and the suspect;
- review and inclusion in the proceedings of video recordings, photographs on which criminal acts are recorded;
- assigning an examination to prove the involvement of a specific person in a crime.

During their implementation, it is only necessary to record them with appropriate procedural actions. In particular, material evidence must be removed during the inspection of the scene, the victim and witnesses must be interrogated to find out other information. In this situation, it is possible to carry out other measures: stopping criminal activities; detention of the suspect; personal examination of the suspect; establishing the identity of the detainee.

The second situation is typical for pimping and involving a person in prostitution without sufficient witnesses. Therefore, in this case, it is necessary to collect a maximum of orientation information: video camera recordings from various objects located near the scene of the incident, data on the provision of services of an intimate nature in this area. In this situation, the sequence of actions of law enforcement officers will be as follows:

- searching for the suspect on «hot» tracks;
- inspection of the scene;
- interrogation of witnesses.

The third typical investigative situation is characteristic of pimping committed without witnesses. In such a situation, at the initial stage of the investigation, the following are carried out:

- inspection of the scene;
- carrying out examinations;
- conducting UISA to establish possible evidence;
- identifying and questioning witnesses;
- search for a criminal.

All this ensures a proper investigation of a criminal offence and the drawing up of an indictment to the court with further maintenance of the accusation during court proceedings until the appropriate court decision is issued. The content of the above obligation is the need to prove guilt, not to prove it. Otherwise, officials of state bodies would have to be held legally

responsible for failure to fulfill their duty.

The fourth investigative situation is characterized by the fact that in most cases there is only operative information regarding the fact of pimping or involving a person in prostitution. In this situation, the primary procedural actions, taking into account the time that has passed since the offence was committed, may be:

- establishing the fact of pimping;
- interrogation of witnesses;
- conducting UISA.

### **7.3. Organizational and tactical features of individual investigative (search) actions**

Investigating pimping requires law enforcement officers to respond immediately to any cases of possible receipt of evidentiary information about the crime event or its individual traces. At the same time, at the initial stage of the investigation, the most widespread UISA for collecting primary material information about the illegal act is the inspection of the scene of the incident. Its conduct ensures, firstly, the collection of possible evidence, which after a certain period of time may lose its representativeness (for example, traces of biological origin, condoms), and, secondly, the orientation of authorized persons in the directions of further activities (planning of the investigation, construction of versions ).

According to the researched category of proceedings, law enforcement officers carry out the following inspections: inspection of the scene of the incident; examination of living persons (survey); review of computer equipment; inspection of items and documents.

Collection and verification of evidence during the pre-trial investigation occupies a prominent place in the law enforcement activities of authorized persons.

When investigating crimes qualified under Art. 303 of the Criminal Code of Ukraine, inspection of the scene is the most indispensable and effective procedural action. The data obtained during the OMP is a source of information for putting forward versions, establishing the identity of the pimp and conducting further procedural actions, UISA and investigative measures. Among the tasks of the OMP for the studied category of criminal offences, the following should be highlighted:

- studying and recording the situation at the scene of the event in order to clarify the nature and mechanism of the event;



- detection and removal of traces of a crime, which can serve as material evidence in the proceedings in the future;
- identification of signs characterizing persons who participated in the commission of a crime;
- recording of features inherent in the victim and other objects of encroachment;
- establishing the circumstances that reflect the objective side of the crime: the time and method of its commission, the actions of the criminal at the scene;
- the consequences of the crime, the existence of a causal relationship between the actions of the criminal and the consequences;
- identification of signs indicating the motives and purpose of committing a crime;
- identification of circumstances that contribute to the commission of a crime.

An authorized person must involve a forensic inspector in the investigation of the investigated category of acts, who will photograph and video record, draw up a plan-scheme, help inspect and remove things and documents relevant to the criminal proceedings.

When conducting an OMP during the investigation of pimping, law enforcement officers must identify and seize:

- 1) documents containing information about minors and pimps;
- 2) mobile phones of minors with correspondence with a pimp, photos or videos;
- 3) computer equipment that may contain information about the activities of a pimp or the provision of services of an intimate nature by minors;
- 4) traces of biological origin;
- 5) valuable objects and other things that can be presented for identification in the future;
- 6) items that indicate the fact of providing services of an intimate nature (condoms, other items adapted to satisfy sexual passion).

The questioning was conducted in all cases of investigation of pimping and engaging person in prostitution, which defines it as the most common ISA aimed at obtaining information from personal sources.

After exposing a place of debauchery, detaining a pimp, a prostitute and other members of a criminal group, the interrogation must be conducted immediately, which gives the investigator the opportunity to: prevent possible collusion by members of the criminal group; use the factor of suddenness; to make it impossible to take measures to oppose the

investigation.

With regard to persons who may be interrogated during the investigation of pimping and the engaging person in prostitution, the following groups are distinguished:

- a person who declares that he is involved in prostitution;
- a person to whom sexual services were provided;
- a person who provided sexual services;
- a person who worked as an operator in the «pimp's office»;
- the person who transported the prostitute to the client;
- pimp;
- persons engaged in prostitution;
- staff;
- customers (visitors) of the den;
- police officers;
- witnesses, employees of mass media where advertising was placed)

With regard to the questioning of the person who accepted the order for the provision of sexual services over the phone, in this case it is necessary to find out the following questions:

- since when has she been working in this place and performing the function of an operator, which is specifically included in her duties;
- how did she get to such a job, was she aware of its content;
- who is her manager, who was she paid for her work;
- what phone number does it serve, to whom does it transfer the received order, how exactly is communication with the pimp, customers, etc. established;
- who else works with her and what functions they perform;
- what are the specifics of her work (mode of work; how many calls she received per shift; what is the cost of sexual services, etc.).

During the interrogation of the pimp, the following questions should be clarified:

- when he started pimping;
- committed the crime himself or other persons involved in it;
- if so, what functions did they perform (who looked for prostitutes, who posted ads in the media or on the Internet, who took orders from clients, who took the prostitute to the client, who provided security, etc.);
- how many acts of witnessing he committed;
- what is the cost of sexual services, how was the payment made, how was the profit distributed;
- how was communication with other members of the criminal group maintained;

- whether any cover was created for criminal activity;
- whether there are accomplices among officials of law enforcement agencies or state authorities, etc.

During the investigation of pimping and engaging person in prostitution, the following tactical methods of interrogation are used:

- establishment of psychological contact with the interrogated person;
- conviction of the need to cooperate with the investigation and report truthful information;
- unexpected presentation of material evidence to the interrogated;
- observation of the behavior of the interrogated person; encouragement to repent by forming an internal protest against the committed actions;
- use of conflicts and contradictions in an organized group; demonstration of testimony of accomplices, victims and witnesses;
- use of a fast pace of interrogation; detailing of evidence to identify contradictions;
- focusing attention on false information;
- creation of an idea about the awareness of the investigator;
- use of the interviewee's reflection; use of video recording.

An effective tactical technique during interrogation is the presentation of physical evidence. After all, the influence they exert on the suspect makes it possible to get out of previously defined conflict situations. In particular:

- determine the need to testify about the possession of pornographic materials (pornographic videos, magazines and brochures with pornographic elements);
- relationship with prostitutes (telephone correspondence, availability of e-mails);
- facts of being in the place of debauchery (video recordings, testimony of witnesses), etc.

In the event of a criminal offence committed by a group of persons, the intentional concealment of facts by a police officer creates misunderstanding among the interrogated. This is most characteristic of situations when they especially expect the notification of any information in order to orient themselves in their further behavior. Therefore, an important tactical technique that must be used when interrogating suspects is to hide the limits of the authorized person's awareness.

In connection with the insignificant filling of material traces of the place of commission of the investigated criminal offence, there is a gap in the collection of such an evidence base. In view of this, the search becomes important for identifying and recording traces of the criminal (pimp), timely

submission of correct investigative versions, planning of further procedural actions and NISA. After all, during it, it is possible to find a wide variety of physical evidence, necessary for establishing the truth in criminal proceedings.

Among the preparatory measures for the search, we will single out the following: studying the materials of the criminal case; collecting indicative information about the identity of the criminal, as well as his family members, relatives and acquaintances; all episodes of criminal activity; places (objects) of searches; tools (means) of an illegal act and objects obtained by criminal means and subject to discovery, etc.; analysis and evaluation of the collected information and the investigative situation that has developed at a certain stage of the investigation, before making a decision to conduct a search; making (adopting) a decision to conduct a search; planning and determining the time of the search; creation of optimal conditions for conducting this ISA; determination and preparation of the necessary scientific and technical and transport means; resolution of the issue of the use of an official search dog; selection of necessary participants for the search; determination of the method of recording the course and results of the search; development of measures involving the actions of search participants in cases of unforeseen situations or complications; ensuring the safety of ISA participants; drawing up a search plan; holding an instructional meeting (briefing) among all participants of the ISA.

In the course of conducting searches in the studied category of criminal proceedings, the following tasks must be performed:

- withdrawal of funds obtained as a result of criminal activity;
- removal of documents of persons «working» in a given place;
- removal of any kind of records both on «paper» and on electronic media;
- fixing the general situation, which indicates the nature of the use of this room (scattered linen, condom packages, and similar items).

At the initial stage of the search, the establishment of psychological contact, which is achieved through mutual perception of the parties and the exchange of both verbal and non-verbal (mimicry, gestures) information, becomes important. Without stopping the establishment of psychological contact (because it is a continuous process), the authorized person should ask the suspect to hand over the objects of the search. At the same time, it must be remembered that the issuance of the items specified in the decision by the searched person does not cause the termination of this ISA. After all, offenders in the studied category of proceedings are usually characterized as recidivists. Therefore, the investigator does not know for sure which evidence

of the commission of acts is located in the searched premises.

Among the most expedient tactical methods of the indicated stage of conducting the investigative (search) action under investigation should be the involvement of the suspect, witness, victim. After all, the participation of these persons enables law enforcement officers to observe their behavior. On the one hand, the active participation of the specified persons in the conduct of this ISA may be aimed at providing assistance to the investigation, facilitating the work of the authorized person in order to create conditions that would indicate the presence (or absence) of the subject of the search.

Identification is an unquestionably important ISA in pimping investigations. It provides additional evidentiary information for the investigation. In addition, its implementation has a corresponding psychological effect on the pimp. After all, he understands that he is pointed out as a criminal. Therefore, its timely conduct is always a guarantee of a quick investigation of all the circumstances of the criminal proceedings. During pimping, there is always a certain number of victims and witnesses.

By carrying out such a procedural action as presentation for identification, the evidence of the subjective perception of the person who identified certain phenomena, events and images is materialized. According to the results of the presentation for identification, a corresponding protocol is drawn up, which directly contains evidentiary information. One of the main problems of obtaining evidence in this context, in our opinion, is the impossibility of repeating the specified procedural action. In practice, there are known cases when the suspect, who needs to be identified, deliberately tries to disrupt the course of this procedural action, so that the investigator will conduct the relevant action again, thereby further taking advantage of the complex situation to make it impossible to recognize the results obtained as evidence. Therefore, regulatory regulation of such unforeseen situations would be expedient. That is, we propose to establish at the legislative level the non-recognition of any actions by the person being identified, aimed at hindering or evading his presentation for identification, as a basis for stopping or interrupting this investigative (search) action and such that it cannot be considered a circumstance for refutation of the probative value of the obtained results. All participants in procedural actions must be warned about the above before they start.

According to Art. 228, 229 of the Code of Civil Procedure, objects must be presented among other homogeneous things of the same type, quality and without sharp differences in appearance, in the number of at least three. Their maximum number is determined by the investigator. When objects are presented in a group, the subject of recognition compares them not only with

the image stored in memory, but also with each other. This directs the process of recognition to the identification of individual features of the object. The person to be identified is presented together with other persons of the same sex in the number of at least three, who do not have sharp differences in appearance and clothing.

In those cases when the pimp declares that he is not familiar with prostitutes and is not involved in pimping, it is advisable to conduct such an ISA as a presentation for identification. In this case, the person who will be presented for identification will be a pimp, and the persons who will be identified can primarily be: 1) a person who declares that they are involved in prostitution; 2) prostitutes who worked under the «leadership» of a pimp; 3) clients. The presentation for identification is carried out according to the general rules of presentation for the identification of a living person. There are also cases when the driver who brought the prostitute or to whom he gave the money is presented to the client for identification.

Presenting objects for identification can be used as a tactical technique during interrogation. Identification can take place during the search, when persons (victims, witnesses) who are well aware of the signs of the searched objects are invited to participate in it.

In the studied category of criminal proceedings, the most complex and voluminous is the presentation for the identification of a living person. It is carried out in cases when:

- the person to be presented was not previously known to the person who recognizes, but was observed by him in connection with a criminal event;
- the one who recognizes previously knew the person who presents himself, but cannot provide the necessary data about him (for example, cannot provide his surname and first name);
- the person is well known to the person who recognizes him, but he denies this acquaintance.

The interrogation preceding the identification of living persons should be aimed at clarifying: a) the circumstances under which the identifier saw the person in connection with the crime; b) appearance and signs of this person; c) psychological state of the recognizer; d) his physiological and mental state (sight, hearing, features of memory, etc.). When clarifying the appearance and signs of a person to be identified, the investigator should question the witness in detail about his general and characteristic features. At the same time, it is necessary to use the data of the verbal portrait, but in commonly used expressions. You should ask in detail about height, body structure, age, face type, color, hair, skin and special features (scars, moles,

warts, etc.).

A number of important circumstances are revealed during the preliminary interrogation. But, speaking about the investigation of pimping, it should be understood that during it it is necessary to solve the issue of the possibility of identifying a specific person. After all, certain psychological factors, moral rules can interfere with the very process of presentation for recognition already during the working stage.

The investigative experiment is quite appropriate at the next stage of the investigation of pimping and engaging person in prostitution. After all, thanks to its implementation, the testimony of the pimp is verified.

In accordance with Part 1 of Art. 240 of the Criminal Procedure Code of Ukraine, in order to check and clarify information that is important for establishing the circumstances of a criminal offence, the investigator, the prosecutor has the right to conduct an investigative experiment by reproducing the actions, situation, circumstances of a certain event, conducting the necessary experiments or tests.

Preparation for conducting the researched ISA has its own characteristics. When choosing the place where it will be held, it should be taken into account that it is often related to the demonstration of the method of committing the crime, therefore access to it by outsiders should be excluded. In such cases, it is necessary to take measures to ensure the protection of the venue (for this and to prevent the escape of the suspect, law enforcement officers are involved). When investigating the investigated category of criminal offences, the specified tactical condition is important, because mostly the procedural action takes place in an open area.

Example: August 6, 2015, at approximately 4:00 p.m., gr. M., while staying near the Koksokhim cemetery, which is located along the Nikopol highway in the city of Kryvyi Rih, carried out a criminal intent, namely, with the aim of promoting voluntary sexual intercourse between A. and an unknown person stopped a car driven by a citizen of F. and offered him to have sex with a girl, a prostitute, to which the latter agreed. After that c. M. called Gr. from his mobile phone. A. and informed her about the need to provide services of a sexual nature for a monetary reward to the client, to which the latter agreed. At approximately 4:30 p.m., she arrived at the «Koksokhim» cemetery, where she joined the gr. F. in voluntary sexual intercourse for a monetary reward. During the investigative experiment on August 18, 2015, M. told about the course of events that took place on August 6, 2015 near the Koksokhim cemetery in connection with the commission of a criminal offence.

The main content of on-the-spot testimony verification is that the

previously interrogated person provides oral information and demonstrates a specific neighborhood, premises, objects located there, the environment or circumstances related to the previously given testimony. At the same time, the person performs actions that confirm his testimony, observing which the investigator receives information, as a rule, more meaningful than the information obtained during the interrogation. That is, for the most effective conduct of the investigated ISA, it is necessary to carry out a number of others: inspection of the scene of the incident, interrogations of various categories of persons, etc., simultaneous interrogations.

Memory activation will be a characteristic tactical condition of the inspection. In cases where a person gives very specific testimony during the interrogation, but, being on the spot, begins to get confused, does not tell everything, it can be concluded that the person has slandered himself or there is another reason. Sometimes, especially when establishing the circumstances of sexual crimes, a person is ashamed in the presence of a large number of people to detail, show, demonstrate those actions that took place at the time of the illegal act. In most cases, the investigation of crimes against morality is characterized by the same circumstances.

*Example: in November 2012, gr. S., acting intentionally for self-serving motives, reliably knowing about the minor age of Mr. Yu., with the aim of drawing her into prostitution by exploiting her vulnerable state, violated the latter's desire to engage in prostitution by describing the advantages of working as a prostitute and offered the latter to provide sexual services to clients for financial remuneration under her supervision. Realizing his criminal intent, Mr. During November 2012, acting as a pimp, S. created conditions for the sexual exploitation of a minor gr. Yu., namely: identified a place for prostitution, a plot of land located near the highway on Taganrozkoï Street in the Ordzhonikidzev district of the city of Mariupol, and took actions to provide it with clients for the provision of sexual services. During the investigative experiment on April 11, 2013, gr. S. pointed to the place where she, together with Gr. Yu. were waiting for clients to provide sexual services. In turn, after using a tactical technique, the actualization of the memory suffered gr. Yu. pointed to the place (Taganrozhka Street near the «Bavaria» store) where she met the client, and the latter pointed to the place where he refused to provide gr. Yu. sexual services.*

A mandatory tactical condition for conducting an investigative experiment is the use of technical means of fixation (for example, a video camera). After all, their use during the event significantly increases its informational value. When conducting an investigative experiment, the law entitles the investigator, the prosecutor or a specialist involved on their behalf



to conduct measurements, take photographs, make sound or video recordings, draw up plans and schemes, make graphic images, prints and casts, which are attached to the report.

It is also appropriate to use full-scale models. First, this tactical technique is aimed at actualizing in memory the moment of committing a socially dangerous act. Secondly, it affects the psychological positions of criminals in a certain way, it can cause them experiences that contribute to a sincere confession. But it should not be forgotten that it is strictly forbidden to conduct experiments using objects that are dangerous for the life and health of citizens, associated with the threat of destruction (damage) of state property or citizens' property, humiliation of human honor and dignity.

***Control questions:***

- 1. The structure of the forensic characteristics of pimping and engaging person in prostitution.*
- 2. The circumstances of the commission of the crime in the studied category of proceedings.*
- 3. Victimological groups of victims of pimping and involving a person in prostitution.*
- 4. Typical investigative situations of the initial stage of the investigation of pimping and engaging person in prostitution.*
- 5. Investigative (research) actions carried out at the initial stage of the investigation of pimping and engaging person in prostitution.*
- 6. Types of investigative experiment in the investigation of pimping and engaging person in prostitution.*
- 7. Expertises assigned during the investigation of pimping and engaging person in prostitution.*

***Topics of essays:***

- 1. Peculiarities of the inspection of the scene during the investigation of pimping and engaging person in prostitution.*
- 2. Forensic support for the interrogation of various categories of persons in the investigation of pimping and the engaging person in prostitution.*
- 3. Search tactics when investigating pimping and engaging a person in prostitution.*
- 4. Organizational and tactical aspects of presentation for identification in the investigation of pimping and engaging person in prostitution.*
- 5. Conducting an investigative experiment in the investigation of pimping and engaging person in prostitution.*

## **Chapter 8**

### **INVESTIGATION OF CRIMINAL OFFENCES RELATED TO THE CIRCULATION OF NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES, THEIR ANALOGUES OR PRECURSORS**

#### **8.1. Forensic characteristics of criminal offences related to the circulation of narcotic drugs, psychotropic substances, their analogues or precursors**

**The fight against drug trafficking in general and the investigation** of criminal offences related to the illegal manufacture, acquisition, storage, transportation, forwarding and sale of drugs in particular need improvement. The latter is due to the specificity of such criminal offences, the perfection of the methods of committing and concealing them, the multi-episode nature of criminal behavior of offenders. This is also evidenced by the statistical data of the General Prosecutor's Office of Ukraine. Thus, in 2020, 28,204 offences were committed in the field of drug trafficking, of which a notice of suspicion was served in 19,574 cases.

In the investigation of illegal drug trafficking, the elements of forensic characteristics are the following: the subject of the criminal offence, the methods of committing the criminal offence, the situation, the «trace» picture, the characteristics of the offender.

In contrast to the criminal-law concept of the subject of a criminal offence, the subject of direct encroachment in the criminalistic plan can be a person, that is, his bodily organization, which is considered as a physical-biological system that can enter into various interactions, reflect itself in the material environment. But criminology examines and investigates, first of all, material objects (inanimate, living and their imprints that appear in the material environment). The investigator learns which objects have interacted and which relations they entered into precisely from the traces-reflections. The signs of the object of infringement contribute to the establishment of the method of committing the offence (for example, the technology of drug production), as well as to establish the identity of the offender. The latter is especially necessary to establish not only the person who is the user of narcotic drugs, but also those who sold or manufactured them.

For forensic characterization, the subject of a criminal offence is

important as a trace-forming object, which allows to build versions about the mechanism of trace formation, the type of traces on interacting objects (the offender, the environment of the scene). This approach to the subject of direct encroachment creates prerequisites for the use of typical investigative situations to build a methodology for investigating a specific offence.

The object of the criminal offence of the investigated category of criminal offences is narcotics. The legislator defines narcotics as included in the List of substances of natural or synthetic origin, drugs, plants, which pose a danger to the health of the population in case of their abuse.

In our opinion, the special literature provides a more precise and differentiated definition of narcotic drugs as substances of different nature (physical characteristics) that have the ability to affect the central nervous system, lead to a state of special intoxication, to addiction and drug addiction (medical sign), the list of which is scattered in special normative acts (legal sign), and their abuse endangers public health (social sign).

The physical sign reflects the different material nature of narcotics. They can have the form of family, powder, briquette, plant, etc., be of synthetic or natural origin. At the same time, it is obvious that the different biological nature, chemical formula, aggregate state, and origin of this or that drug do not affect the resolution of the question of its classification as a narcotic drug.

The social sign reflects the fact of drug circulation in a particular society. Its essence boils down to the fact that narcotics are either completely removed from free circulation, or are subject to the permit system, since their use for non-medical purposes undermines the health of the population. In other words, this sign is revealed in legal and medical signs, because it is based on them that the social characteristics of drugs are formulated as a whole.

The medical indication of narcotic drugs reflects the main property of drugs—to cause narcotic intoxication, and with more or less systematic use—painful addiction to them, i.e. drug addiction. As a rule, drug addiction develops from the use of one drug, but addiction to several drugs is also possible. Such drug addiction is called polydrug addiction. Drug use is accompanied by euphoria. The duration and nature of the euphoria depends on the type and amount of the drug used. a disease characterized by an irresistible craving for drugs that cause euphoria in small doses, and stupor, narcotic sleep in large doses.

The legal sign is normative, which reflects the fact that only those substances listed in special regulatory acts can be classified as narcotic drugs, namely: in the Single Convention on Narcotic Drugs with an appendix—»List

of narcotic drugs under international control» (1961), as well as in the Convention on Psychotropic Substances (1971) and the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988).

Thus, according to the Single Convention on Narcotic Drugs of 1961, they are divided into 4 groups:

- 1) morphine and other preparations made from opium poppy;
- 2) stimulants of the central nervous system—codeine and its derivatives, ethylmorphine, pholcodine and its possible isomers;
- 3) preparations of acetylhydrocodeine, codeine, dextropropoxyphene, dihydrocodeine, ethylmorphine, norcodeine and pholcodine, provided that the content of the narcotic substance per unit volume is smaller than in the second group;
- 4) preparations made from hemp.

According to the International Convention on Psychotropic Substances of 1971, they are divided into 4 groups:

- 1) DET, DMHP, DMT, LSD, LSD-25, mescaline, parahexyl, psilocin, psilotein, STP, DOM, tetrahydrocannabinols and their isomers;
- 2) amphetamine, dexamphetamine, methamphetamine, methylphenidate, phencyclidine, phenmetrazine;
- 3) amobarbital, cyclobarbitol, glutethimide, pentobarbital, secobarbital;
- 4) amfepramone, barbital, ethchlorvinol, etinamate, meproamate, methaqualone, methylphenobarbital, methyprilone, phenobarbital, pipradrol, SPA.

There are also different classifications of drugs according to many other criteria. The most important for the investigation are the following.

1. Depending on the source of origin: vegetable, synthetic, semi-synthetic. Drugs of plant origin include derivatives of: opium poppy—poppy straw, extractable opium, opium, morphine, codeine; hemp—marijuana, hashish, hashish oil; cocaine bush—coca leaves, cocaine paste, cocaine, crack; horsetail ephedra—ephedrine, neuretin. Plants also include: flowers and leaves of blue lotus, Hawaiian rose, sage leaves, kat (shrub of the berseklet family), peyote cactus, which are less common in Ukraine. Synthetic drugs are made artificially using chemicals. These are such as: methadone, amphetamine, trimethylfentanyl, pervitin, LSD, DOM, DOV, TMA. Semi-synthetic drugs are made using a plant-based drug with chemicals, such as heroin, hydromorphone, etorphine, oxycodone, etc.

2. Depending on the pharmacological effect on the body: opioids, narcotics from hemp; stimulants, amphetamine and its derivatives; hallucinogens; sedatives and tranquilizers; other control substances.

3. By manufacturing method: at pharmaceutical enterprises; in

domestic or artisanal conditions using special knowledge in the field of chemistry and pharmacology and special equipment of a chemical laboratory; in household conditions without the use of special equipment.

According to statistics, the most widespread drug in Ukraine is poppy straw, which is obtained from the hypnotic poppy plant. Poppy straw is all parts (both whole and crushed, both dried and not dried, with the exception of ripe seeds) of all varieties of hypnotic poppy, collected by any method, containing narcotic active opium alkaloids. Processing dried pods and stalks of poppy seeds using a meat grinder, coffee grinder, ball mill, as well as grinding in a mortar makes it possible to obtain crushed straw of the poppy plant. The color of poppy straw depends on the time of harvesting and is from light to dark green and from light yellow to brown. Thus, the source of the described narcotic agent is a narcotic plant—hypnotic poppy. Almost all known varieties of the sleeping poppy (*Papaver Somniferum* L.) contain physiologically active substances that have a narcotic effect and are used for the manufacture of drugs.

Poppy straw concentrate is a means obtained in various ways from poppy straw by separation (extraction), which contains at least one narcotic alkaloid or their mixture. Poppy straw concentrate is often called extractable opium or poppy straw extract. This is related to the mechanism of obtaining this narcotic substance, which is based on the isolation of narcotic active alkaloids from different parts of the poppy plant or poppy straw.

The most common method is extraction using organic solvents (ethanol, acetone, toluene, solvents 645, 646, 647, 648, 649, 650, P-5, etc.), while soda, solutions of ammonia, saline or acetic acid. The artisanal method of production is indicated by the presence of devices or devices for grinding (coffee grinder, meat grinder, devices for grinding vegetable raw materials, various presses, devices for extraction or evaporation of industrial or home-made production). Poppy straw concentrate has a color from green to dark brown, a sharp smell of organic solvents. The ready-to-use drug is an aqueous solution or has the appearance of a resinous substance of brown or dark brown color (sometimes it can be found in the form of lumps, balls, tiles). Upon organoleptic examination, it has a pronounced characteristic smell of dried fruits.

Acetylated opium is obtained by acetylating a concentrate from poppy straw or opium. It contains a mixture of opium alkaloids—morphine, codeine, thebaine, narcotine, papaverine—and their acetylated derivatives (monoacetylmorphine, acetylcodeine). As a rule, it is extracted in the form of aqueous solutions or a resinous substance of brown or dark brown colors, sometimes it can be found in the form of lumps, balls or tiles.

Heroin is a semi-synthetic drug, a derivative of morphine, which is several times more potent in terms of narcotic activity. Heroin is a powder of various colors – from white to brown (depending on the degree of purification). It is often used together with fillers – flour, starch, as well as some medicines – barbiturates, novocaine, etc. It is important to note that heroin, although a semi-synthetic drug, is not produced by the state pharmaceutical industry.

The next group of the most widespread narcotics in Ukraine is directly related to the narcotic plant – hemp (*Cannabis*), which includes the narcotic active component tetrahydrocannabinol. Practically all varieties of hemp growing on the territory of Ukraine are suitable for the production of the drug, but the content of tetrahydrocannabinol in cultivated varieties of hemp is lower than in wild varieties. Hemp fruits (seeds) do not contain narcotic ingredients and do not belong to narcotics. Hemp plants are raw materials for the production of narcotics. Depending on the time and method of harvesting, as well as the method of processing, three narcotic drugs from hemp are distinguished: marijuana, hashish and hashish oil.

Marijuana is a mixture of dried or undried plant tops with leaves and stem remnants of any variety of hemp without a central stem, sometimes with a certain number of seeds. Such a mixture contains tetrahydrocannabinols and has a peculiar spicy smell, characteristic of hemp. The color is light green, green, rarely brown, depending on the time and method of raw material processing. The quality of marijuana depends on where the hemp grows, where and when it is harvested. Hashish (*anasha*, *cannabis resin*) is a specially prepared mixture of resin and hemp pollen or a mixture made by processing (shredding, pressing, etc.) hemp tops with various fillers. All of them contain tetrahydrocannabinol, regardless of the form given to the mixture—tablets, pressed bars, pastes and others. The color of hashish is light green to brown. It has a characteristic smell of hemp. Hashish oil is a solution or a viscous mass obtained from parts of plants and species of hemp varieties by extraction (extraction) with various solvents or fats. It is a substance of dark brown or almost black color with a specific smell, which depends on the type of solvents.

Cocaine and ephedrine are common narcotics of plant origin imported to Ukraine from abroad. Cocaine belongs to narcotic substances with a stimulating effect, has the form of a white crystalline powder or granules of white, yellow or brown color. Ephedrine is a clear liquid that is made from horsetail ephedra, a perennial low-growing shrub that is common in the mountains of Central Asia and Kazakhstan.

