

UDC 343.98

**Yu. Chaplynska**, Ph.D. in Law Sciences,  
Associate Professor of the Department  
of Criminal Legal Disciplines,  
Dnipropetrovsk State University of Internal Affairs

### ORGANIZATIONAL AND TACTICAL ENSURING OF THE INVESTIGATIVE EXPERIMENT

*The scientific article is devoted to coverage of the issues of investigative experiment. The author has analyzed existing in the legal literature point of view on this issue and the organizational-preparatory measures for investigative experiment.*

*Key words: investigatory experiment; interrogation; tactics; tactical method; reproduction.*

*Висвітлено актуальні проблеми проведення слідчого експерименту. Проаналізовано наявні в юридичній літературі погляди на це питання, запропоновано організаційні заходи і тактичні прийоми проведення слідчої дії.*

*Ключові слова: слідчий експеримент; організація; організаційне забезпечення; тактичні прийоми; відтворення.*

**Problem formulation.** The relevance of this article due to lack of scientific research and of great practical importance of the system of organizational and tactical security investigation, in particular, the investigative experiment, which can be used in the investigation, investigative, forensic practice.

During investigating different types of crime, especially serious crimes, particularly murders, robberies, extortion, hostage-taking, illegal manufacturing of firearms, ammunition, explosives, narcotic drugs or psychotropic substances, documents, seals and other, it is frequently necessary, in addition to the testing and refinement of indications suspects, conduct some experimental research actions. Testing can be conducted to establish the possibility for the perception of face certain facts or phenomena, the implementation of concrete actions, the presence or absence of certain skills and other such pilot experiments carried out with the help of such investigative actions as an investigative experiment. On the basis of investigation of criminal cases (367) and employee survey investigative units (289) you can come to the conclusion that such examination was conducted only in 4 % of cases of the total number of cases, and 23 % – it was obvious, but during the pre-trial investigation was not done. Specified to some extent reduces the quality of the pre-trial investigation in General. In addition, 48 % of the investigators pointed to the need for updating and improving the organizational and preparatory and tactical activities of the investigative experiment taking into account the modern needs of law enforcement practices.

Active opposition to the pre-trial investigation, bagatell and complexity of criminal proceedings, the duration of criminal activity and the presence of numerous contradictions and significant differences determine important organizational and tactical value to the investigative experiment. Despite this, effective implementation of this investigative actions depends on the correct and effective ownership and operation rights investigators tactical methods and applications in law enforcement practice.

© Yu. Chaplynska, 2014

**Analysis of recent researches and publications.** A common tactic investigative experiment adequately lit scientists, criminologists and processually in forensic literature. In particular, a significant contribution to the development of scientific fundamentals of the investigative experiment made famous scientists, criminologists and scientists, in particular, L. Arocker, V. Bahin, R. Belkin, P. Belanchuk, A. Vasiliev, N. Hukowska, F. Hlazyrin, V. Konovalova, V. Kuzmichev, E. Lukjanchikov, M. Saltewski, L. Soya-Sirko, V. Tertysny, K. Chaplinsky, V. Shepitko, S. Yaramesian and others. The importance of research and doubtless very great, because this investigative action are widely used in law enforcement practice and is a common way of gathering evidence. However, a more detailed lighting require the organization and tactics of investigative experiment taking into account the modern needs of law enforcement practices.

**Purpose of the article** is to highlight the features of tactical security investigative experiment taking into account the modern needs of law enforcement practices.

**Main material.** Investigative experiment is a separate investigative action which consists in making experiments in order to check – could occur under certain conditions, certain events and how. The experiment (from lat. word experimentum – test, study) is a artificial systematic variation of the conditions of the phenomenon that is under observation, and its relations with other phenomena. Investigative experiment should be distinguished from the experiment as a scientific research method, which is used as a cognitive reception during a separate investigation. Specified investigative action is a powerful psychological tool impact on its participants, because the results often demonstrate the possibility or impossibility of the existence of a particular phenomenon or event, and to deny them the suspect (accused) is quite difficult. Therefore, the investigative experiment is necessary, and often irreplaceable way of checking and receiving new evidence. The investigative experiment, refers to a derivative of investigation and is, as a rule, at the subsequent stages of pre-trial investigation. However, according to S. Novikov and S. Yaramish'yan, failure to conduct this investigation activities negatively affects the quality of pre-trial investigation, especially in cases when checked circumstances connected with visibility, visibility, setting area that is changing rapidly [1, 10]. Therefore, in such cases, the investigative experiment shall be conducted in the system of urgent investigative actions.

So, the investigative experiment is an informative investigative action, the essence of which is to conduct research related to installation, validation or evaluation of investigative stories about the possibility or impossibility of the existence of certain facts relevant to the criminal case [2, 5].

