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## Peculiarities and Tasks of Site Inspection During the Investigation of Escape From the Place of Imprisonment

### 1. Introduction

**The purpose of the article.** The main purpose of the study is to form on the basis of modern provisions of the general theory of criminology and analysis of investigative practice conceptual provisions for such an investigative action as a survey of the scene, which includes both site inspection and inspection of premises. According to the defined purpose it is possible to allocate the following tasks:

To reveal the concept of inspection of the scene as an urgent investigative action; explain the goals and objectives of the site inspection; consider the composition of the participants in the inspection of the scene; describe the psychology of the scene; consider tactics at the stages of the scene inspection; decide on the fixation of the course and the result of the inspection of the scene.

**State of the problem.** Nowadays, the escape of convicts from prisons is one of the first among penitentiary offenses as the most common and socially dangerous act, as ways to mask and conceal crimes committed in prisons are improving, while the approaches and methods of escape

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from correctional facilities are gaining more and more skill. In modern conditions of society development effective counteraction to crime is impossible without wide application by bodies of pre-judicial investigation of modern scientific and technical means, proper organizational and tactical methods and receptions of detection, fixing, withdrawal and use of proofs in criminal proceedings. As you know, the immediate investigative action, which in most cases the investigation of serious and especially serious crimes is carried out first and is of exceptional importance for the collection of material traces of a criminal offense, is an inspection of the scene. The organization and tactics of its holding are widely studied in domestic and foreign forensic literature. The exceptional importance of this investigative (search) action for gathering evidence at the beginning of criminal proceedings and, accordingly, the implementation of a prompt and high-quality investigation determines the constant interest of scientists and practitioners in it. There is no doubt that the improvement of methods and techniques for detecting and recording material traces of a crime at the scene should always be among the priorities of scientific research.

**Analysis of recent publications.** Researchers of the criminal process, criminology, and the judiciary studied the problematic issues of conducting an inspection of the scene psychology, among which V.I. Alekseychuk, O.Ya. Baev, V.P. Bakhin, R.S. Belkin, I.E. Bykhovsky, O.M. Vasiliev, A.I. Vinberg, F.V. Glazirin, V.G. Goncharenko, V.I. Gromov, N.I. Klimenko, V.P. Kolmakov, V.O. Konovalova, M.P. Moliboga, B.Ya. Petelin, V.I. Popov, E.O. Razumov, O.R. Ratinov, Yu.D. Fedorov, V.Yu. Shepitko and others. The works of these authors are devoted to the study of procedural issues of various types of review, its grounds, the order of application of technical means, registration of the results of this procedural action.

### **Presenting main material:**

## **2. The concept and meaning of site inspection**

The inspection of the scene is an urgent investigative action at the initial stage of the investigation of the escape from the place of imprisonment, as the results of this inspection depend on the success of the detection

and investigation of a criminal offense. The concept of site inspection is complex and ambiguous. According to the studies of O.M. Vasiliev, the inspection of the scene is an inspection of the area or premises where the crime was committed, as well as the place where the consequences of the crime were revealed, its concentrated material traces<sup>2</sup>.

If taking to attention the points of I.E. Bykhovsky, the place where the crime was committed – will always be the place of the event, at the same time, the place of the event – is the place where something was found that violated the normal order of things, the normal course of life, this violation indicates crime<sup>3</sup>. The Criminal Procedure Code of Ukraine does not list the task of inspecting the scene. That is why we consider it necessary to express our opinion on this problem and list the main tasks facing the preparation for the inspection of the place of escape from the penitentiary institution and the tasks set for the inspection of the place of escape from the penitentiary institution. The main tasks are as follows:

- clarification of the situation; establishing the scene and its consequences;
- detection, fixation, removal of traces and physical evidence; determination of the technical condition of facilities, structures, vehicles, alarm system and other important elements of the penitentiary institution to establish technical reasons and conditions that led to escape from the place of imprisonment, or prevented the detection of crime or hot pursuit of the fugitive; search for landmarks, information about: the process of making, model of transport on which the escape from the penitentiary institution was made, features and other data about vehicles, determination of their movement after the event (if there is an escape on the vehicle); search for landmarks about the clothes in which the fugitive is, for more accurate compilation and dissemination of information about the offender; search for guidelines on the presence or absence of weapons from the fugitive; detection and fixation

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<sup>2</sup> Vasilieva A.N. (1971) Kryminalistyka : uchebnyk [Forensic science: textbook] Moscow, Publishing house of Moscow University, p. 289

<sup>3</sup> Bykhovsky I.E. (1973) Osmotr mesta proysshestvyia [Inspection of the scene]. Moscow: VI Crime, p. 7

of traces of concealment of a crime; establishing the cause of the event and the conditions conducive to its implementation; nomination and verification of versions of the circumstances of the event; whether a murder took place during the escape from the place of imprisonment; the time of the crime; the time during which the perpetrators were at the scene; who is the victim, which data are available that characterize his identity; who escaped – one person or several who have data that characterize the identity of criminals; if a murder was committed during the escape from the place of imprisonment, it is necessary to identify the method of murder, which weapons were used by criminals; motives and purposes of the crime; ways of approach and departure of criminals from a scene; ways of approach of the victim to a scene; items that were seized, taken by criminals from the scene, or that were brought by criminals to the scene; what other traces and other physical evidence are at the scene (including objects or parts thereof left by the offender); traces that could probably have remained on the fugitive.

### **3. Mistakes that are made when inspecting the scene and their consequences**

The effectiveness of the investigative inspection largely depends on a proper understanding of the nature and capabilities of this investigative action, as well as the chosen tactics of the scene inspection. The tactics of the investigative examination most often depend on the set of circumstances of the received notification, the results of the explanation of the applicant, eyewitnesses and other persons. Additionally, you need to pay attention to the time elapsed since the commission of the criminal offense, place (office, apartment, transport, street) and, of course, the manner of the crime<sup>4</sup>.

Mistakes made by investigators during the inspection of various objects significantly affect the stability of the evidence base. Most of these mistakes are caused due to a misunderstanding of the nature of the in-

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<sup>4</sup> Volokhova O.V. (2011) *Krymynalystyka : uchebnyk* [Forensic science: textbook]. Moscow, P. 236

vestigative review. There are cases when investigators carry out in the process of reviewing actions that go beyond it, which calls into question the reliability of the results of the entire investigative action, and sometimes the legality of its conduct. Some investigators avoid recording such terms as “blood”, “gold”, etc. in the protocols. Knowing that before the study of these objects and substances it is impossible to conclude that the detected objects could be classified, that is why the phrase «yellow metal» or «liquid (spot) of brown color is recorded in the protocol. Moreover, in the process of inspecting the scene it is unacceptable to record judgments about the time and manner of the crime, the actions of the offender at the scene, the consequences of the crime, the causal link between the actions of the offender and the consequences, and other circumstances. Of course, this does not mean that the investigator cannot figure out such conclusions from the information obtained during the review. However, such judgments should not be premature and affect the objectivity of the investigative action, and in addition, their entry in the record is unacceptable. The most important means of ensuring the reliability and admissibility of evidence is strict compliance with the requirements of criminal procedure law. In particular, during the inspection of the scene of great importance is not only the correct drawing up of the protocol of the investigative action, but also procedurally competent seizure, inclusion in the case file of the identified and seized objects. In view of the above, it is possible to formulate the following rules that ensure maximum objectification of evidence in criminal proceedings to investigate the escape from the place of imprisonment during investigative inspections and searches:

- 1) inadmissibility of fixing in the protocol inspection of a scene events of conclusions and subjective judgments of the subject of inspection (the investigator, the prosecutor);
- 2) inadmissibility of transfer to participants of inspection of a scene, first of all to experts, the functions which are not caused by their special knowledge;
- 3) the use of broad concepts in the description of objects, the name of which is unknown;
- 4) the most detailed description in the protocol of investigative action of signs of investigated objects;