Among the medical preparations made from the poppy plant, which are

withdrawn from illegal circulation, the following should be highlighted:

– omnopon (synonyms: Dormopon, Opialum, Pantoopon, Papaveratum, Sompon) – a mixture of opium alkaloid hydrochlorides containing 50 % morphine and up to 35 % other alkaloids. Powder from cream to brownish-yellow color, aqueous solutions are colorless or brownish-yellow. It is used in medicine as an analgesic. The pharmaceutical industry produces omnopon preparations under various names in the form of powder and solutions in ampoules of 1 ml;

– morphine, ethylmorphine. The pharmaceutical industry produces morphine preparations in the form of hydrochlorides (sometimes in the form of sulfate), mainly in the form of powder and solutions in ampoules of 1 and 2 ml;

– hydromorphone (synonyms: dimorphone, dilaudid)– a semi-synthetic narcotic analgesic. It is available in the form of tablets and injection solutions. It is two to eight times stronger than morphine, but has a shorter duration of action. It has high potential. It is used as a substitute for heroin;

– codeine (methylmorphine). The nature of the effect on the human body is similar to morphine, but the pain-relieving properties are less pronounced. It is mainly used as an antitussive. In combination with non-narcotic analgesics (analgin, amidopyrine) and caffeine, as well as phenobarbital, it is used for headaches, neuroses, etc. Included in the tablets «Terpincod», «Codterpin» (Tabulettae «Terpincodum»), «Sedal-M» (paracetamol 300 mg, metamizole sodium 150 mg, caffeine 50 mg, phenobarbital 15 mg, codeine 10 mg), «Cough tablets with codeine» (Tabulettae contra tussim cum codeine), «Codelak», «Pentalgin», «Solpadein», «Sedalgin», as well as cough syrup «Cofex».

– oxycodone (synonyms: dihydron, percodan) - an analogue of codeine, but more potent. It is available in the form of tablets and is a component of painkillers. Substance solutions are obtained by dissolving tablets in water and filtering;

– buprenorphine (synonyms: Anfin, Norfin, Lepetan, Temgesic). Odorless white crystalline powder. The pharmaceutical industry produces buprenorphine preparations in the form of white tablets and colorless solutions in ampoules of 1 ml.

Among psychotropic substances, the following are becoming more and more widespread. Amphetamine derivatives include directly amphetamines, methamphetamines, their methylenedioxy- and methoxyamphetamine (MDA), mescaline, pseudoephedrine. Amphetamines are found in the form of a white or light brown powder, as well as in the form of white pills and capsules. LSD is made from lysergic acid or lysergic acid amide, which is

obtained from plants that are parasitic on rye or other cereals. Homemade LSD is a colorless and odorless substance. It is also found in the form of pills, powder, sheets of paper impregnated with a drug solution (for example, postage stamps). The group of benzodiazepines includes a significant number of names of imported and domestic drugs, the active ingredient of which is diazepam («Sibazon», «Relanium», «Seduxen», «Valium»). The form of their release is very diverse - pills and capsules, ampoules from 0.002 to 0.015 g. Phenazepam belongs to the powerful tranquilizers group and is produced by pharmaceutical companies, including Ukrainian ones, in the form of white pills or colorless ampoules.

Based on the generalization of investigative and operational practice, it can be concluded that due to the small size of the specified substances, as well as the possibility of their masking under the guise of medicinal products, their detection by law enforcement agencies is quite complicated and requires significant efforts, knowledge and work experience from law enforcement officers.

Criminal offences are committed in specific environmental conditions under the influence of various factors of objective reality, which in some cases are formed by the offenders themselves, in others exist independently of their will. The totality of these conditions, circumstances and phenomena that cause the achievement of a criminal result, as well as the characteristics of the behavior of persons involved in the offence form the basis of such an important element of forensic characteristics as the circumstances of the commission of the offence.

The circumstances of committing criminal offences related to the illegal circulation of narcotic drugs, psychotropic substances and precursors are formed by objective and subjective factors. In our opinion, they include the following. The geographical position of our country, which is located at the crossroads of the international drug trade. The main areas of poppy cultivation are the countries of the «Golden Triangle» (Southeast Asia) and the «Golden Crescent» (Southwest Asia). About 90 % of the world's opium production occurs in countries where the capabilities of the American authorities to combat drugs are extremely limited (Burma, Laos, Iran, Afghanistan, Lebanon). According to estimates by the CIA and the US State Department, the most powerful producers of opium in 1989 are Burma (1,100–1,500 tons), Afghanistan (700–800 tons), Iran (200–400 tons), Laos (210–300 tons), Pakistan ( 105–175 t), Mexico (40–50 t) and Thailand (23–33 t). And in the countries of the «Golden Crescent» (Pakistan, Iran and Afghanistan) about 60-70% of the highly purified heroin sold in the West is produced. The main producers of drugs made from cannabis are the



following regions: Middle and Middle East and South Asia (Lebanon, Pakistan, Afghanistan, India, Nepal); Southeast Asia (Thailand, Laos, Philippines); North and South America (Mexico, Jamaica, Colombia, Brazil); Africa (Morocco, Nigeria, Ghana, Zaire, Uganda). Large producers of cocaine are the countries of the «Andean group»: Peru (100-300 thousand hectares of coca plantations; 300-1000 tons of cocaine hydrochloride); Bolivia (70 thousand hectares and 200–300 tons); Colombia (25–60 thousand hectares and 40–160 tons).

In the legal literature, scientists pay attention to the peculiar territorial location of Ukraine, which is used by organized criminal groups engaged in the drug business. In particular, the geopolitical situation of Ukraine favors its use as a transit zone for drugs from the traditional producer countries to the places of traditional consumption (Western, Northern and Southern Europe). During the last 10-15 years, Ukraine actually found itself at the crossroads of drug routes from Asia and Latin America to Europe. In recent years, there has been an increase in the volume of movement of heroin of Afghan origin along the so-called «Silk Road», which passes through the territory of Central Asian countries, Russia and Transcaucasia. Today, this route is the main source of entry of the specified drug into the domestic market of Ukraine, which is caused primarily by the rapid growth of drug production in Afghanistan. Amphetamine and precursors needed for the production of heroin are supplied in the opposite direction.

Climatic conditions due to the geographical location of Ukraine, which favors the cultivation of poppy and hemp throughout the territory of Ukraine. More than 1 million m<sup>2</sup> of illegal poppy cultivation is detected and eliminated annually. Another most accessible and significant source of drug raw materials in Ukraine is wild hemp, which, according to experts, has contaminated more than 100,000 hectares of land.

The main forensic features of the crime situation are the place and time of commission. Analyzing the patterns of these signs, an investigator or operative can develop a set of investigative (search) actions aimed at obtaining evidence in criminal proceedings. The place and time of committing a criminal offence as an element of forensic characteristics are important only if they have specific features. The place of commission of a criminal offence is characterized by features that can be used to isolate it from the objective environment. Place and time are signs not of the way of committing the offence, but of the situation, which is a system of conditions in which the criminally punishable act takes place. It is also important to keep in mind that all the elements of forensic characterization are closely related to each other, and therefore, of course, place and time can be important when

the offender chooses the method of committing a criminal offence.

The commission of criminal offences related to the illegal circulation of narcotic drugs, psychotropic substances and precursors leads to the emergence of many different traces, which, along with other sources of information, allow not only to correctly classify the committed, but also to choose the means and methods for investigating these criminal offences. Trace data and information obtained in connection with this are a necessary condition for ensuring a comprehensive, complete, objective investigation of the circumstances of the offence under investigation.

Traces are considered in a broad and narrow sense. In a broad sense, in forensics, traces are a set of signs of the most diverse nature that can be attributed to any phenomenon. At the same time, various changes in the surrounding environment in connection with the commission of an offence are called traces. These changes can be expressed in the movement of objects and substances, their absence or presence in a certain place, their loss or acquisition of any properties and types. Therefore, traces are material objects and their reflection.

In this regard, in our opinion, a typical «trace» pattern of criminal offences under consideration is best investigated and divided according to the methods of their commission. It is mainly through the method that the process of the criminal act is revealed.

When stealing narcotic drugs, psychotropic substances or precursors, the material sources of information are related to the unauthorized entry of the offender into the storage, its breaking, destruction, destruction of obstacles with or without the use of technical means (squeezing, destroying window glass with a hand, foot, etc.). The main sources of information here are: a) traces of penetration into the premises: traces of breakage, squeezing, sawing of bolts, traces of locks on parts of bolts, violations of the alarm system, metal shavings, glass fragments, etc.; b) traces of violence, struggle, accompanying robbery attack: overturned, broken objects, blood, etc.; c) tools of crime: burglary tools, lockpicks, cold and firearms, etc.; d) objects – carriers of microparticles; e) traces-imprints: hands, feet, teeth, vehicles; f) traces of human secretions: blood (appearance and localization; condition: moist, dry, dried; dimensions); saliva, nasal mucus; g) things thrown or lost by the offender: parts of clothing, handkerchiefs, masks, tickets for city transport, cigarette butts, burnt cheesecakes, pocket lanterns, combs, etc.; g) some signs that testify to some circumstances, for example, features of things stolen from private individuals at the same time as narcotic drugs, psychotropic substances or precursors (items of women's toilet, cosmetics, audio and video equipment and its cassettes) give an idea of

belonging to a state and approximate age of the thief.

In the case of illegal storage, sale of narcotic drugs, psychotropic substances and precursors, keeping a house for their use or production, or when inclined to use the latter, the place of placement of traces is most often premises: an apartment, a room in a communal apartment, a kitchen, a corridor, a courtyard of a building, a shed, garage, bathhouse, cellar, attic and other utility room. The sources of information about narcotic drugs, psychotropic substances and precursors are most often: a) pharmaceutical preparations in ampoules, tablets, powders, tinctures in factory packaging or without them; b) narcotic drugs, psychotropic substances and precursors of artisanal production or semi-finished products, as well as chemical reagents; c) objects that could be used for the manufacture of narcotic drugs, psychotropic substances and precursors: meat grinders, coffee grinders, knives; dishes with traces of layers, microparticles of narcotic and psychotropic plants, medicinal preparations and precursors; Sieves with traces of plant pollen or parts of these plants; heavy objects, used as a press; blankets, oilcloths, polyethylene film, over which hemp chaff could be sifted; weights, balances; laboratory equipment; d) waste from the production of narcotic drugs, psychotropic substances - poppy heads, their husks, hemp straw, ephedra, etc.; e) devices for the use of drugs and psychotropic substances (tubes, syringes, etc.); e) specialized literature in the field of chemistry, physics, pharmacy or draft records of a similar direction; f) a device for stuffing cartridges and a tank; g) traces of drug use or psychotropic drugs (residues in tubes, cigarette butts, empty ampoules, packaging from narcotic and psychotropic drugs and preparations, traces of smell, etc.); h) bandages, gauze, other fabric with yellow, brown spots; i) things that could serve as payment for narcotic drugs, psychotropic substances or precursors or for visiting places for their illegal use; i) correspondence, including by e-mail or mobile communications.

The following information characterizes the person of the offender in the investigation method of illegal drug trafficking: socio-demographic (gender, age, occupation, education, marital status); of a production and household nature (behavior at the place of work, residence, study); socio-legal nature (presence of criminal record, presence of previously committed administrative offences).

Considering the crimes of the specified category, we will analyze the socio-demographic data characterizing the person of the offender. Based on the generalization of law enforcement practice, it can be concluded that the largest number of offences of this category are committed by persons aged 17 to 40 years. The level of education of offenders also deserves attention. In

our opinion, the number of offences committed directly depends on the educational level of the offender. The largest number of people have secondary education. This is confirmed by the data of the study of criminal proceedings, according to which: 44% of offenders have a secondary education; average special – 30 %; unfinished higher education – 8 %; higher – 18 %. Analyzing the statistical indicators, it can be concluded that criminals with an incomplete secondary and secondary educational level make up the largest number of offenders, because secondary education is the most common. However, a higher level of education, unfortunately, not only does not prevent a significant number of people from committing this type of criminal offence, but also determines more qualified actions of the offender to hide the traces of illegal activity.

When considering crimes of the specified category, special attention should be paid to the occupation (specialization) of the offender. This, in our opinion, determines the possibility of committing a certain number of criminal offences. According to the results of the study of criminal proceedings, the distribution of the number of committed crimes depending on the type of activity is as follows: persons without a permanent place of work make up 66 % of the total number of offenders; working people – 16 %; students of technical schools (colleges, schools) and students of higher educational institutions 14 %; pensioners – 4 %.

According to the place of residence, offenders can be characterized as follows: residents of drug-growing regions (Western and North-Western Ukraine – 48 % of offenders; residents of Central and Eastern Ukraine – 42 %; foreign citizens – 10 %).

The increased number of residents of Western Ukraine is explained by socio-economic indicators of population employment: it is known that the level of unemployment in the west of the country is somewhat higher than that of the eastern regions. It is also known that the majority of carriers from Central and Eastern Ukraine are members of organized criminal groups. Foreign citizens mostly transport contraband drugs, as well as those that transit through Ukraine.

The socio-legal characteristics of the offender allow them to be divided into five groups:

a) professional criminals – members of organized groups and criminal organizations;

b) persons who are professionals and work on behalf of representatives of organized criminal groups. They do not have information about the leader, composition of the criminal group, its members, location, etc., and perform work «under contract»– 31 %. It should be noted that persons of this and the

previous group, as a rule, were previously convicted of crimes related to illegal drug trafficking;

c) persons who, under the influence of social factors (loss of job, low salary, desire to live better, etc.) started a criminal path with the aim of quick enrichment;

d) drug addicts who receive a portion for the transportation or sale of drugs, one of which is sold, and the other is consumed. Persons of this group, as a rule, are on medical records or were previously convicted of similar types of criminal offence;

e) persons who are not connected with illegal drug trafficking, but transport or transfer them under the guise of other things or make «bookmarks» in a certain city, not knowing the true contents of the packages. As a rule, these are acquaintances of drug dealers, including casuals, neighbors, etc.

Summing up, it should be noted that the data obtained during the study of criminal proceedings have a certain degree of correlation, since offenders of the first and second groups, thanks to more professional actions to conceal a criminal offence, are not always detected and detained by law enforcement officers. These individuals, in our opinion, are the most dangerous for society, as they are directly related to such a socially dangerous phenomenon as organized crime.

Studying the identity of the offender is one of the important actions of the investigative and operational units of the police, which ensures the elimination of the causes and conditions that contributed to the commission of criminal offences related to the illegal circulation of narcotics. Information about the identity of the offender as an element of forensic characteristics is the data that can help law enforcement officers determine the most effective ways to search for and expose offenders and solve other tasks related to the investigation of criminal proceedings. This information makes it possible to select the data that is necessary for the organization of the most effective search for a person who has committed a criminal offence, and in the future—his exposure.

## **8.2. Typical investigative situations of initial stage of investigation**

The main task of the initial stage is to identify the necessary evidentiary and tactical information and (sources) of such information. The main task of this is the search-and-reconnaissance orientation of the activity of the investigator and the employees of operational units interacting with him, as well as the leading role of investigative and operational-search versions. A broader list of the main tasks of this stage can be defined as follows:

- establishment of the place, time and circumstances of the offence, its essence, as well as identification, recording and extraction of traces– sources of evidence;
- identification, search and detention of a person suspected of committing a criminal offence;
- collection of evidence sufficient to announce a notification of suspicion for at least one episode of illegal activity.

The performance of the specified tasks largely depends on the ability of the subjects of the investigation to take into account the forensic characteristics of the offence and correctly assess the investigative situation that has arisen at a certain moment of the investigation. Taking into account the investigative situation, the directions of the investigation, the optimal line of behavior of the investigator when determining the sequence and carrying out the required number of procedural actions should be determined. Investigative situations in general and individual situational factors affect the general direction and planning of the investigation in general, but in many cases determine the tactics of conducting individual investigative (search) actions.

Depending on the nature of the event and its specific circumstances, the list and sequence of initial investigative (search) actions may change. The sequence of most of these actions is determined by the investigator himself, guided by his own experience, theoretical knowledge, as well as taking into account the specifics of the criminal offence.

Typical investigative situations must be considered from the point of view of the favorability of identifying the offender and organization of the process. The best and most favorable combination of conditions that has developed at a certain moment should be considered the one when the offender is detained at the place of committing a criminal offence. In such a situation, there is usually no need to search for it. As a result, a sufficient number of material and ideal traces is revealed. Conducting investigative

(research) actions with the relevant participants ensures obtaining the maximum collection of evidentiary information. At the same time, most often the position of the offender is not characterized by opposition to the investigation process.

Accordingly, unfavorable or difficult investigative situations should be perceived when the offender is not detained, but there is certain information about him that allows to organize his search, as well as when the offender is not detained and there is no information about him.

In these situations with varying degrees of complexity, it is advisable to conduct investigative (search) actions and covert investigative (search) actions. The less information collected about the offender at the initial stage of the investigation, the more difficult the investigation. A difficult investigative situation arises when the investigation is significantly complicated by the lack of reliable sources of information and sufficient data regarding the elements of the subject of evidence, opposition to the investigator by the suspect and other persons in conflict with him, the lack of reliable methods and means of achieving goals, lack of time, forces, means and certain resources or their incorrect distribution.

Despite the fact that each crime is individual, typical investigative situations at the initial stage of the investigation are mostly formed in the same way. Based on the above, we will define typical investigative situations that arise at the initial stage of the investigation of crimes related to illegal drug trafficking, namely:

- the offender is known, he was detained during the commission of the offence or immediately after it;
- the offender is unknown, he has disappeared from the place of commission of the criminal offence, there are separate data about him;
- drugs were found, the offender is unknown and there is no information about him.

Statistics show that almost half of offenders are detained during the commission of a criminal offence or immediately after it, which can be considered as a favorable investigative situation. Other situations that arise during the investigation of the specified offences should be considered as difficult. In this case, the most unfavorable investigative situation occurs when the offender is unknown and no information about him has been discovered.

So, let's consider the list of actions that should be taken in each of the specified typical investigative situations.

In a favorable investigative situation, when there is information about the offence and the known identity of the offender, it is advisable to carry out

the following investigative (search) actions:

- inspection of the scene and drugs;
- detention and personal examination of the suspect;
- examination of the suspect;
- interrogation of the suspect;
- interrogation of witnesses;
- search at the place of residence of the suspect;
- assignment of examination of narcotic drugs, psychotropic substances, their analogues and precursors;
- assignment of other types of examinations (pharmacological, dactyloscopic, traceological, etc.);
- investigative experiment;
- presentation for the identification of the suspect.

In a situation where the identity of the offender is established, but his location is unknown, the main efforts of law enforcement officers should be directed to the search for the offender. Information for investigation can be obtained with the help of overt investigative (search) actions, in particular, inspection of the scene of the incident, questioning of witnesses, assignment of expertise, as well as covert investigative (search) actions—seizure of correspondence, examination and seizure of correspondence, removal of information from transport telecommunications networks, removal of information from electronic information systems, inspection of a person's home and other possessions, surveillance of places where the suspect may appear, use of confidential cooperation; search activities: drawing up a verbal portrait and photo work, pursuit of hot leads, search for witnesses along the route of the alleged movement of the offender, ambushes in places of possible appearance of the offender, checking of forensic records.

In a situation where the fact of the commission of a criminal offence is known, but the identity of the perpetrator is unknown, the following investigative (search) actions may be carried out: inspection of the place where drugs were transported; interrogation of witnesses; assignment of forensic examinations; issuing instructions to operative units to establish the identity of the offender and his location.

The approximate list of investigative (search) actions given for typical investigative situations is of a recommendatory nature and may change in each specific case. The totality and sequence of actions should be determined by the investigator and other participants of the investigation, taking into account the conditions in which it is carried out.

We have considered only typical investigative situations. But specific investigative situations have a dynamic nature, accordingly, at the initial



stage of the investigation, from the list of investigative situations defined by us, one may change into another, that is, change. These changes may occur throughout the investigation towards both a more and a less favorable set of conditions. These changes are primarily influenced by the investigator's theoretical knowledge of existing typical investigative situations, as well as the experience of investigating these types of offences. Experience allows the investigator to act in a similar manner in similar conditions, in which he had previously received a positive result.

Among those identified by us, the most favorable is the investigative situation when the offender is known and was detained during the commission of a criminal offence or immediately after its commission. This situation is determined by the least problematic in the investigation of offences. In such an environment, the investigator's actions are aimed at establishing traces of a criminal offence, obtaining information from witnesses and other participants, and conducting other investigative (search) actions with their participation. In addition, data are collected that determine the involvement or non-involvement in a criminal offence of a specific person, primarily detained directly during the commission of a criminal offence or after its commission, and the aforementioned circumstances that are subject to proof during the investigation of a criminal offence are established.

When an investigative situation arises, when the offender is unknown and no information about him has been found, the investigator must direct his efforts to verify the method and place of the commission of the criminal offence, other elements of forensic characteristics, taking into account the source of information about the crime. These measures can contribute to the establishment of witnesses– eyewitnesses to this fact and the detection of traces of the offender. The information obtained will provide a basis for determining the circle of suspected persons, among whom there may be an offender. Such an investigative situation is the most unfavorable and, accordingly, calls for the largest number of organizational, overt and covert investigative (search) actions in various directions. The obtained data must be comprehensively analyzed and carefully checked, which determines the significant expenditure of time, effort and resources to change the existing conditions to more favorable ones. A transition to a more favorable investigative situation in this case is not excluded.

It can be defined as such when the offender is unknown, but there is separate information about him. Despite the fact that this situation is also considered unfavorable, in this case the investigator has certain information about the offender that can be used to identify him. In such an investigation

environment, there are witnesses, eyewitnesses to the commission of a criminal offence. Accordingly, it is possible to compile a verbal portrait of the offender, according to which information on the identity of the offender and his search can be organized in the future.

When investigating crimes related to the illegal circulation of narcotic drugs, the suddenness of actions is especially important, as it allows to neutralize the resistance of the persons being checked during their arrest, to prevent the destruction of evidence, exposing their illegal activities.

In addition, the maximum use of investigative information discovered at the first stage of the investigation of a criminal offence is a source of other, more significant (in investigative terms) information. Investigative activities and undercover investigative (investigative) actions are important in solving any investigative situation. However, in our opinion, they play a decisive role in those typical investigative situations when «the offender is unknown, but there are separate data about him» and «the offender is unknown and no information about him has been found». The purpose of these measures is to obtain information that helps to identify and apprehend offenders as soon as possible. The activity of the investigator in such situations also has a searching nature.

The basis of the process of investigating a criminal offence and an important element of the work of every investigator is the skillful planning of procedural and organizational actions aimed at collecting, researching and evaluating evidence in criminal proceedings.

One of the conditions for the successful investigation of crimes is the proper organization of interaction between the investigator and operatives. Cooperation is defined as the coordinated activity of investigators and operatives, based on the law, aimed at the disclosure of a specific criminal offence and carried out through the most appropriate combination of methods and means used in the conduct of investigative (search) actions, on the one hand, and investigative measures and undercover investigative actions— on the other hand. Such interaction is carried out on the basis of the criminal procedural law and only according to the proceedings that are in the investigator's proceedings. Interaction consists in the need for closer contacts between investigators and employees of operative units, joint discussion of implemented measures and in-depth analysis of the obtained results, direct communication.

The most effective form of interaction is the creation of investigative and operational groups, which ensures a constant exchange of information between participants in the process of joint development of versions and their verification not only by investigation, but also by operational means, joint

analysis of evidence collected in the case, which allows to identify gaps in the investigation of circumstances, that are subject to proof, outline ways to eliminate them, etc. When planning an investigation as part of the IOG, responsibilities are distributed among group members, which immediately ensures the resolution of a larger range of issues in the same period of time, which will contribute to obtaining the appropriate amount of information. This is especially relevant at the beginning of the investigation, in the period of information uncertainty, when the received information can fundamentally change the direction of the investigation. A much larger set of investigative, operational-search, expert versions that complement each other may appear in the IOG. In such a case, the collective activity will prevail in content and meaning over the individual activity of the investigator. Even if the investigator has experience in the investigation of the considered offences, despite the general similarity, the formation of this group is not excluded, since each proceeding is individual.

All these components determine the positive aspects of the establishment of the IOG for the investigation of offences. The advantage of this organizational form is the well-established interaction between the members of the group, which mainly consists of experienced investigators, operatives, experts and other specialists. Even in the presence of a formed IOG, possible problems or difficulties in the detection and investigation of offences of the specified category are not excluded, however, their level is much lower than in proceedings under which these groups are not created.

The above actions are mainly carried out within the framework of IOG activities, which necessitates their creation. It is this form of organization of the investigation process that can ensure an increase in the level and quality of the investigation of criminal offences of this category. In addition, it is the group approach to the investigation of crimes that determines the making of objective decisions regarding further actions and their sequence. This helps to avoid a significant amount of redundant work, which can be carried out by employees of different police units in parallel. In addition, the opinion of the employees included in the group may differ on the same event. This is of great importance, as it expands the field of vision and, accordingly, the heuristic space of searching for answers to questions. That is, the same situation is considered from the perspective of all employees, not just the investigator.

### **8.3. Organizational and tactical features of individual investigative (search) actions**

Investigating the illegal circulation of narcotic drugs, psychotropic substances, their analogues or precursors involves conducting a complex of overt and undercover investigative (research) actions and organizational measures. The definition of such a complex depends on the investigative situation and the chosen direction of the pre-trial investigation.

A special place among investigative actions aimed at obtaining evidentiary information from material sources (objects) belongs to the inspection. According to Art. 237 of the CPC, in order to identify and record information about the circumstances of the commission of a criminal offence, investigators and prosecutors conduct an inspection of the area, premises, things and documents.

Inspection is essential when investigating drug trafficking. This procedural action allows the investigator to:

- directly perceive the scene and objects in order to detect traces of a criminal offence (primarily narcotics, packaging materials, other objects containing traces of illegal activity);
- create an idea of the mechanism of the committed criminal offence (find out the specifics of the organization, commission and concealment of illegal activities);
- find out the circumstances of the event of a criminal offence that are important for the proceedings;
- detect, record, remove, investigate and evaluate traces of a criminal offence and other material evidence;
- establish the circumstances, reasons and conditions that contributed to the commission of a criminal offence;
- identify or establish negative circumstances;
- establish the identity of the offender or make an impression about him/her;
- timely put forward investigative or operative investigative versions and correctly determine the directions of the pre-trial investigation;
- to receive initial information for the organization of the search for the offender and the implementation of priority urgent investigative (search) actions;
- detain criminals on the hot trail or determine the directions of their pursuit, establish the number of criminals, the organizer of a criminal group, etc.

It should be noted that the success in the investigation of criminal offences of the specified category depends on the timeliness and quality of the inspection in many cases. Any unjustified delay in conducting the examination may result in the destruction of narcotics or traces of criminal activity. The review is one of the primary, unique and irreplaceable investigative (search) actions. Law enforcement practice shows that this investigative (search) action cannot be replaced by others, in particular, interrogations of persons who are eyewitnesses to a criminal event, since no witness is able to give in their testimony the required amount of information that the investigator can discover directly during the inspection the scene, using forensic techniques and the help of specialists. During its conduct, all objects that may relate to a criminal offence are examined, depending on the specific investigative situation, according to the internal conviction of the investigator. Therefore, the informativeness of an investigative review is much higher than, for example, a search or an investigative experiment.

The review, as an independent investigative (search) action, is conducted based on the general requirements of the law and in accordance with the recommendations developed by criminology. However, in proceedings on the illegal circulation of narcotic drugs, this investigative (search) action has specific features.

Thus, the inspection of the place of detention involves finding things, items thrown away or hidden by the detainee. First of all, this applies to narcotic drugs, which are always tried to get rid of, but it is possible to find syringes, needles for them, packaged materials, objects or their parts, which are used for processing or manufacturing drugs (knives for meat grinders), etc. Therefore, it should be borne in mind that it is unacceptable to limit the inspection only to the specific space of the place of detention. When a person is detained on the street, the entire area around this place is inspected. If it happened in the room, then it is subject to inspection, as well as the area adjacent to it (the area under the window). If the detention was preceded by persecution, then the area along which the persecution route was carried out is carefully inspected. It is advisable to conduct such an examination from the place of detention in the opposite direction along the path of pursuit, because criminals usually throw away incriminating evidence not immediately after the start of the pursuit, but before direct physical capture.

When inspecting places of production, storage, sale of drugs, places for their illegal use, the main objects of search and analysis will be:

- a) narcotic and psychotropic drugs (preparations) in ampoules, in the form of tablets, powder, tinctures with or without factory labeling;
- b) narcotic means of artisanal production or semi-finished products

(resins, families of green-brown or dark brown color, with sediment on the day, with the smell of solvents or alcohol);

c) objects that could be used for the manufacture of drugs (dishes with traces of cooking raw opium or hashish oil; a sieve with traces of hemp pollen or parts of this plant, heavy objects used as a press for making anash, scales;

d) waste from the production of narcotics (poppy heads, husks from them, hemp straw);

e) devices for drug use (pipes, syringes, etc.);

e) tobacco products with traces of hash oil or with anash additives;

f) a device for stuffing cartridges with tobacco;

g) traces of drug use (residues in tubes, ashes, cigarette butts, empty ampoules, drug packaging—medicinal preparations, etc.);

h) bandages, gauze, other fabric with yellow spots;

i) things that could serve as payment for a narcotic drug or for visiting a place for illegal use of narcotic drugs;

i) correspondence, postal correspondence, which may be contained in computers, mobile phones, tablets.

Sometimes the investigator and forensic specialist do not attach importance to objects that have signs of saturation with an unknown substance, in particular, body secretions after bouts of nausea, which can be caused, for example, by an excessive dose of hashish in a cigarette. Microparticles of hashish are always present in them, which are detected by expert means.

