

Integrative tactics of separate investigative actions

Abstract: Production of experiment at the same place and the same time and same light and sonic conditions does not mean that it is fulfilled at identical conditions. The conditions of an experiment have undoubtedly changed from time of committing of checked fact. The task of an investigator is to bring maximum closer the conditions of the experiment fulfillment to the conditions, which formed in period of committing of checked fact.

During preparation and production of investigative experiment one should take into account light, sound, climate conditions, which distinctive for an event and for forthcoming time before the experiment if it might influence on results of the experiment.

Vital importance has individual determined features of the items, their characteristic signs, which impact on a process and results of the experiments. Replacement of these items on “similar” is negatively reflected in the results of experiment. In particular, it is not reasonable to replace material evidences or clothes, shoes belonging to certain person if their using in experiment is caused by necessity.

Most identifying persons with various level of depth test a discomfort due to singularity of situation, necessity limitation of movement freedom, violation of common living pace, fear of uncertainty, future, unclearness of his role in situation formed, dread for himself and his close relatives due to chosen role of an exposor; misgiving and incertitude in reality, feasibility obligations taken, fear of failure; inconsistency of actions’ evaluation in small society, himself and requirements to fulfill a civil duty; possible sense of sorrow to himself and identifying person and linked with this increased emotional perception, anxiety and others.

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Integrative tactics of conducting of an investigative experiment supposes, first of all, observance certain actions, some of which are fixed in the law, in article 262 of the Criminal Procedure Code of Azerbaijan Republic (further, the CPC). They are:

1. Experimental actions should be safety for life and health of an experiment's participants and other persons, not to contradict to the moral, national traditions of people, local customs.

2. Experiment has no to cause the material loss to the participants and other persons, state and public organizations.

3. Experiment is conducted at the conditions maximally similar to the conditions, in which happened an event; this is achieved through the techniques of criminalistical reconstruction.

4. Entry list of an experiment's participants should be determined basing on nature, goals, place and other factors, defining its conducting and reliability of the results.

5. Reliability of a course and results of experiment depend also on multiple conducted experiments, which are necessary in cases of division them into the stages and complication of the conditions [12, p. 282].

Each of the indicated significant conditions of conducting of investigative experiment is fulfilled through a system of the specific techniques of the interactive criminalistical tactics (further, the ICT), which have an optional nature, is determined with particularities of an experiment. Let's consider some of the specific tactical techniques of conducting of investigative experiment, taking into account a type, goal of conducting of the investigative experiment and some its particularities in dependence on corpus delicti of a crime.

Production of an experiment at the same condition like under crime commission does not mean that it is produced in identical conditions. Unconditionally, an

experiment's conditions were changed from the time an offence commission. An investigator's task is to make closer an experiment conditions to the condition, which were at period of an offence commission.

Sometimes the circumstances of a case require correct reproduction of all details of situation and time, and formal observance of this requirement would only come to needless sophistication of an experiment.

Under preparation and conducting of investigative experiment one should take into account light, sound, and climatic conditions characteristic for an event and for previous to experiment time, if it may influence in results of the experiment. Let's illustrate it at the following sample.

There was committed a murder of a shop guard at the railway station of Akstafa of Azerbaijani railways Department. In course of investigation there was established a witness. She saw how a murder was committed, being watched from the window of home, which had located 100 m from a scene. Crime was committed about 3 o'clock at night. Due to night time she saw only shadows of criminals. Testimonies of the witness had a sufficient significance for a case, though they had made some troubles: it was difficult to believe that it could be seen something at that distance and in described by her conditions. There was conducted an investigative experiment to visibility. The investigator, being chosen a time, when cloudiness was similar to murder night and took two men had created the same conditions. After that the witness was asked to describe their actions. However, neither the witness nor assisting witnesses could see anything.

During evaluation of the experiment's results an investigator took attention to the fact that there was strong rain at night of murder, and land was wet. The experiment was repeated in conditions, when a land was dry and the results were opposite those received under wet land. When a land was dry, shadow-figures of men had been seen, and might be distinguished what actions were committed by them. In described case there had significance not only climatic conditions of the experiment, but also that weather, which was at period previous to the experiment. One should

especially take into account an influence of climatic factors in those cases, when an experiment is lasted long and its completion may be in other climatic conditions, in which the experiment has begun [3, p. 43-44].