- 5) inadmissibility of refusal to remove traces on the grounds of their unsuitability for identification or for other reasons;
- 6) refusal to use methods of detection, fixation and seizure of objects that partially destroy or change the functions, properties, characteristics of physical evidence;
- 7) usage of measuring instruments, the accuracy of which is documented;
- 8) use in the measurement of point fixed landmarks, and in their absence – an artificial system of landmarks;
- 9) packing of seized objects in packaging that does not allow unauthorized access to them without violating the packaging;
- 10) inadmissibility of substitution by inspection of the scene of other investigative actions, first of all search and inspection of objects that are not the scene.

#### **4. Typical rules when inspecting the scene**

When investigating an escape from a place of imprisonment in the presence of a corpse at the place of examination, the following rules must be observed:

External examination of the corpse at the scene, regardless of the nature and circumstances of the event, is mandatory and must be carried out with the participation of a specialist in forensic medicine, and in his absence – another employee of the medical institution; when examining a corpse at the scene, the facts that cannot be filled in during the forensic examination of the corpse in the morgue must be identified and recorded: the location of the corpse and its location in relation to the environment; its mutual location with objects and traces interconnected with it (instruments of crime, traces of blood, etc.); outside the corpse, the position of the limbs, the presence of various traces and objects on and under the corpse, the condition of the surface on which the corpse is located; condition of clothes on the corpse, the presence of damage, contamination, the condition of loops and fasteners, buttons; the presence of traces on clothing (their place and features); special signs (tattoos, scars, physical defects); the presence of cadaveric phenomena (indicating in the time protocol of their study); the degree of cooling of

open and closed areas of the body (determined by touch); body temperature (measured by a thermometer indicating the area of the body), temperature in the rectum and ambient air; the presence and location, the color of the corpse spots, the color change at the dosed pressure and the rate of recovery of the original color (in seconds); the severity of cadaveric asphyxia in different muscle groups.

We would like to emphasize that the search for material evidence and traces of the crime should be carried out only with good lighting, and in the case of such an action in the evening or at night, it is advisable to conduct an additional inspection of the scene during the day.

Unfortunately, investigators make many blunders when inspecting the scene. Existing methodological and scientific developments are not used effectively enough. In our opinion, the main role in the successful conduct of the investigative action is played by the level of training of the investigator. The large amount of work entrusted to them does not allow them to concentrate on the investigative measure due to lack of time.

Survey of the scene is an investigative action based on the sensory sphere of cognition and aimed at reflecting the spatial-objective unity of perception of the situation, the time sequence of events and to identify their causal relationship. Therefore, a clear definition of starting points, making specific probabilistic assumptions, limiting the field of activity, a strict sequence of actions – is an important condition for organizing the activities of the investigator during the inspection of the scene.

## **5. The importance of the preparatory stage of the site inspection**

Before arriving at the scene, you should:

Study and analyze the materials of criminal proceedings; specify the goals and objectives of the site inspection; find out data about the required objects, it is enough to know the group characteristics of the desired objects, but it is desirable to collect information about their individual characteristics; examine the plan of the premises and areas where the scene should be inspected; determine the range of persons involved in the inspection of the scene and instruct them; provide the investigative task force with the necessary technical means, transport, means of protection, weapons.

Make a search plan that states:

What objects are supposed to be confiscated in the given criminal proceedings; place; responsibilities of the members of the group conducting the inspection of the scene; the method of entering the premises, the territory of the penitentiary institution, or another place where the inspection of the scene is to be conducted; measures to prevent possible armed resistance in places of imprisonment by prisoners, or the creation of other obstacles by the administration of the penitentiary institution and the procedure for removing such obstacles; time and procedure of the search; specific specialists and technical means; tactics that should be used; to provide for the availability and serviceability of means of communication or means of information transmission, specific actions in their absence and alternative methods of transmission of operational information; measures to protect the scene; ways of legalization of the received operational data received during inspection of a scene; the expected actions of the participants in the inspection of the scene in case of complications or aggravated circumstances, as well as ways to protect the evidence, information, ways of leaving the penitentiary and measures to ensure their personal safety; measures to prevent possible concealment or damage to the object or source of information sought.