When inspecting the premises of state organizations and institutions (pharmacies, hospitals, pharmaceutical enterprises, warehouses, etc.), apartments and households, along with general forensic search objects, attention should be paid to traces of drug use (syringes, needles, open packages, empty ampoules, vials, etc.). At the same time, it should be borne in mind that the number of empty ampoules or packages from narcotics, which significantly exceeds the needs of one person (in the case of drug use on the spot), taking into account the traces of the hands of several people found on them, indicate participation in a criminal offence more than one person.

Inspection of areas with illegal crops of drugs or psychotropic crops has a number of features, since in most cases it is the only possibility of obtaining evidence and their procedural consolidation, because illegal crops are subject to mandatory destruction after their discovery.

This investigative (search) action requires careful preparation, namely:

a) determination of the sequence of actions of persons participating in the

inspection; b) inviting a qualified agronomist and explaining to him the purpose of the inspection and the tasks before him; c) selection and training of witnesses (the complexity of this measure is due to the fact that illegal cultivation of drugs or psychotropic crops is often located in remote, hard-to-reach places).

The inspection report must contain the following information:

a) where the illegal sowing is located (homestead, land of an agricultural enterprise, etc.); the nearest settlements, housing, the distance to them, the presence of roads and paths; the nearest territory on which agricultural or other works are carried out, the presence of livestock farms, etc.);

b) what grows on a plot of land with crops and the territory adjacent to it (only drug-containing plants or together with other crops, vegetation stage of plants, etc.);

c) the size of the crop, its location relative to other crops, the number of drug- or psychotropic-containing crops per unit area, etc.;

d) traces of cultivation (plowing, weeding, watering, etc.);

e) traces of harvesting or manufacturing of narcotic drugs (cuts on poppy heads, the presence of mowed areas, traces of harvesting the upper and other parts of hemp);

f) the presence of agricultural tools on the plot of land with crops or the territory adjacent to it;

g) the presence of traces of vehicles, animal or human feet, fingerprints on poppy heads when harvesting opium or on agricultural tools, as well as other data indicating the presence of a person in an area with narcotic crops, etc.

When inspecting vehicles, transport and communication facilities, the main objects of analysis and search will be narcotic drugs, their packaging materials, traces indicating the presence of hiding places, notes and notebooks, documents for imported cargo and others.

When examining forged or illegally written prescriptions for obtaining narcotic or psychotropic drugs, the following signs and circumstances should be analyzed: a) the color of the paper of the form, prescription; b) the state of the protective net; c) availability of the typescript of the signature (of the chief physician or remote manager); e) the number of drugs containing drugs prescribed on one form (only one is allowed); e) the fact of issuing a prescription for a narcotic or psychotropic drug by a private practitioner (prohibited); g) the fact of the presence of a foreign prescription for a narcotic drug, according to which they were issued (prohibited); g) facts of improper handling of incorrectly issued prescriptions, which are withdrawn,

paid off in a special journal and sent to the medical institution that issued the prescription; h) traces of cleaning and etching, especially in those places where the date and calculation of the cost are affixed; i) the state of impressions of seals and stamps, conformity of the content of the impression of the stamp with the impression of the seal, the conformity of the specified telephone numbers, addresses, and names of varnishing establishments with real ones; i) the fact of issuing a prescription in violation of the rules (without mandatory details, with a violation of the placement of the text on the form); j) grammatical errors in the text.

According to Art. 241 of the Criminal Procedure Code of Ukraine, an investigator, a prosecutor conducts an examination of a suspect, witness or victim in order to identify traces of a criminal offence or special signs on their body, if this does not require a forensic medical examination.

Investigation of a person is an urgent investigative (search) action. Any delay in carrying out the specified investigative (search) action may lead to the loss or destruction of material evidence and other objects that are important for criminal proceedings.

Timely examination of the detainee, and sometimes of witnesses, in order to establish objective signs of narcotic intoxication or abstinence, in which the specified persons may be, as well as the identification of special signs and other signs that allow judging the connection of this person with the event under investigation, should not only evidential, but also tactical value for the correct presentation of versions, the sequence of conducting investigative (search) actions. In addition, the results of the survey will help to resolve the issue of the correct choice of the conditions of detention of the drug addict (in a temporary detention center, medical facility or other premises until the end of drug exposure or a period of abstinence). The fact of non-medical use of narcotics must be established immediately, as narcotic intoxication lasts for several hours. This is determined by examining blood, urine, saliva and other biological micro-objects to detect the content of narcotic substances in them. When examining suspected persons, it is necessary to pay attention to traces of injections (intravenous and intraligamentous) left on the person's body.

Examination of cases of the considered category is conducted according to general rules in accordance with Art. 241 of the CPC. If necessary, a forensic medical expert or a doctor can be involved in the investigation.

During this investigative (search) action, the investigator must choose the most rational sequence of actions to investigate the person. Depending on the type of criminal offence committed, the nature of the sought-after objects



or special signs, as well as factual data obtained during investigative (search) actions, the survey can be conducted by a continuous or selective method. Considering this, the tactics of exploration depends on a number of factors, which can be attributed to:

- the purpose of the investigation (detection of traces of a criminal offence or special signs);
- the subject conducting the examination (investigator, forensic medical expert or doctor);
- object of investigation (suspect, victim or witness);
- gender and age of the person under study;
- the type of criminal offence under investigation and its nature;
- the location and nature of traces of the offence and special signs.

During the examination, a complete examination of the entire human body is necessary, which allows finding and recording special signs, as well as micro-objects and traces of injections (intravenous or intraligamentous) left on the body. If there is information that narcotics were in the hands of the detainee, then it is necessary to wash them with a cotton swab dipped in alcohol, then dry them, pack them in the appropriate way (in envelopes, bags) and send them for an expert examination. It is also necessary to remove the alleged content for expert examination in order to identify narcotics and their traces.

Traces discovered during the survey must be described in detail in the protocol, recorded with the help of photography or video recording and, if possible, removed and attached to the criminal proceedings. If, during the investigation, the investigator has the need to inspect the person's clothes or other belongings, then the inspection of things and objects is carried out with the drawing up of a separate protocol.

Interrogation is the most common verbal investigative action aimed at obtaining information from personal sources. When investigating the illegal circulation of narcotics, the questioning of the suspect also does not lose its importance. Its complexity is determined by the fact that, on the one hand, the investigator does not have comprehensive data about the person of the offender and a certain set of evidence that can be used during the investigative (search) action before the interrogation; on the other hand, suspects are not always interested in a full and comprehensive investigation of a criminal offence, which cannot but affect the truthfulness of their testimony. In addition, victims and witnesses are often negatively influenced by offenders, which often leads to a change (refusal) of the testimony of the former. With this in mind, let us emphasize that the successful conduct of an interrogation and obtaining its positive results depends on the quality of the

investigator's knowledge of the laws of thinking, logical methods and techniques, laws of psychology and tactical techniques developed in forensics.

The procedural procedure for the interrogation is fixed in Art. 224 of the Criminal Procedure Code of Ukraine, compliance with which is mandatory.

In general, the interrogation consists of three main stages:

- preparation for interrogation (preparatory);
- direct interrogation (working);
- recording the progress and results of the interrogation (final).

During the investigation of illegal drug trafficking, the quality of organizational preparatory measures before the interrogation is of great importance. Timely, thorough and comprehensive preparation for the interrogation is a necessary condition for obtaining the most complete and objective testimony in criminal proceedings.

The main organizational and preparatory measures for the interrogation include:

- full and detailed study of criminal proceedings materials;
- study of the investigative situation, which was formed at a certain stage of the pre-trial investigation;
- definition of the circle of persons to be questioned;
- establishing the sequence of interrogations (if there are several suspects);
- determination of the subject of the interrogation;
- studying the identity of the interrogated person (gathering operational information about the interrogated person; his place in a criminal group engaged in drug business; criminal offences committed by this group);
- determining the time of the interrogation;
- establishing the location of the interrogation;
- determination of the method of calling for questioning;
- selection of material evidence and other materials for presentation to the interrogated person;
- identification of the participants of the interrogation;
- determination of technical means of recording interrogation and their preparation;
- ensuring favorable conditions for the interrogation;
- getting acquainted with special literature or using the help of persons with special knowledge;
- determination of a number of tactical techniques that will be used during the interrogation;

– drawing up a plan for the interrogation.

Let's consider some of the organizational and preparatory measures. Yes, a full and thorough investigation by the investigator of the materials of the criminal proceedings is a necessary prerequisite for the successful conduct of the interrogation. The investigator must study in detail the information contained in the protocols of investigative (search) actions, especially in the protocols of investigative inspection and search, which will allow to clearly visualize the trace pattern of the criminal offence, the mechanism of the commission of the crime, the amount of physical evidence, etc.

It is expedient for the investigator to study the available investigative information that will allow him to form an idea about the person of the offender (drug courier), establish a circle of persons to be questioned, determine the subject of the interrogation, formulate questions to the interrogated, choose a number of tactical techniques (combinations) that will be used under interrogation time

These measures will allow the investigator to identify existing gaps, disagreements and contradictions between the participants in the process and take timely measures to eliminate them. Otherwise, some circumstances may remain undetermined, which cannot fail to affect the completeness, comprehensiveness and objectivity of the pre-trial investigation and entails, as a rule, the need for additional or repeated interrogations and simultaneous interrogations of previously interrogated persons.

During the preparation for the interrogation, the investigator must take into account the investigative situation that has developed at a certain stage of the pre-trial investigation and, in accordance with it, correctly determine the circle of persons to be questioned and clearly determine the sequence of their interrogation.

In the forensic literature, the importance of determining the correct sequence of interrogation of suspects is often pointed out. The investigator's decision on the sequence of interrogations must be based on an assessment of the following circumstances:

– the identity of the offender, his age, mental characteristics, presence of criminal (life) experience, criminal record, position in the structure of the criminal group and role in the committed criminal offences (for example, minor suspects must be interrogated urgently);

– the presence of evidence of illegal activity in relation to each interrogated person and their interest in the final result of the pre-trial investigation;

– the degree of participation of each interrogated person in the joint criminal activity of the group;

– the emotional state of the interrogated person– for example, the state of emotional excitement is the most favorable moment for the beginning of the interrogation, because after the commission of the offence and the immediate arrest, the criminals are in a state of tension (very worried) and are not able to fully oppose the investigation (for example, quickly think of a sufficiently convincing defense, create a false alibi);

– characteristics of relations between members of a criminal group (the presence of disagreements, conflicts and contradictions), etc.

The complexity of this task lies in the latency of relationships between offenders, which explains numerous errors in determining the actual status of detainees. The investigator must receive complete information about the number of offenders, about the actions and functions of each during the commission of crimes. These data contribute to the identification of the leader, the determination of the role and place of everyone in the group structure, as well as the establishment of the most «weak link», which is subject to psychological influence and will be able to contribute to the investigation.

Interrogation of a person in whom narcotic drugs were found in railway transport should be as close as possible to his arrest. This allows you to use the factor of suddenness and create tension during the interrogation. Sudden interrogation does not allow offenders to think about their situation in advance, analyze the amount of evidentiary information available to the investigator, choose a general line of behavior (if the crime was committed by a group of persons) and oppose the investigation.

In order to fully establish all the circumstances that may be known to the interrogated, the investigator must clearly define the subject of the interrogation. From the entire volume of collected information, it is necessary to select those that are relevant to the subject of the interrogation. They must be correctly evaluated and used to the fullest during the interrogation. Based on the determined subject of interrogation, the investigator formulates questions for the interrogated and chooses a system of tactical techniques and combinations.

Circumstances that must be established by questioning a suspect in proceedings on the illegal circulation of narcotic drugs, psychotropic substances, their analogues and precursors depend on the type of criminal offence.

In particular, during the illegal manufacture of narcotic drugs, psychotropic substances, their analogues and precursors, the following should be established:

– what raw materials are used to make the drug;

- where, from whom, when and how many times the suspect obtained (took, collected, stole, bought, grew) raw materials for its production;
- where, when, with whose help and in what way did he manufacture drugs, what devices, tools, objects, solvents, reagents did he use;
- from whom he learned the method of manufacturing narcotics;
- what quantity of narcotic drug was produced and what kind;
- how many times it was made;
- what was the purpose at the same time;
- how the manufactured drug was spent;
- where are the remains of the drug, as well as waste and equipment for its production.

In the case of illegal acquisition of narcotic drugs, the following questions should be clarified:

- who, where, when, under what circumstances handed over the drug to the suspect;
- for what purpose did he purchase the drug (for his own use, for transfer to another person or for sale);
- how (according to what signs), with whose help he found the person who sold the drug;
- did he know the deliverer before, under what circumstances did they meet, how many times did he buy drugs from him (if the interrogated person does not know the identity of the deliverer, then it is necessary to establish his special features, appearance, clothes, circle of acquaintances, place of his appearance, etc.)
- what quantity of the drug he purchased this time and before; how the drug was packed (packaged);
- where it was brought from;
- through which chain was the drug purchased;
- how often the suspect purchased the drug in the specified way, whether he knows other ways of obtaining drugs;
- what types of drugs he buys;
- does he know where and from whom the deliverer bought drugs;
- whether he/she knows other dealers (channels and ways of selling drugs);
- where the unused batch of the drug is located;
- where he takes money to buy drugs.

In the case of illegal storage, transportation (forwarding) of narcotic drugs, the circumstances to be investigated are as follows:

- when, who handed over the narcotic drug to him/her for storage (or transportation);

- how long he/she kept (purchased or transferred for storage, for transportation) the drug;
- in what way and how were they settled with him for storage (transportation);
- where (in which places, in which packaging) he/she kept the drug;
- did he/she use a drug mask and which one;
- to whom the drug was supposed to be handed over;
- where and when the drug transfer was planned;
- in what way was the transfer of the drug supposed to take place (they should have come for the batch, the transfer should take place in a pre-arranged place, etc.);
- how the drug was transported (by which means of transport, in which packaging);
- at which addresses the transportation took place;
- how often a specific person transported narcotic drugs and to which settlements;
- to which addresses and from which post office was the forwarding carried out, in which packaging;
- which addresses (of the sender and the holder) were indicated on the parcel, parcel and accompanying documents;
- who made the inscriptions on parcels, parcels and documents;
- at whose request the transfer was made;
- where are the documents (letters, receipts) confirming the fact of sending narcotics.

In case of illegal sale, it is necessary to find out:

- what amount of narcotics was sold;
- where is the remaining batch of drugs;
- how the organization of drug sales was planned (personally, through relevant people, wholesale or retail);
- did he know the persons to whom he sold drugs, did they know him (if not, by what signs did they find each other);
- at what price he planned to sell the drug;
- did he package the drug, in what way, what equipment did he use to do so.

Studying the identity of the interrogated person is the most important organizational and tactical requirement of preparation for any interrogation, since the success and effectiveness of the interrogation depends on the completeness and comprehensiveness of the study of the person being interrogated and the peculiarities of his psyche.

Studying the identity of the offender allows the investigator to:

- to establish psychological contact with the interrogated person in the shortest possible time in order to obtain complete and objective testimony;
- to determine the most effective tactical methods (combinations) of interrogation in order to overcome opposition from offenders;
- prevent possible opposition to the pre-trial investigation in advance;
- to get full and comprehensive readings.

In order to avoid possible opposition to the pre-trial investigation on the part of the interrogated, the investigator needs to collect such information about this person that can be used to choose the most effective tactical methods (combinations) of interrogation in each specific case, the most effective ways of influencing the interrogated in order to obtain from him complete, objective and reliable testimony.

Information about the interrogated person can be obtained from the materials of the criminal proceedings or using investigative information; by interrogating relatives, acquaintances or people around her (in particular, at the place of work, study, residence), studying the personal file at the place of work or study, etc. If the person was previously convicted, it is advisable to study archived criminal proceedings. This will make it possible to obtain information about the tactics of behavior that she chooses during interrogations, about forms of resistance to pre-trial investigation, to form an idea about the motivation of criminal actions, etc. It is also necessary to request a copy of the verdict and attach it to the criminal proceedings to make a decision regarding the qualifying feature of repetition.

Determining the time of the interrogation in cases of the specified category has an important organizational and tactical significance. The time of interrogation should be as close as possible to the moment of detention. Ignoring this requirement will allow offenders to consider their situation, agree among themselves to choose a common line of behavior, oppose the pre-trial investigation, find ways to influence witnesses, etc. With this in mind, interrogations of suspects, especially after their detention, must be conducted immediately.

The effectiveness of interrogations directly depends on the time and suddenness of their conduct immediately after the arrest of offenders. The effectiveness of the interrogation directly depends on the time of its conduct, that is, the more time that has passed since the arrest of the suspects, the less effective their interrogation will be.

The final stage of preparation for the interrogation is drawing up a plan, which should reflect: the time and place of the interrogation, its participants, the method of summoning the interrogated, technical means of recording, features of the use of evidence, a list of questions to the interrogated, etc. It is

especially important to draw up a plan in case of multi-episode criminal proceedings or a significant number of suspects in one criminal proceeding.

After careful preparation, taking into account all positive and negative points and possible unforeseen situations and circumstances, the investigator begins the direct interrogation of the suspect (working stage).

The choice of interrogation tactics depends on the following factors, which are in a complex interaction with each other: the interrogation situation that has developed at a certain stage of the pre-trial investigation; characteristics of the interrogated person (age, presence of criminal experience, level of legal awareness), his procedural position and level of interest in the results of the investigation; the specificity of the tactical goal that appears before the investigator; the nature of the information and evidence possessed by the investigator.

Special attention should be paid to tactical techniques aimed at overcoming conflict situations that arose during interrogation. With this in mind, the main tactical techniques should include:

- establishment of psychological contact of respondents;
- teaching testimony in the form of a free narrative;
- asking questions;
- presentation of evidence;
- observation of the behavior of the interrogated person;
- use of different rates of interrogation;
- creation and removal of tension;
- creation of an idea about the awareness of the investigator;
- hiding the limits of the investigator's awareness;
- telling the investigators the versions about the likely development of the criminal event;
- use of the interviewee's reflection;
- use of the suddenness factor;
- use of conflicts and contradictions in the criminal group;
- «igniting» the conflict;
- application of scientific and technical means.

Interrogation, regardless of the procedural status of the interrogated, must begin with the establishment of psychological contact. In general, the establishment of psychological contact requires the employees of investigative units to have in-depth knowledge of the psychology of suspects and to take into account their individual qualities, mental state at the time of the interrogation, life and criminal experience and other circumstances that characterize them. If psychological contact with the interrogated person is not established, then the investigator is recommended to postpone the



interrogation and conduct other investigative (search) actions, for example, presentation for identification, searches, inspections, etc.

It is difficult to obtain true information due to the unusual personality of the offender, and therefore it is very important to create an atmosphere of psychological contact before the interrogation. For example, if it is known that the person being interrogated has a negative attitude towards his acquired vice—drug addiction and expresses a desire to get rid of it, then the use of this information during the interrogation is necessary to establish psychological contact. Moreover, in such a situation, the interrogated person can give important statements about other drug dealers and tell the truth about his illegal actions.

After establishing psychological contact with the interrogate, the investigator offers him to give a statement in the form of a «free narrative». During the free narration, the investigator finds out the attitude of the interrogated person to the criminal event, his perception of certain facts, general features of the mechanism of committing a criminal offence. The use of the specified tactical method of interrogation allows the investigator to study the identity of the offender, to reveal the degree of her awareness of the circumstances of the criminal offence and to obtain information about facts that were unknown to the investigator.

During the «free talk» you should not interrupt the interrogated person, as this may break the established psychological contact. In those cases when the interrogated give false testimony, go beyond the scope of the question, try to confuse the investigation or speak too quietly and unclearly, it is advisable to narrow the topic of free narration and offer to talk about other circumstances that are already known to the investigator or verified operationally during the pre-trial investigation . Scientists call this tactical technique in forensic literature «the division of the theme of a free narrative».

After the interrogated person speaks freely, the investigator asks questions. The main purpose of asking questions is to clarify some circumstances of the criminal proceedings and to fill gaps and contradictions in the statements of the interrogated. So, in those cases when the interrogated person claims that he produced narcotic drugs himself and transported them by rail for his own consumption, the investigator must find out the places where narcotic plants are grown, the features, the algorithm, the technical means, the technology, and the place of production narcotic substances, the presence of accomplices and persons aware of criminal activity. In addition, it is expedient to confirm such testimony by drawing up by the interrogators certain schemes, plans and other schematic images indicating formulas, certain consistencies and ingredients.

During the suspect's answers to the questions, the investigator must carefully observe the behavior of the interrogated. This tactical technique allows the investigator to determine how confidently the interrogated gives testimony, and to detect untruths or inconsistencies in the testimony of the interrogated. During the interrogation, the investigators must «create tension», which allows to interrogate the suspects effectively and offensively, to obtain truthful testimony and to prevent opposition to the investigation in advance.

In forensic literature, it is indicated that during «creating tension» the ability of interrogated persons to fully exercise conscious control over the content of speech messages and behavior in general is significantly reduced. If the interrogators refuse to testify or give false testimony, and the investigator's observations indicate that these persons are in a balanced state, then it is necessary to put them in a state of psychological tension through questions, presentation of evidence or reporting of certain information. When applying tactical combinations, it is advisable to combine such a technique with the technique of «relieving tension», which is provided by various means: intonation, replicas, etc.

It is advisable to use «different pace of interrogation» as a tactical technique. In forensic literature, the following main types of interrogation rates are defined: accelerated (fast); slowed down; a combination of fast and slow tempos. In the investigation of illegal transportation of narcotics by railway transport, it is advisable to use an accelerated pace of interrogation. Accelerating the pace of interrogation of the suspect creates a certain shortage of time, deprives the interrogated person of the opportunity to thoroughly consider each answer, put forward any false arguments, create a false alibi, and increases his emotional tension. This tactical technique allows the investigator to quickly expose false testimony, to prevent opposition to the pre-trial investigation in advance, and to use contradictions and discrepancies contained in the testimony of several interrogators.

During interrogation, the investigator can use «presentation of evidence» as a tactical technique. The essence of the presentation of evidence during the interrogation consists in demonstrating the content and significance of the evidentiary information at the disposal of the investigator for the psychological impact on the interrogated person with the aim of: providing assistance to the interrogated person in recalling the forgotten; orienting it to the presentation of information about the facts of interest to the investigation; details of the testimony of the interrogated; exposure of an interrogated person who gives false testimony, etc.

The tactics of questioning persons who are members of organized

criminal groups have a certain specificity. Interrogation of the main participants of the criminal offence and its organizers, as a rule, does not give positive results, if they are not exposed by other evidence in the criminal proceedings (for example, narcotic drugs discovered and seized during the search, witness statements, expert opinions, etc.).

During interrogation, such persons try to find an explanation for the facts that expose them, make accusations of falsification of evidence against them, look for the smallest procedural violations committed by investigators. An important role in this issue is played by defenders who are financially (financially) dependent on the leaders of criminal groups.

The investigator must take into account that there are often open or hidden disagreements and contradictions between members of organized groups and criminal organizations, which lead to conflicts. Taking this into account, the investigator should direct his activities to identify and use such contradictions and conflicts during the interrogation.

A fairly effective tactical method of interrogation is the use of scientific and technical means. This technique creates favorable conditions for obtaining evidentiary information, allows recording not only the testimony, but also the psychological climate in which they were obtained, and psychologically affects offenders.

Of particular importance during interrogations is the use of a video recording, which allows you to record and reproduce not only the content of the testimony, but also the speech characteristics of the interrogated persons, to convey the emotionality, intonation, originality of the expression of thoughts of the interrogated person, often accompanied by facial expressions and gestures, as well as behavior and reactions that characterize the identity of the offender. These features of behavior are not reflected in the protocol, which most often reflects not the course of the interrogation, but only its result, as a result of which it is quite difficult to understand the process of obtaining testimony according to the protocol record, which, in turn, complicates the objective assessment of the data obtained during interrogation

The use of technical means during interrogations nullifies the cases of refusal of previously given statements and their changes, allows to refute fabricated statements of suspects and other persons about alleged illegal methods used during the pre-trial investigation, and also gives the court a full opportunity to objectively assess the evidence obtained during these investigative actions testimony.

Thus, we note that the considered tactical methods of interrogation should not be isolated from each other. The investigator must skillfully vary

them, i.e. quickly switch from one technique to another. A certain skill lies in the investigator's use of a number of tactical techniques and combinations in relation to the interrogated person.

After completing the procedural action, the investigator proceeds to the final stage—recording the course and results of the interrogation. The mandatory means of recording the results of the interrogation is the protocol. It must contain all the results of the interrogation that are relevant for the criminal proceedings. Additional means of fixation are schemes, plans, graphs that clarify the readings.

Therefore, interrogation tactics in cases related to the illegal circulation of narcotic drugs, psychotropic substances, their analogues and precursors require high skills and qualifications of the investigator. The ability of the investigator to properly prepare and conduct an investigative (search) action using the available evidentiary information and material evidence is of great importance. Investigators must have certain knowledge in the field of pharmacology and medicine.

In addition, during the preparation and conduct of the interrogation, the investigators must take into account that the offenders are personally interested in the results of the criminal proceedings. Before the commission of criminal offences, this category of persons agrees not to extradite each other in case of arrest, and therefore is prepared in advance for methodical denial of guilt. In some cases, during the interrogations, the offenders contact the investigators, trying in this way to obtain information about the investigative (search) actions already carried out during the investigation: inspections of the scene of the incident, preliminary interrogations of witnesses, victims or accomplices. With this in mind, the employees of investigative units of the police need to take into account that conducting interrogations with this category of persons largely depends on the correct and effective possession and operation of investigative tactics, combinations and their application in law enforcement practice.

When preparing for the search, technical equipment for the search, the need to involve specialists should be provided for. The number of witnesses should be increased if the search is conducted simultaneously in several premises or on a large area of the area, as well as when a large amount of drugs is seized. In practice, the involvement of citizens as witnesses has certain difficulties, which are associated with reluctance to participate in investigative (search) actions. Persons who are familiar with those who are to be searched, as a rule, categorically refuse to participate in investigative (search) actions as witnesses. This is motivated, firstly, by the prospect of being called to testify before an investigator, in court, which allegedly causes

moral injury, and, secondly, by the unwillingness to «complicate» life and protect one's safety, because they do not exclude the possibility of revenge from relatives, acquaintances and friends of the person who is being searched. Therefore, it is advisable to search for witnesses in advance from among disinterested citizens who are not related to the person who needs to be searched.

The suddenness of the search is crucial. Usually, it is recommended to search in the morning hours. However, in our opinion, this recommendation is rather conditional, since in practice there are often situations where it is impossible to delay the search.

The places where drugs are hidden in clothes are: lapels of coats, jackets, jackets, raincoats; pockets with a double bottom; hidden pockets under the lining; cuffs, stitches on hats; hems of trousers, swimming trunks, corsets; cockades, armbands, portupei and epaulettes of military personnel; belts; bras and belts; knots of ties or handkerchiefs; men's suspenders and others. There are many possibilities for hiding small doses of drugs on women's clothing. Convenient places for this are decorative straps and belts, embroideries, linings, complex and sloppy applications on dresses, thick soles of shoes, belts for stockings, elastic bras, etc. As a hiding place for drugs, a women's cosmetic bag is used, which suppresses the smell of drugs, which makes it much more difficult to find them even with the help of a service dog. Drugs wrapped in plastic film can be hidden on different parts of the body: under the armpit, in the groin, between the toes, under a plaster applied to the foot. Sometimes women hide drugs in their genitals, protected by a feminine hygiene tampon. If there is a suspicion that the object of the offence is hidden under a bandage or plaster bandage, in the genitals, a doctor should be invited.

Indirect evidence (traces after injections in the form of small dots, sores or abscesses) can indicate the use of narcotic drugs. Pockets, lapels, sleeves of coats, jackets, the inside of socks and pants are carefully inspected on clothes (there may be traces of blood on them if the addict injected the drug into his legs). Microparticles of tobacco, powders, tablets, etc. must be submitted for examination.

During the search, it is necessary to make sure that the person searched does not throw out any objects or throw them to someone present, and after it ends, the venue must be inspected, bearing in mind that the person being searched could have hidden or thrown something away before the search began.

***Test questions:***

- 1. The structure of the forensic characteristics of criminal offences in the sphere of circulation of narcotic drugs, psychotropic substances and precursors.*
- 2. The object of criminal encroachment.*
- 3. The circumstances of the commission of the offence.*
- 4. Ways of committing the offence.*
- 5. Time and place of commission of the offence.*
- 6. «Trace» picture of the offence.*
- 7. Characteristics of the offender.*
- 8. Review tactics.*
- 9. Search tactics.*
- 10. Features of suspect detention.*
- 11. Tactics of interrogation and simultaneous interrogation of two or more persons.*
- 12. Peculiarities of using video recording during interrogation.*
- 13. Features of presentation for recognition.*
- 14. Problematic questions of the investigative experiment.*

***Topics of essays:***

- 1. The use of forensic characteristics data at the initial stage of the investigation of criminal offences in the sphere of trafficking in narcotic drugs, psychotropic substances and precursors.*
- 2. Peculiarities of investigating the sale of narcotics using the Internet.*
- 3. Peculiarities of the investigation of drug smuggling.*
- 4. Peculiarities of investigating the transportation of narcotics.*
- 5. Peculiarities of the investigation of crimes in the field of trafficking in narcotic drugs, psychotropic substances and precursors committed by organized criminal groups.*
- 6. Peculiarities of carrying out individual investigative (research) actions in the investigation of offences in the sphere of circulation of narcotic drugs, psychotropic substances and precursors.*
- 7. Peculiarities of the use of special knowledge in the investigation of criminal offences in the sphere of trafficking in narcotic drugs, psychotropic substances and precursors.*

## **Chapter 9**

### **INVESTIGATION OF CRIMINAL OFFENCES AGAINST TRAFFIC SAFETY AND TRANSPORT OPERATIONS**

#### **9.1. Forensic characteristics of criminal offences against traffic safety and transport operations**

Criminal violations of traffic safety rules are described by a wide distribution and have an increased public danger. Every year, an average of 40,000 traffic accidents occur in Ukraine, as a result of which 7,000 people die and tens of thousands are injured. Therefore, the fight against crimes of this type is an important element of ensuring public order.