Number remarks and corrections should be done concerning to usage during conducting of an experiment of original items, instruments and arms, which were used under crime's commission.

Individually determined features of the items, their characterizing signs, which influence on a course and results of the tests, have a sufficient significance. Replacement of these items into "similar" is negatively reflected in results of the experiment. In particularly, it is not reasonable to replace the material evidences or clothes, footwear belonging to some person, if using them in the experiment is needed with necessity. However, there cannot be damaged or changed an individual signs of the material evidences in course of the experiment.

Under situation of an event is understood not only time, climatic and light conditions, but and material elements of a scene (home items in a room, kind of vegetation at a land, dislocation and type of traffic signs, type and dislocation of construction materials at the building sites, yards etc.). Reconstruction of these material elements of the situation prior conducting of investigative experiment has an important tactical significance as an assessment of the results of tests and conclusions about crime's mechanism and other circumstances, which are subjected to be established on a case, depends on correctness of the material reconstruction. Mistakes in reconstruction of material situation at a scene are distorting a course and results of the experiment and are leading to wrong conclusions on a case.

Sometimes, the experiment has a nature of situation's reconstruction, which content is to restore with testing way a dislocation of the items in a room or a land. Here is a specific example. On a case of Ms. Sh., living at private home in Ali-Bayramly, there had been appeared doubts in accuracy of the testimonies of accused A., Zh., and G. concerning to disposition of a furniture in the rooms of a house and actions of criminals in criminal situation. In order to check their testimonies and

eliminate contradictions there was made a decision to conduct an investigative experiment. Here, how it was prepared and conducted.

Preparation to the experiment was in the fact that there was taken out all furniture, mirror, and picture from house. After that on instruction of an investigator the stencils of all home items were made from cardboard with writing "bed", "chair", "cupboard" etc. The experiment was separately produced with each accused person. Each accused persons was said the goal of experiment: using stencils to restore at home the situation at time of crime committing, i.e. to place the stencils at those places, where the appropriate items were. The experiment was fixed in a record, at a plan and photos. First took picture a empty rooms, from which all furniture were taken off, and after that a process of disposition of the stencils, and at last, their final disposition. In course of the experiment each of the accused persons did some errors: reconstructed by them situation had differed in some details with results of inspection of a scene. Though, there were just the details. In whole, each accused person had exactly restored all position at home, where crime was committed.

Results of the experiment had an important evidential significance: they directly showed that all three accessories had known primary position at home and could reconstruct it in course of the experiments [3, p. 46-47].

Tests should be conducted in the sequence, which characterizes a mechanism of an event or corresponds to a version of an investigator or testimonies of accused person. This tactical recommendation is realized through division of the tests on the separate stages.

Assessment of the results of investigative experiment is formed from few elements. At first, one should take into attention how fully and rightly were considered and registered by an investigator all available actual data, on base of which have been produced an investigative experiment. If during of their studying were made errors, ignored and did not resolve the contradictions, e.g. in testimonies of accused and witnesses, contradictions between results of inspection and testimonies of a victim, in organization and production of the investigative experiment might be mistakes. There often mistakes are made under reconstruction of

the conditions an experiment's conducting (incorrect restoring of the disposition, in which was happening a checked event, ignoring of the visibility and audibility conditions, physical abilities of man to perception of any phenomena, ignoring of the items' features), using during conducting of the experiment of a stencil without considering of its real sizes, weight, colour of the clothes and other signs [3, p. 59].

At the second, it should be evaluated how completely and correctly the conditions of an experiment have been reconstructed, whether these conditions have corresponded to those, in which an event was happened. At the third, it is necessary to assess a nature of the tests, correctness of them, and the results of their conducting in different changed conditions. At the fourth, to think over whether has been considered the recommendations of specialists, scientific provisions, remarks of the participants of an experiment concerning to conditions and techniques of its conducting.

Results of investigative experiment are assessed like reliable in that case, when the results of the tests made were objectively unavoidable during production all tests in reconstructed conditions, and also when they were changed.

Results of investigative experiment are used for checking of existed and designing of new versions, for searching of informational sources, determination of questioning tactics of accused person, witnesses, victims, assignment and production of investigative actions and organizational measures.

As rule, tactical goals, which are achieved with production of investigative experiment, are got mixed up in practice. One the same investigative experiment might be simultaneously as a way of the versions' checking so and a way to receive new informational sources, and also to check the evidences.

