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FEATURES OF PREPARATION FOR CONDUCTING INVESTIGATIVE (SEARCH) ACTIONS IN THE CONDITIONS OF EPIDEMIC, PANDEMIC

Юлія Сухомлин. ОСОБЛИВОСТІ ПІДГОТОВКИ ДО ПРОВЕДЕННЯ СЛІДЧИХ (РОЗШУКОВИХ) ДІЙ В УМОВАХ ЕПІДЕМІЇ, ПАНДЕМІЇ. Стаття присвячена особливостям підготовки до проведення слідчих (розшукових) дій в умовах епідемії, пандемії. Наголошується, що проведення слідчих (розшукових) дій в умовах епідемії, пандемії обумовлює пошук шляхів як організації так і тактики діяльності, що задовольняли б потреби реалізації завдань кримінального провадження та забезпечували б права його учасників зокрема й щодо забезпечення безпеки. Здійснення зазначеного автором вбачається у модернізації та комп'ютеризації, застосуванні досягнень науково-технічного прогресу й більш ефективного використання існуючих техніко-криміналістичних засобів та інших заходів, зокрема й організаційно-тактичного характеру та ін.

Підкреслюється, що потенційний ризик інфікування соціально-небезпечними інфекціями під час проведення слідчих (розшукових) дій є високим і вимагає відповідних заходів й засобів його мінімізації. Звертається увага на протилежність підходів вчених до оцінки значення проведення слідчих (розшукових) дій в режимі відеоконференції. Звертається увага на можливостях застосування техніко-криміналістичних засобів як сучасних, так і існуючих, щодо яких напрацьований значний досвід отримання криміналістично-значущої інформації.

Наголошується, що досягнення цілей кримінального провадження є можливим у разі ретельної підготовки до проведення слідчих (розшукових) дій в умовах епідемії, пандемії, де жодному заходу чи засобу забезпечення безпеки учасників не має надаватись виключна роль. Тільки комплексний й системний підхід в оцінці та застосуванні відповідної сукупності з уникненням можливості перебільшенні значення кожного окремо взятого засобу й заходу може підвищити безпеку уповноваженої особи, учасників розслідування та сторонніх осіб.

Ключові слова: розслідування, слідчі (розшукові) дії, уповноважена особа, умови епідемії, пандемії, ризик інфікування, соціально-небезпечні інфекційні захворювання, заходи й засоби мінімізації ризику інфікування, забезпечення безпеки учасників, психологічний контакт, техніко-криміналістичні засоби, підготовка й проведення процесуальної дії.

Relevance of the study. Conducting investigative (search) actions is the means that allows you to get the necessary and sufficient amount of data on the circumstances of a criminal offense. At the same time, the retrospective nature of the investigation as a whole determines the need to know those events that happened in the past. This necessitates consideration of a significant number of circumstances that may affect the course and determine the results of the relevant procedural actions. At the same time, the processes of coverage of previously perceived events and phenomena by the relevant participants, to one degree or another, paid attention to scientists in various fields of knowledge in particular: psychology, sociology, logic and other sciences, including legal orientation.

Resent publications review. Given the prevalence and significance, the process of obtaining evidence during the investigation (search) actions was the subject of research by such procedural scientists and criminologists as: P. Bilenchuk, V. Veselsky, A. Volobuev, V. Galagan, M. Efimov, V. Zhuravel, N. Klimenko, V. Lisichenko, E. Lukyanchikov, M. Pogoretsky, M. Saltevsy, S. Stakhovsky, V. Tertyshnik, V. Tishchenko, L. Udalova,

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K. Chaplinsky and many others. At the same time, existing studies did not take into account such conditions as epidemics, pandemics, which cannot but affect the effectiveness of their conduct in the present conditions. This necessitates paying due attention to the issue under consideration.

Conducting investigative (investigative) actions in the context of an epidemic, a pandemic determines the search for ways of both organizational and tactical nature that would satisfy the needs of the implementation of the tasks of criminal proceedings and would ensure the rights of its participants in particular regarding security.

The article's objective. The article is aimed at highlighting the features of preparation for conducting investigative (search) actions in an epidemic, pandemic.

Discussion. The implementation of this is seen to us in the use of the possibilities of criminal proceedings through modernization and computerization, the use of the achievements of scientific and technological progress and the more effective use of existing technical and forensic means and other measures, including organizational and tactical nature, etc.