For the formation of a methodology for the investigation of criminal violations of traffic safety rules and the implementation of planning for this category of criminal cases, such elements of forensic characteristics as data on the methods of their commission, the setting of traffic events, information on typical tracks, the identity of the criminal, and identity of the victim.

Considering the methods of committing crimes of this type, it should be noted that traffic accidents belong to careless crimes, that is, they are committed as a result of criminally unlawful self-confidence or criminally unlawful negligence. Criminal violations of traffic safety rules are the result of various illegal actions or failure to act by the subjects of this type of crime.

According to statistics, traffic accidents most often occur as a result of violations committed by the driver of vehicles: exceeding the set speed limit; non-observance of overtaking, turning and rowing rules; leaving the oncoming traffic lane; Violation of traffic rules at the intersection; failure to maintain a safe driving distance; transportation of passengers in vehicles not adapted for this purpose; improper loading and securing of cargo in transport; failure to obey traffic lights; departure on a known technically defective vehicle; violation of traffic rules at railway crossings, etc. Driving a vehicle while under the influence of alcohol or drugs is a particularly dangerous and, at the same time, very common violation, because the driver's reaction slows down, attention weakens, and the road situation is inadequately perceived and evaluated.

Traffic accidents can occur as a result of the actions of pedestrians and passengers: crossing the road in front of moving vehicles; traffic along the

carriageway; crossing the carriageway in places not specified for crossing; non-observance of road signs and traffic lights; games of children and teenagers on part of the road; embarking and disembarking passengers during traffic; on footstools; appearance of pedestrians on the roadway, driving of passengers in a state of intoxication, etc.

In such cases, if at the same time the driver did not violate the traffic rules, he does not incur criminal liability. Employees of automobile enterprises responsible for the technical condition or operation of vehicles (dispatchers, mechanics, garage managers) may commit illegal actions (inaction), which also lead to road traffic incidents: releasing a technically defective vehicle (with a broken brake system, faulty steering, engine, etc.); low-quality vehicle repair; violation of the order of technical inspection of transport; failure to take measures to prevent operation of technically defective transport; violation of traffic control rules; admission to driving a vehicle of a person who does not have or is deprived of a driver's license, or who is in a state of intoxication; gross violation of the driver's mode of operation.

Traffic accidents can be the result of criminal violations of rules, norms and standards by persons responsible for the construction, repair or maintenance of roads, streets, road structures: non-compliance of road parameters with standards that ensure safe traffic; untimely repair of the road surface; lack of proper control over the stage of roads, streets, bridges, railway crossings; low-quality repair of roads and road structures, violation of the rules for carrying out repair works (lack of fencing, warning signs, etc.); insufficient street lighting, etc.

Sometimes traffic accidents can happen as a result of a random coincidence of circumstances that could not have been foreseen by the participants of the traffic (a malfunction of the transport that occurred unexpectedly, a rupture of the camera, etc.).

Data characterizing the circumstances of criminal violations of traffic safety rules (place, time, and other circumstances) are of important forensic importance. The road environment is a complex set of conditions under which traffic occurs on a certain section of road or street. It includes both static and dynamic elements.

The static elements of the road environment include the layout of roads and streets, their technical characteristics, profile, roadway width, type and condition of the road surface, availability of automatic and other means of traffic regulation, fences, markings, road signs, city transport stops, roadway lighting in the dark, buildings, constructions and green spaces located next to the road, etc.



The dynamic elements of the road environment have a significant impact on the occurrence and development of a traffic incident: the intensity and speed of the movement of cars and pedestrians, the movement of other objects on the road, the behavior of pedestrians and drivers, changes in traffic control signals, vehicle maneuvers, visibility, visibility, etc. All these factors must be taken into account by the driver when driving a vehicle.

The time (of the year, day) can also be a prerequisite for the formation of an emergency road situation. Quite often, criminal violations of traffic safety rules occur during «peak» hours (when the traffic is the most intense), in adverse weather conditions (ice, rain, fog), in the dark.

A traffic incident is a complex and dynamic system of interaction of various objects, such as vehicles, road, road objects, driver, pedestrian, as a result of which numerous traces are formed, typical for this type of crime. These can be traces of wheel braking, blood, dragging of the victim's belongings, bumper or protector marks on the victim's clothes, injuries and injuries received by the driver, passengers, pedestrians, particles of paint, glass of headlights, windshield and side mirrors, stains of grease, fuel, antifreeze, broken off parts of vehicles, parts of the cargo being transported, traces of damage on the vehicles themselves, as well as changes that occurred as a result of their poor repair, damage to ground structures, fabric fibers, hair, handprints, etc. Analysis and research of these traces contribute to the establishment of other elements of the forensic characteristics of criminal violations of road safety rules.

Information about the identity of the criminal is also important for determining many circumstances of a traffic accident. When studying the identity of the driver, his age is established. professional training, presence or absence of practical skills, work experience, state of health, presence of physical disabilities or illnesses, duration and nature of work up to the time of the event. In particular, a large number of traffic accidents are committed by persons with driving experience of up to five years, because they do not yet possess sufficient skills in driving a vehicle and at the same time show excessive self-confidence.

Sometimes the actions of violators of traffic safety rules are determined by the peculiarities of their physical and psychological state. Therefore, it is necessary to investigate the behavior of the driver at work and in everyday life, to find out whether he has violated traffic rules before, his relationship with the victim. A significant number of traffic accidents are committed due to the fault of drivers who are under the influence of alcohol or drugs.

Due to the fact that the actions of the victim are an important element of the mechanism of the traffic accident, and some of them violate the rules

of the road, it is necessary to take into account the state of health of the victim, his age, physical and mental characteristics, the presence of diseases of vision, hearing, to find out whether he was under the influence of alcohol or drugs.

Thus, the forensic characterization of crimes against traffic safety provides an opportunity to study the concept of crime, issues to be proven, and means of obtaining evidence.

## **9.2. Concepts, signs, classification of traffic accidents**

According to Clause 1.10 of the Traffic Rules, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 1306 dated October 10, 2001, a road traffic accident is an event that occurred during the movement of a vehicle, as a result of which people were killed or injured or material damage was caused.

From the point of view of scientific road terminology, a road accident is an event that disrupts the normal functioning of the road traffic process in the «person-car-environment» system. It occurs as a result of the loss of the ability to drive a vehicle or as a result of improperly taken actions or a complex of actions of road users and is accompanied by death, injury to people, and the task of material damage.

In most cases, the occurrence of a road accident is preceded by one or more violations of the rules for ensuring road safety and the rules for operating sources of increased danger (exceptions are accidents, which account for a very small percentage).

In the literature, the following classification of road accidents according to their mechanism is traditionally included in the forensic characteristics of crimes of this category:

- collision—an incident in which vehicles collided with each other or with the rolling stock of railway tracks (oncoming, parallel, lateral, rear);
- overturning—traffic accidents in which the moving vehicle lost its stability and overturned;
- collision with an immovable obstacle - an incident in which the vehicle ran into or hit an immovable object (a bridge support, a pole, a tree, a fence, an immovable vehicle, etc.);
- hitting a pedestrian—an accident in which a vehicle ran over a person or she herself ran into a moving vehicle;
- hitting a cyclist – a traffic accident in which a vehicle comes into contact with a cyclist while moving;

- hitting a heavy vehicle – a road accident in which a mechanical vehicle comes into contact with a drawn animal or cart during movement;
- running into animals–traffic accidents in which the vehicle comes into contact with wild or domestic animals while driving;
- the fall of the cargo transported by the vehicle or the separation of its part (for example, wheels);
- passenger falling out of the vehicle.

In the given classification of traffic accidents, the emphasis is on the nature of the vehicle movement and the consequences, which is important for understanding the essence of the investigated event.

By types of legal responsibility (by types of legal consequences):

- administrative liability;
- criminal liability;
- civil liability.

### **9.3. Organizational and tactical features of conducting individual investigative actions and assigning examinations**

As a rule, patrol police officers are the first to arrive at the scene of an accident. They are the first to assess the situation. After arriving at the scene of the incident, first of all it is necessary to provide first aid to the victims, after which measures should be taken to prevent the situation from changing the scene of the incident (fence and prevent outsiders from arriving at the scene of the investigative team). Also, if necessary, specialists should be notified and called to the scene (for example, emergency services, to unlock the victims).

One of the fundamentally important provisions for the tactics of conducting an inspection of the road accident site is that it acts as a reflection of the road accident, and the task of the investigator is to determine exactly what changes were made to the situation that existed before the event. It is these changes that have occurred and individual items that act as sources of evidence in criminal proceedings of this category. But the possibility of making changes to the situation of the accident before the arrival of the investigative team at the scene (and sometimes its complete staging) should also be taken into account. Taking this into account, it is necessary to solve tactical tasks related to the determination of the time of the appearance of traces and individual objects at the scene of the accident (analysis of the temporal connection with the accident), the connection of the detected objects with this or that place (analysis of the spatial connection traces),

generic features and properties of objects for describing them in the protocol and establishing their group affiliation, identification features of the detected objects for description in the protocol and their possible identification, origin from one or different vehicles, pedestrians, passengers, etc., the connection of traces between themselves and the investigated traffic accident, as well as the mechanism of their formation, the reasons for the absence of certain objects (traces) at the scene of the traffic accident, if they probably should be.

When inspecting the scene, the following road conditions are required in the inspection report:

- name, direction of the road relative to the sides of the horizon;
- road plan (straight section, intersection and its shape, turns and rounding of the road, their directions and radii);
- longitudinal profile of the road (convex, horizontal, two-slope, one-slope, its size);
- the width of the carriageway of the road;
- type of road surface (asphalt concrete, cement concrete, paving stones, gravel, sand, etc.);
- condition of the road surface (dry, wet, dirty, ice, snow, ice cover, appearance, size and location, etc.);
- damage to the road surface (location, configuration of potholes, dimensions and appearance of edges, etc.);
- the width of the right and left shoulder;
- type of roadside covering and its condition (reinforced, soft, covered with crushed stone, sand, grass, snow, ice, etc.);
- damage on roadsides;
- width of sidewalks;
- height of curbs;
- the presence of obstacles on the carriageway, roadsides, sidewalks;
- depth of cuvettes;
- the length of the slopes of the cuvettes, their condition;
- road signs at a distance of 300 m in both directions, the zone of action of the signs, the correctness of their installation and condition;
- marking of the roadway in the area of the accident site;
- external surroundings of the accident site (open terrain, trees, buildings, cliffs, etc.);
- the method of traffic regulation at a controlled intersection (controller or traffic light, its type, mode of operation, location, serviceability);
- visibility of the surface of the carriageway along the center line;
- coefficient of adhesion of the wheels of the vehicle with the road surface.

Determination of the technical condition of the vehicle. Solving this task of surveying the scene of an accident is an integral part of it, since a car or other vehicle can be of key importance in the development of a dynamic system of an accident. That is why the subject of the crime, in addition to the person who drove the vehicle, can also be an official responsible for the technical condition or operation of vehicles (Article 287 of the Criminal Code of Ukraine). So, if a vehicle is left at the scene of an accident, in addition to its external inspection in order to detect certain traces on it, it is necessary to check the serviceability of its main units.

The system of tactical techniques for inspecting the accident site includes: 1) analysis of individual traces (objects), their signs and location; 2) application of imaginary reconstruction of individual elements of the event; 3) simulation for the purpose of imaginary reproduction of the event that took place; 4) comparison of the simulated event and the real picture of the place of the adventure.

Since the inspection of the road accident site forms the necessary basis for the examination of individual circumstances of the road accident, this determines the need for the participation of specialists in its conduct and their use of certain research techniques, which are an integral element of the inspection tactics. It involves specialists in the field of automotive engineering and road construction, who use research techniques (carry out special measurements and calculations using appropriate technical means).

It has features and fixation of examination results. Above all, it concerns the drafting of his protocol. Taking into account the fact that the inspection of the accident site forms the necessary basis for examinations, during which the key questions of the presence of cause-and-effect relationships in the mechanism of the accident are resolved, the completeness of the protocol is of primary importance.

In order to guarantee the proper quality of the preparation of the inspection report of the accident site, based on the generalization of many years of investigative and expert practice, a form of such a report was developed with the maximum detail of the positions (sections) that should be reflected in it (31 sections in total). For example, in section 1 «The place of the traffic accident is located» you must indicate the name of the settlement, street or street intersection (highway) and the number of the house near which the accident occurred. In section 2 «Elements of street, road, the presence of such elements of the road situation as a bridge, overpass, overpass, traffic stop, pedestrian crossing, intersection (regulated–not regulated), railway crossing (regulated–not regulated), as well as distance should be indicated to them from the scene of the accident».

Section 3 «Roadway» indicates the presence and magnitude of the longitudinal slope of the road, which is characterized by such concepts as horizontal section, curve in plan, straight in plan, descent by steepness (degrees), ascent by steepness etc.

An important addition to the accident site inspection protocol is a scene diagram, as well as a photo table, which is executed according to general rules, to which is attached a laser (digital) information carrier (CD, flash drive) on which digital photographs are recorded.

It should also be noted that during the inspection, attention should be paid to the presence of means of registration (video recorders), which may be equipped with vehicles involved in road accidents, which are recommended to be removed during the inspection, in order to remove information in the future.

Peculiarities of assignment of examinations. The following classes of forensic examinations are typical for criminal proceedings regarding crimes related to traffic accidents: medical, forensic and engineering.

Forensic medical examinations play an important role, since the criminal-legal qualification of the accident and the establishment of its circumstances depend on their conclusions. The objects of her research are related to the human component of the driver–vehicle–road–environment system, in particular, road users (drivers, passengers, pedestrians) who have been injured or killed. These examinations include:

- forensic medical examination of living persons– is carried out in relation to victims (and sometimes suspects) in road accidents to determine the nature, localization and degree of severity of bodily injuries;

- forensic medical examination of a corpse– is carried out in relation to the dead body of a person injured in a road accident or its parts to establish the immediate cause of death, the time of its occurrence, the position of the body during contact with a vehicle or other object, the nature and localization of bodily injuries;

- forensic medical examination of traces– material evidence– is carried out in relation to traces of a person in the form of particles and secretions of his body and organism (micro-pieces of skin, knocked-out teeth, hair, nails, sebaceous secretions, saliva, nasal secretions, blood, brain matter, etc.).

Forensic examinations are a scientific and practical study by a forensic expert of objects of the «driver»–vehicle –road –environment» system, which have reflected the consequences (traces) of road accidents, are carriers of information about the mechanism of road accidents and require forensic knowledge for their investigation. These include the following examinations.

Road technical examination is carried out in order to solve the

following typical tasks:

- determination of visibility of road elements and its arrangement;
- determination of the radius of the curve in the plan and in the longitudinal profile;
- determination of the operational condition of the road and its possible impact on road accidents;
- determination of geometric parameters of highways for compliance with established standards;
- determination of the area of damage to the road surface;
- determination of traction qualities of road surfaces at road accident sites, etc.

Engineering and transport expertise includes conducting studies of the technical condition and details of vehicles, transport and route studies and studies of the circumstances of a road traffic accident.

Investigations of the technical condition and details of vehicles (vehicle technical examination) are carried out to identify the technical malfunction of the vehicle as a possible cause of the accident. As a result, facts may be established that provide grounds for finding guilty the person who drove (operated) the vehicle (Article 286 of the Criminal Code of Ukraine), or the official responsible for putting technically defective vehicles into operation or other violations of their operation (Article 287 of the Criminal Code of Ukraine).

Transport and track research is conducted with the aim of establishing the mutual location of vehicles at the time of initial contact, determining the location of the collision (collision).

The study of the circumstances of a traffic accident is by its nature a situational examination, which is conducted with the aim of establishing the mechanism and circumstances of the accident, taking into account the indicators of the technical condition of the motor vehicle, the quality and parameters of the road, the psychophysiological characteristics of its participants and other factors. As a rule, this is related to calculations for which the expert uses as input data the results of certain measurements provided to him by the investigator or the court (reports of inspections, interrogations, conclusions of previous examinations and investigative experiments), as well as typical reference data—parameters and coefficients, the numerical values of which are chosen by the expert independently from special scientific and technical and reference literature in accordance with the nature and conditions of the accident.

Typical tasks of this research are, in particular, determining the speed of movement and the full stopping distance of the vehicle based on its

braking traces, establishing the specific circumstances of the accident by means of technical calculations and analyzing the traces, establishing the technical reasons for the loss of stability or controllability of the vehicle, etc.

***Test questions:***

- 1. As a result, most often there are traffic accidents?*
- 2. What types of responsibility for the driver may result from a traffic accident?*
- 3. What information should be indicated in the protocol of the inspection of the scene of the accident on the facts of a traffic accident?*
- 4. Does the system of tactical methods of inspecting the accident scene cover?*
- 5. What types of forensic medical examinations are assigned when investigating traffic accidents?*
- 6. What is the purpose of the trace examination during the investigation of traffic accidents?*
- 7. What is the purpose of the road technical examination?*

***Topics of essays:***

- 1. Methods of committing crimes against the safety of the operation of vehicles.*
- 2. Conditions and conditions for committing crimes.*
- 3. Trace picture of crimes against vehicle safety.*
- 4. Characteristics of the identity of the offender.*
- 5. Tactical features of the inspection of the scene associated with a traffic accident.*



## **Chapter 10**

### **INVESTIGATIONS OF CRIMES RELATED TO PUBLIC FUNDING OF HEALTHCARE**

#### **10.1. Forensic analysis of crimes related to public funding of healthcare sector**

State transformations taking place in the socio-economic sphere primarily affected the health care sector. High level of diseases and disabilities of the population, along with the low level of medical care and an inadequate amount of modern equipment, require drastic changes. Thus, the Law of Ukraine «On the State Budget of Ukraine for 2020 plans expenditures for the Ministry of Health of Ukraine – 115 889 937 200 UAH, in particular for the provision of medical measures of individual state programs and complex programmatic measures – 8 071 917 500 UAH, treatment of Ukrainian citizens abroad – 1 089 948 900 UAH, public health and measures to combat epidemics – 3 721 399 200 UAH, etc. (Appendices A, B). At the same time, additional co-financing from local budgets, various funds, loans from international banks, and charitable contributions totally increases the amount of funds allocated to the specified industry, which increases the scale of the issues raised, attracts the attention of offenders and increases the number of criminal manifestations. Statistics of the General Prosecutor's Office of Ukraine on the state of crime in Ukraine indicates that 2129 criminal offences, committed with the use of budget funds, were registered in 2016, 3049 in 2017, 2779 in 2018, 2316 in 2019, and 2749 in 2020.

In particular, the simplification of the bidding procedure has increased the number of cases of unjustified price increases by manufacturers and suppliers for medical products, medical equipment, personal protective equipment, etc. Cases of illegal trade of medicines, disinfectants for hands and premises, medical masks, gloves and so on have become widespread. Despite the legal restriction on the export of anti-epidemic goods for the period of the global pandemic, the facts of illegal export of the specified group of goods abroad have increased, which causes its significant shortage in Ukraine. The breadth of the research subject is confirmed, on the one hand, by the qualification for numerous types of crimes (misappropriation, waste of budget funds or their appropriation, inappropriate use of funds, forgery of

documents, abuse of official position, official negligence, etc.), on the other hand, it covers not only medicine, but also construction, public procurement, financial accounting, energy supply, etc. The above shows that law enforcement agencies need a comprehensive approach and the use of special knowledge in various fields to expose crimes of this category.

Based on the results of the survey of practitioners, analysis of criminal cases and proceedings, and research by scholars, we found that offences related to the illegal use of budget funds in the healthcare sector include criminal acts committed during the preparation, review, approval and execution of budgets, as well as during the control of budget execution. We are talking about the corpus delicti provided for in Art: 191 «Misappropriation, embezzlement or seizure of property through abuse of office», 209 «Legalization (laundering) of the proceeds of crime», 210 «Misuse of budget funds, budget expenditures or provision of loans from the budget without establishing budget allocations or exceeding them», 211 «Issuance of regulatory legal acts that reduce budget revenues or increase budget expenditures contrary to the law», 212 «Evasion of taxes, fees (mandatory payments)», 221 (1) «Evasion of payment of a single contribution to the obligatory state social insurance and insurance contributions to the obligatory state pension insurance», 222 «Fraud with financial resources», «Intentional introduction of dangerous products into circulation on the Ukrainian market (release to the Ukrainian market)», 229 «Illegal use of a trademark for goods and services, a trade name qualified by the meaning of the origin of goods», 231 «Illegal collection for the purpose of use or use of information constituting a commercial or banking secret», 232 «Disclosure of commercial or bank secrets», 233 «Illegal privatization of state and municipal property», 321 (2) «Violation of the established procedure for preclinical studies, clinical trials and state registration of medicinal products», 358 «Forgery of documents, seals, stamps and forms, sale or use of forged documents, seals, stamps», 364 «Abuse of power or official position», 364 (1) «Abuse of authority by an official of a legal entity of private law regardless of the legal form», 365 (2) «Abuse of power by persons providing public services», 366 «Forgery», 367 «Negligence», 368 «Acceptance of offers, promises or receipt of unlawful benefit by an official», 368 (5) «Illegal enrichment», 368 (3) «Bribery of an official of a legal entity of private law regardless of the legal form», 369 «Offer, promise or giving of an undue advantage to an official», 369 «Abuse of influence», 370 «Provocation of bribery» of the Criminal Code of Ukraine and others.

**Ways of committing crimes related to state.** The success of crime detection and investigation depends on the extent to which the person

conducting the investigation has knowledge of the substantive elements of the forensic characteristic, among which the method of committing the crime is central. Its manifestations in the material or virtual environment provide an opportunity to have an evidence base, put forward versions, identify the offender, etc. The variety of ways of committing economic crimes, including crimes related to the illegal use of budgetary funds in the healthcare sector, demonstrates the relevance of this topic. The breadth of the subject matter of the study is confirmed, on the one hand, by the qualification under numerous articles of the Criminal Code of Ukraine (embezzlement, misappropriation, misuse, forgery, abuse, etc.), and, on the other hand, by the fact that criminal encroachments cover medical equipment, medical devices, medicines, medical services, construction, food, etc.

We believe that such a substantive criterion most accurately reveals the essence of this issue. Therefore, by interviewing practitioners and studying the materials of criminal cases and proceedings, depending on the nature of the unlawful acts committed, we have identified the following modern methods of committing crimes related to the illegal use of budgetary funds in the healthcare sector:

1. Conducting public procurement in violation of the law:

- 1.1. Overstating the cost of goods by drawing up additional agreements. Earlier, in our research, we described in detail how procurement participants, in collusion with hospital management, used cases in which it is permissible to change the procurement contract. As the law did not previously clearly state how many times a price could be inflated by an additional agreement in a budget year, a 10% price increase made several times significantly changed the tender price and resulted in the final amount exceeding the offers of other bidders.

Currently, the Law of Ukraine «On Public Procurement» No. 922-VIII dated 25 December 2015 has been amended to provide that Article 41 (5) (2) of the Law stipulates that a proportional increase of up to 10 per cent in the price per unit of goods may occur no more than once every 90 days from the date of signing the procurement agreement. Therefore, this method prevents criminals from obtaining excessive profits that were possible before the legislative changes. However, it is not appropriate to completely exclude this method, since the restriction on the time limits for changing the price per unit of goods does not apply in cases of changing the terms of the contract for the purchase of petrol and diesel fuel, gas and electricity.

This is confirmed by the results of the study of criminal cases and proceedings, which show that in healthcare institutions, the procurement of goods under the above scheme leads to large-scale embezzlement of budget

funds.

1.2. Supply of goods that do not meet technical requirements. For example, when procuring medical equipment, criminal offences occur when participants provide only a certificate for certain equipment, but in reality, other equipment with worse performance is supplied. Without a test report, it is impossible to track all the data of a particular device. Thus, the tender proposal wins without having any legal grounds for doing so. Of course, such offences can be committed by the participating company either independently or by prior agreement with authorised persons of healthcare institutions.

A practical example is the following. In 2014-2015, one of the hospitals located in Pavlohrad held a competitive tender for the purchase of 4 steam sterilisers for a total amount of over UAH 600 thousand, which resulted in the award of the tender to LLC P. The tenderer submitted a package of documents that demonstrated the quality and conformity of the equipment. However, the delivery of the equipment revealed facts of non-compliance with the technical and quality characteristics (steriliser chamber with signs of previous use, fittings that do not meet safety requirements, components not designed for use under high steam pressure, etc.), which made it impossible to use it for its intended purpose. By doing so, the supplier caused large-scale damage to the local budget.

1.3. Preparation of tender documents for a specific participant for a fee. According to the law, the procuring entity establishes several qualification criteria, including: availability of equipment and material and technical facilities; availability of employees with appropriate qualifications and necessary knowledge and experience; availability of documented experience in performing a similar contract, etc. Representatives of healthcare facilities use the provisions of Article 16 of the Law of Ukraine «On Public Procurement» and put forward unreasonable qualification requirements that have no grounds for existence. As a rule, such requirements are met by only one business entity with which the procuring entity has entered into collusion in advance.

*For a more thorough understanding, let us look at a case study. An analysis of public procurement of medical equipment conducted by the tender committee of the Department of Health of the Dnipro Regional State Administration in 2017-2018 revealed that the following companies were suppliers of goods: LLC «G», LLC «O», LLC «A», LLC «B», LLC «TM», LLC «I», LLC «M», LLC «H», LLC «C», which have signs of concerted action. According to available information, these business entities belong to the same financial group controlled by the F. family, whose commercial activities were supported by the People's*

*Deputies of Ukraine. These persons acted in the following way. Representatives of the supplier companies, either personally or through proxies, held preliminary negotiations with budget holders on future procurement of medical products or medical equipment for hospitals in the region. During the negotiations, the issues of planning budget expenditures for the procurement of equipment and medical devices for the future period were discussed. All the details of the bidding process were discussed, including: ensuring the victory of a certain entity; terms of supply, quantity and cost of goods; remuneration amounts, etc.*

Upon reaching an agreement, the tender committee of the entity was provided with a package of documents for the procurement, including a product specification with specific technical characteristics inherent in the products or equipment of a particular supplier. Subsequently, the tender committee prepared the bidding documents. Then, at the request of the officials of the Department of Health, the said specification in the form of an application was signed by the chief physicians of the healthcare facilities where the goods were to be supplied.

Subsequently, the Committee on Competitive Bidding announced and conducted competitive bidding. Since the specification defined certain technical characteristics of the equipment that were inherent only to the specific equipment and supplied by only one supplier, the bids of other entities offering similar equipment, usually of higher quality and cheaper, were rejected. To ensure the legitimacy of the tender, at least 2 business entities took part in the tender, acting in collusion and offering the same equipment for purchase with prices that were almost identical (in some cases, the price of equipment worth more than UAH 5-10 million differed by only UAH 1 thousand).

Thus, these individuals artificially created conditions under which medical devices and medical equipment were purchased from certain suppliers at an inflated cost, causing damage to the budget in particularly large amounts.

*It should be noted that a similar situation occurred in other regions of the country. Thus, analysing the competitive tenders held in 2017 in Ukraine, it was established that the tender committees of the Healthcare Departments held tenders for the purchase of the following goods: X-ray diagnostic systems (UA-2017-08-11-000519-b) for an expected value of UAH 9,700,000. The following items were procured by the Departments of Health: fluorographic stationary apparatus with digital image processing (UA-2017-10-18-001307-s) for the expected value of UAH 1 500 000; cabin fluorographic stationary apparatus with digital image processing, for the expected value of UAH 1 800 000. (UA-*

*2016-09-13-000876-s); video endoscopic diagnostic complex (UA-2017-08-22-001148-s) for an expected value of UAH 3 560 000; video endoscopic complex for gastroscopy (UA-2017-09-12-000375-a) for an expected value of UAH 3 500 000. Fibrobronchoscope complete for endoscopic medical and diagnostic procedures within the respiratory tract and tracheobronchial tree (UA-2017-10-03-002284-b) for an expected value of UAH 1,035,000; ambulance vehicles of type «A2» (UA-2017-06-02-001893-b) with equipment for an expected value of UAH 8,000,000. The peculiarity of the tender documents in these cases is that the specification and medical and technical requirements for the procurement items are completely identical and correspond to the equipment supplied by LLC A, LLC M, LLC H, which have a common beneficiary. In the course of the analysis of these tenders, additional facts were found that indicate collusion.*

Thus, the actions of the bidders show signs of violation of the requirements of the principles of public procurement enshrined in Article 3 of the Law of Ukraine «On Public Procurement», as well as the requirements of clause 6 of Section III of the tender documentation and the medical and technical requirements provided for in Annex 3 to the tender documentation, but both bidders were allowed to participate in the tender and the tender was cancelled only on the basis of a letter from the UZE to the Department of Health regarding the established violations of the legislation in the field of public procurement.

1.4. The next method related to violation of public procurement is avoidance of the tender by dividing the subject of procurement. Given that the amount of sub-threshold procurement for goods should not exceed UAH 200 thousand, and for construction—UAH 1.5 million, it is worth paying attention to goods that have the same classifier code and whose division is not allowed under the Law of Ukraine «On Public Procurement».

1.5. Prepayment in full before delivery. In this method, the procuring entity uses budgetary funds and unreasonably prepays for goods that the supplier does not have or cannot deliver at the time of procurement.

Resolution of the Cabinet of Ministers of Ukraine No. 1070 dated 04.12.2019 «Some Issues of Prepayment by Budgetary Fund Managers (Recipients) of Goods, Works and Services Procured for Budgetary Funds» stipulates that budgetary fund managers (recipients) may provide for prepayment for a period of three to twenty-four months in contracts for the purchase of goods, works and services for budgetary funds. It should be noted that Resolution № 1070 cancelled Resolution of the Cabinet of Ministers of Ukraine No. 117 of 23.04.2014 «On Prepayment for Goods, Works and Services Procured for Budgetary Funds», which also provided for prepayment for a period of one to fifty months.