Versions, appeared in course of investigation should be checked with all means, which are available in the police. Investigative experiment may be one of the means of checking and assessment of the versions. Moreover, in this case there is checked not a separate but presupposition of an investigator, appeared on the base of combination of the evidences [3, p. 67].

An application of citizen F. about assault related to robbery her flat was received by the Nasimi District Police Department of Baku city. According to her application, two unknown persons entered with deceitful way to the flat, tied F., caused her few body injuries with knife and taking money, jewelries and type-recorder, had left the flat.

An investigator inspected a scene and questioned her neighbours. Based on a work done, he brought a few versions: armed robbery was committed by persons, who closely familiarized F's family; armed assault was committed under other circumstances of a crime and F. had lodged obviously false application.

Interrogated neighbours confirmed that at indicated time they had heard woman's cry, knock a door, clattering of beaten glass from the flat, but did not interfere as they thought this noise was a regular spouse scandal. In addition, the noise had been stopped in a few minutes.

Being questioned F. said that she was falling asleep, when had heard knock at the door. She thought that her husband come back, came in hallway to open the door, but looking at peephole she saw the two unknown men. Despite they told her that a parcel of her relatives was delivered by them, she did not open the door. Then they asked her to give some water. She brought one bottle and two glasses and had opened the door on a chain long and hold out the bottle. Suddenly one of the men caught her hand and taking a knife said that he cut her hand if she does not open the door. She cried and dropped the glass. Being beaten out the door men entered at the flat, kept down her mouth and tied her hands with rope and had sat down her at floor. Having view the flat, they came back in a few minutes and had demanded to show them, where money and jewelries were. They beat a few time with knife her. Fearing, she said where she kept money and jewelries. They took everything and left the flat. She could be released in one hour and had informed the neighbours and police about happened.

In order to check the versions about imitation of crime or concealment its actual circumstances, an investigator decided to produce two experiments.

With participation of F. one of the participants of the experiment was tied to the central heating radiator, and other one was suggested to imitate knocks with the knife to body parts, which indicated a victim. Statist-“robber” had easily knocked at a chest and hand, though due to a wall, which impeded him, he could not “strike” of back of the head. In result of a few attempts there was established that it was impossible to injure of a back of the head with a knife under circumstances indicating by the victim. To do this, the statist had to be untied from radiator and he had to be bent forward; this was not corresponded to the application of F.

Under the second experiment, F. was suggested to give a bottle with water through opened door on distance a chain’s lengthwise. It was seemed that a hand with bottle did not pass in the door in that position.

Thus, the investigative experiments had clearly confirmed the investigator’s version about concealment by the victim of the actual circumstances of the incident.

F., who was interrogated on the results of the experiments, said that at that day, being used a husband absence, had invited unknown person at home, who after drinking of alcohol drinks became demanding money, had caused bodily injuries with a knife, and then left home. Understanding that disappearing all family jewelries could not be explained, F. thought out a story with two unknown persons [3, p. 67-69].

According to article 239 of the CPC of Azerbaijan Republic, an investigator questions a witness, victim, suspected and accused about appearance and other signs of the person, who will be brought them for identification, and also about circumstances, under which an identifier saw identified person, and a proper record is made about that. Identification of the items is produced and the same order and cases (art. 240 of the CPC).

Both an identification of a person and identification of the items should be proceeded a preparatory work of an investigatory, one of the elements of which is preparation of indentified person.

Under preparation of identified person is understood a complex of the techniques of investigator, directed to providing an optimal psycho-physiological

state of an identified person at the moment bringing to identification. Preparation of an identifier includes using of the techniques directed to providing a normal functioning of a person in the situations of investigation and techniques of influence in behaviour and state of an identifier [2, p. 25].

Most identifiers with different level of the depth are testing a discomfort in connection with untypical of situation, necessity of limitation of freedom to move, violation usual rhythm of life, fear of uncertainty, future, unclearness by his/her role in the forming situation, for himself and his close relatives due to chosen role of disclosing man; fear and uncertainty in reality, fulfillment of taken duties, fear unlucky; possible sense of pity to himself and identified person and associated with this strengthening of perception emotionality and others. Listed factors cannot influence in final results bringing for identification as this investigative action is based on possibilities of using of human memory mechanisms. Task of an investigator is concluded in conducting of the psychological preparation of questioned person, which could reduce negative effect of influence of the external irritators [4, p. 17-20].