The need to ensure the safety of participants in investigative (search) actions in the context of the COVID-19 coronavirus pandemic, tuberculosis epidemics, HIV-AIDS and others is of particular importance in Ukraine. So, in 1993, the World Health Organization declared tuberculosis a global problem of mankind, [1] which a few years later was officially registered in Ukraine [2]. The epidemic of this particularly dangerous infectious disease has not yet been overcome. No less attention is required for such a disease as the COVID-19 coronavirus, the outbreak of which in the world was defined on March 11, 2020 by the World Health Organization as a pandemic [3], which on May 5, 2023, according to the report of the 15th meeting of this organization from [4] was canceled.

At the same time, these and such socially dangerous infections as HIV-AIDS, hepatitis and others have their significant spread in Ukrainian society. Their totality in the epidemiological situation in Ukraine is determined by the worst in Europe.

It is worth noting that most infectious diseases are transmitted:

- by airborne droplets: during coughing, sneezing, talking a patient with tuberculosis along with particles of his sputum;
- by air-dust: sputum and saliva settle on objects, dry and transform into infected dust;
- by alimentary route: during the use of products contaminated with infected sputum, and also during the use of milk (butter, cream and cheese based on it) obtained from sick cows;
- by contact: during milking of sick cows, the penetration of mycobacteria through damaged skin of the hands, during the autopsy of corpses of persons suffering from tuberculosis;
- intrauterine infection [5].

The above methods of infection determine the need to find ways to minimize the possibility of infection with socially dangerous infections during investigative (search) actions. At the same time, measures and means of ensuring security should not interfere with the activities of the authorized person aimed at the completeness and comprehensiveness of the procedural actions.

It is worth noting that most of the offices contain several jobs investigators. At the same time, the area of the office does not allow providing the necessary distance between workplaces, which would not be hit by participants in investigative (search) actions.

This is of particular importance during such investigative (search) actions as: interrogation, simultaneous interrogation of previously interrogated persons, presentation for identification of persons, etc. Simultaneous presence of a significant number of participants in one room makes it difficult/impossible to comply with security measures against the possibility of infection with socially dangerous infections.

It also needs attention that it is quite difficult to determine the presence of an infectious disease in a person during the incubation period of development. Accordingly, the absence of obvious signs of the disease or insufficient expertise of the authorized person before their detection may jeopardize the infection of the relevant participants or unauthorized persons. Thus, the potential risk of infection with socially dangerous infections of both participants in the relevant procedural action and unauthorized persons during investigative (search) actions is high and requires appropriate measures and means to minimize it.

At the same time, during the pre-trial investigation, police officers are often forced to work with many persons, in particular with those who are legally classified as high-risk groups

for tuberculosis infection: injecting drug users, sex workers, persons serving sentences in places of detention, etc. [6, p. 155].

At the same time, the risk of a more severe course of the disease is determined by the presence of chronic ailments, and infection with the coronavirus disease COVID-19 in aggregate can lead to fatal consequences. This makes it necessary to prevent the formation of these prerequisites by determining those measures and means that will make it impossible/minimize infection with socially dangerous infections during investigative (search) actions.

Among such legal measures in the field of criminal justice, M. Pogoretsky and O. Starenky include the possibility of conducting procedural actions in the mode of videoconference during criminal proceedings (remote criminal proceedings) [7].

Analyzing the Order of the Cabinet of Ministers of Ukraine "On the transfer of the unified state system of civil protection to the emergency mode" from March 25, 2020 No. 338-r [8], we can emphasize that the content of their provisions contain sufficient grounds for conducting investigative (search) actions in the videoconference mode in the conditions of the spread of especially dangerous infectious diseases in our country.

Considering the risk of infection with tuberculosis during simultaneous interrogation, E. Pochtova, notes that the presence of a contagious form of tuberculosis in one of the participants may fall within the scope of paragraphs 1 and 2 of Part 1 of Article 232 of the CPC of Ukraine, however, it suggests the presence of one of the persons between whom it is planned to conduct simultaneous interrogation of a contagious form of tuberculosis, refer it to the punt 5 of Part 1 of Article 232 of the CPC as another sufficient reason for conducting simultaneous interrogation via videoconference, which will facilitate the perception of the motivational part of the decision [9].

