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EXAMINATION TYPES AND THEIR VALUE FOR THE INVESTIGATION OF CRIMINAL OFFENSES RELATED TO POISONOUS SUBSTANCES TRAFFICKING

Abstract. Purpose. The present paper is aimed at studying the types of examination which may be implemented while investigating criminal offenses related to poisonous substance trafficking and establishing their value for the relevant process. **Research methods.** The paper was based on general and special methods of scientific cognition, namely: dialectical, formal-logical, generalization, comparison, etc. **Results.** The paper presents the analysis of the examination concept, conveys its essence and tasks, and specifies its types according to objects. Attention is paid to the following examination types and peculiarities of their implementation: the scene, geographical features (landscape), premises which are not the crime scene but are related to it, items, documents and computer data, inspection of housing or other personal possessions, corpse, examination of the corpse related to exhumation, inspection, vehicle inspection, and exhumation of animals. It is marked that the abovementioned types of examination may be carried out both independently and simultaneously with others, e.g., examination of the crime scene together with the person's housing or other possessions. Attention is focused on the security measures of the investigative team and the third parties or animals during crime scene examination because the examination object can be poisonous substances and their carriers or vapors, which can harm the life and health of persons and animals and the environment. It was established that delays in examination may lead to a change in the circumstances of such a criminal offense, the spread of a poisonous substance into the water and air or the destruction of traces and physical evidence that will complicate the investigation process. **Conclusions.** According to research findings, examination is a crucial component of the system of investigative (search) actions (performed during the investigation of criminal offenses related to poisonous substance trafficking) and significant for evidence assessment and a substantiated notification on suspicion of committing specific criminal offenses.

Key words: examination, items, documents, inspection, corpse, vehicle inspection, animal exhumation.

1. Introduction

In today's conditions, war crimes have become widespread, in particular, the use of banned chemical weapons by the Russian Federation against Ukraine in some of its regions, which causes harsh consequences inflicted by the action of poisonous substances on the human body. Criminal offenses related to the illegal trafficking of poisonous substances have their specifics, and thus, their investigation requires various types of examination, which are of undeniable importance. For example, crime scene examination allows the collection of objects that will subsequently form a solid evidence base and contribute to ascertaining the truth in criminal proceedings. Such

an objective is achieved through the activities of the investigative and operational group, including a CSI specialist. The latter gathers evidence of specific criminal offenses. However, that kind of activity is complex: it requires appropriate knowledge, skills, and abilities to work with poisonous substances since it is crucial not only to find trace information but also to correctly record it and assist in describing and removing the necessary objects for further forensic studies. Both scene examination and other examination types have their characteristics and specifics and play a significant role in proving criminal offenses related to the illegal trafficking of poisonous substances.

In criminalistics, much attention is paid to the scientific study of the tactics of investigative (search) actions. Examination itself holds a special place in their system. The tactics of the investigative review during the formation and development of the science of criminalistics are elucidated by various scientists, namely, V.P. Bakhin, R.S. Bielkin, H.I. Hramovych, S.P. Yefimychev, V.O. Konovalova, V.P. Kolmakov, N.I. Klymenko, V.S. Kuzmichov, N.I. Kulahin, Ye.I. Makarenko, H.A. Matusovskiy, M.I. Porubov, M.V. Saltevs'kyi, K. O. Chaplyns'kyi, Yu. M. Chornous, V.Iu. Shepitko, I.M. Yakimov, M.P. Yablokov, and many others. At the same time, there is a lack of contributions devoted to examination tactics when investigating criminal offenses related to the illegal trafficking of poisonous substances. Consequently, it raises the need for scientific study of the relevant issue.

The article aims to outline the concept, essence, tasks, and types of examination and justify their significance for the investigation of criminal offenses related to the illegal trafficking of poisonous substances.

2. The concept and essence of examination during the investigation of criminal offenses related to poisonous substances

It is worth first referring to dictionaries to define the concept of examination. Thus, a great explanatory dictionary of the modern Ukrainian language interprets "examination" as an inspection aimed at checking, controlling, finding something illegal, etc. (Velykyi tлумachnyi slovnyk suchasnoi ukrainskoi movy, 2002, p. 658). According to the legal encyclopedia by Yu.S. Shemshuchenko, examination is the procedural action of the investigator, prosecutor, court whereby state, properties and features of tangible objects related to the event under investigation are revealed, directly perceived, assessed, and recorded in order to obtain factual data and clarify circumstances relevant to establishing the truth in criminal proceedings (Iurydychna entsyklopediia, 2002, p. 325). Such a definition is broader than the former and specifics the purpose and tasks.