According to I. Luzgina, the essence of the experimental method of investigation of the facts and phenomena is in this learning object, when the researcher has an impact on it by creating artificial conditions required to identify the relevant properties, or by changing the course of the process in a certain direction. The contents of this method comprise any of the tests by which distinguish the phenomenon of interest from a plurality of other, and to know its nature, essence and origin, what allows us to come to a reliable conclusion about the possible existence of similar conditions similar phenomena in the past or in the future [3].

From checking the readings on the site of the investigative experiment differs entity and the entity. The test is conducted by a person directly perceived the event. The subject reveals a mental image by demonstration (show) it to the real objects of the material environment in the same place. When investigative experiment, on the contrary, the research activities comprise its essence and serve as a method of obtaining and verifying information. The experiment can be carried out in the absence of the person whose testimony is checked, and in some cases, the implementation of it on the same place where was analyzed event is not required [4, 225]. The main goal of the experiment investigation is the establishment, validation, refinement and evaluation of certain facts relevant for criminal proceedings.

The main task of the investigative experiment include: the exact mechanism of the offence; check advanced investigative versions; identification of causes and conditions that contributed to or prevented the Commission of a crime; check and Refine the actual data obtained by the results of individual investigations; obtaining new evidence; establish and resolve contradictions in the testimony of suspects, witnesses and victims; defining the boundaries of awareness or ignorance of the perpetrators of the crime and other.

Investigation of criminal cases (367) allows us to come to the conclusion that law enforcement practice the following types of investigative experiments:

- 1) establishing the possibility of the observation or perception of some fact or phenomenon;
- 2) establishing the possibility of the existence of any fact or phenomenon;
- 3) establish the feasibility of performing any act under certain conditions;
- 4) the determination of the presence or absence of a particular person certain professional skills;
- 5) establishing the possibility of performing certain actions within a certain time;
- 6) the sequencing of the development of the specific event and the mechanism of the crime or its individual elements;
- 7) the delineation of awareness on facts of interest to the investigation.

On the basis of generalization of the law-enforcement practice, the study of criminal cases and survey of investigators, you can specify that in the basic tactical conditions of the experiment investigation include:

1. Investigative experiment in conditions as close as possible to those in which the occurred event, fact or occurrence.

All experimental steps it is advisable to carry out under optimum conditions in those places where was analyzed the event. In this case, the investigator should consider the place, time, time of day, weather and climatic conditions, coverage, duration, tempo and sequence of actions, circumstances that can't be reversed, etc. Especially for experiments, which tested the ability of observation or perception of any facts (phenomena); the existence of any fact (phenomena); the implementation of any action under certain conditions or sequencing of the development of the specific event and the mechanism of the crime or its individual elements.

The investigator must artificially create an environment that will encourage the person to voluntarily take actions that reveal the content is known only to her information, in particular about preparing, committing and concealing the crime, prior criminal conspiracy and others [4, 234; 5, 394]. If the environment where you plan to conduct experimental activities, has undergone significant changes, then resort to reconstruction. Reconstruction must be not whole situation, and some of its elements, which are important for the experiments.

2. Use during the experiment, the same instruments, tools, devices and materials that were used during the criminal event.

During the research activities it is advisable to use the same devices, mechanisms, devices, and materials that were used in the Commission of crimes. Not advisable during the experimental activities to use objects that are physical evidence in criminal production that is due to the possibility of their destruction or damage. If you cannot use these objects in the experiment, the investigator may apply the subject-analogues or full-scale layouts. Specified in a certain way can affect psychological position criminals and call them experiences similar to those they experienced during the Commission of crimes, which may contribute sincere recognition.

In particular, V. Konovalova and F. Khomenko indicate that the layout creates emotional mood and contributes to associative links, which can be used to clarify the circumstances relevant to the case, and makes the results more convincing [6; 7].

It is strictly forbidden to carry out experiments using objects that are dangerous to life and health of citizens associated with the threat of destruction of public or private property of citizens, the violation of public order or the humiliation of honor and dignity.

3. Multiple and stepwise experiment and repeat the test action in a changing environment.

All research activities must be carried out repeatedly and in variable conditions to ensure reliability and eliminate the possibility of getting random results. For example, when establishing the possibility to perceive it must be shown various objects, in order to ensure the sustainability of their recognition by the subject of the experiment.

The main purpose of the repeated recurrence of the research activities is to achieve consistent and reliable results. The number of repetitions is determined by the investigator, depending on the nature of the case, the duration of each study and the situation that has developed. Conduct research necessary stages, that is, all the analyzed event is divided into certain stages. For each specified stage is a separate study and the results of all of them together, allowing the investigator to get an idea of the whole event in General. Phased investigative experiment is possible, provided that this does not affect the overall pace of its implementation.

4. A limited number of participants investigations and carry out the necessary experimental research activities, most similar to those that occurred in reality (in the sequence, method, nature, pace and so on). Worth pointing out that all experimental steps and tests used during investigative actions should not border on making a new similar crimes. However, according to E. Makarenko, sometimes they can be associated with causing justified and minor material damage, for example, during the pilot testing of technical products on their strength [8].