*Often, the provisions of this Resolution are used by criminals to misappropriate budget funds. Thus, in 2018, investigators based on the materials of the police operational units registered criminal proceedings on the grounds of a criminal offence under Part 5 of Article 191 of the Criminal Code of Ukraine against officials of the Healthcare Department, a healthcare institution and a business entity who, acting in collusion, abusing their official position, misappropriated budget funds in particularly large amounts. The offenders acted according to the following plan. The director of a business entity approached the head of the Healthcare Department and proposed a criminal plan to misappropriate budget funds by purchasing and supplying a magnetic resonance imager to a healthcare facility at an inflated cost. After discussing all the details, the head of the Healthcare Department instructed the chief physician to prepare and conduct a tender for the purchase of equipment, the winner of which was to be determined by a certain supplier. As a result of the tender, a contract for the supply of equipment worth UAH 35 million was concluded with this entity. Then the director of the supplier company applied in writing to the chief medical officer with a request to consider 100 % prepayment for the goods for a period of up to 3 months. In turn, the chief physician applied to the Healthcare Department for permission to make a prepayment of budgetary funds. Having received the budgetary funds, the company delivered to the healthcare facility expensive medical equipment (magnetic resonance imaging scanner), the technical characteristics of which did not meet the requirements of the tender documentation, and the actual cost of the equipment was overestimated by more than 7 million UAH.*

After the supply of inappropriate equipment to the hospital, the company is re-registered to a third party and it is virtually impossible to resolve the issue of replacing and supplying the hospital with appropriate equipment or refunding the budget funds paid.

1.6. Forgery of documents on acceptance of work performed or goods delivered. This method is the most widespread, as evidenced by the results of the study of criminal proceedings, and is most often used both independently and in combination with other economic crimes, including embezzlement or misappropriation of budget funds, theft, misuse of budget funds, abuse of office, etc. Both full and partial counterfeiting is used in this way.

1.7. Collusion of bidders in the course of bidding, who deliberately play the role of a technical competitor and usually offer an unlawful offer. This is a conspiracy between bidders who act according to a pre-agreed plan in order to win. As a rule, the crime involves two or more business entities. During the procedure, the criminals deliberately offer a price with a certain

step down, which is determined by the customer. If other competitors do not submit their price offers, the business entities that acted in collusion and submitted the lowest price withdraw their offers and the procuring entity is forced to conclude a contract at the highest price, causing losses to the budget.

Often, business entities, acting in collusion with the procuring entity, upload documents to the procurement portal that are deliberately damaged and cannot be opened and evaluated. In these circumstances, the winner is a certain participant whose bid price is the highest.

1.8. Collusion of bidders during the bidding process who agree in advance to dump the price. In order to win the tender and obtain a contract for the supply of goods, works or services, participants offer too low prices. As a result, the customer may receive low-quality goods or poorly performed work. For example, two construction companies took part in a tender in the city of D for the purchase of works on the overhaul of a hospital building. One of them offered the cost of works almost twice cheaper than the other and was selected as the winner. After the contract was concluded, the contractor systematically violated the contractual deadline, and the work was carried out poorly, in violation of technical regulations and regulatory documents. Some time later, after completion of the works, defects in the work began to appear, but the contractor refused to rectify the complaints and, after some time, the company was re-registered as a shell company. Subsequently, the hospital had to redo the work at the expense of the budget, which caused significant losses.

1.9. Unreasonable rejection of the most economically advantageous offer. In such actions, attention is drawn to formal deficiencies in the submitted proposal. For example, in the tender documentation, the customer required the tenderers to provide a copy of the draft contract signed by the tenderer as the future contractor as part of the proposal. Such a requirement does not affect the price or quality of goods or services at all, but the tender committee subsequently rejected the bids of the participants who did not comply with this requirement, despite the fact that their bids were the most cost-effective.

2. Misappropriation and embezzlement of budgetary funds through unjustified accrual of salaries, bonuses, travel expenses and other payments. A typical scheme of committing the crime is to produce an official document with inaccurate information and use the forged document in the future, for example, to misappropriate budget funds allocated for salary and bonus payments.

For example, during an audit of the financial and economic activities of



a dental hospital in Dnipro, the auditors recorded the facts of incredibly high budget expenditures on bonuses for the chief physician, deputy chief physician, chief accountant and some hospital employees.

Subsequently, the audit materials were sent to law enforcement agencies and a thorough investigation was conducted into these facts. The audit found that the chief physician of the dental hospital, together with the accountant, had been forging letters of approval from the head of the Healthcare Department for several years to accrue and pay a monthly bonus to the chief physician at an inflated rate. In turn, the chief physician issued illegal orders to the hospital to accrue and pay the bonus at an inflated rate to the deputy chief physician, chief accountant and other hospital employees. It was later established that the chief physician had agreed to the accrual and payment of inflated bonuses to hospital employees on the condition that the employees would return 50 % of the funds paid to him in cash. The deputy and the accountant were paid inflated bonuses for silence about the criminal activities of the chief doctor. In this way, budget funds were misappropriated in particularly large amounts over several years.

3. Accrual and payment of mandatory payments to persons who are registered as employees but do not actually work in a healthcare facility.

In healthcare institutions, it is common for people to be registered as employees who do not actually work in the institution, but are paid monthly salaries, bonuses, and financial assistance. This method is most common in large hospitals, where a large number of employees work and the presence of «dead souls» is invisible to others. The existence of this category of employees is known to an exclusive circle of people, including the head of the institution, human resources and accounting staff.

Most often, such crimes are uncovered through reports to law enforcement agencies, during audits of financial and economic activities, pre-trial investigations of other crimes, especially during the conduct of SIDA or operational search activities.

For example, the law enforcement agency received materials of a scheduled audit of the financial and economic activities of the city hospital H for a period of four years. The audit examined several issues, including: the legality of procurement of goods, works and services for budgetary funds, the legality of accrual, payment of salaries and other payments to employees of the institution, the preservation, operation and write-off of hospital property, etc. The auditors established the absence of purchased high-value medical equipment and excessive write-off of fuel and lubricants for vehicles on the hospital's balance sheet, which indicated a crime related to embezzlement or misappropriation of budget funds in especially large amounts. Based on the

audit materials, criminal proceedings were registered and a number of investigative (search) actions were taken, including the temporary seizure of documents from the hospital, including staffing tables, documents on the calculation and payment of wages, bonuses, etc.

During the interrogation of hospital employees, the case file revealed that some employees were never seen in the hospital, but according to accounting documents, they were paid monthly salaries and bonuses. The pre-trial investigation established that the head of the healthcare facility, in collusion with the chief accountant and the head of the HR department, had registered more than 10 fictitious employees who were illegally paid to their card accounts. In fact, the cards were held by the accountant, who withdrew cash from an ATM on a monthly basis, after which the cash was distributed among all the participants in the crime.

4. The use of medical equipment and medical devices for the purpose of obtaining unlawful benefit. In this case, the equipment purchased with public funds is used by healthcare workers for personal enrichment. When providing free medical care, it is common for a healthcare worker to demand payment from patients for ultrasound, X-ray, MRI, CT, etc.

5. Misuse of budget funds for other purposes. Thus, contrary to the requirements of paragraph 3 of the Procedure and Conditions for Providing Medical Subventions from the State Budget to Local Budgets, approved by the Cabinet of Ministers of Ukraine on 23.01.2015 No. 11, healthcare institutions spend funds on expenses that are not directly related to the payment for the activities specified in Article 103 of the Budget Code of Ukraine. For example, for the maintenance of the control and audit department and the technical supervision service.

6. Misuse of premises, equipment and land plots. According to the forensic practice, in this way, state property is used for personal purposes or in the interests of third parties, which are often relatives of the responsible person. For example, in 2016, operatives of the UZE uncovered the fact of misuse of a land plot that was in permanent use by the Verkhivtseve Psychoneurological Boarding School. Instead of growing food for patients, the land plot was used by an agricultural producer for personal needs, vehicles, etc. for personal purposes without payment.

7. Forgery of medical documentation on the establishment of a disability group, the birth of a child, issuance of fictitious certificates of temporary disability, etc. A common example of this is when parents receive state childbirth assistance with forged documents for three years.

8. Drawing up fictitious documents on the number of patients in order to increase funding for budget programmes. The following example from

2010 can be a loud confirmation of this method. For the treatment of diabetics, each region should develop a programme that provides for the procurement of medicines to cover the needs of patients for a year. When ordering insulin, freelance specialists summarised data on the actual need of patients for a particular type of insulin (there are more than forty types of insulin). Officials of the healthcare facility, ignoring these analytical data, in collusion with the supplier, purchased insulin from only one manufacturer, significantly increasing its cost, and embezzled funds in the amount of over 1.5 million UAH. Today, diabetes patients receive medicines in pharmacies using electronic prescriptions. However, this method cannot be completely ruled out.

9. Excessive write-offs of medicines, medical devices, linen, equipment, etc.

10. Misappropriation of funds by writing them off for routine repairs of hospital buildings that were not actually carried out, fictitious purchases of household equipment under advance reports, etc.

11. Payment of energy, heat supply and other payments from the budget for other business entities—operation of a private cafeteria on the territory of the hospital, a private ultrasound room, a diagnostic laboratory, etc.

Based on the materials of the USE Department, the Investigation Department of the Main Department of the National Police in the Dnipro oblast registered criminal proceedings under Part 1 of Art. 367 of the Criminal Code of Ukraine against officials of the Municipal Institution «Dnipro City Clinical Hospital of the Dnipro Oblast Council» who, due to negligent performance of their official duties, did not include in the payment under lease agreements with business entities the costs of reimbursement of utilities for the common area and operating costs, which led to material damage.

12. Failure to properly perform official duties to preserve the property of the healthcare facility, which causes its rapid depreciation and loss. For example, the use of motor vehicles in the hospital of the city of O in violation of the technical conditions for their use and storage led to their premature failure, which made it impossible to continue their operation without expensive overhauls, which were carried out at the expense of the budget, causing significant damage.

13. Misappropriation of budgetary funds allocated for the state programme on organ transplantation.

The existence of this method is possible due to the lack of appropriate legislative regulation in this area, and in some cases, the relationship with

human trafficking. Scientists emphasise the extremely important role of international law enforcement organisations, namely Interpol, in coordinating efforts in the fight against human trafficking, in particular, for gaining operational experience, exchange of scientific and technical information, etc.

14. The method of misappropriation of budgetary funds provided to finance certain services under the programme of medical guarantees for the population is becoming more widespread. The offenders, acting by prior conspiracy, misappropriate funds allocated from the State Budget and transferred through the National Health Service of Ukraine to healthcare institutions under various schemes, here is one of them. An agreement is concluded between a business entity and the National Health Service of Ukraine to finance certain services under the programme of medical guarantees for the population. Subsequently, the perpetrators enter false information into the electronic healthcare system about the services actually provided to patients, which gives grounds for the NHSU to pay extra funds to the hospital's account, which are subsequently misappropriated by the perpetrators.

15. Use of discounts for goods in the form of a «debit-credit note». When committing crimes on the territory of several states, offshore companies are often used to falsify supporting documents on the origin of goods, their real value, quality, including invoices, manufacturer's declarations, international contracts, certificates of origin, cargo and customs declarations, packing lists, etc. The scheme of artificially inflating the cost of medicines and medical devices by importing companies by providing discounts for goods, the price of which is subsequently changed by the supplier using a «debit-credit note», is becoming more widespread. In other words, under the terms of the agreement, the goods are delivered to the customs territory at an inflated price and sold for budgetary funds by a healthcare facility. The supplier then sends the buyer, depending on the state of settlement, a «debit note» or a «credit note», according to which the buyer is actually granted a discount for the goods that have actually been sold to healthcare facilities at an inflated price. Excess profits are then embezzled, most often using the services of minimisation companies.

16. Methods of misappropriation of budget funds in the fight against coronavirus infections. In the context of the pandemic, the state created conditions for simplifying the bidding procedure, which was used by criminals and increased the number of offences in this area. It is worth noting the widespread scheme of procurement of medicines, medical devices and high-value medical equipment without competitive procurement, i.e. under direct contracts, which results in the purchase of these goods at an inflated

price, causing losses to the budget. Officials, using the provisions of CMU Resolution No. 225 of 20.03.2020, deliberately evade bidding for goods that are not related to combating acute respiratory infection Covid-19, thereby making purchases at an inflated price and stealing budget funds in collusion with suppliers.

In addition to this, other methods mentioned above are used, either individually or in various combinations. For example, during the global pandemic, a widespread scheme of misappropriation of budget funds by making a 100 % prepayment for medical products that have not been delivered to a healthcare facility. Cases of illegal trade in medicines, hand and room disinfectants, medical masks, gloves, etc. have become widespread. Despite the legal restriction on the export of anti-epidemic goods during the global pandemic, the illegal export of this group of goods abroad has increased, causing a significant shortage in Ukraine.

Given the above methods, it is clear that the range of persons who may be involved in committing crimes in the public healthcare sector is limited. Thus, we consider it necessary to systematise the ways of committing the crimes under study depending on the subject as follows:

- 1) medical representatives of a healthcare institution (chief physician and his/her deputies, etc);
- 2) other representatives of the healthcare facility (accountants, chairman and members of the tender committee, etc) ;
- 3) suppliers of goods or contractors of ordered works;
- 4) representatives of state controlling bodies (antimonopoly committee, state service of medicines, etc) ;
- 5) representatives of state and local authorities (heads of united territorial communities, cities of regional significance, districts, etc);
- 6) representatives of key and lower-level spending units (heads of healthcare departments and offices).

Given that healthcare institutions not only provide medical services to the population, but also have to ensure their functioning, we believe it is appropriate to distinguish the ways of committing crimes depending on the economic classification of budget expenditures:

- medical equipment, medical devices, medicines,
- medical services,
- salaries, bonuses, other remuneration;
- construction,
- food products,
- energy, heat and water supply, etc.

Of course, the methods of committing these crimes are changing in line

with modern transformations and it is impossible to foresee all of them. That is why practitioners and researchers need to be aware of the status of healthcare reforms.

Thus, when considering such an important element of the forensic characterisation of crimes related to public healthcare financing as the method, the author takes into account its three-tier structure, in particular, preparation, direct commission and concealment. It is found that the methods of preparation for a crime are quite difficult to distinguish from the method of their direct commission (i.e., obtaining the opportunity to bring the criminal intent to completion). The methods of concealment usually consist in destroying or altering the relevant documents. Given the scientific achievements, the concept of the method of committing crimes related to the illegal use of budgetary funds in the healthcare sector has been clarified. Among a significant number of methods of committing budget crimes known to law enforcement officers, the author identifies those which are inherent in this category of crimes in the current context. It is noted that as a result of legislative changes, the methods are constantly changing and improving, and therefore some of them, studied by scholars, are gradually losing their relevance and are hardly used. We have tried to systematise and describe the effective typical methods according to various criteria: depending on the subject of the offence, the nature of the unlawful acts committed; the subject of the criminal offence; the type of financing of healthcare institutions; and the economic classification of budget expenditures.

***Trace evidence of a crime.*** It is well known that any crime leaves certain traces. Clarification of the trace pattern is necessary not only to establish the mechanism of criminal offences, but also other elements of forensic characteristics (methods, place, time, identity of the offender).

The trace pattern of economic crimes differs significantly from such property crimes as theft, robbery, assault, etc. Crimes related to the illegal use of budgetary funds in the healthcare sector are no exception, but their specificity should be noted.

As a rule, forensic scientists focus on documents when studying the trace evidence of budget crimes. We believe that the modern approach to the types of traces should be significantly expanded, taking into account the scientific achievements of predecessors.

Thus, there are different definitions of the concept of traces of crime, but this issue remains controversial both before and now.

Thus, the prominent criminologists noted that in a broad sense, traces of a crime are any material consequences of a crime, changes in the external environment.

We consider the definition of Saltevskiy to be more acceptable in relation to economic crimes. The scientist noted that the traces of a crime are the result of the reflection of the past presented in the present. These are ideal and material reflections that are sources of data, information for knowledge of the crime event.

According to Matusovskiy, the forensic feature of economic crimes is traces that are the result of criminal acts of the relevant subjects encroaching on economic relations and with a greater or lesser degree of probability indicate the event of a crime of this type, perpetrators, time, place, manner and other circumstances relevant to the detection, investigation and prevention of such acts. The scientist notes that traces of economic crimes are manifested in the following features: a) types of traces; b) their combination, interconnection; c) frequency of detection; d) localisation (place of formation, location, possible detection); e) movement (turnover of funds, material assets, documents).

However, the issue of classification of traces is more uncertain. Previously, criminologists focused on mental and material traces and their varieties. Moreover, the latter were considered more significant due to their greater durability. Recently, more and more attention has been paid to virtual traces (computer, digital, electronic, etc), although some authors deny their existence, justifying the specifics of their origin from the point of view of physics.

Without going into the depths of the formation of virtual traces, we note the results of interviews with practical officers. They showed that during the detection of crimes of this category, in 100 % of cases, traces of a material nature (objects, substances, reflections) were found, as well as those contained in the content of documents; in 68% of cases – virtual traces (in electronic documents, sites of open information on procurement, IP-telephony); in 56 % of cases, traces were preserved in the mental images of witnesses, eyewitnesses (left in the memory of healthcare workers, employees of the supplier or contractor, tenderers). Let us look at the specifics of each type.

So, based on the generally accepted classification of material traces in the narrow sense (traces-objects, traces-substances and traces-reflections), let us consider how they can manifest themselves in crimes related to the illegal use of budgetary funds in the healthcare sector.

Based on the materials of the study of criminal cases and proceedings, it should be noted that trace objects are presented in the form of documents, various medical equipment (X-ray machine, ultrasound machine, pressure measuring device, etc.), construction materials used in the reconstruction of

healthcare facilities, medical devices (needles and syringes, cotton wool, gauze, masks, gloves), medical furniture, special food for patients, etc. Trace substances are represented by a variety of medicinal products, including solutions, substances, medicines, drugs, medicines, homeopathic remedies, etc.

The following case is a typical example of a crime detection based on trace substances. It was noticed that a healthcare facility had purchased an ethyl alcohol medicine at a very low price (approximately UAH 16 per 100 ml bottle). At the same time, the cost of the manufactured bottle is more than UAH 26 (including excise duty per bottle, the cost of the bottle, label, cap, alcohol; not including labour, taxes, transportation, depreciation of equipment, etc.) Subsequently, it was established that the medicinal product was counterfeit, namely made from alcohol that was intended for the manufacture of tinctures. In such circumstances, no excise duty is charged on alcohol. In this case, the state loses money in the form of non-payment of mandatory payments to the budget.

Traces-reflections are quite rare in this category of crimes. Examples include X-rays, magnetic resonance imaging scans, ultrasound scans, etc.

For example, in 2009, the Ministry of Healthcare procured fluoroscopes with certain characteristics that would allow for high-quality images of patients' internal organs. However, the supplier manufactured and supplied equipment with inadequate characteristics (the strength of the X-ray radiation was significantly lower than stated), which did not allow for high-quality images and early diagnosis of diseases. Thus, the state suffered particularly large losses.

Of course, a special place among trace objects is occupied by documents. Volobuiev rightly notes that from the forensic point of view, documents are considered primarily as an effective trace material, which is of great importance as a source of evidence in the investigation of various economic crimes.

The classification of documents used in the commission of budget crimes has been fully considered by criminal scientists. When investigating these crimes, we consider it appropriate to conditionally divide them into two groups: 1) those committed by a healthcare facility and 2) those committed by a provider or contractor. In each case, these may be different documents: contracts, additional agreements, specifications, design and estimate documentation (resource lists, project, estimate), financial obligation, acts of acceptance and transfer of completed works, acts of commissioning of equipment, waybills, invoices, payment orders, manager's estimate, procurement plan, etc.

It should be noted that written documents leave traces in the form of



signatures, manuscripts, stamps and stamps, printed text, etc. Undoubtedly, these are all material traces. However, written and electronic documents in the investigation of these criminal offences also contain economic, accounting and other data.

Defining a document, Razumov notes that it is a material medium of information that contains information about the circumstances of the case. This information has the appropriate semantic content and can be recorded in verbal (in the form of written messages, sound recordings) and visual and figurative forms (in the form of graphic, photographic images).

Forensic scientists who have studied economic crimes in general and in the field of budget, in particular, always indicate the content of documents when describing the trace pattern. Thus, Stepaniuk focuses on the study of the following features in the documents:

a) inconsistency of data on the distribution, purpose, amount of budget funds in lower-level planning documents (estimates, plans for the use of budget funds, etc.) with the directions specified in higher-level planning documents (budget schedule, appropriation plan, budget of a higher institution);

b) inconsistency of data on the distribution, purpose, amount of budgetary funds in accounting, management, treasury documents, business correspondence with the directions specified in regulatory legal acts and planning documents;

c) inconsistency of data on the amount, distribution, and purpose of budget funds in different copies of the same document or in different documents reflecting the same economic, financial, or regulatory transaction;

d) inconsistency of the data on the areas of activity of the institutions receiving budgetary funds in the constituent documents with the goals financed from the budget, as defined in the regulatory legal acts and planning documents;

e) inconsistencies in the content or form of one document, i.e. signs of its forgery;

e) inconsistency of the data specified in the minutes of meetings of collegial bodies that made a certain decision on the budget with the data established in the regulatory (administrative) act issued by the official for the purpose of implementing this decision.

A. Volobuiev also notes that documents as sources of evidence in the investigation of embezzlement and related crimes can be investigated and used in several aspects

a) from the point of view of the significance of the facts recorded in the document (for example, in the charter of an enterprise, a licence to engage in

a certain type of business activity, etc;)

b) in order to determine the method of making a document (for example, by assigning a technical and forensic examination of a forged document);

c) in order to identify the person who wrote (signed) the document, or whose voice and speech are recorded on a magnetic storage medium (by assigning an appropriate forensic examination).

Pogoretskyi, Vakulik and Serhiieva also draw attention to the existence of different types of document examination and distinguish between logical and technical. Technical examination reveals signs of complete or partial forgery of a document. In the case of logical examination, the correspondence of its content to the facts of objective reality is established.

The analysis shows that scientists always distinguish the content of documents separately from material forgery. In the investigation of crimes related to the illegal use of budgetary funds in the healthcare sector, such traces contain facts of misuse of funds, embezzlement, misappropriation of state property, etc. and are an integral part of the evidence base of these crimes. Often, they require additional assistance from certain specialists who use a different approach to the investigation. In our opinion, since they do not reflect the characteristics of the trace object, they cannot be recognised as material traces. Therefore, we propose to distinguish them into a separate group of intellectual traces.

A relatively new type of trace is virtual traces, sometimes called digital or electronic traces. Despite all the controversies that exist regarding this type, they are widely used in the investigation of these crimes. In this paper, we do not focus on the difference between these concepts and their correlation and treat them as synonyms. And given the basic concepts provided by the Law of Ukraine On the Basic Principles of Ensuring Cybersecurity of Ukraine (in particular, cyberspace or virtual space as an environment that provides opportunities for communication and/or implementation of social relations, formed as a result of the functioning of compatible (connected) communication systems and electronic communications using the Internet and/or other global data networks), we consider it appropriate to use the term «virtual» traces.

Thus, virtual traces are any change in the state of an automated information system associated with a crime event and recorded in the form of computer information. Such traces occupy a conditionally intermediate position between material and ideal traces.

As noted by E. Khyzhniak, they do not have a material form of existence, exist only on technical media and have a complex information

structure, which, along with significant criminally relevant information, contains a significant amount of auxiliary data responsible for the integrity and availability of computer information of the virtual trace.

Such traces are left in computer equipment in the form of draft documents, electronic correspondence, electronic gadgets, websites of open information on procurement (Prozorro, Derzhakupili Online, Zakupki UA, Tender Online). They are used to communicate between the parties involved via messengers, IP telephony, etc.

Y. Nayden quite fully highlights the possible use of such types of traces, including: 1) e-mail account. Virtual traces may be left here in the form of correspondence on the creation and dissemination of pornographic information; 2) website. These are usually popular resources on the Internet; 3) profile in social networks (VKontakte, Instagram, Facebook, Odnoklassniki, Twitter, etc.); 4) account in electronic payment systems (Qivi-wallet, Yandex.Money, Perfect Money, etc.); 5) database (of telecommunications operators' subscribers, etc.); 6) local network. It allows access to the resources (programs, files, folders, etc.) of all computers connected by cables (telephone lines, radio channels); 7) computer. The hard drive contains information about switching it on, using various materials, sending invoices, and performing other manipulations. Due to the operation of the computer's memory, information about the activity of the operating system resources is stored, so it can be used as a source of evidence in criminal proceedings.

For the correct detection, fixation and removal of traces, it is necessary to understand the mechanism of their trace formation. D. Pashnev points out that computer traces are formed at three levels of computer information representation:

- 1) physical, where physical fields act;
- 2) logical, where computer programmes operate;
- 3) content, where people act with the use of software and hardware.

To detect and remove virtual traces, operational and investigative measures, covert and public investigative (detective) actions are carried out. According to Knyazev, the possibility of their independent conduct by the investigator will contribute to procedural economy, since the investigator in some cases is exempted from giving instructions to operational units, waiting for their consideration and results. At the same time, it is impossible for the investigator to independently conduct certain covert investigative (detective) actions.

Sticking to the point of view of the scholar, it should be noted that operational officers are not always able to perform certain actions. To do this,

they often involve specialists from the operational and technical department, the department for combating cybercrime.

For example, when studying the documents of bidders for the procurement of medical equipment in the public domain on the Prozorro website, they often find very similar documents. In this case, it is important to establish whether they are sent from the same IP address, which will be evidence of a violation of procurement legislation.

In order to reveal the full trace picture of these crimes, we should also note imaginary traces. In forensic science, they are also known as ideal traces, i.e. traces that have been preserved in the memory of witnesses, eyewitnesses of the crime.

We support the opinion of R. L. Stepaniuk, who notes that the main carriers of material traces of budget crimes are documents, but ideal traces are also of great importance—mental reflections in the memory of eyewitnesses of criminal acts, which should be divided into groups depending on their place of work, position, nature of official powers and personal relations with the perpetrator. In the investigation of these crimes, we have identified mental traces in memory: employees of healthcare facilities, both medical and accounting staff; employees of the supplier or contractor; tenderers, etc.

Summing up, we note that when considering the issue of traces of crimes related to the illegal use of budgetary funds in the healthcare sector, material traces in the narrow sense include 1) traces-objects presented in the form of documents, various medical equipment (X-ray machine, ultrasound machine, pressure measurement, etc.), construction materials used in the reconstruction of healthcare facilities, medical devices (needles and syringes, cotton wool, gauze, masks, gloves), medical furniture, special food for patients; 2) traces-substances presented by various medicines, including medicines, medicines, solutions, substances, homeopathic remedies; 3) traces of reflection (X-ray images of ultrasound examination devices, magnetic resonance tomography).

Particular attention among the trace objects is paid to documents. Based on the analysis of scientific developments, it is proved that most of them distinguish material forgery (signatures, manuscripts, seal and stamp impressions, printed text) separately from the content of documents (economic, accounting data, etc.). Such traces contain the facts of misuse of funds, embezzlement, misappropriation of state property and are an integral part of the evidence base of these crimes, but do not reflect the characteristics of the trace object and cannot be recognised as material traces, so we have identified them as a separate group of intellectual traces. Today, virtual traces

are widely used as evidence in the investigation of these crimes, which are left in computer equipment in the form of draft documents, electronic correspondence, electronic gadgets, websites of open information on procurement (Prozorro, Derzhakupili online, ZakupkiUA, TenderOnline), used for communication between accomplices via messengers, IP telephony, etc.

Ideal or imaginary traces are traces preserved in the memory of healthcare workers (both medical and accounting staff), employees of the supplier or contractor, and tenderers.

Thus, in the investigation of crimes related to the illegal use of budgetary funds in the healthcare sector, a specific trace pattern remains, a clear understanding of which, together with other elements of forensic characteristics, will serve as the basis for planning the investigation, conducting further investigative (search) actions, and involving knowledgeable persons in certain areas.

*Carrying out separate procedural actions.* When detecting crimes and forming an evidence base, law enforcement agencies must use legal means, methods, and measures. Among the variety of ways and means of establishing the truth in a case, the most important place belongs to investigative (detective) actions, including investigative inspection and search.

A survey of detectives and investigators specializing in the investigation of budget crimes, and taking into account the data from the criminal cases and proceedings studied, found that the following investigative (detective) actions were mainly carried out in the detection of crimes related to public funding of the healthcare sector: interrogation – 100 %, assignment of examinations – 100 %, investigative examination – 77 %, search – 53 %, identification – 9 %, investigative experiment – 6 %. At the same time, the majority of respondents indicated the need to involve a specialist during a search (76 %) and examination (87 %). However, the assistance of a specialist during interrogation was almost never used (3 %) and was considered inappropriate.

## **10.2. Participation of a specialist in certain procedural actions**

Given the results obtained and based on the achievements of scientists, we will consider the participation of a specialist during the inspection and search. As for the participation of a specialist during interrogation, this form of specialized knowledge is used in the investigation of criminal offences. However, when exposing crimes related to public funding of the healthcare

sector, the investigator or detective acting on behalf of the investigator, firstly, must already be prepared for this investigative (detective) action, and secondly, the presence of a third party may interfere with the confession of the suspects. In such circumstances, we believe that it is advisable to plan such a form of use of specialized knowledge as advisory assistance before the interrogation, rather than involve a specialist directly during the interrogation.

There is a certain specificity of the examination, depending on the type of crime, but the main goal is always to identify, record and seize the investigative information of a criminal offence.

The investigative examination has been the subject of research by a number of criminalists and proceduralists. The procedural basis is Article 237 of the CPC of Ukraine. However, in practice, certain problems arise regarding the knowledgeable persons involved in its conduct, the sequence of certain actions, etc.