In our opinion, Ye.I. Makarenko, in his study guide, has defined the investigative review with masterly skill. He notes that the investigative review holds a special place among the investigative actions aimed at obtaining evidence from the most impartial, incorruptible, and veracious witnesses – the so-called "silent witnesses" of the crime (tangible sources of evidence) (Macarenko, 2004, pp. 3–4).

We also share K.O. Chaplyns'kyi's opinion that the investigative review belongs to priority, unique, and irreplaceable investigative (search) actions (Chaplyns'kyi, 2010, pp. 50–51). The

urgency distinguishes the specific investigative (search) action from all others and makes it a priority (Shepitko, 2001, p. 218).

Following Art. 237 of the Criminal Procedure Code of Ukraine (CPC of Ukraine) "Investigator, public prosecutor shall carry out a visual inspection of the area, premises, items and documents to find and record the information relating to the commission of a criminal offence" (Kryminalnyi protsesualnyi kodeks Ukrainy, 2012).

Examination means that the investigator, using the methods of cognition, is convinced of the existence and nature of facts that have evidentiary value (Piaskovskiy, Chornous, Samodin, 2020, p. 408). During examination, the investigator: 1) directly perceives the scene background and other tangible objects and studies them; 2) detects and studies traces and other physical evidence; 3) is aware of the essence and mechanism of the case; 4) evaluates the examination results; 5) records the scene background, objects, and traces for their further use in the investigation process (Piaskovskiy, Chornous, Ishchenko, Aliksieiev, 2015).

In addition, the effectiveness of examination shall be achieved within the tasks of an investigative (search) action. Modern criminalistics (Piaskovskiy, Chornous, Samodin, 2020, pp. 408) outlines the following tasks of examination: 1) identifying traces of a criminal offense and other objects that may be attached to the materials of criminal proceedings as physical evidence; 2) clarifying the mechanism of a criminal offense; 3) putting forward versions of the circumstances of the criminal offense and its participants; 4) obtaining information about the participants and eyewitnesses of the criminal offense; 5) establishing other circumstances relevant to criminal proceedings (for instance, ascertaining information about the poisonous substance and its compounds).

3. Characteristics of examination types within the investigation of criminal offenses related to poisonous substances

To render the essence of examination, its types should be specified. Thus, criminalistics literature names examination types according to various grounds. However, as for the present article's subject, we will consider types following examination objects: 1) crime scene examination (part 3 of Art. 214, Art. 237 of the CPC of Ukraine); 2) inspection of the area, premises, items, documents and computer data (Art. 237 of the CPC of Ukraine); 3) inspection of home or other possessions of a person (Art. 233 of the CPC of Ukraine); 4) corpse inspection (Art. 238 of the CPC of Ukraine); 5) corpse inspection associated with exhumation (Art. 239 of the CPC of Ukraine);

6) examination of an individual's body (examination of an individual) (Art. 241 of the CPC of Ukraine); 7) inspection of other objects (inspection of vehicles, animals and their corpses, etc.) (Piaskovskiy, Chornous, Samodin, 2020).

During the investigation of criminal offenses related to the illegal trafficking of poisonous substances, there is the need to conduct the following *examination types*:

1) *crime scene* (apartments, rooms in dormitories, private houses and their private plots and premises, abandoned houses, territories of institutions and organizations that are associated with the trafficking of poisonous substances (for example, pharmacies, hospitals, pharmaceutical enterprises, warehouses with chemicals, etc.), etc.). Examination is carried out after notification of the specific type of criminal offense and is crucial for obtaining physical evidence; it can be primary or repeated, basic or additional).

The effectiveness of investigation of criminal proceedings related to the illegal trafficking of poisonous substances largely depends on the appropriate collection (seizure, packaging, and transportation) of physical evidence during crime scene examination. Such an investigative (search) action is the most common and complex of all of the above. First of all, this is due to the danger to health and the environment of poisonous substances inspection subjects deal with.

At the same time, it should be noted that the evidentiary value of scene examination includes the accurate and objective fixation of the situation as it was during inspection (Razumov, Molyboha, p. 14–15);

2) *areas, premises that are not the crime scene but relate to it* (for example, the need to examine the location arises if traces of poisonous substances or effects of actions related to their concealment were found on the earth or water surface; there is also a need to inspect the premise that is not related to the crime scene in case of receipt of information about the presence of poisonous substances and other physical evidence indicating their illegal trafficking, or information about the possible concealment of the offender (who produced, manufactured, acquired, transported, delivered, or stored for marketing or sold poisonous substances) in a certain premise);

3) *items* (this may concern the inspection of poisonous substances and containers in which they were produced, purchased, transported, delivered, stored for marketing or were sold; devices used during the production of poisonous substances; clothes retaining traces of poisonous substances; other items that

may be physical evidence in specific criminal proceedings);

4) *documents and computer data* (if so requested to study such objects and find information in their content that can be used as evidence of the fact or circumstances to be established during the investigation of criminal offenses related to the illegal trafficking of poisonous substances. It is carried out under Arts. 98-100 of the CPC of Ukraine).