Content of the measures of an investigator on preparation of an identifier is determined temporal opportunities by the investigator and situation of investigation at a specific stage. The task of preparation might be resolved only under absence of conflict situation.

The following are related to the techniques of preparation directed to providing normal functioning of person's characteristics:

- establishing psychological contact to concrete person like an optimal form of interaction. Psychological contact is one of the constituent elements, which positively influence at identifier as just an investigator is a psychological basement and supporter for him during identification. The investigator, to whom a contact is established, is as if an indicator of social assessment of behaviour of an identifier [4, p. 29];

- correct choice of a time of investigative action's production by an investigator at the moment of the best psycho-physiological state of a concrete identifier.

Psychological studies showed that there are distinguished three stages of human workability: inclusion in a work, a period of high workability and its falling due to tiring. It is sufficiently that tiring influences in all parameters of personal characteristics of man, important for cognitive activity. In addition, there is existed periods during a day, when an individual has maximal workability, which is often connected with a stereotype of behaviour that is established in process of working activity. These data should be clarified and used under planning of conduct of bringing for identification [7, p. 455-461].

Determination of the right content of the external manifestations of an identifier and other his psycho-physiological peculiarities are related to logical and psychological techniques [13, p. 101].

Sex, physical disabilities, age, mimics, voice and speech should be taken into consideration in course of determination of the right content of the external manifestations of the identifier.

So, the results of researches made testify that approximately 8% of the men suffer with defects of colour perception, i.e. they do not distinguish red and green colours; at the same time there are no many women with colour defects. In addition, women are keeping information perceived earlier in memory better than men [10, p. 313-322].

Physical disabilities very seriously change an individual's psychics, up to formation of pathological development. In addition, the defects of eyesight, hearing and others can be compensated with extension of possibilities of other organs. For example, under absence or reducing of eyesight can be become sharper hearing, sense of smell and sense of touch. Non-natural stoutness or thinness of a body might be a sign of deviation in psychics linked with abnormal changes of the needs and motivations.

Age peculiarities sufficiently influence on ability a person to identification: at one side, eyesight, hearing can be worsen with age, at other one - accumulated during the years empiric experience allows perceiving more correctly at a level of

conscience and to evaluate, and also verbally to describe receiving information [13, p. 102].

Mimicry is a main means of the states' diagnostics. Combination of mimic particularities of an individual, corresponding to the states of sadness, anger, joy, fear and others is an indicator of these states. Mimic expressions should be corresponded to a situation, in which is an interrogated person. Appeared incomppliance should be explained by an investigator. Pantomimic is manifested in the gestures, carriage and typical poses. Gesticulation is characteristic for specific environment, in which an interrogated person lives. Dormancy, uneasiness, sense of discomfort is a manifestation of gesticulation restraining that is a typical for him. Normal gesticulation of specific man might be had a significant informational content, supplementing a verbal speech. If gesticulation contradicts to mimicry and other manifestation of man, it might be testified about pathological states, e.g. about alcohol or drug intoxication [10, p. 313-322].

Body posture imparts man's figure general view and depends on usual position of a body and head. It might be direct, slouchy, hunched, sluggish and vigorous.

Pose of man may in certain extent influence on his state of mind. For example, a man, who sits in a arm-chair, feels himself more free, uninhibited than a man sitting in chair or stool.

Voice is distinguished on the pitch, timbre, manner of pronunciation, level of training. Vocal characteristics of a voice are mostly associated with emotional state of an interrogated person. Appearance of reduction of loudness, changing of a voice timbre, pauses, hacking cough and others in combination with mimicry signalize about a level of man's emotional tension.

Untypical state of an interrogated person may confirm the distinctive speech disturbance, signs of which are: continuous speech without participation of interlocutor and reactions at his remarks, unsystematic changing of topics; often repetition full or partly at the same idea, when a man cannot "turn away" from said; incoherence, illogic sense of speech content; excessive detailing of a speech; unfruitful and groundless judgements [5, p. 315-329].

Detection of professional skills, checking of right social, temporal and spatial orientation, typical emotional manifestations, emotional tensions on a voice and speech, peculiarities of an eyesight, ability to colour perception and hearing are related to determination of other psycho-physiological particularities of an identifier.

