

Integrative tactics of investigative experiment

Abstract: Production of an experiment that conducted at the same place and the same time of a day or night in similar light and sound conditions do not mean that it is conducted in identical conditions. Undoubtedly, the terms of experiment has changed from the time of commission of a fact checked. Task of an investigator is to make maximum closer conditions of conducting of an experiment to those that were in period of commission of the fact checked.

Sometimes the circumstances of a case are not required exact reproduction of all details of environment and time, and formal observance of this requirement would lead to unnecessary complication of an experiment.

In course of preparation and conducting of investigative experiment one should take in account light, sound, climatic conditions, which are characteristic for an event and time prior to an experiment, if it can influence in results of experiment.

Keywords: experiment; integrative tactics; things; items; evidence; environment of an event.

Integrative tactics of conducting of investigative experiment presupposes, first of all, observance of certain actions, some of which fixed in law, in Article 262 of CCP of Azerbaijan Republic. These are:

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

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2. Experiment should not cause material loss its participants, other persons, state and public institutions.

3. Experiment is conducted in condition maximum similar those, in which an event happened, this is achieved through techniques of criminalistical reconstruction.

4. Composition and number of experiment's participants should be determined based on nature, aims of experiment, place and other factors defining its conducting and reliability of the results.

5. Reliability conducting and results of an experiment depend also on multiple experiments made, in necessary cases, division them into stages and complication of the conditions [2, p. 282].

Each of indicated significant conditions of fulfillment of investigative experiment is realized through a system of concrete techniques IKT, which have optional nature, is determined with particularities of an experiment. Let's consider some of these concrete tactical techniques of conducting of investigative experiment, keeping in mind an aim of experiment and some its particularities depending on corpus delicti of crime.

Production of experiment at the same place and the same time of day and night, the same light and sound conditions do not mean that it is fulfilled in identical conditions. Undoubtedly, environments of the experiment are changed from time of commission of fact checked. The matter of an investigator is to make maximum closer conditions of an experiment to those in time of commission of the fact checked.

Sometimes, the circumstances of case are not required an exact reproduction of all details environment and time, and formal observance of this requirement would only be led to unnecessary complication of an experiment.

While preparation and conduct investigative experiment one should take into account light, sound, climatic conditions inherent for an event and for prior the experiment time. Let's illustrate this situation at the following sample.

In station of Agstafa of Azerbaijani Railway Department was committed a murder of some K., a guarder of a shop. During investigation it was established a woman-witness, who had showed that she saw how the murder was committed, being watched the actions of criminals from the window of a boxcar, which was adapted for living, located approximately 100 m from the place of killing. Crime was committed at deserted night, about 3 a.m. at low cloud cover. The light of railway spotlight fell partly at place of killing, but the killers and their victim had stood by aside. The witness said that she had not see criminals' faces, but their silhouettes had distinctly been seen. Her testimonies were significant for the case, but they had raised some doubts: it was difficult to believe that in described conditions she could anything discern at such distance. There was conducted an experiment on visibility. Being chosen a time, when cloudiness was the same like at night of killing, an investigator at light of spotlight had disposed two men at place of killing and the witness was suggested to describe their actions. But neither witness nor attesting witnesses could anything had seen.

While evaluating the results of experiment the investigator had taken attention the fact that before murder there were no rains for many days, whereas at eve of the experiment had rained and soil was wet and dark. The experiment was repeated in conditions of dry soil and had given a directly opposite result: against of the background of light dry soil there were seen the silhouettes of men and one was able to discern what motions they had done. Not only weather but also climatic conditions prior the experiment had significance in described case. It especially important to take into account an impact of climatic factors in those cases, when an experiment is a long-drawn and it might be completed not the same climatic conditions, in which it had begun [1, p. 43-44].

Number of remarks and corrections should be done concerning usage of original items, arms, which were used at crime commission, during conducting of investigative experiment.

Individually determined features of the items, their characteristic signs impacting to a course and results of the tests have an essential value. Replacement

of these items on “similar” is negatively reflected in results of an experiment. In particular, it is unreasonable to replace material evidences or clothes, footwear belonging to a certain individual, if their usages in experiment are called with necessity. But in course of experiment one cannot damage and change their individual signs.

Under environment of an event is understood not only time, climatic and light conditions, but also material elements of occurrence place (home appliances in a room, nature of vegetation at ground, disposition and kind of road traffic signs, kind and location of construction materials at construction areas, at yards etc.). Reconstruction of these material elements of environment before conducting of investigative experiment has an important tactical significance as from rightness of such material reconstruction depends an assessment of the results of tests and conclusions about a mechanism of crime and other circumstances, which are subject to prove on a case. Mistakes in reconstruction of material environment at occurrence place distort a course and results of an experiment and come to wrong conclusions on a case.

Sometimes, an experiment has a character of environment reconstruction. Content of it is concluded in reproduction of the items' location with experienced way in a room or an area. Here is a specific sample. It had been appeared suspicions in testimonies of accused persons some A, Zh, and G on a case about murder of some Sh., who lived in private home in Ali-Bayramli. The suspicions had concerned disposition of furniture in the rooms and actions of criminals in crime. 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 empty rooms, from which all furniture was 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 [1, 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 [1, 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 [1, 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 [1, p. 67-69].

References

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