That kind of examination deals with documents (printed or electronic) and records which may contain features that make them physical evidence or information indicating the fact of illegal actions.

According to part 1 of Art. 98 of the CPC of Ukraine, physical evidence means tangible objects that have been used as an instrument of a criminal violation, retain traces of such or contain other information, which may be used as evidence of the fact or circumstance to be established during criminal proceedings, including the items that have been an object of criminally unlawful actions, money, valuables or other articles obtained in a criminally unlawful manner or gained by the legal person as a result of criminal violation (Kryminalnyi protsesualnyi kodeks Ukrainy, 2012). In other words, physical evidence in the investigation of criminal offenses can comprise not only the poisonous substances themselves but also other tangible objects that are in any way related to their commission., e.g., documents indicating the fact of production, purchase, sale, or use of a poisonous substance (notebooks with information about the very poisonous substances, recipes for poisonous substances, instructions for handling poisonous substances, professional literature, "black accounts", consignment notes, or receipts for the purchase of poisonous substances, etc.).

The inspection of computer data, which may contain information about the relevant type of criminal offenses, is of particular importance, e.g., when it is necessary to establish the fact of acquisition, transfer of poisonous substances on the Internet, criminal ties, involvement of a person in the search for crime information, etc.;

5) *inspection of home or other possessions of a person* (the need for such inspection during the investigation of criminal offenses arises when there is information that a person produced, acquired and stored for marketing poisonous substances in their house or other possessions. The procedure and grounds for its implementation are general, the same as during the investigation of all other criminal offenses. In conducting the relevant type of inspection, it is essential to pay attention to the safety rules

for handling poisonous substances during their detection and removal);

6) *corpse* (corpse examination is crucial while investigating such types of criminal offenses since the poisonous substance in the corpse can affect the health of the CSI team.

In this regard, those involved in the investigative (search) action, including those who are directly involved in the corpse's examination, collection of samples of tissues, organs or parts thereof, must be provided with the necessary equipment, i.e., medical masks, respirators, and when receiving information about extremely hazardous substances – gas masks, rubber gloves with the appropriate degree of protection, and technical means that allow determining the type and concentration of poisonous substances and their compounds in the field;

7) *corpse related to exhumation* (carried out in order to identify and take samples of corpse tissues, organs or parts thereof for further forensic tests and clarification of issues that are important within the pre-trial investigation of criminal offenses under consideration. To detect and identify poisonous substances, objectively determine their quantity, concentration, or chemical compounds, and perform an expert examination during exhumation, samples of land from the burial place (corpse bed) and clothing of the corpse shall be taken in sufficient quantities. We have discussed the procedure of relevant inspection and its features in a previously published scientific article in detail (Maksymchuk, p. 308), so we will not dwell on them. But attention should be focused on the importance of compliance with the above personal safety measures).

For example, the study of samples of an exhumed corpse played a crucial part while investigating criminal offenses related to the mass thallium poisoning in Kyiv in 1987. At school No. 16, dishwasher Tamara poured thallium into meals that made one and a half dozen teachers and students hospitalized with symptoms of food poisoning, and two children and two adults died almost immediately. During the investigation, it turned out that the nurse who checked the quality of school food had died of cardiovascular disease a week before the event. However, after exhuming and examining her body, thallium traces were identified in the corpse's tissue. Consequently, checks of all employees of the school canteen were conducted. According to findings, a bottle of liquid was found in Tamara Ivaniutina, the examination of which showed that it was Clerici solution – a highly poisonous solution based on thallium. During the investigation, it emerged that Ivaniutina and her family members have

poisoned people for 11 years (Hazeta Fakty, 2007);

8) *inspection* (driven by the need to find traces of relevant criminal offenses on the body of the suspect (detainee), or victim. For example, when a person has produced poisonous substances, poured, transported, and performed other manipulations with them, traces could remain on his body, indicating the commission of such a criminal offense);

9) *inspection of other objects*: vehicles, compartments of railway cars, luggage compartments, etc. used for transporting or storing poisonous substances, incl. animals that have become victims of poisonous substances, etc. The above objects of inspection can be the scene of a specific criminal offense or a place retaining physical evidence that will contribute to establishing the truth within criminal proceedings.