Studying the experience of foreign colleagues, it should be noted that in any examination of a crime, along with detectives and law enforcement officers, not only one specialist, but a group of specialists in various fields works at the scene: photography, video recording, search and removal of traces, reconstruction of the scene, etc. At the same time, special protective clothing and footwear, respirators, and goggles prevent the possibility of spoiling traces or leaving their own. Of course, in our country it is planned to train a wider range of specialists, but it is impossible for one specialist to simultaneously perform the necessary actions and record them on a photo or video camera, as provided for by the current criminal procedure legislation.

The scientific position of Ihor Pyrih, who also proposes to involve a group of specialists from different fields of knowledge for the review, is reasonable. The scientist suggests that a group of specialists should be involved in the work of the JIT, using the preliminary information of patrol police officers. The first investigator to inspect the object records the general situation at a static stage in the protocol. Simultaneously with the inspection, photo and video recording is carried out. The investigator determines the tactics and methods of inspecting the scene and the area where the participants can move without disturbing the situation and traces of the crime. The investigator makes this decision after consulting with specialists, taking into account the variety of traces and the specifics of their location. When detecting, recording and seizing material objects that bear trace information of a criminal offence, specialists establish the sequence of actions of the offender during the commission of the crime. Based on the results of the activities of specialists, it is proposed to draw up a certificate indicating all

their actions, technical and forensic means used in this case, methods of research and results obtained and to draw up such a document as an appendix to the inspection report.

Unlike other crimes, an investigative review in the detection of crimes related to public financing of healthcare is not a primary investigative (detective) action. The investigator and the detective already have enough information about the type of investigation and the specialists to be involved. In particular, when investigating crimes of this category, the objects of inspection are not only a certain place, but also specific equipment, documents, etc.

*An example is the following case. A hospital purchased a digital fluoroscope. Employees of the operational units had doubts about the compliance of its technical parameters with those specified in the technical documentation, which led to its lower cost. To establish the actual data, an inspection of the medical equipment was conducted. A specialist was engaged to determine the medical and technical parameters, technical capabilities, connection and functioning of the fluoroscope, who was a medical radiologist. During the inspection, he found that the technical parameters of the fluoroscope did not correspond to the power of the X-ray emitter, which was subsequently taken into account when calculating budget losses, which amounted to more than 500,000 thousand UAH.*

The results of the study of criminal cases and proceedings showed that the objects of the investigative inspection are: medical equipment (magnetic resonance imaging, artificial lung ventilation devices) – 29 %, medicines – 25 %, medical devices (blood transfusion systems, syringes, gloves) – 30 %, construction objects and materials – 36 %, food – 15 %, etc..

It is clear that in the course of investigating crimes related to public funding of the healthcare sector, in 100 % of cases, documents are the objects of investigative inspection.

During the inspection of the above-mentioned objects, regardless of the experience of the investigator and detective in this area, it will be useful to consult with various specialists – economists, doctors, builders, handwriting experts, etc.

During an investigative inspection of various facilities, it is possible to involve specialists from both governmental and non-governmental institutions, which have their own advantages and difficulties.

Among the peculiarities of involving specialists from non-governmental institutions is the fact that they are often reluctant to come to the investigator's call to participate in the inspection. Often, the explanation

for this is: firstly, unwillingness to provide such services free of charge, secondly, unwillingness to participate in the pre-trial investigation at all, and thirdly, they are not actually responsible for refusing to participate in investigative (detective) actions. Thus, Article 72 of the CPC of Ukraine provides only for the liability of a specialist in case of failure to appear in court without valid reasons or failure to notify the court of the reasons for failure to appear. The court shall bear all expenses related to the adjournment of the court session. No such obstacles arise when engaging specialists from the Criminalistics Department of the National Police of Ukraine or employees of the Expert Service of the Ministry of Internal Affairs of Ukraine as experts. But such institutions do not always have specialists in the required field of knowledge.

### **10.3. Use of forensic examinations in the investigation of crimes related to state financing of the healthcare sector**

A specific feature of crimes related to public financing of the healthcare sector is the fact that they are committed with the help of certain documents. Therefore, it is important to pay special attention to their study and review as part of both investigative (search) actions and measures to ensure criminal proceedings.

Examination of documents is an investigative (detective) action that consists in their study and research in order to identify and record the features that give the documents the value of material evidence.

The classification of documents used in the commission of budget crimes has been sufficiently considered by criminalists. Based on their opinions and the experience of practitioners of units that investigate crimes in the budgetary sphere of the healthcare sector, we have conditionally divided them into two groups: 1) those executed by the healthcare institution and 2) those executed by the supplier or contractor.

In each case, these may be different documents. Typical documents to be reviewed include: contracts, supplementary agreements, specifications, design and estimate documentation (resource lists, design, estimate), financial obligation, acceptance certificates for completed works, equipment commissioning certificates, waybills, invoices, payment orders, manager's estimate, procurement plan, etc.

The diversity and specificity of these documents can be confirmed by the following example from the Unified Register of Court Decisions. PERSON\_1, being an official in the position of chief accountant of the



children's specialized sanatorium «B» (EDRPOU code 019881945), according to the order No. 82-k of 26.11. 2008, assigned to the position of chief accountant, by abusing her official position in the period from June 2009 to September 2009, she unreasonably transferred funds from the account of DSS «B» to PERSON\_2, PERSON\_3, in addition, PERSON\_1 received her salary both to a bank card and at the cash desk of the sanatorium.

Starting in June 2009, payroll statements were submitted to the bank without the signature of the sanatorium's cash manager, the chief physician PERSON\_4, and the information in these statements and those available to SSS B contained differences. After the payroll accountants calculated the salaries and after they were signed by the chief doctor of the sanatorium, the chief accountant PERSON\_1 personally entered deliberately false information into the statements, as a result of which the salaries were paid to persons with whom no employment contracts were concluded by SSS B, namely: PERSON\_2 and PERSON\_3 In addition, as a result of these actions, PERSON\_1 received a salary both on a bank card and at the cash desk of the sanatorium, and the amount of the salary significantly exceeded the amount according to the staffing table. As a result of these abuses, PERSON\_1 caused damage to the children's specialized sanatorium «B» in the amount of UAH 37,723.77.

*The defendant's guilt in committing the crime is also confirmed by other evidence examined in court, namely a statement by the chief physician of the Children's Specialized Sanatorium «B», in which he reports that PERSON\_1 personally entered deliberately false information into the records, as a result of which wages were paid to persons who were not enrolled in the staff, a copy of the certificate of state registration of the legal entity Children's Specialized Sanatorium «B» a copy of the charter of the Children's Specialized Sanatorium «B»; copies of payment orders, copies of statements for the payment of money, a certificate from the SSC «B» stating that PERSON\_2 and PERSON\_3 have never worked and are not currently working at the Children's Specialized Sanatorium «B»; a copy of the job description of the chief accountant of the children's specialized sanatorium «Barvinok» and a copy of order No. 00, according to which PERSON\_1 was hired as chief accountant; copies of the staff list of the children's specialized sanatorium «B», copies of payrolls; an act of unscheduled audit of certain issues of financial and economic activity of the children's specialized sanatorium «Barvinok», according to which the total amount of illegally paid wages for the period from 01. 06.2009 to 31.08.2009 amounted to UAH 37,723.77; copies of Nadra Bank' information on the receipt of funds, copies of cash receipts, and a copy of the chief*

*accountant's payroll.*

Analyzing the above example, there is a variety and large volume of documents that the investigator needs to work with carefully. In order to conduct a qualified review of documents as material evidence in the investigation of economic crimes, we have already proposed the following recommendations in previous scientific works:

- examination of their general appearance and condition;
- studying the details of individual documents, in particular: organization code, document form code, name of the organization (structural subdivision of an institution, institution, organization), reference data on the agricultural enterprise, title of the document, date of its preparation (registration), registration index (serial number), resolution of the authorized person, main text, personal signature, seal, etc;
- determination of documents belonging to certain groups (categories);
- determining their intended purpose;
- establishing the circle of persons who had the right to certify specific documents with their personal signature and (or) seal of the agricultural enterprise (institution, institution, organization). After all, as is well known, when studying documents, it is important to determine the relationship of links in the system «document–fact reflected in it–document executor».

But their volume and specific data may require additional knowledge, so during the inspection, search, temporary access to things and documents, there is a need to involve specialists from different fields. In this case, it is necessary to separate the study of the content of documents and their external examination.

Some forensic experts distinguish two types of document examination: logical and technical. During the technical examination, signs of complete or partial forgery of a document are identified, while during the logical examination, the compliance of its content with the facts of objective reality is established.

Of course, it is advisable to use a variety of technical equipment such as magnifying glasses, microscopes, ultraviolet and infrared illuminators, etc., the skills of which are possessed by forensic specialists. In particular, special attention is paid to columns with signatures, manuscripts, seal and stamp impressions, methods of applying printed text, etc. As a rule, at the stage of pre-trial investigation, experts in handwriting and technical examination of documents of the Expert Service of the Ministry of Internal Affairs of Ukraine are involved as such specialists. However, the Law does not exclude the possibility of involving other knowledgeable persons.

The logical examination of documents requires the assistance of

specialists in economics, accounting, commodity research, construction, medicine, etc.

Investigators rarely involve specialists in conducting investigative (detective) actions, which cannot but negatively affect the course of the investigation. The scientist notes that in the investigation of crimes in the field of economic crime, only 63 % of cases involved a specialist accountant during the review of documents.

Some authors emphasize the direct participation of a specialist accountant during an investigative (search) action or a measure to ensure criminal proceedings. At the same time, the specialist often provides new, little or no information known to the investigator, which significantly affects the further investigation. Comparison of unofficial records of mutual settlements with comparative information, inventory acts, consolidated reports and other accounting documents can help the investigator to more accurately establish the amount of material damage and correctly delimit the material liability of individuals.

Particular attention in the investigation of crimes of this category is paid to the study of medical documents. These include: sick leave certificates, driver's medical certificates, certificates of mental health of the patient, a narcologist's certificate, conclusions of specialized doctors, conclusions of the medical and social expert commission, etc.

The distribution of official correspondence in electronic form often requires the involvement of specialists in the field of computer technology. In such cases, it is necessary to correctly determine the required volume of electronic objects to avoid complaints from the prosecution. It is also important to properly pack the seized objects.

It should be noted that healthcare institutions use part of their budget funds to ensure the maintenance of buildings and infrastructure of medical institutions, so there are frequent cases of abuse in the field of construction. Any construction experts, both public and private, licensed expert institutions, are engaged as specialists. Unlike an economist, these specialists examine the design and estimate documentation (the project itself, drawings, diagrams, pictures, information), the scope of work performed, their compliance, the compliance of the materials used, the stages of work performed, the mechanisms and labor involved, etc.

Thus, when investigating crimes related to the illegal use of budgetary funds in the healthcare sector, certain documents are necessarily used. For their qualified study, along with a specialist in the field of forensic handwriting and technical examination of documents, the assistance of an economist, a medical specialist, a computer specialist, a construction

specialist, etc. is required.

When investigating budgetary crimes committed in the healthcare sector, a search is necessary in almost every criminal proceeding to find documents confirming the agreement between the supplier and the customer, abuse by senior management, drafts with information about the crime, computer equipment, funds obtained through criminal means, accounts, etc.

The legal basis is Article 234 of the Criminal Procedure Code of Ukraine. A search is conducted to identify and record information about the circumstances of a criminal offence, to find the instrument of a criminal offence or property obtained as a result of its commission, and to locate wanted persons.

When conducting a search for crimes related to public financing of the healthcare sector, unlike other crimes, the investigator and the detective already have enough information about the objects of the search and the specialists to be involved. In particular, when investigating crimes of this category, the objects (places) of the search are office premises, including offices of managers, their deputies, employees of economic departments, warehouses and utility rooms, official and private vehicles, land plots, private premises belonging to the suspects, their close relatives or persons from the circle of close communication.

The results of the study of criminal cases and proceedings showed that the objects of search are documents – 100 %, drafts – 82 %, funds obtained by criminal means – 78 %, medical equipment (X-ray equipment, magnetic resonance imaging devices, ultrasound diagnostic devices, artificial lung ventilation devices, laboratory equipment, etc., etc.) – 15 %, medicines – 18 %, medical products (blood transfusion systems, syringes, gloves, respiratory protection, dressings, disinfectants, etc.) – 16 %, computer equipment – 80 %, mobile phones – 76 %, construction materials – 23 %, food – 17 %, other – 9 %.

*In the context of the fight against the acute infectious disease Covid-19, in the spring of 2020, officials of the Department of Health of the Kyiv Regional State Administration signed a contract with a commercial entity for the supply of 15 lung ventilators for a total of UAH 10.5 million. The purchase of medical equipment was made to provide healthcare facilities in Kyiv region with the necessary equipment to prevent the spread of Covid-19 cases in the region. According to intelligence information, the officials transferred 100 % of the cost of the goods to the supplier's account, knowing that the terms of the contract would not be fulfilled. The pre-trial investigation also found that the employees of the private entity claimed to be the official representative of the Chinese manufacturer of the ventilator, while the money for the*

*medical equipment was transferred not to the accounts of this manufacturer, but to a company registered in Slovenia. Ten searches were conducted at the suspects' places of work and residence. Official documents, draft records, seals, cell phones, and laptops were seized.*

As the analysis of forensic literature has shown, the tactics of the search have always been the object of close attention from scholars. In our opinion, the organizational and tactical features of the search have been thoroughly researched. Given the specifics of our study, we propose to focus on the involvement of a specialist during a search for more professional obtaining of forensically relevant information and compliance of the recording of the said investigative (detective) action with legal requirements. Although a specialist is not a mandatory participant in this investigative (detective) action, practitioners and scholars emphasize its importance.

Analyzing the scientific positions of scientists, it should be noted that the actions of specialists depend on the stages of the search at which they were involved. During the investigation of crimes related to the illegal use of budgetary funds in the healthcare sector, in the course of preparation for the search, the function of specialists is to provide advice and prepare scientific and technical means, focusing on the features of the objects to be found. During the working stage, the specialists directly inspect medical equipment, examine medicines and medical devices, study available documentation, etc. When recording the results of the search, a specialist's assistance is especially needed in correctly describing the search objects seized during the search, highlighting their specific identification features.

A survey of practical officers found that during a search, they have difficulty taking pictures, as indicated by 48 % of respondents, filming – 36 %, seizing the necessary documentation and items – 41 %, packing – 24 %, describing them in the protocol – 18 %, and other – 9 %. All of these negative factors affect the quality of the search and the results obtained.

Thus, if certain items are improperly packaged in large quantities, or large equipment, it can be difficult to conduct an expert examination.

Special attention should be paid to the use of scientific and technical means during the search. In accordance with the current provisions of the CPC of Ukraine, regardless of whether the search is of a conflict nature or not, its course must be recorded on photo and video, which cannot be performed simultaneously by one specialist. In this regard, scientists offer different ways to solve the problem: the simultaneous use of several cameras, quadcopters, etc.

A laser 3D scanner is a scientific and technical tool that provides a comprehensive recording of all traces of the environment with an accurate

display of appearance, shape, measurement of distances between objects, their relative position and size. With the help of appropriate software, the use of a 3D scanner allows you to create an accurate photorealistic model of an area of terrain within a short period of time, to view it from any angle and distance, both as a whole and individual objects. It is also important that this software makes it possible to reconstruct the object and perform various operations with individual objects both in the 3D model and separately from it, import other three-dimensional objects into the 3D model of the scanned area to illustrate their location at certain intervals.

In addition to the equipment for photo and video recording of the search, specialists use magnifying glasses, microscopes, illuminators with different beams, measuring devices, etc. The use of the latest technologies ensures a more accurate, high-quality, fast reflection of the said investigative (detective) action and avoids disputes with the defence.

However, given all the advantages, the high cost of these devices causes their slow introduction into practice. In our earlier survey of investigators, detectives, experts and specialists (86 %), we found an insufficient level of provision of forensic equipment used in police departments. Of the total amount of digital technical means used, 70 % were not on the balance sheet of the MIA and only 28 % were registered.

Scholars note that recently, objects that necessarily require special knowledge to identify, record and seize are becoming objects of search. These are electronic information carriers and other computer equipment. The specialist determines the features of the computer environment, helps to inspect the functional part of the computer and external data carriers, as well as technical documentation.

The involvement of a computer technician is carried out in order to: search for and locate computer equipment (primarily information servers, electronic drives, video recorders, etc.), ensure the safety of information on electronic devices and prevent attempts to remotely delete electronic documents and information, preliminary inspection of computer equipment in order to establish the availability of information and electronic documents relevant to criminal proceedings, description and seizure of the said

The technical assistance of a specialist will also be useful when reviewing web pages and websites, user accounts in social networks with the subsequent storage and printing of a screenshot with forensically relevant information. A review of the web page hosting the website of a particular company, with further expert research in the field of telecommunications, makes it possible to study the content of information about the activities of certain entities related to the criminal offence, as well as to record the IP

address of the computer equipment used to manage the website and identify the Internet provider that provided access to the website. In order to prevent the incorrect seizure of computer and technical objects and to increase the qualitative significance of the expert's opinion as a source of evidence in criminal proceedings, we have identified the requirements that must be taken into account during a search, in particular

1) to examine the information contained on computer media, the computer media itself, as well as the computer system that includes the investigated media, shall be seized. In some cases, it is possible to limit the provision of only the computer storage medium;

2) research objects are provided in separate packages that make it impossible to access the storage media directly, connect the system unit to the power supply, or switch on the device. Such objects of study as mobile phones, tablet computers, GPS navigators, smart watches, video recorders, etc. are provided in separate packages (preferably in cardboard boxes) that make it impossible to accidentally or intentionally switch on the device in the package;

3) in order to establish the compliance of software products with certain parameters, it is advisable to immediately make a copy of the software product or software code under investigation, as well as to remove the technical documentation to them;

4) specific objects of research, such as video recorders, smartphones, tablet computers, must be seized with power supplies, as well as, if possible, with information on access passwords (access codes to the administration panel), graphic key data, digital PIN codes.

Particular attention should be paid to the search for certain documents. As we noted earlier, crimes related to public financing of the healthcare sector are always committed with the help of certain documents. Among the typical documents to be searched during the investigation are The search may include: contracts, supplementary agreements, specifications, design and estimate documentation, acts of acceptance and transfer of completed works, acts of commissioning of equipment, invoices, bills, payment orders, manager's budget, procurement plan, drafts, etc.

The documents found should be carefully examined. As Ishchenko rightly notes, the most thorough examination is required to establish whether the object found during the search is an instrument of crime or bears its traces. That is, in fact, two investigative (detective) actions are carried out simultaneously: a search and an examination.

Scholars note that documents are the basic link in the system of evidence in criminal proceedings of this category. When conducting a search,

pre-trial investigation authorities face difficulties in ensuring the use of documents in the evidence system, which can be overcome by solving the following tactical tasks:

- determining the list of categories of documents that reflect the circumstances of the bidding process and the determination of the winner, as well as financial and economic transactions related to the procurement procedure;
- establishing the location of the documents of various categories;
- selecting the procedural form of seizure of documents relevant to criminal proceedings;
- involvement of persons who will assist in determining the range of documents to be seized.

During the search, regardless of the experience of the investigator and detective in this area, it will be useful to consult with various specialists – economists, doctors, builders, handwriting experts, etc. who indicate possible signs of falsification (partial or complete), the purpose of the documents, their inconsistency or absence of certain parts, the meaning of specific terminology, violation of the order of preparation, etc.

The opinion of Medyantsev and Spuskanyuk is correct, as they note that when solving the task of involving persons who will assist in determining the scope of documents to be withdrawn, it is necessary to proceed from the fact that such information is best possessed, in particular, by employees of the State Financial Inspection who have experience in conducting inspections of public procurement. Of course, there may be organisational difficulties in engaging such employees, as the State Financial Inspection bodies have their own planned work and tasks and, as a rule, do not want to distract their specialists from their work. Therefore, it is advisable to engage the relevant specialists through the use of the powers of the prosecutor, who is in charge of procedural guidance of criminal proceedings. As a last resort, it is advisable for the investigator to at least consult an experienced specialist of the State Financial Inspection.

The assistance of a specialist accountant is also of great importance. Thus, Volobuiev notes that during a search at the workplace, the investigator may receive answers to the following questions from an accountant specialist

- the type of document found;
- who is responsible for its preparation;
- where is the usual place of storage of this document;
- where other copies of the discovered document or other related documents may be stored, etc.

A specialist accountant can draw the investigator's attention only if he



or she is directly involved in investigative (detective) actions. In this case, the specialist often provides new, little or no information that is unknown to the investigator, which significantly affects the further investigation. Comparison of unofficial records of mutual settlements with comparative statements, records of mutual settlements with comparative statements, inventory acts, consolidated reports and other accounting documents can help the investigator to more accurately establish the amount of material damage and correctly delimit the material liability of individuals.

In some criminal proceedings, it is impossible to conduct a qualified search without specialists with medical knowledge. Given the specific medical terminology, there is usually a need to clarify certain statements in documents that can be used as evidence.

*For example, in 2018, criminal proceedings were registered against officials of the medical and social expert commission who, in violation of the law, unreasonably recognised people as disabled in order to obtain undue advantage and receive cash payments from the state budget. On the basis of a court order, police officers seized the medical files of certain persons who had been subject to this commission. As it would have been irrational to seize all the files, law enforcement officers needed special medical knowledge of the diagnoses described, the grounds for determining persons as disabled, the specific disability group, the completeness of the necessary documents confirming the diagnoses, and signs of falsification of the diagnosis, and there was a need to involve specialists, including employees of medical institutions and the Bureau of Forensic Medicine. They provided consultative assistance by reviewing medical records and pointing out documents that showed signs of data falsification. Out of several thousand medical files, about two hundred were withdrawn that showed signs of inconsistency and were subsequently subjected to forensic medical examination to confirm the diagnoses.*

The involvement of medical professionals as specialists is necessary not only when examining specific medical records, but also when searching office premises and seizing medical equipment, medical devices, etc. In addition to investigative (detective) actions in this category of cases, measures to ensure criminal proceedings are mandatory. According to the results of interviews with practitioners and analysis of criminal cases and proceedings, these include: temporary access to things and documents – 100 %, temporary seizure of property – 40 %, seizure of property – 47 %, detention of a person – 15 %, preventive measures – 60 %. At the same time, the participation of a specialist was necessary during temporary access to things and documents.

The functions of specialists in conducting temporary access to things and documents are somewhat different from the investigative (detective) actions under consideration. Since only the documents specified in the court order are provided by the institution, agency or organisation, the specialist can only evaluate them. Unlike during a search, where they can insist on seizing other necessary documentation. We have focused on this important issue in previous studies and proposed to include in the provisions of the CPC of Ukraine a provision that would allow for an immediate search in cases where the person in possession of things and documents refused to comply with the investigating judge's decision on temporary access to such.

To summarise, during the inspection, search on the facts of abuse related to the illegal use of budgetary funds in the healthcare sector, during temporary access to things and documents, there is a need to involve a group of specialists from different fields. At the same time, there are certain differences in the involvement of specialists from state and non-state institutions to conduct public and covert investigative (detective) actions, provide consultations, prepare materials for examination, etc. Among the objects of inspection (medical equipment, medicines, medical devices, construction objects and construction materials, foodstuffs), special attention is paid to documents conditionally divided into two groups: those issued by a healthcare facility and those issued by a supplier or contractor. The author provides recommendations for their review, focusing on the study of the content (economic, medical, construction components) and material (signatures, manuscripts, printing method).

### ***Peculiarities of the assignment and conduct of economic and commodity examinations***

Crimes related to the illegal use of budgetary funds in the healthcare sector are committed by highly educated persons (officials, employees) and have their own specifics. For a successful investigation, pre-trial investigation bodies need additional knowledge in the fields of economics, medicine, construction, etc. When it comes to the use of specialised knowledge, both practitioners and academics pay considerable attention to the assignment of forensic examinations. This fact is confirmed by the analysis of questionnaire data from a survey of practitioners of the National Police of Ukraine who investigate this category of crimes. It showed that in almost all cases, certain types of forensic examinations were ordered.

The legal, organisational and financial basis for forensic expert activity in order to ensure that the justice system of Ukraine is provided with independent, qualified and objective expertise focused on the

maximum use of the achievements of science and technology is provided by the Law of Ukraine «On Forensic Expertise». The law also defines forensic examination as a study based on special knowledge in the field of science, technology, art, craft, etc. of objects, phenomena and processes in order to provide an opinion on issues that are or will be the subject of court proceedings.

The procedural basis is Art. 242 of the CPC of Ukraine, which has been amended and supplemented several times recently. As of today, the examination is conducted by an expert institution, expert or experts engaged by the parties to the criminal proceedings or the investigating judge at the request of the defence in cases and in the manner prescribed by Article 244 of this Code, if special knowledge is required to clarify circumstances relevant to the criminal proceedings. Changes in the procedural legislation complicated the process of assigning forensic examinations, especially economic, handwriting and other types of expert studies, which led to an increase in the timeframe for their conduct. Forensic examinations may be ordered by the investigator, which greatly facilitates the quality preparation of comparative material and the conduct of a thorough and timely investigation.

As we noted earlier, the organisation of a forensic examination begins with the investigator's decision on the need for its assignment and consists of the following stages: selection of an expert institution or private expert, determination of the type of examination and subject matter, selection of the time of assignment of the examination and objects for examination, issuance of a decision on the assignment of an examination, sending the decision and the necessary materials to the expert institution.

According to a number of scholars, in cases of crimes in the budgetary sphere, the most important are: forensic economic examinations, examination of materials, substances and products, technical examination of documents, handwriting examination, examination of computer equipment and software products, commodity research, construction and technical examination. In some cases, scientists distinguish between the examination of special chemicals and the examination of video and sound recordings.

The results of the study of criminal cases and proceedings in this category of offences, as well as interviews with practitioners, show that in 92 % of cases, forensic economic examinations were ordered, 86 % – handwriting examinations, 46 % – commodity examinations, 21 % – technical examination of documents, 28 % – construction and technical, 10 % – medical, 9 % – other types.

As a rule, all examinations are multi-objective and require a lot of time

both for the preparation of materials and for their direct examination. Therefore, it is worth using a consultative form of using specialised knowledge both during the preparation of forensic examinations and during their assignment and conduct.

Law enforcement officers note that additional consultation before the assignment of forensic examinations was necessary: in 56 % of cases almost always; in 24 % – only when assigning certain types; 14 % – not used, but there was a request for additional materials; 6 % – not needed and the examination was carried out on time. In the opinion of knowledgeable persons, it is necessary to involve specialists before conducting an examination: for sampling – 46 %, for seizure of objects – 21 %, in all cases – 20 %, and only 13 % consider it unnecessary.

In order to prevent untimely forensic examinations or the return of materials to the investigator without execution, we will determine the organisational and tactical features of their assignment and conduct.

During the detection and investigation of these crimes, it is obvious that there is a need to use specialised knowledge in the form of assignment and conduct of forensic economic expertise. They are committed by transferring budget funds, cashing them in and embezzling them. Of course, all these transactions are reflected in certain documents, the study of the content of which is necessary to obtain the status of evidence.

The subject of forensic economic examination is the factual data contained in the objects of study and information on business transactions (status and results of economic activity of economic entities) that are essential for the body that assigned the examination, and are established and obtained as a result of the study of documents using special knowledge in the field of economics. As is well known, the following types of expertise are carried out within the framework of economic expertise: examination of accounting, tax accounting and reporting documents, examination of documents on the economic activities of enterprises and organisations; examination of documents on financial and credit transactions.

Despite the diversity of this type of economic expertise, it should be noted that investigators do not always specify the type of expertise when assigning a forensic economic examination. Despite the fact that the tasks for each of these types are different.

Thus, the tasks of examination of accounting, tax accounting and reporting documents are to determine: documentary substantiation of the amount of shortage or surplus of inventory and cash, the period and place of their formation; documentary substantiation of the execution of transactions for the receipt, storage, manufacture, sale of inventory, including cash, fixed

assets, services; documentary substantiation of the reflection in the accounting of cash, securities; documentary substantiation of the

In turn, the main tasks of the examination of documents on the economic activities of enterprises and organisations are: 1) analysing: indicators of financial and economic status (solvency, financial stability, profitability, etc.) of the enterprise/organisation; structure of property and sources of its acquisition; 2) determining: documentary evidence of settlements with debtors and creditors; documentary evidence of cost analysis; documentary evidence of settlements in case of privatisation and lease of privatised property; documentary substantiation of calculations of the share of property in case of withdrawal of a participant from the founders; documentary substantiation of calculations of lost earnings (from untimely payment of compensation for damage caused in case of disability and in other cases); documentary substantiation of targeted spending of budget funds; documentary substantiation of calculations of lost profits.

The tasks for the examination of documents of financial and credit transactions are formulated quite differently. These include determining the documentary validity of banking transactions for opening accounts, cash flows on accounts; documentary validity of processing and recording transactions for issuing, using and repaying loans; documentary validity of processing and recording in the accounting of banks their financial and economic activities; compliance of the reflection of financial and economic transactions of banks with the requirements of regulations on accounting and reporting; documentary validity of the reflection of financial and economic transactions of banks.

At the same time, when exposing crimes related to the illegal use of budgetary funds in the healthcare sector, it is common for all types of economic examinations to establish the amount of damage and who caused it. The objects of study are: an agreement between a supplier and a healthcare facility, an invoice, a specification, an invoice, an act of acceptance of goods or services performed, tax reporting, design and estimate documentation (project, estimate, conclusion), a procurement plan, and an account of the supplier's funds, documents on the origin of goods (disinfectants, medicines, medical equipment, medical devices, medical furniture, etc.)

In modern life, accounting is conducted electronically, so documents stored in computers should be printed and certified by the signatures and seals of the institution, numbered in chronological order, and properly packed without compromising their integrity. If it is not possible to provide the materials for expert examination in full, the examination will be suspended at the request of the forensic expert indicating the need for such materials.

However, such a request may serve as a justification for the court to conduct a search or temporary access to things and documents.