It is impossible not to take into account the statement of T.F. Dmitrieva, who in her research states that, the important problem of forensic inspection is the scene, which is a comprehensive effective provision of this investigative action with special knowledge, modern techniques, tactical and forensic tools and technologies of evaluation and control activities of their application in the inspection of the scene, which allow taking into account the requirements of criminal procedure legislation and the provisions of forensic tactics to improve the investigative and expert tactics of its conduct<sup>5</sup>.

All the above tasks can be solved only in the case of an urgent investigative (search) action, without delaying its conduct in the place of imprisonment. Ignoring the principle of urgency, unreasonable and unjustified delay of inspection can lead to negative consequences, in par-

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<sup>5</sup> Dmitrieva T.F. (2016) Henezys poniatyia krymynalystycheskoho obespechenyia osmotra mesta proysshestvyia [Genesis of the concept of forensic support for the inspection of the scene]. *Pravo*, vol. 5, no 2016.2, p. 15–16.



ticular, to change the situation at the scene, the destruction of traces of a criminal offense and physical evidence<sup>6</sup>.

## Conclusions

Thus, the inspection of the scene is an important investigative (search) action.

In the forensic context, this investigative (search) action is quite informative; the further investigation of the crime depends on its effectiveness. Quickly obtain information about the circumstances of the theft, the alleged perpetrators provides an opportunity for well-established interaction between members of the investigative task force, especially the investigator and operatives. The tasks outlined in the article should be set before the arrival at the scene to the penitentiary and solved and reflected in the protocol of the scene inspection. This will make it possible to establish with a high degree of probability that an escape has taken place and evidence may be found that will indicate that other prison staff or prisoners participated in the preparation, planning and execution of the escape. In addition, timely and high-quality inspection of the scene in the penitentiary institution or adjacent areas in accordance with the requirements of the CPC of Ukraine using tactics and recommendations developed by forensics, during the investigation of escape from prison is of great importance, as the results timely thorough examination makes it possible to gather material evidence, facilitate the disclosure of escape from the place of imprisonment, as well as other crimes committed in parallel or simultaneously with the preparation, planning and escape from the prison. Understanding the procedural and tactical features of this investigative (investigative) action is important for the investigator conducting the pre-trial investigation, as well as for the prosecutor conducting the procedural management of the pre-trial investigation.

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<sup>6</sup> Chaplinsky K.O. (2011) *Taktychne zabezpechennia provedennia slidchykh dii: monohrafia* [Tactical safety of carrying out the following events: monography]. Dnipropetrovsk, Lira LTD, p. 58.

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## Summary

The article is devoted to the study of the scene as an investigative action, which is an important mean of obtaining information during the investigation of escape from the place of imprisonment. The success of the investigation in many cases depends on the quality of this investigative action, as the information obtained during the scene inspection might possess evidentiary features. In this case, often the actual data obtained as a result of the survey that cannot be obtained from other sources.

The special significance of the inspection of the scene is indicated by the fact that this is the first investigative action after the opening of criminal proceedings (in some cases it is carried out before the starting of criminal proceedings); the closest in time and space collision of the investigator with the event of the crime itself. At the same time, the inspection is the most time-consuming action: it can take many hours. It is the inspection of the scene allows establishing a large amount of evidence relating to all elements of the crime – the object, the objective side, the subject and the subjective side. In addition, conducting a survey of the area or premises requires the use of a number of tactics and forensic techniques.

**Keywords:** place of imprisonment, escape from places of imprisonment, correctional facility, investigative action, inspection of the scene, inadmissible evidence, investigator, prosecutor, protocol of investigative action, inspection of the area, inspection of the premises