5. The involvement of the witness, victim or suspect to experiment. When conducting questionnaires and interviews among workers investigative units, we concluded that the experimental actions suspects and defendants were involved in 89 % of cases. The involvement of witnesses and victims can afford more clearly reproduce certain circumstances.

6. Investigative experiment with each suspect separately. So, in those cases when there is a need to conduct an investigatory experiment with multiple suspects (for example, detained several members of the organized criminal group), the investigator should visit the area and to conduct investigative actions with each person separately.

N. Gutowska and V. Shepitko indicate that the investigative experiment can be conducted with the participation of all the suspects at the same time taking into account the specific circumstances of the case [9, 36; 10, 328]. In our opinion, the conduct of experiments involving multiple perpetrators at the same time is invalid, because it entails the possibility of coordinating their positions and actions. In addition, the explanation of one participant in the experiment will have a leading character in relation to the other. Specified tactic prevents the preliminary collusion between partners and a negative influence on each other.

It is not recommended to conduct experiments with the participation of the investigator or witnesses. In cases where it is not possible to bring to the experiment, the person who committed the crime (in particular, is wanted, hiding from the investigation and the court refuses to cooperate with the investigation), in this case, can be picked up by other persons (I) who are similar in their anatomical and functional characteristics of suspects, and the investigator together with the witnesses must observe the conduct of the experiments.

These tactical conditions of the experiment investigation, according to R. Belkin cover the totality of tactics that can be applied by the investigator during the investigation of crimes [11, 80].

Summing up, it should be noted that when investigating serials criminal proceedings, complex crimes, especially committed by organized criminal groups and criminal organizations, investigators should remember that they are large-scale (territoriality) character, which complicates the investigative experiment on all identified incidents of criminal activity, not only because of lack of time, but because of lack of necessary capabilities. In such cases it is advisable to carry out investigative action on the ground making the most complex and important for the criminal proceedings episodes of criminal activity of the group. Other episodes in such circumstances should be limited to.

Other episodes in such circumstances should be limited to a thorough investigation inspection by adding diagrams (drawings) that are personally performed by the criminals, which reflects all the essential features and characteristics of places, events and the dynamics of individual criminal acts. Graphics are inspected by the testimony of victims, witnesses and other participants of criminal activity. However, this recommendation can be implemented only in exceptional cases [12, 425].

**Conclusions and further researches directions.** Investigative experiment is the most time-consuming and complex investigative action, because it takes a substantial number of persons. The results of properly conducted investigations play an important role in the process of proving the guilt of the persons suspected of committing crimes, especially if they refuse previous evidence or in case of death. High-quality and efficient conduct of this investigation activities requires careful planning, efficient organization and use of a range of tactics and combinations that will allow you to get accurate readings and to prove the involvement of certain individuals to criminal activity.

### Reference:

1. Новиков С. И. Следственный эксперимент при расследовании дорожно-транспортных происшествий : учебное пособие / С. И. Новиков, Ш. Ш. Ярамышьян. – К. : НИИРЮ КВШ МВД СССР, 1986.
2. Белкин Р. С. Эксперимент в следственной, судебной и экспертной практике / Белкин Р. С. – М. : Юрид. лит., 1964.
3. Лузгин И. М. Методологические проблемы расследования / Лузгин И. М. – М., 1973.
4. Салтевський М. В. Криміналістика : підручник у 2 ч. / Салтевський М. В. – Ч. 2. – Х. : Консум, 2001
5. Салтевський М. В. Криміналістика (у сучасному викладі) : підручник / Салтевський М. В. – К. : Кондор, 2005.
6. Коновалова В. Е. Психологическая характеристика следственного эксперимента / В. Е. Коновалова // Криминалистика и судебная экспертиза. – 1976. – № 12. – С. 10–16.
7. Хоменко Ф. В. Застосування науково-технічних засобів при відтворенні обстановки та обставин події / Ф. В. Хоменко // Радянське право. – 1968. – № 11. – С. 30–34.
8. Макаренко Є. І. Тактика слідчого експерименту : лекція / Макаренко Є. І. – Дніпропетровськ : Юридична академія МВС, 2004.
9. Гуковская Н. И. Следственный эксперимент (пособие для следователей) / Гуковская Н. И. – М., Госюриздат, 1958.
10. Криміналістика : підручник для студентів юрид. спец. вищих закладів освіти / В. М. Глібко, А. Л. Дудніков, В. А. Журавель та ін. ; за ред. В. Ю. Шепітька. – К. : Ін Юре, 2001.
11. Белкин Р. С. Теория и практика следственного эксперимента / под ред. А. И. Винберга. – М., 1959.
12. Чаплинський К. О. Тактичне забезпечення проведення слідчих дій : монографія / К. О. Чаплинський. – Дніпропетровськ : Дніпроп. держ. ун-т внутр. справ ; Ліра ЛТД, 2011. – 496 с.