When investigating the fact of misuse of budgetary funds, it is advisable to provide an audit report indicating which provisions contradict the materials of the criminal proceedings and which questions arise. However, some scholars note that the need to assign a forensic economic examination is due to a poorly conducted audit, or if there are doubts about the completeness and quality of its conduct, or a well-founded request from the defence.

One of the most common ways of committing these crimes is to conduct public procurement in violation of the law. In this regard, it is often necessary to determine the legality of such procurement. It should be noted that the study of the actions of tender committees does not fall within the competence of forensic economic expertise, as stated in the Instruction on the assignment and conduct of forensic examinations and expert studies. The legality of their activities is reviewed by the Antimonopoly Committee of Ukraine and monitored by the State Audit Service.

In such cases, as noted by Liashenko and Shcherbyna, to document the damage caused to the customer of the state procurement, as a result of the supplier changing the price of goods after the conclusion of the procurement contract, in addition to the documents required for the study, the pre-trial investigation body – the customer of the expertise – must provide:

- an act of the controlling body whose main tasks include compliance with the public procurement legislation;
- an expert's opinion on other types of research on establishing the average market value of these goods.

Also, in order to identify the factors that hinder the conduct of these examinations, we interviewed knowledgeable persons. Among them, it was found that: 46 % of them provided copies of documents rather than originals; 25 % provided drafts rather than officially executed documents with appropriate seals and signatures; 19 % provided information in the form of reports, protocols, audio recordings rather than financial documents, and 10 % provided other information.

Among the common mistakes in the assignment of economic expertise in cases of budget crimes, A. Volobuiev, I. Osyka and R. Stepaniuk note the wording of legal issues, which is unacceptable in accordance with paragraph 2 of the Resolution of the Plenum of the Supreme Court of Ukraine No. 8 On Forensic Examination in Criminal and Civil Cases dated 30.05.1997. For example, Were there any violations of the law in the actions of the officials of the PIB, if so, how did they

manifest themselves? or Which of the officials committed violations of the legislation on the budget system and which ones?

Along with economic expertise in a complex or separately, there is a need to assign and conduct a commodity expertise. In the investigation of this category of crimes, there is a need to establish the actual value of the goods, so there is a need to assign a commodity expert examination. Commodity expertise also solves other tasks that have been repeatedly studied by scientists and specified in the legislation. These include: determining the value of commodity products; determining whether goods belong to the classification categories adopted in the production and trade sector; determining the characteristics of the objects of research in accordance with the requirements of the Ukrainian Classification of Goods for Foreign Economic Activity; determining changes in the quality of commodity products; establishing the method of production of commodity products: industrial or home-made, the manufacturer, the country of manufacture; determining the compliance of packaging and transportation, storage conditions and terms, etc.

The objects of commodity expertise are: documents – 100 %, medical equipment – 34 %, medical devices – 31 %, construction materials – 47 %, food – 13 %, other – 12 %.

It should be borne in mind that a commodity expertise can be conducted without the object being submitted to an expert institution. However, the investigator is obliged to provide access to it for the forensic expert or provide the relevant documentation contained in the criminal proceedings.

Among the peculiarities of the assignment and conduct of a commodity examination, O. Sadchenko and O. Shevchenko note the fact that food products are seized in full, but the expert is sent an average sample from homogeneous products (bulk, liquid or viscous consistency) for examination. This procedure is regulated by the relevant Resolutions of the Cabinet of Ministers of Ukraine or orders of ministries and departments. Sampling should be carried out in strict accordance with the requirements of regulatory documents regarding the procedure, number and methods of sampling using appropriate equipment and facilities.

When examining objects, it is not always possible to obtain a categorical the conclusion of a commodity expertise even if all the requirements for its assignment are met. One of the reasons may be the examination of bulky objects consisting of many original components whose value is unknown.

*Thus, in the course of the pre-trial investigation of the criminal proceedings regarding the misappropriation of budgetary funds by officials of the Department of Health during the purchase of expensive medical equipment – a magnetic resonance imaging scanner (UAH 35 million per unit), it became necessary to determine the actual cost of the purchased equipment in order to establish the damages caused, since the purchase price was significantly different from the market prices for similar equipment from other manufacturers. The equipment consisted of several complexes mounted in four premises. A merchandising expert was appointed by a non-governmental expert institution, which raised the following questions: What is the actual value of the magnetic resonance imaging machine? However, the investigator received an expert opinion with the answer «it is not possible to resolve the issue».*

When assigning forensic examinations, law enforcement officers may make certain mistakes for objective and subjective reasons. The results of a survey of knowledgeable persons made it possible to identify factors that complicate the conduct of a commodity examination. These include: the presence of bulky objects – 33 %, no indication of the time at which the value of the object should be calculated – 36 %, provision of information not in financial documents – 22 %, other – 9 % .

When investigating these crimes, it is advisable to assign comprehensive examinations, which may include: economic, construction, and commodity expertise. At the same time, it is important to correctly establish the sequence of examination of the same objects, preferably with the prior advice of specialists. As an example, let us cite the following fact. In 2016, in order to misappropriate budgetary funds, hospital officials, in collusion with an individual entrepreneur, agreed to reconstruct the building at an inflated cost. For this purpose, instead of developing design and estimate documentation, the hospital officials drew up a defective act, according to which it was planned to carry out reconstruction works using materials that did not comply with the DSTU, namely window blocks with an inadequate minimum permissible value of heat transfer resistance of the envelope of residential and public buildings. Subsequently, the aforementioned entrepreneur was declared the winner of the tender, which resulted in the supply of goods and services that were significantly overpriced. The UZE employees collected material, which was registered in the URPTI and a pre-trial investigation was initiated. The investigator prepared a motion to the court to assign a comprehensive examination. The court granted the petition and issued a ruling on the assignment of a comprehensive commodity and construction and technical expertise to address the following issues:



1. What is the market value of the construction materials actually used in the current repair?
2. What is the actual cost of the construction and installation work carried out at the facility?
3. What is the difference between the value indicated in the act of acceptance of completed construction works of form No. KB-2v and the actual cost of construction and installation works?
4. What is the actual cost of the construction and installation works performed at the facility that meet the requirements of the DBN (state construction norms) and DSTU (state standard of Ukraine), namely, construction requirements, installation requirements, etc. Initially, the commodity expert determined the actual cost of construction materials, and then the construction expert examines the actual amount of work performed.

In the context of this issue, it should be noted that the names of expert specialties, depending on which the type of examination is specified, and the list of typical questions for each type of forensic examination are set out in the scientific literature and regulations. However, a large number of questions that are not directly related to the investigation of a particular criminal proceeding only increase the time and cost of conducting examinations and are not actually used by the investigator.

As a result, it can be noted that in the course of detection of crimes related to the state financing of budgetary funds in the healthcare sector, a significant role is played by forensic examinations, the organisational and tactical features of which are subject to changes depending on constant procedural changes. Economic and commodity examinations, which are often assigned in combination, should mainly confirm the amount of illegally transferred funds, calculate the amount of damage caused, and establish the actual value of the goods.

Peculiarities of assigning and conducting handwriting examination and technical examination of documents. In the investigation of crimes related to the illegal use of budgetary funds in the healthcare sector, forensic handwriting examinations play a key role. Almost always, they are assigned along with economic expertise on the same documents, but they examine the graphic component using other methods and research techniques.

The signatures of authorised persons and business entities acquire will become even more important after the mandatory use of seals and stamps is cancelled. In public procurements between healthcare institutions and entrepreneurs, the signatures of one contractor on tender proposals from two different participants provide law enforcement with evidence of the illegality

of such procurements.

A copy of a document submitted by a business entity to a public authority or local self-government body is considered to be certified in accordance with the established procedure if such copy bears the signature of an authorised person of such a business entity or the personal signature of an individual entrepreneur.

The results of the study of expert opinions on crimes related to the illegal use of budgetary funds in the healthcare sector show that the objects of handwriting expert research in such proceedings are: signatures, including those made on behalf of other persons – 57 %, digital records – 18 %, short texts – 15 %, manuscripts – 10 %. Taking into account the statistics, it can be concluded that large manuscripts are practically not examined, which is explained by the widespread use of computer technology.

When assigning a forensic handwriting examination, the prosecution usually tries to get an answer to the following questions: Was the signature or handwriting in the specified columns of the relevant document made by a certain person? However, in addition to identification tasks, forensic handwriting examination also solves classification and diagnostic tasks. That is, in the absence of samples of the suspect, the following questions can be resolved: Were the manuscripts made by the same person in the specified documents? (group identification), Was the executor of the manuscripts in an unusual state. Has there been a change in the comfortable writing hand? and so on.

It is difficult to avoid making mistakes when asking questions. However, you should indicate as clearly as possible in which columns or in which corner of the document the disputed graphic object is located. Also, the question Are the signatures in the two documents identical? should not be asked, as the signatures made by a person cannot be completely identical. In this case, the question Are the signatures in the documents made by the same person? is possible.

An expert opinion in these cases can serve to plan further investigative (detective) actions and put forward versions.

For example, in two acts of acceptance and transfer of work performed for the installation of metal-plastic structures of window blocks in Hospital No. 00 and contracts for the supply of goods, there were signatures on behalf of the chief physician with different transcriptions. The investigator assumed that the signatures were made by different persons. After assigning and conducting a handwriting examination, it was established that the signatures in the acts were not made by the chief doctor, but by another person. Further investigative (search) actions revealed that the signatures had been made by

an accountant on behalf of the chief medical officer, which was confirmed by an additional handwriting examination. As a result, the latter was served with a notice of suspicion.

An important issue when assigning a handwriting examination is collecting the necessary handwriting and signature samples. According to experts, the outcome of this examination depends on the quality and quantity of the samples by 90 %.

The investigator or an operative acting on behalf of the investigator must carefully prepare the comparative material. As you know, there are three types of samples: experimental, free and conditionally free.

Experimental samples are made by a person specifically for the purpose of conducting an examination in compliance with the requirements of the current criminal procedure legislation, and the investigator draws up a protocol for taking samples for examination. As for the selection of experimental samples, scientists recommend using samples made in the same handwriting style as the disputed manuscripts for examination. There are options for free written narration, rewriting the text, and writing from dictation.

Free manuscripts are manuscripts made before the initiation of criminal proceedings in normal (convenient) conditions for the writer, without intentional distortion of handwriting.

They most closely reflect the features that characterize a person's handwriting skills. Free samples are valuable material for conducting a comparative handwriting study, provided that they are collected in sufficient quantities and their ownership is beyond doubt. These can be personal records of a healthcare worker or those related to his/her professional activities (outpatient records, orders, instructions), but not related to this criminal proceeding. In any case, their reliability must be verified by comparing them with other types of samples.

Conditional free samples are manuscripts that a person did not execute specifically for an examination, but may have realized that they could potentially be used for it. These are records in the protocols of investigative (search) actions, complaints, petitions, etc. Investigators underestimate the importance of this type of sample. However, in the absence of others, they are quite informative, as the executor focuses on the content of the document, not the graphic part. Thus, all variations of identification features are manifested. The investigator should try to create such conditions for the writer so that he or she personally executes as many manuscripts as possible. For example, for a person to sign in several places in the protocol or to write their own answers to the investigator's questions in the interrogation report,

as the inscription: According to my words, it is written correctly is a limited graphic material that neither includes all the letters of the alphabet nor allows to evaluate handwriting in terms of variability.

Before attaching free and conditionally free samples to the criminal proceedings, the investigator (judge) must present them to the person to be identified, and then mark each sample, i.e., indicate that it is a free sample of handwriting (signature) of a certain person (indicate his/her surname, name, patronymic) and certify it with his/her signature.

Interviews with forensic experts revealed that the completeness of the handwriting expert examination is affected by: improperly collected material – 36 %, insufficient number of samples – 39 %, violation of packaging rules – 14 %, other – 11 %.

The requirements that samples must meet remain constant and have been considered repeatedly in the works of scientists. In particular, they must coincide with the objects under study in terms of: writing and language; time of writing; content and purpose; writing material; method of execution; conditions of execution of the document; state of the writer; writing pace.

That is, if the disputed manuscripts are made with a ballpoint pen, then samples should be taken with a ballpoint pen, and not with another writing device. If the form of the disputed document is lined and there is not much space for signature, then lined paper for samples should be prepared in the same way. As for the relevance of the samples in terms of the time of writing, it is not recommended that they have a gap of more than 5 years with the document under investigation. It should be borne in mind that the handwriting of persons involved in this category of crimes is usually highly developed.

In accordance with the general Methodology for Handwriting Research, the minimum amount of comparative material is specified:

- lettered text on at least 15 sheets;
- digital text, provided in the form of records of single and multi-digit numbers with accompanying letter records, on at least 15 sheets;
- records in printed letters – at least 15 pages of standard format.

If possible, free signature samples should be provided on at least 15 documents, experimental samples – on at least 5-8 sheets, each of which should contain 20 to 30 signatures.

As a rule, this volume is not enough or it is impossible to provide all varieties of these samples. Thus, practice shows repeated cases of refusal of persons to provide experimental samples, and the specificity of handwriting is such that forced selection is impossible. With regard to free samples, it

should be borne in mind that the proliferation of electronic documents also hinders their collection in sufficient quantities.

Pursuant to the Law of Ukraine On Forensic Expertise, if the quantity and quality of comparative material is insufficient, the expert may send a letter to the investigator warning him/her to suspend the expert examination. If such a request is ignored within 45 days, the examination is returned to the customer without being completed.

It is known that technical examination of documents is divided into examination of document details, examination of printing forms and examination of document materials. In the course of investigating these crimes, the following tasks are usually solved by examination of document details:

- establishing the facts and methods of making changes to documents (erasing, etching, adding, pasting photographs, letters, etc.) and identifying their original content;
- determining the type and identification of writing instruments by strokes;
- determining the relative age of the document or its fragments, as well as the sequence of overlapping strokes;
- identification of a document produced by mounting with the use of copying and reproduction and computer equipment.

At the same time, the tasks of the printing plates examination include:

- establishing the peculiarities of manufacturing printing media (forms) and their reflection in prints;
- determining the type and identification of writing instruments by strokes;
- determining the relative age of the document or its fragments, as well as the sequence of overlapping strokes;
- identification of a document produced by mounting with the use of copying and reproduction and computer equipment;

At the same time, the tasks of the printing plates examination include:

- establishing the peculiarities of manufacturing printing media (forms) and their reflection in prints;
- determination of the type, system, brand, model of copying and reproduction equipment (electrophotographic machines, faxes) and identification of copying and reproduction equipment by their prints;
- establishing the method of applying seals, stamps, facsimiles; identification of seals, stamps, facsimiles, etc. by their imprints; matching the time of applying seals, stamps to the date of production of the document;
- establishing the type and identification of computer equipment by the

document produced with their help.

Scholars note that the most common objects of forensic technical examination of documents are document details, document materials and devices for document production (equipment, substances and means used in the production of documents). At the same time, it should be noted that the examination of document materials in the investigation of these crimes is irrelevant.

Instead, when there is a need to establish the method of making a document form, the sequence of intersecting strokes of a document, a technical examination of documents is assigned. At the same time, it is necessary to take into account the peculiarities of paper and plastic documents, methods of filling in the details and making forms.

Features of the assignment and conduct of other types of forensic research. According to the results of the study of expert opinions, the objects of research are most often: design and estimate documentation (the project itself, drawings, diagrams, drawings, information) – 73 %, new construction of health care facilities – 22 %, major repairs (their compliance, the amount of work performed, the compliance of the materials used, the stages of work performed, the mechanisms and labor involved) – 45 %, current repairs – 43 %, other – 13 %.

Despite the fact that the documents to be examined, as a rule, have already been the objects of economic expertise, the tasks of construction and technical expertise are quite different and include the following:

- determining the compliance of the developed design, technical and estimate documentation with the requirements of regulatory legal acts in the field of construction;

- determination of compliance of the completed construction works and constructed real estate objects (buildings, structures, etc.) with the design and technical documentation and requirements of regulatory legal acts in the field of construction;

- establishing compliance of the performed construction works, individual elements of real estate objects, structures, products and materials with the design and technical documentation and requirements of regulatory legal acts in the field of construction;

- verification and determination of the scope and cost of construction works performed and primary construction reporting documentation and their compliance with the design and estimate documentation and the requirements of regulatory legal acts in the field of construction;

- determination of the capital group, complexity category, degree of fire resistance of buildings and structures and the degree of construction

readiness of unfinished construction projects;

- determining the technical condition of buildings, structures and utility networks, the causes of damage and destruction of facilities and their elements;

- determination of the cost of construction works related to re-equipment, elimination of the consequences of flooding, fire, natural disaster, mechanical impact, etc;

- determination of the possibility and development of options for the distribution (allocation of a share; procedure for use) of real estate objects.

As scholars noted, during the pre-trial investigation and in court, special knowledge is necessary to establish the scope and quality of construction and installation work, the cost of materials, and the validity of projects.

Construction and technical expertise can show that the contractor has not completed the work or has not started repair or construction work in the presence of a signed certificate of completion. In this case, economic expertise should calculate the amount of damage caused to the state. And forensic handwriting and technical examination of documents must confirm the authenticity of signatures and seal impressions.

In the course of investigation of these crimes, an appraisal and construction expertise is also assigned, the main task of which is to determine whether the real estate valuation performed complies with the requirements of regulatory legal acts on property valuation, methodology, methods, and valuation procedures. The following questions are addressed:

- What is the value (specify the type of value: market value, residual value, liquidation value, special value, investment value, etc.) of the real estate object (specify the object: building, premises, apartment, structure, etc.)?

- What is the value (indicate the type of value: market, residual, liquidation, liquidation value, special, investment, etc.) of a share (indicate the share:  $-1/2$ ,  $-1/4$ , etc.) of the real estate object (indicate the object: building, premises, apartment, structure, etc.)?

- Does the performed valuation of the real estate (specify the object) comply with the requirements of the regulatory legal acts on property valuation, methodology, methods, valuation procedures?

Practitioners note that among the typical questions of construction and technical and construction appraisal expertise, it is necessary to ask only those that are directly related to criminal proceedings, which will significantly speed up the timeframe for forensic examination and will not

cause a violation of procedural deadlines. In the investigation of crimes related to the illegal use of budgetary funds in the healthcare sector, it is important to resolve the following issues:

- a) confirmation of the scope of work performed as envisaged by the project;
- b) compliance of the performed works with the requirements of regulatory documents;
- c) establishing the actual cost of the work performed.

The methodological recommendations of the Instruction on conducting and assigning forensic examinations contain a more complete list of issues to be resolved.

The objects of the forensic medical examination in crimes related to the illegal use of budgetary funds in the healthcare sector are usually documents, not persons.

The analysis of expert opinions revealed that in these criminal proceedings, the following were sent for examination: opinions of the medical and social expert commission to establish a disability group – 47 %, opinions of narrow-profile specialists to establish a diagnosis – 32 %, living persons – 13 %, other – 8 %.

As a rule, expert examination of these objects requires specialists in various medical fields. The Instructions for conducting forensic medical examinations provide for the mandatory participation of several experts in the following 1) examinations in cases of criminal prosecution of medical professionals for professional offences; 2) examinations to determine the loss of general and professional ability to work, etc..

In order to establish the percentage of loss of professional capacity for work, commission examinations are carried out in the commission examination departments of the forensic medical examination bureaus of the healthcare departments of the Ministry of Health of Ukraine. Depending on the nature of the examination, the commission may include specialists in the field of forensic medicine only, as well as specialists in other medical (including specialists of medical and social expert commissions of the Ministry of Health) and non-medical specialties. By their procedural position, all of them are forensic experts when conducting an examination.

The conclusions of the medical and social expert commission require special attention. Medical and social expertise is conducted in relation to persons applying for disability determination upon referral from a healthcare facility after diagnostic, treatment and rehabilitation measures have been



carried out, if there is information confirming a persistent impairment of body functions caused by diseases, consequences of injuries or congenital defects that cause limitation of life. Medical and social expertise is carried out by medical and social expert commissions belonging to healthcare institutions.

Typical issues in such cases are the legitimacy of establishing a disability group or determining the degree of loss of professional capacity, which is carried out in compliance with the Rules for conducting commission forensic examinations in the bureau of forensic medical examination.

The following questions can also be addressed in a forensic medical examination of health and disability:

- What injuries, diseases or their adverse effects does the examinee have?
- Does the examinee have an objective opportunity, in the presence of a specific pathological condition, to perform certain actions or be in a certain place?
- Is there a causal relationship between the disease detected in the examinee and occupational hazards?
- What are the possible adverse consequences of the pathological condition?
- Does the examinee need medical care? If so, to what extent and in which medical institution?
- What injuries, diseases or their adverse effects does the examinee have?
  - What is the duration of their origin?
  - Does the examinee have any disability?
  - What is the percentage of permanent disability?
  - What is the percentage of occupational disability?
  - Did the disability occur as a result of a specific event?

The issue of establishing a disability group during the anti-terrorist operation and the Joint Forces Operation in the East of our country has become an urgent one. Unfortunately, there have been repeated cases of abuse by officials of medical institutions, including members of medical commissions and medical and social expert commissions.

**Test questions:**

1. Describe the role of a specialist in conducting temporary access to things and documents in the investigation of such crimes?
2. Which specialists should be involved in the investigation of this category of crimes?
3. What are the types of forensic examinations that are assigned in the investigation of crimes of this category?
4. What objects are usually the objects of forensic handwriting examinations?
5. Explain the features of the assignment of economic expertise?
6. Explain the features of the assignment of commodity expertise?
7. Explain the features of the assignment of handwriting expertise?
8. What types of samples for forensic handwriting examination do you know and what is their essence?
9. What are the peculiarities of assigning a technical examination of documents?
10. Explain the features of the assignment of forensic medical examination?
11. Why is an expert opinion assessment necessary and what does it affect?

**Topics of essays:**

1. The essence of crimes related to the illegal use of budget funds in the field of healthcare and the state of the problem development.
2. Ways of committing crimes related to state financing of healthcare sector.
3. Trace evidence of a crime forms of state financial control in the investigation of crimes.
4. Participation of a specialist in certain procedural actions.
5. Use of forensic examinations in investigation of crimes related to state financing of healthcare sector.

## **Chapter 11**

### **INVESTIGATION OF ENGAGING MINORS IN CRIMINAL ACTIVITY**

#### **11.1. Forensic characteristics of engaging minors in criminal activity**

The Resolution of the Plenum of the Supreme Court of Ukraine of February 27, 2004 No. 2 «On the Application by Courts of the Legislation on Liability for Involvement of Minors in Criminal or Other Antisocial Activities» certifies that the involvement of minors in criminal or other antisocial activities encroaches on the foundations of public morality in the field of development and education of the young generation, has a detrimental effect on young people, creates distorted orientations for them, inculcates antisocial ideas, immoral views and skills, significantly affects the level of juvenile delinquency. Actions aimed at involving persons under the age of eighteen in criminal groups, in the commission of serious or particularly serious crimes, as well as those that are combined with the illegal circulation of narcotic drugs or weapons, with the use of violence encroach on sexual freedom and are particularly dangerous. sexual integrity of a person.

Rgarding the above, the correct application of the legislation on responsibility for the involvement of minors in criminal or other anti-social activities, timely and high-quality judicial review of cases of this category is an important means of crime prevention.

The social danger of this illegal act is that it has a detrimental effect on young people, creates distorted orientations for them, inculcates antisocial ideas, immoral views and skills, and significantly affects the level of juvenile delinquency.

The main direct object of the illegal act is social relations, which ensure the principle of free development of the individual and conditions for the normal development and upbringing of minors.

Victims of such an illegal act are minors, regardless of gender.

A thorough investigation of the specified category of crimes by pre-trial investigation bodies is necessary for a high-quality judicial review of the materials of the specified illegal (criminal) and other offences.

Involvement of minors in criminal activity (Article 304 Part 1 of the

Criminal Code of Ukraine) is classified by the legislator as a crime against public morality.

The structure of the criminalistic characteristics of the involvement of minors in illegal activities is not much different from the general structure of the criminalistic characteristics of criminal offences, but like every illegal act, a criminal offence has its own characteristics and can be formulated as follows:

- the method of committing a criminal offence;
- means of involvement in illegal activity;
- circumstances of committing a criminal offence;
- trace picture;
- identity of the minor victim;
- the person of the criminal.

The specified components should be optimized as much as possible and aimed at solving the practical tasks of criminal proceedings.

Building a methodology for investigating the involvement of minors in illegal activities is a task that in the future should improve the activities of law enforcement officers in criminal proceedings of this category. Forensic characteristics of the involvement of minors in illegal activities is a set of interrelated information about forensically significant signs of an illegal act, which help its rapid investigation by building and verifying relevant versions as a result of planned procedural actions and investigative measures.

Ways and means of involving minors in illegal activities can be considered central in the structure of the forensic characteristics of the investigated category of criminal offences. This is explained by a number of factors, in particular, the fact that specific methods of entrainment determine the corresponding trace pattern. In addition, certain methods are specific to specific groups of perpetrators, and are also directed at the corresponding victimological groups of minor victims. Therefore, it is considered necessary to fully investigate the identified elements of forensic characteristics.

The methods of involving minors in committing a crime are different both in their essence and in the degree of social danger. Two main groups can be distinguished: methods related and not related to the use of violence or the threat of its use. The most common non-violent ways of involving minors in criminal activity are an offer and subsequent persuasion to commit a crime (about 60%). Simultaneously with the proposal to commit a crime, a minor is given various kinds of promises, which adults undertake to fulfill on the condition that the teenager commits a crime, or involve teenagers in the use of drugs or lend them money, and later demand the fulfillment of certain conditions in order to repay the teenager's obligation. The second group of methods of involving minors in illegal activities through the use of physical

violence or the threat of its use accounts for about 15% and is characterized by increased public danger (beatings, causing minor health damage, torture). Applying violence that oppresses the will of a minor and forces him to act contrary to personal aspirations and desires. Cases of more serious use of violence will have their own qualifications.

The main ways of involving minors in illegal activities:

- use or threat of use of physical violence (beating, causing bodily harm);
- mental coercion (threat to cause material damage, disgrace in the eyes of peers and friends, intimidation);
- abuse of a person's material or other dependence on a minor;
- compromise or blackmail (threat to release compromising information of an intimate or personal nature);
- a promise of reward for a committed illegal act;
- inflaming low feelings (revenge, envy).

Means of involving minors in illegal activities is an important element of criminalistic characteristics, thanks to which it is possible to build tactics for carrying out individual investigative (search) actions, secret investigative (search) actions and other procedural actions. Each of the above components is important for understanding the researched scientific category.

The circumstances of the commission of a criminal offence, the establishment of spatial and temporal factors is of great importance. In general, the circumstances of the commission of criminal offences are important at the initial stage of the investigation. This applies to conducting both the ISA to obtain information from material sources (various types of inspections, searches), and ISA to obtain information from personal sources. After all, after detecting illegal acts, the situation must be clearly recorded (by photographing, drawing up plans, detailed records in the protocol of conducting individual ISA), because this will be important both for the subsequent stage of the investigation and for the conduct of other ISA, NISA.

Most often, the involvement of minors in illegal activities occurs in the following places:

- 1) entertainment facilities (night clubs, cafes, bars, restaurants);
- 2) places of recreation (recreation centers, hotels);
- 3) places of residence of the criminal or minor (apartments, houses);
- 4) places of education of minors (schools, technical schools, institutions of higher education).

Nodal areas where traces of a criminal offence may be concentrated, in particular, these places:

- a) direct commission of illegal acts by minors;

- b) residence of the criminal;
- c) residence of a minor;
- d) taking actions to involve a minor in illegal activities.

Involvement of minors in illegal activities is characterized by certain specific features, which are also reflected in the trace array left after the commission of a criminal offence.

Research into the identity of the victim and the criminal is important for almost any criminal proceeding.

Victimological groups of minors involved in illegal activities, namely:

- a) persons from disadvantaged or incomplete families (orphans; children deprived of parental care);
- b) persons living in a family with a low level of wealth;
- c) homeless;
- d) persons studying far from their parents' place of residence;
- e) persons with clearly expressed neuropathological features and pathocharacterological reactions;
- e) persons with a low level of intellectual development, which causes difficulties in communicating with peers;
- g) persons living in the war zone.

The identity of the minor victim is an important element of the forensic characteristics of the investigated category of offences. And its interrelationship with other elements, in particular with the person of the criminal (infiltrator), makes it possible to plan the entire investigation process in a certain sequence.

And it should be noted that the individual characteristics of the criminal are important for planning the investigation and carrying out separate investigative (search) actions, NISA and other procedural actions and search measures. In particular, when investigating the involvement of minors in the commission of theft, the specified group of signs guides the authorized persons to involve relevant specialists (psychologist, forensic technician) in carrying out separate procedural actions. Involvement of minors in committing other criminal offences is also characterized by certain features. Therefore, the identity of the criminal (infiltrator) as an element of forensic characteristics is undeniably necessary in this structure.

Portrait of a potential criminal – most of them are men aged 25 to 35, who have a basic higher education, are not married, do not have a permanent place of work, are prone to alcohol or drug abuse, have previously been convicted of criminal offences (against property, public order, in the field of illegal circulation of narcotic drugs or psychotropic substances), often criminal offences were committed in adolescence.

## **11.2. Typical investigative situations of investigation the engaging of minors in criminal activity**

All criminal offences are investigated in the specific conditions of time, place, environment, relationship with other processes of objective reality, the behavior of persons involved in the field of criminal justice, and under the influence of other factors that remain unknown to the authorized persons. This complex system of interrelationships forms the specific environment in which the investigator and other subjects involved in proving the event under investigation work.

Such a situation has received the general name of investigative situation in criminology.

The situation in its literal sense is the very reality that arises at a certain stage of the proceedings.