Professional skills sufficiently influence on possibility to remember and reproduce of information. In addition, profession actively impacts on formation of human memory types (visual imaginative, verbal logic, visual, motional, emotional and others). Determination of a memory type gives a chance to help more accurately to a questioned person to reproduce information, in which an investigator is interested [13, p. 104].

Checking of a right social, temporal and spatial orientation of a person is fulfilled with formation of the questions associated to a questioning part of reports that allows doing preliminary conclusions. So, being interested in where from an interrogated person came to investigative action production place and how much time it took to come, whether he found fast the place where interrogation is conducting one may compare answers with personal experience and to determine the possibilities of an interrogated person in assessment of periods of time and spatial, and also his ability to orientation [8, p. 90].

Providing at initial stage of questioning an interrogated person with emotionally significant for him information is a way a detection for normal for this person emotional manifestations. Few words about weather said by an investigator help to manifest mimic and speech expressions for satisfaction or non-satisfaction. Thus, there are discovered an individual signs of manifestations of concrete person, changing of which inform of an investigator later about achievement goals under impact of an interrogated person [9, p. 435-450].

Difficulties in formulation of thoughts, selection of the words for their expressions, increasing of pauses, searching of words, repetitions and others might be the signals of the emotional excitation. There is decayed conscious control over a speech, increase a number of the filler words, standard combinations of the words. The latter is pronounced in much high temp than in speech under usual state. There is

sufficiently increased number of non-communicative gestures, which are not realized by spoken man. Under this, a dictionary of verbal speech gets poorer and become stereotypic. Appearance of the signals about emotional tension requires urgent reaction an investigator to determine the reasons of its appearance and making decisions to control over situation [1, p. 11].

Ways of reading and signing of the records may testify about particularities of person's eyesight. Some people, who have weak eyesight, are felt shy of having glasses, and sometimes they do not take it to themselves. Naturally, particularities of person's eyesight (long-sightedness or short-sightedness) might be an appropriate signal for investigator. It is necessary to stare at cornea of the eyes of questioned person as sometimes he can have the contact lenses. In course of signing of questionnaire part of the record, reading of explanation of the rights and duties of interrogated person one is necessary to notice his/her ability to speed reading as in certain extent it characterize attentiveness, and sometimes interest in results of a case, ability to understanding of information read and remembering of it [13, p. 105].

Task of determination of colour perception by an identifier might be resolved by investigator with help of set of four colours felt-tipped pens or pens (red, green, blue and black). Under signing of the questionnaire part of the record by interrogated person he might be offered whole set of the pens and will be offered to sign with red and green colours [6, p. 89-102].

During filling in the questionnaire one may say some questions silence than usual and thus, to check hearing of interrogated person.

In course of diagnostics of a person, when is detected the signs of possible psychic illness or serious mental deviations, is not excluded opportunity of conducting of investigative actions with participation of this person, including for bringing to identification. Data received should be carefully considered under planning and production of investigative actions, and also under evaluation of their results. Decision about conducting of bringing for identification is made with considering of a state of concrete person, which is established under repeated questioning with participation of specialist.

Fixation by investigator of information received in result of criminalistical express-diagnostics is carried out both with help of record means of fixation (writing of emotionally-assessing expressions, questions and answers etc. in a record) and with help of technical means (tape-video recording). Fixed information are the ground to assign expert examinations, to produce examinations and adoption other procedural decisions.

Influence on an identifier, who brought for identification, should be produced in strict frames of the law. It is prohibited to use physical violence, threats and other illegal methods. In addition, influence on an identifier should not be impacted at his testimonies and freedom of conducting determination of identifying object under identification. One should take into account that effect of influence is increased at unknown situation, in new surrounding, and also under fulfillment of significant task, i.e. in the conditions, which are characteristic conduct a bringing for identification, and consequently, the techniques of influence should be applied very carefully [11, p. 76-78].

Influence might be carried out on form of the orders, demands, requests, rebukes, suggestions, advices, warnings, and notifications.

It is reasonable to explain to an identifier at a place of identification a common order of identification and to give clear definition s all elements of his/her actions. Under this the identifier gets used to situation, in which he has to act; he is formed a formulation to identification of known object, mental resolution of a task in form of presentation about his/hers actions, overcoming negative impact technical means of fixation onto identified person [13, p. 107].

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