At the same time, we can emphasize the discussion of the approaches of scientists to the effectiveness of procedural actions using video conferencing. At the same time, in addition to positive aspects, conducting investigative (search) actions in the video conference mode, its shortcomings can also be called.

Thus, S. Stakhovsky defines the weakening of the psychological impact on the participants of simultaneous interrogation as one of the main factors contributing to the establishment of truth during the investigation [10, p. 26].

In turn, N. Pavlova, as a problem, cites the problems of financial support of video conferencing in criminal proceedings and the costs associated with the initial installation of equipment and the establishment of channels for video conferencing, which are global in nature [11, p. 480; 10].

Do not forget that in the context of the armed aggression of the Russian Federation against Ukraine, the risk of absence or problems with communication as a result of hacker attacks or shelling of the relevant infrastructure is highly likely, which requires consideration in the organization and planning of activities by authorized persons.

The position of A. Simchuk and D. Manubat also deserves attention, which emphasize that the reasons are the low awareness of employees in specific issues related to technical means, and the lack of appropriate material support, specifically regarding the latest technical means and persons with the appropriate level of knowledge in technically sectoral issues [12].

At the same time, the use of videoconferencing during investigative (search) actions in general and in an epidemic, a pandemic in particular can be assessed as progressive and promising.

In confirmation can be given the statement AND. Urgent, which emphasizes that it is quite difficult to answer the question of what exactly is preferred in the fight against crime – the protection of human rights and freedoms (in terms of ensuring the safety of participants in criminal proceedings and the use of video conferencing) or ensuring the completeness of pre-trial investigation by using a number of psychological techniques and methods during direct communication with a person without using video conferencing [13, p. 107]?

At the same time, the position of the author can be supplemented by such a component that would concern ensuring the safety of unauthorized persons from infection with especially dangerous diseases in the relevant region of the state. Thus, the combination of factors is much wider than it is given in the individual positions of scientists analyzed by us, which requires a real assessment of the possibility and feasibility of using video conferencing in an epidemic, pandemic.

This requires from the person conducting it, proper knowledge, skills and abilities

regarding the preparation (activation of technical means of video recording, checking the availability of free space on the internal medium of video recording, checking the operability of technical means of video recording, etc.) and the procedure for simultaneous interrogation in the video conference mode [14, p. 190].

It is worth noting that the presence of a person in a high-risk group as a carrier of socially dangerous infection and the risk of infection should be evaluated by an authorized person in preparation for investigative (search) actions. At the same time, they can be used as means and measures to minimize the transmission of infection through the use of appropriate means and means, as well as the issue of conducting investigative (search) actions in the video conference mode.

This can be implemented in particular in the case of a person's stay, for example, in hospital. At the same time, preparation for procedural actions should determine the list of issues to be clarified, the totality and sequence of the use of tactical techniques, etc. At the same time, it should be noted that they can be used more carefully with minimization of termination by the relevant participant in the investigation (search) actions, under any pretext (loss of communication, discharged for example a phone, a laptop, using which video communication was carried out, etc.), which should be assessed as manifestations of opposition.

Thus, the full use of means of psychological influence on unscrupulous participants of investigative (search) actions in the video conference mode is minimized. However, in relation to conscientious, the application of psychological influence is possible, provided that the appropriate level of contact is established.

It is worth noting that as a postulate in forensic science, the establishment of psychological contact with the corresponding participant in the investigative (search) action acquired particular importance, which is more difficult to implement if the defender participates in the interrogation of the suspect [15, p. 213].

In this case, the psychological process of communication with persons participating in the interrogation is aimed at obtaining comprehensive information about the relevant facts, can be implemented in the presence of an established business environment. At the same time, the establishment of psychological contact in an epidemic, pandemic, with awareness of the risk of infection and its consequences can be greatly complicated. This, in turn, will make it impossible to obtain the necessary full and sufficient information about the circumstances of the criminal offense. The participation of the relevant participant in the procedural action without the proper application of measures and means of protection against infection may be of a formal nature of the testimony, minimizing the time spent in the appropriate place, avoiding from appearance to the investigating authority, refusal to testify, etc., should be assessed as manifestations of opposition to pre-trial investigation [16], overcoming of which, under the considered conditions, require significant efforts on the part of authorized persons.

At the same time, not all investigative (search) actions can be implemented using a video conference. This makes it necessary to increase the efficiency of the use of technical, organizational, tactical and other components of the activities of the authorized person.