At the initial stage of the investigation into the involvement of minors in illegal activities, the following typical investigative situations arise:

a) the person who involved a minor in illegal activity is known and detained, there is a sufficient amount of material and personal evidence testifying to the specific conditions of a criminal offence, to notify him of suspicion;

b) the person who involved the minor in illegal activity is known, but the material and personal evidence is not enough to inform him of the suspicion;

c) the person who involved a minor in illegal activity is known, there is a sufficient amount of material and personal evidence, but he is hiding from law enforcement agencies;

d) the fact of the involvement of a minor in illegal activity has been revealed, but the identity of the criminal has not been established.

The first investigative situation is determined by the conditions of obviousness. Among the ISA, NISA and other procedural actions, the following measures must be taken:

- 1) interrogation of victims and witnesses;
- 2) interrogation of the suspect;
- 3) presentation of the suspect for identification;
- 4) assignment of identification examinations;
- 5) search at the place of residence of the criminal.

The second investigative situation is of a more complex nature, because the suspect is known, but material and personal evidence is not enough to notify him of suspicion. In this regard, the following measures should be taken:

- 1) interrogation of victims and witnesses;

- 2) interrogation of the suspect;
- 3) simultaneous interrogations of previously interrogated persons;
- 4) presentation of the person for identification;
- 5) repeated questioning of the suspect;
- 6) assignment of expertise;
- 7) conducting NISA (conducting audio and video monitoring of the suspect; removing information from transport telecommunication networks and electronic information systems).

The third investigative situation is complicated by the fact that the criminal is known, but is hiding from the investigation and the court. At the same time, there is a sufficient amount of material and personal evidence. With this in mind, the investigator must increase the evidence base to ensure that the criminal is suspected after he is identified and detained. Among the ISA, NISA and other measures, it is necessary to carry out:

- 1) repeated interrogations of victims and witnesses;
- 2) search at the place of residence of the suspect;
- 3) assignment of examinations based on material and personal information available to the investigator;
- 4) removal of information from transport telecommunication networks and electronic information systems.

The fourth investigative situation is characterized by the fact that the identity of the criminal has not been established. Such a situation mostly occurs when the illegal act was committed spontaneously and the criminal was not previously acquainted with the minor. In this case, the ISA, NISA and other measures should be aimed at identifying evidence that indicates the involvement of a specific person in the commission of a criminal offence.

### **3. Conduct of separate investigative (search) actions during investigation of engaging minors in criminal activity**

The effectiveness of any activity depends on the quality of the implementation of the relevant measures. Investigating the involvement of minors in illegal activities is not an exception, because during this process both employees of law enforcement units and employees of state, private and public enterprises, institutions and organizations may be involved. The interaction of these structures provides an opportunity to conduct criminal proceedings as quickly and efficiently as possible.

The interaction of law enforcement and other bodies is based on normative legal acts, agreed on the purpose and conditions of functioning of



the relevant bodies independent of each other in the administrative relation, which consists in the optimal combination of their own means and methods, which are aimed at the prevention and investigation of criminal offences under the sole management of an authorized person.

The investigation of criminal offences has a number of features depending both on the results of the initial stage (conducted procedural actions, available participants in the criminal proceedings), and directly on the composition of the illegal act.

Peculiarities of simultaneous interrogation of previously interrogated persons during the investigation of the involvement of minors in illegal activities

Conducting simultaneous interrogation of previously interrogated persons during the investigation of the involvement of minors in illegal activities is quite important in order to establish psychological contact with the minor (demonstrating support, highlighting the negative characteristics of the criminal) and in relation to the collection of evidentiary information in criminal proceedings in general.

Simultaneous interrogation of two or more already interrogated persons should be carried out in the event that all possible means of eliminating discrepancies in the testimony given during the interrogations have been used or are known to be ineffective. The reasons for disagreements are diverse, but they can be combined in two groups: 1) honest mistake; 2) the desire to prevent the establishment of the truth in criminal proceedings. At the same time, it should be borne in mind that the prosecution and defense parties may adhere to false versions that do not coincide with each other.

The main tasks of simultaneous interrogation include the following:

- clarification of the reasons for contradictions in the statements of the interrogated and their elimination;
- strengthening the position of conscientious participants of the interrogation who gave truthful testimony;
- exposure of one of the interrogated persons for giving false testimony;
- additional verification and confirmation of the testimony of a minor and a criminal.

During the simultaneous interrogation, contradictions on the following issues are resolved:

- 1) acquaintance of the criminal with the minor (time, place, witnesses, duration and content of meetings, nature of their relationship);
- 2) the suspect's awareness of the minor's age;
- 3) availability of information from the minor's parents about the fact of

maintaining his relationship with the suspect;

4) description of joint actions of the suspect and the minor during the commission of the criminal act, their content.

Special attention to establishing the exact age of a minor is also necessary for the correct application of the judicial procedure, material and legal norms on terms, types and amount of punishment, place and regime of his departure in case of conviction of a teenager. Establishing the exact age makes it possible to take into account age and socio-psychological features in the course of investigative (search) actions and appropriate tactical techniques.

Failure to comply with the requirements of the law on establishing the exact age entails errors when solving the most important criminal-legal and criminal-procedural issues in the course of juvenile proceedings, negatively affects the educational and preventive orientation of the process.

Typical mistakes in the tactics of simultaneous interrogation in the investigation of the involvement of minors in illegal activities:

- inaccurate wording of questions;
- lack of psychological contact with the interrogated;
- delay in conducting the interrogation;
- failure to recognize false testimony.

Simultaneous interrogation of previously interrogated persons is a mandatory ISA at the next stage of the investigation into the involvement of minors in illegal activities. Emphasis should be placed on the necessity of mandatory use of video recording during simultaneous interrogation with the participation of a minor. In addition, in order to conduct it as effectively as possible, you need to use appropriate tactical techniques.

### ***Presentation for recognition and investigative experiment***

The further stage of the investigation into the involvement of minors in illegal activities is characterized by the conduct of the ISA, NISA and other procedural actions, mainly aimed at checking the information received earlier. Of course, law enforcement officers also receive new evidentiary information based on the results of their conduct, but the main task of the procedural actions of the next stage is to prepare the materials of the criminal proceedings to be sent to the court with the indictment.

One of the most widespread actions in the studied category of criminal proceedings is the presentation for identification of suspects in kind and by photographic images, as well as an investigative experiment.

Presentation for recognition is a unique ISA that is never repeated, so authorized persons should prepare for its implementation.

Mainly presented for identification:

- suspects in person or by photographic images;

– objects and instruments of a criminal offence.

Presentation for recognition, like other ISAs, has three stages: preparatory, working and final. The measures of the preparatory stage are defined as follows:

- preliminary questioning of the person who recognizes;
- selection of objects, among which it is necessary to carry out identification;
- determination of the place and conditions of presentation for identification;
- determination of necessary participants of the presentation for recognition;
- determination of the required complex of scientific and technical means.

Provision of preliminary psychological assistance to a cognizant minor must be carried out through the following actions:

- a) clarification of the essence and tasks of presentation for recognition;
- b) for psychological support involving a psychologist or teacher;
- c) adjusting the minor to give truthful testimony and overcome the feeling of fear of meeting with the suspect.

Tactical mistakes that investigators make when presenting a person for identification:

- lack of proper organization of procedural action;
- superficial preliminary interrogation of a minor;
- lack of proper use of technical and forensic means of recording the procedural action;
- non-compliance with forensic recommendations on the conduct of procedural action;
- delay in presenting the suspect for identification.

The investigative experiment stands out as the most complex in terms of organization and conducting tactics among the ISA. After all, the number of participants, the possibility of using additional devices (mannequins, mock-ups, cars) is in general not comparable to other procedural actions. Sometimes this can be contested by a search and presentment for identification beyond visual observation, but these will be exceptions to the rule. That is, the investigative experiment requires clear preparation and planning of each stage of its implementation. Therefore, we will try to determine the optimal forensic support for conducting an investigative experiment during the investigation of the involvement of minors in illegal activities.

It should be noted that the verification of evidence or a collection of evidence is not always the same as the verification of a version, since an

equal sign cannot be placed between a proof and a version. A version emerges from the evidence and explains it. But the content of the version may be broader than the evidence on which it is based, otherwise it would not play such an important role in the investigation process.

Organizational and preparatory measures for the investigative experiment in the investigation of the studied category of criminal offences:

- study of materials of criminal proceedings;
- determination of the purpose of the investigative experiment and the facts to be ascertained;
- repeated or additional questioning of the person whose testimony will be checked;
- determination of the place and time of the investigative experiment;
- identification of participants of the ISA;
- preparation of auxiliary means and means of transport;
- preparation of means of fixation.

After a complete and thorough study of the materials of criminal proceedings, the authorized person can make a decision to conduct an investigative experiment. For this, it is necessary to have factual and legal grounds for its proceedings. The question of the sufficiency of the grounds for conducting the experiment is decided by the investigator based on the analysis of the collected information and taking into account the peculiarities of the investigative situation that has developed at a certain stage of the pre-trial investigation.

Factors that complicate the conduct of an investigative experiment, in particular:

- the duration of the procedural action;
- involvement of a significant number of people in experimental actions;
- selection and use of appropriate tools and means for multiple tests in different conditions.

The main types of investigative experiment:

- upon establishing the possibility of observation or perception of any fact or phenomenon;
- upon establishing the possibility of the existence of any fact or phenomenon;
- upon establishing the possibility of carrying out any action under certain conditions;
- upon establishing the presence or absence of certain professional skills and abilities of a specific person;
- upon establishing the possibility of performing certain actions within

a specified time;

- to establish the sequence of development of a certain event and the mechanism of the crime or its individual elements;
- to establish the limits of a person's awareness of the facts of interest to the investigation.

The main types of investigative experiment being conducted:

- the order of development of the event and the mechanism of the criminal act or its individual elements;
- the possibility of implementing a certain action in specific conditions;
- the ability to perform certain actions in a certain time.

Tactical conditions for conducting an investigative experiment:

- conducting an investigative experiment in conditions as close as possible to those in which the event, fact or phenomenon took place;
- use during the experiment of the same devices, mechanisms, devices and materials that were used during the criminal event;
- repeated (multiple) conducting of experiments;
- step-by-step (staged) conducting of experiments and repetition of test actions in changing conditions;
- conducting the necessary experimental and research actions (tests), as similar as possible to those that took place in reality;
- a limited number of participants in the investigative action;
- involvement of a witness, victim, suspect or accused in conducting an experiment;
- conducting an investigative experiment with each suspect separately;
- ensuring the safety of the participants of the investigative experiment.

In order to overcome opposition from the suspects during the investigative experiment, it is advisable to use the following tactical techniques:

- purposeful observation of the behavior of the person whose testimony is being checked (a minor, a suspect);
- maintaining constant psychological contact with all participants of the investigative experiment;
- conducting experimental actions with each participant (minor, suspect) separately.

An investigative experiment is a complex investigative action in terms of the organization of its conduct by the ISA. Therefore, for its effective implementation, it is necessary to carefully carry out organizational and preparatory measures, and then apply appropriate tactical techniques.

***Test questions:***

- 1. The structure of the forensic characteristics of the involvement of minors in illegal activities.*
- 2. Ways of committing the involvement of minors in illegal activities.*
- 3. Means of committing the involvement of minors in illegal activities.*
- 4. Victims of involvement of minors in illegal activities.*
- 5. Circumstances of committing the involvement of minors in illegal activities.*
- 6. Characteristics of the offender and the victim.*
- 7. Investigative situations of the initial stage of the investigation into the involvement of minors in illegal activities.*
- 8. The most frequent places where minors are involved in criminal activity.*
- 9. Portrait of the alleged enticer of minors in criminal activity.*
- 10. Tactics of interrogation and simultaneous interrogation of two or more persons during the investigation of the involvement of minors in criminal activity.*
- 11. Tactical methods of search when investigating the involvement of minors in criminal activity.*
- 12. Peculiarities of different types of presentation for identification in the investigation of the involvement of minors in criminal activity.*
- 13. Peculiarities of conducting an investigative experiment when investigating the involvement of minors in criminal activity.*
- 14. Use of special knowledge when investigating the involvement of minors in criminal activity.*

***Topics of essays:***

- 1. Peculiarities of investigating the involvement of minors in criminal activity.*
- 2. Forensic support for interrogations of various categories of persons in the investigation of the involvement of minors in criminal activity.*
- 3. Assignment of expertise in the investigation of the involvement of minors in criminal activity.*
- 4. Peculiarities of investigating the involvement of minors in criminal activity.*
- 5. Forensic aspects of the analysis of primary information in the investigation of the involvement of minors in criminal activity.*
- 6. Peculiarities of investigating the involvement of minors in criminal activity under martial law.*

## **Chapter 12**

### **FORENSIC SUPPORT FOR OVERCOMING OPPOSITION TO INVESTIGATION**

#### **12.1. Concept and essence of forensic support for overcoming opposition to pre-trial investigation**

Modern conditions of investigation are characterized by a significant spread of countermeasures. Persons with criminal experience demonstrate significant changes in the methods of committing and disguising, strengthening, including the use of power, corrupt connections, pressure on the participants of the investigation, the investigator and the conditions of his activities. This leads to more complex, and without proper training of law enforcement officers, quite often insurmountable obstacles in the current conditions of investigation and conduct of individual investigative (search) actions.

A significant expansion of resources in the commission of criminal offences necessitates the increase in the level of activity of law enforcement officers by improving the quality of using the capabilities of forensic science, knowledge of philosophy, psychology, sociology, conflict studies, operational and investigative activities and many others and adapting them to the needs of practice. Thus, this should be assessed as providing law enforcement officers with the appropriate knowledge to apply, which will allow them to realize their potential in the investigation process.

When conducting investigations, the relevant officials are faced with manifestations of counteraction, which are implemented by the subjects interested in the relevant results. Cognition of the relevant phenomena and actions that have taken place are aimed at solving similar tasks (tasks, situations) in the future. This can be fully translated into manifestations of opposition to pre-trial investigation. Their analysis is an important component not only of successful overcoming, but also of prevention. That is, it can be regarded to a certain extent as preventive activities, measures to prevent the relevant manifestations.

Overcoming opposition to pre-trial investigation, to a large extent, is due to the formation of prerequisites for the implementation of this activity. An important component should be the diagnosis and analysis of the

relevant manifestations. They should be identified and carefully analyzed to determine solutions.

Forensic support should be considered as a tool in the implementation by law enforcement officers of the request to overcome the manifestations of obstruction of the investigation.

Forensic support for overcoming opposition to pre-trial investigation should be covered through such components as: legal support for the activities of authorized persons in the implementation of overcoming opposition to pre-trial investigation; sources of information on counteracting pre-trial investigation and the possibility of its research, evaluation and use; organizational and management(b) To ensure that the competent authorities have the necessary information in the criminal proceedings and the manifestations of obstruction of the investigation; organization and use of various forms of interaction, which, in the context of manifestations of counteraction to the investigation, provides an opportunity to overcome them with less resources (time, effort and means) and obtain a positive result; the possibility of algorithmization of the activities of authorized persons in the context of counteraction to pre-trial investigation and situational conditionality of the activities of the subjects of investigation; protection from unauthorized access to information, by taking measures of a managerial, organizational, tactical nature; use of developments in science and technology, the implementation of which will help increase the level of advanced knowledge and provide law enforcement officers with the opportunity to timely diagnose and overcome manifestations of counteraction to the investigation; organizational and tactical support for the conduct of certain investigative (search) actions to obtain information from various sources, in particular: material, personal and mixed. The above and others, in our opinion, can be included as components in the development of forensic support for overcoming opposition to pre-trial investigation.

Forensic support for overcoming opposition to pre-trial investigation is a set of interrelated actions consisting of the development of forensic recommendations; familiarization of the subjects of investigation with the possibilities of applying scientific developments, means and methods of counteraction; use of forensic recommendations by authorized persons of law enforcement agencies in the practice of detection and investigation of criminal offences.

Thus, the concept of forensic support for overcoming counteraction to pre-trial investigation is a complex concept and is considered as a branch of scientific knowledge, practical activities for the implementation of its recommendations and provisions, and a component of the academic



discipline. Criminalistics support for overcoming opposition to pre-trial investigation is combined with other separate forensic theories by a single subject of knowledge—the subject of criminalistics, which provides for complexity with the study of the same objects, phenomena, different theories.

*The object* of the concept of forensic support for overcoming counteraction to pre-trial investigation are: counteraction to pre-trial investigation as a phenomenon of reality faced by authorized persons; activities of these persons to prevent, detect and overcome it.

*The subject* of the action program under consideration is: patterns of study of certain types of counteraction to pre-trial investigation and forensic means of their overcoming; identification and study of patterns manifested in the activities (inaction) of counteraction actors at different stages of criminal offences and pre-trial investigation; identification and study of patterns in the activities of the subjects of investigation to prevent, diagnose and overcome Countering; identification and study of patterns in the relationship between the subjects of counteraction and the subjects of investigation.

*The tasks* of forensic support for overcoming counteraction to pre-trial investigation as a set of ideas are to study the whole complex of forms, methods, subjects of counteraction and to develop forensic tools and methods, recommendations for the organization and tactics of overcoming it on the basis of information about them.

*The purpose* of forensic support for overcoming opposition to pre-trial investigation as a system of views can be considered, in particular, as: branch of scientific knowledge; form of practical implementation; an integral part of the academic discipline. Achievement of this goal involves a comprehensive solution of a number of tasks of the concept of forensic support for overcoming counteraction to pre-trial investigation, which can be called, in particular: tasks of scientific knowledge development; tasks of practical implementation; tasks of a part of the discipline.

Consideration of criminalistics support for overcoming counteraction to pre-trial investigation is carried out differentially to the methods of criminalistics, as scientific and practical forms of cognition and activity.

The abstract idea of criminalistics support for overcoming counteraction to pre-trial investigation as a system of scientific knowledge has connections with individual forensic theories and doctrines united within the framework of the structural components of forensic science: General Theoretical Foundations of Criminalistics, Forensic Technique, Criminalistics Tactics, Criminalistics Methodology.

Thus, the concept of forensic support for overcoming counteraction to pre-trial investigation is based on a system of views, processes and ways of

understanding them, which provides: the planned basis for the activities of the subject of investigation, including those based on interaction with other services, units of law enforcement agencies, the public, the media, etc.; diagnosing the signs of counteraction and the determinants that cause it on a regular basis; conducting an investigation by competent entities, in accordance with the current legislation and the means and methods developed by forensic science; use of practice-tested recommendations in the conduct of investigation in the context of counteraction; protection of the revealed and collected information based on the materials of the proceedings in the context of counteraction to pre-trial investigation; use of international experience in overcoming obstruction of pre-trial investigation; implementation of preventive activities, etc.

## **12.2. Forms of counteraction at the stages of pre-trial investigation**

The concept of «form» refers to the way of existence of content, the unification of parts into a whole, the coordination and interaction of certain elements, that is, form is the integrating basis for the existence of a phenomenon.

The term «form» is interpreted by the Great Explanatory Dictionary of the Modern Ukrainian Language as: 1) outlines, contours, external boundaries of an object that determine its appearance; 2) a device, a template, with the help of which something is given a certain outline, a certain appearance; 3) the mode of existence of the content, its internal structure, organization and external expression; 4) appearance, the external side of something that does not reflect the essence of the matter

The classification of forms of counteraction is carried out with a division into: internal and external.

*Internal counteraction* should be understood as activities carried out by persons involved in the investigation in any form, who have information about the incident and seek to conceal this information from the investigator.

*External counteraction* should be understood as «the activities of persons who are either not related to this event and the person conducting the investigation, or are connected with the investigator (inquiry officer) by procedural, official or other power relations or other dependencies».

**Methods of counteraction** are behavioral acts of the opposing party in complicating (making it impossible) to implement the tasks of criminal proceedings. Methods of counteracting pre-trial investigation determine and characterize its forms.

It is expedient to perceive the *form of counteraction* to pre-trial investigation as an external characteristic of objects, subjects, and the orientation of groups of methods similar in its internal content with their division into «internal» and «external».

Formation of conditions when participants are silent about the circumstances of a criminal offence for a number of reasons, in particular:

- tactless behavior of the authorized person;
- insufficient level of explanation by law enforcement officers to the person of the main provisions of the investigation and investigative (search) actions to be carried out, the importance of participation (testimony, information provided) to establish all the circumstances of a criminal offence;
- unpreparedness of the authorized person to conduct an investigation in general and certain procedural actions in particular, etc.;
- lack of legal literacy and understanding of the content of what is happening;
- reluctance to waste personal time and appear on calls to law enforcement agencies (this is the main motivation for the refusal of persons to be witnesses in investigative (search) actions);
- difficulty of differentiation (separation of the main and secondary) in the content of the event, which needs to be clarified in the course of the investigation; a person, and especially minors, being in a particularly vulnerable state;
- reluctance to cover personal (intimate) life, in particular by marriage, the fact of rape, victimhood of behavior, etc.

For example, a person refuses to participate in an investigative (search) action as a witness, which is currently his/her right, not an obligation. This complicates the activities of law enforcement officers, who are forced to spend time and effort searching for other witnesses, but cannot be regarded as counteraction, since the person does not pursue the appropriate goal. The above necessitates a clear understanding and differentiation of behavioral acts with the manifestations of counteraction to pre-trial investigation, which is based on the goal pursued by the person.

Thus, if the ultimate goal is to complicate the activities of the investigator as a whole, for example, for reasons of revenge, without personal interest in the results of the investigation, the behavioral acts of this person cannot be assessed by counteraction. This should be considered as manifestations of personal attitude (protest, internal rejection) to the professional and personal qualities of the person concerned, as a representative of the law enforcement system as a whole, and not as a subject of investigation in a separate proceeding. Thus, victims' complaints about

inaction aimed at changing the investigator's attitude to the organization of the investigation will form confrontation, but should not be assessed by counteraction. However, its occurrence is quite likely if the subjects of the investigation do not pay due attention to the situation.

The term «counteraction» has become widespread not only in the criminalistics literature, in the context of the study of problems of pre-trial investigation, but also in the works whose authors devoted their attention to the «fight against crime». The lack of an unambiguous interpretation complicates the understanding and correct use of this scientific category. We believe that the authors of the works need to be balanced approach the use of terms, scientific categories, taking into account their etymological meaning. Counteraction should be considered as manifestations aimed at complicating (making it impossible) to carry out activities in a separately defined proceeding, carried out by the relevant subjects (the opposing party) and minimizing the possibility of punishment in case of prosecution. The activities of authorized persons aimed at overcoming crime as a phenomenon are worth considering. For example, in the case of the United States of America, the substitution of methods of counteracting pre-trial investigation by the form made by a number of scholars complicates the possibilities of its use as a theoretical category in the coverage of counteraction to pre-trial investigation. This requires more attention from scientists and a balanced application of scientific categories in the research. The totality of the existing forms and ways in which counteraction is implemented reflects the difficulties of both scientific knowledge and practical implementation in overcoming the manifestations under consideration.

Another component of counteraction is manifested in the manifestation of the will of the relevant subject, with the implementation of both active (active) and inactive (passive) manifestations of methods of action. If a person takes active actions, for example, by distorting facts, forming an alibi, giving knowingly false testimony, then they should be regarded as an active form of activity, if concealment, concealment – passive.

In the awareness and differentiation of behavioral acts with the presence or absence of manifestations of counteraction to pre-trial investigation, which is based on the goal pursued by the person. The purpose of the subject is determined by the end result to which the process is directed. If the ultimate goal is to complicate the activities of the investigator as a whole, for example, for reasons of revenge, without personal interest in the results of the investigation, the behavioral acts of the specified person

cannot be assessed by counteraction. This should be considered as manifestations of personal attitude (protest, internal rejection) to the professional and personal qualities of the person concerned, as a representative of the law enforcement system as a whole, and not as a subject of investigation in a separate proceeding. Victims' complaints about inaction aimed at changing the attitude of the authorized person to the organization of the investigation will form confrontation, but should not be assessed by the opposition. However, its occurrence is quite likely if the subjects of the investigation do not pay due attention to the situation.

If measures are taken to prevent the initiation of criminal proceedings, they should be perceived as *a preemptive counteraction*. These manifestations can be implemented in the following ways: offers (promises) of compensation, compensation for damages, other types of remuneration, etc.; threats of various content to persons who detained criminals, participants, eyewitnesses of events with attempts to shift responsibility to the other side, to impose the futility of attempts to restore justice, etc.; variants of influence that cause the refusal (change, incomplete coverage) of testimony by victims, witnesses, accomplices. The above complicates or makes it impossible to clarify the fact of a criminal offence and, as a result, the initiation of proceedings.

### **12.3. Characteristics of subjects and objects of counteraction to pre-trial investigation**

Judicial and investigative practice defines the following subjects of counteraction: unscrupulous defender – 87 %; suspect – 87 %; procedural supervisor – 47 %; the head of the pre-trial investigation body – 21 %; authorized person – 10 %; victims – 56 %, witnesses – 51 %; persons who have influence on public opinion (media, foundations, organizations, public figures, church ministers, activists, bloggers and others) – 47 %, experts – 17 %; witnesses – 11 %.

From the above list, we have identified the following subjects *as the external form of counteraction*: procedural supervisor; referee; head of the pre-trial investigation body; persons who have influence on public opinion (media, foundations, organizations, public figures, church ministers, activists, bloggers, etc.), relatives (relatives, acquaintances) of the perpetrators, etc., who to one degree or another can use their position in society, powers to

counteract, etc. Further, we consider it necessary to consider in more detail the indicated subjects of counteraction.

Judicial and investigative practice determines the affiliation of the following subjects to internal counteraction: defender; Suspect; authorized person; victims, witnesses, witnesses, etc.

It is natural that the subjects, carrying out the investigation, know best the strengths and weaknesses of the proceedings, therefore, the countermeasures taken by them may have a more significant impact and irreparable consequences for the proceedings.

The subject of the investigation consciously counteracts both actively (actions) and passively (inaction). Active countermeasures can be implemented in the following ways: exerting pressure on participants in investigative (search) actions; improper organization or formal conduct of the ISA; confusion in clarifying the circumstances of a criminal offence; creating the illusion of an investigation, which by its content does not intend to establish the circumstances of the incident; destruction, substitution of objects available in the proceedings (tools, objects with fingerprints, bottom of shoes, etc.); acquaintance with the collected evidence base, proceedings until its completion; agreements with the defender and his client on the line of conduct, in particular, the latter's refusal to testify by virtue of Art. 63 of the Code of Ukraine of Ukraine; putting up for the examination of issues of secondary importance with a list that will require a significant amount of time to be carried out; Provision of materials for research not in full will complicate (impossible) their conduct, etc.

***Inaction*** can be implemented in the following ways:

- refraining from urgent investigative (search) actions;
- delay in planning the investigation and implementation of the ISA;
- postponing to a later time orders to carry out operational measures and covert investigative (search) actions, seizing the necessary documents, gaining access to important information and places in establishing the circumstances of the proceedings, etc.

Other ways of complicating (making it impossible) to implement the tasks of criminal proceedings can also be identified, which largely depends on the investigator's experience in investigation, control over its activities by the relevant subjects, time for counteraction, etc.

Refusal to provide or change of testimony by victims and witnesses may be the result of a decision made independently or imposed by the pressure party. The victim may be provided with such conditions under

which he is ready to renounce his testimony incriminating the offender, demands to satisfy the claim for damage caused to him (material, physical or moral). In this case, these persons, feeling their insecurity, are convinced of the impunity of offenders, the inaction of law enforcement agencies. Appeals to authorized persons with reports on the facts of pressure on him from interested parties, for the most part, remain without due attention. A change in the situation is seen in the appeal to regulatory authorities, international judicial institutions, etc. Forced stimulation of the subjects of investigation to exercise their obligations in the implementation of the tasks of criminal proceedings at the appropriate level cannot be assessed as a counteraction. Counteraction should be understood as the adoption of measures aimed at obstructing the achievement of the objectives of criminal proceedings

*Victims' counteraction* can be implemented by:

- changes (refusal to give) testimony;
- refusal to appear at the summons of an authorized person;
- taking measures on the part of the victim or witness with the intention of mitigating the responsibility of the offender, etc.

Despite the fact that testimony is an obligation and not a right of witnesses, their position can become a significant obstacle in establishing all the circumstances of a criminal offence. At the time of exerting pressure on a witness, in order to change his testimony, he is the object of counteraction. In case of acceptance of the conditions formed for him and changes in the testimony in favor of the relevant persons, he turns into a subject of counteraction. These persons counteract for mercenary motives, trying to whitewash the perpetrators for family reasons, fear of retaliation from interested parties, etc.

Witnesses summoned to carry out investigative (search) actions with their participation may use the same methods of counteraction as witnesses. For a correct assessment of the actions of the subject of investigation, there is a need to find out its motives and goals.

***Test questions:***

- 1. The concept and content of counteracting the investigation.*
- 2. The concept and essence of forensic support for overcoming opposition to pre-trial investigation*
- 3. Subjects of counteraction to the investigation.*
- 4. Obstruction of the investigation in the form of concealment of a criminal offence, its consequences or persons involved in its commission.*
- 5. Staging of a criminal offence and falsification of evidence by criminals, victims and witnesses.*
- 6. Motivational motives of counteraction.*
- 7. Clarification of the goal pursued by the subject in determining his actions as a counteraction.*
- 8. Identification of manifestations of counteraction according to the content of the decisions of the relevant subjects.*
- 9. Subjects and methods of «external» counteraction to the investigation.*
- 10. Subjects and methods of «internal» counteraction to the investigation.*
- 11. Possibilities of using the armed aggression of the Russian Federation against Ukraine in the implementation of counteraction.*
- 12. Criminalistics means and methods of overcoming obstruction of investigation.*

***Topics of essays:***

- 1. Interaction of the Commissioner with other participants in the investigation.*
- 2. Organizational forms and tactical methods of interaction of the investigator (inquiry officer) with operative-search and other units of the internal affairs bodies.*
- 3. Ability of the Investigative Task Force (IOG) to overcome counteraction .*
- 4. Leadership style as a factor in the management activity of the IOG in the context of counteraction to pre-trial investigation.*
- 5. Principles and conditions for the use of data obtained by operative search in overcoming counteraction.*



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