The above is illustrated by the case of thallium poisoning, traces of which were found in the vehicle of the deceased. Thus, in early December 2018, Maxym Bilokon died in Kyiv because doctors could not diagnose him for a long time. Moreover, it was too late when it emerged that he had been poisoned with thallium. In addition, 40 days after his death, similar symptoms appeared in his father, Volodymyr, and his colleague who were saved thanks to a timely diagnosis and the provision of medical care. At the beginning of the investigation, the father and son's vehicles were not inspected, although they worked as taxi drivers. Things changed when the father, cleaning the car, found several mercury balls, after which the vehicle was inspected. As a result, physical evidence of poisoning of the mentioned persons was detected (Hazeta Fakty, 2018).

Sometimes there is a need for the exhumation of animals since the results of examination and study can affect the overall assessment of cases of criminal offenses related to the poisoning of people. The particularity may be evident when a criminal tests or experiments on a poisonous substance while preparing for murder with its use.

When examining the exhumed corpse of an animal, it should be borne in mind that although corpses are preserved in the ground longer than on the surface, it is not always possible to identify pathological processes that have caused animal death. But mineral poisons retain in the corpses of animals for a very long time, e.g., arsenic, fluoride, mercury, etc. In this case, a forensic veterinary examination should be appointed. To conduct the study, it is recommended providing not only corpse remains but also soil samples of 0.5 kg from the corpse's bed and surface.

The above types of examination can be implemented both independently and simultaneously with others, e.g., an inspection of the scene and personal housing or possessions.

4. Conclusions

It is worth noting that examination occupies a central place in the system of investigative (search) actions taken during the investigation of criminal offenses related to the illegal trafficking of poisonous substances. All its types are essential since they are highly significant investigative (search) actions for collecting and evaluating evidence and providing a reasonable report of suspicion of a criminal offense related to poisonous substances.

Compared to other investigative (search) actions, examination almost always endangers its participants since the object of inspection can be represented by poisonous substances and their carriers (corpses, containers, items, or things that had contact with a poisonous substance, etc.) or fumes that can harm the life and health of persons and animals and the environment. Delays in examination can change the conditions of a criminal offense, cause the spread of a poisonous substance into the water and air, the destruction of traces and physical evidence, their concealment, etc., that will complicate the investigation and the establishment of the truth in criminal proceedings.

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ВИДИ ОГЛЯДУ ТА ЇХ ЗНАЧЕННЯ В ДОКАЗУВАННІ КРИМІНАЛЬНИХ ПРАВОПОРУШЕНЬ, ПОВ'ЯЗАНИХ З НЕЗАКОННИМ ОБІГОМ ОТРУЙНИХ РЕЧОВИН

Анотація. *Метою* статті є дослідження видів огляду, які можуть проводитися під час розслідування кримінальних правопорушень, пов'язаних з незаконним обігом отруйних речовин,

та встановлення їх значення у процесі доказування. **Методи дослідження.** Робота виконана з використанням загальнонаукових та спеціальних методів наукового пізнання, таких як: діалектичний, формально-логічний, узагальнення, порівняння тощо. **Результати.** У статті розглянуто поняття огляду, запропоновані різними вченими-криміналістами, та розкрито його сутність, наведено його завдання та охарактеризовано види за об'єктами огляду. Зосереджено увагу на особливостях проведення таких видів огляду, як: місця події, місцевості, приміщень, які безпосередньо не є місцем події, але пов'язані з нею, речей, документів та комп'ютерних даних, огляд житла чи іншого володіння особи, трупа, огляд трупа, пов'язаного з ексгумацією, освідування, огляд транспортних засобів та ексгумація тварин. З'ясовано, що наведені вище види огляду можуть проводитися як самостійно, так і одночасно з іншими, такими як огляд місця події та житла чи іншого володіння особи. Акцентовано увагу на заходах безпеки учасників слідчо-оперативної групи та сторонніх осіб чи тварин під час проведення огляду, оскільки об'єктом дослідження можуть бути як безпосередньо отруйні речовини, так і їх носії чи випари, які можуть завдавати шкоду життю, здоров'ю особам, тваринам, навколишньому середовищу. Встановлено, що зволікання з проведенням огляду може призвести до зміни обстановки такого кримінального правопорушення, розповсюдження отруйної речовини у водний та повітряний простори, знищення слідів і речових доказів, що призведе до утруднення процесу розслідування. **Висновки.** У результаті проведеного дослідження встановлено, що огляд у системі слідчих (розшукових) дій, які проводяться під час розслідування кримінальних правопорушень, пов'язаних з незаконним обігом отруйних речовин, займає центральне місце, він є надзвичайно важливою слідчою (розшуковою) дією, що має ключове значення у процесі доказування, а також обґрунтованого повідомлення про підозру у вчиненні таких видів кримінальних правопорушень.

Ключові слова: огляд, речі, документи, освідування, труп, огляд транспортних засобів, ексгумація тварин.

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