It is worth noting that, for example, inspection of the scene requires the personal presence of the investigator and other participants in its conduct. At the same time, technical and forensic means in an epidemic, pandemic should be used more effectively.

It is important to note that "forensic technology" is not limited to a set of technical means for disclosing criminal offenses. It is also a system of techniques and methods for the effective use of these means, as well as theoretical concepts that characterize these means [17, p. 65].

Of particular importance are the achievements of scientific and technological progress introduced by forensic science into the process of obtaining evidence-based information. So, among the latest means of detecting and extracting traces of the hands, I. Pyrih leads the development of Sirchie (USA), Foster & Freeman (UK). When inspecting a factory-made weapon with signs of number destruction, it becomes necessary to install it. Among the technical and forensic means for this, it is possible to use the eddy current magnetography device "Regula 7515M", which is used together with the magneto-optical device "Regula 7505M" to identify and detect falsifications of vehicle unit numbers [18, p. 295].

A significant place in the remote perception and fixation of the relevant scene of the incident is the use of drones. Training and their further use by members of the investigative-operational group does not cause difficulties, however, it necessitates the development of

appropriate methods.

Their application in the specific conditions of investigation of crimes are developed by criminology in accordance with its tasks and objects [19, p. 45].

At the same time, distancing from objects that may pose a threat determines the prospect and significance of their use, which is of particular importance in the conditions of Russia's armed aggression against our state.

Thus, scientific and technological progress necessitates the use of modern technical and forensic means in the collection of criminalistically significant information, which in an epidemic, pandemic is of particular importance.

In addition, conducting investigative (search) actions in the context of the spread of the epidemic, the pandemic of especially dangerous infectious diseases in our country can pursue several goals at once:

- ensuring the safety of participants in investigative (search) actions and unauthorized persons;
- minimizing the spread of infectious diseases;
- implementation of criminal proceedings, etc.

Their achievement is possible in the case of careful preparation for conducting investigative (search) actions in an epidemic, pandemic, where no event or means of ensuring the safety of participants should be given an exclusive role. Only an integrated and systematic approach in the assessment and application of the appropriate totality can increase security with the avoidance of the possibility of exaggerating the importance of each individual tool and measure in the activities of an authorized person.

Conclusions. Ensuring the safety of participants in an epidemic, pandemic in the implementation by authorized persons of the tasks that are set before them should be determined by the key. Conducting investigative (search) actions in the videoconference mode will ensure the distancing of its participants, which will protect them from the possibility of infection with socially dangerous infections on the one hand, but will complicate/make impossible the establishment of psychological contact and the use of psychological means, without which the achievement of the expected result is unlikely.

Improving the effectiveness of procedural actions can be realized by using the latest and more intensive use of existing technical and forensic means. Preparation for conducting investigative (search) actions in an epidemic, pandemic, with the use of measures and means of protection against infection and collection of criminalistically significant information should be applied comprehensively and comprehensively. The directions of our further research will focus on the consideration of the possibilities of videoconference during the investigation in the conditions of Russia's armed aggression against Ukraine.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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Abstract

The article is devoted to the peculiarities of preparation for conducting investigative (search) actions in an epidemic, pandemic. It is noted that the conduct of investigative (investigative) actions in the context of an epidemic, a pandemic determines the search for ways of both organization and tactics of activity that would satisfy the needs for the implementation of the tasks of criminal proceedings and would ensure the rights of its participants in particular to ensure security. Implementation of the specified by the author is seen in modernization and computerization, application of achievements of scientific and technological progress and more effective use of existing technical and forensic means and other measures, including organizational and tactical nature, etc.

It is noted that the achievement of the goals of criminal proceedings is possible in the case of careful preparation for conducting investigative (investigative) actions in an epidemic, pandemic, where no measure or means of ensuring the safety of participants should be given an exclusive role. Only an integrated and systematic approach to the assessment and application of the relevant totality with the avoidance of the possibility of exaggerating the value of each individual tool and measure can increase the security of the authorized person, the participants in the investigation and third parties.

Keywords: *investigation, investigative (search) actions, authorized person, conditions of epidemic, pandemic, risk of infection, socially dangerous infectious diseases, measures and means of minimizing the risk of infection, ensuring the safety of participants, psychological contact, technical and forensic means, preparation and conduct of procedural action.*