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Providing technical and forensic investigative actions in the investigation of acts of terrorism

This article discusses the features of technical and forensic identification and search in the investigation of crimes related to terrorism. The article reveals the topic of search and identification in the investigation of acts of terrorism, based on the previous experience of forensic scientists, legal norms, law enforcement statistics, scientific and practical materials containing modern data on technical and forensic techniques and equipment, which are still successfully used in the investigation of acts of terrorism here and abroad. The study of the prospects of technical and forensic identification and search in the Commission of a terrorist act, require the use of a variety of scientific methods based on the provisions of the materialistic dialectic of historical conditionality, objective laws of development and interaction of phenomena. The legislation of the Republic of Kazakhstan requires the presence of witnesses and representatives of the local Executive body during the investigation to avoid unnecessary risk to the life and health of those present. During the search, firearms, cold weapons, ammunition, explosive materials or parts for their manufacture, poisons, as well as wanted terrorists are searched, and if the presence of the above-mentioned persons cannot be ensured, there is a conflict between criminal procedure norms and security requirements.

Keywords: pre-trial investigation, identification, search, terrorism, investigative actions, technical-forensic features.

Since the establishment of independence in the Republic of Kazakhstan, as in many countries of the Commonwealth, the transition period has involved the development of both positive and negative processes in the interaction of States in the field of universal peace and security, including preventive activities of the security of citizens. The study of these processes requires objectivity and impartiality on the part of the researcher. This study is necessary in order to expand knowledge in the legal regulation of the fight against terrorism in Kazakhstan. The tragic events in Afghanistan, Egypt and Great Britain are a problem for the entire world community. Unfortunately, such dramatic events have not bypassed Kazakhstan [1, 2, 3].

So on October 31, 2011 in Atyrau, there was an event in which the Prosecutor General's office of Kazakhstan opened two criminal cases under the article «Terrorism». On July 11, 2012 in the city of Atyrau, a group of extremists were identified, in whose house, the investigation was found: firearms, ammunition, police uniforms and religious literature. On September 15 of the same year some unknown, in the center of Atyrau fired at the police officer, terrorists found a week later, during expeditious actions all fighters were destroyed [2]. On the 3rd of December 2011 seven people, including two members of the special forces, were killed during the operation in Boraldai village of Almaty region, where criminals planned to conduct a number of violence acts in Almaty [3]. On July 18, 2016 the Interdepartmental investigative group of the Prosecutor General's office of Kazakhstan, upon the terrorist act in Almaty, under the leadership of the special Prosecutor, completed a pre-trial investigation in a criminal case in which 57 forensic examinations and studies were conducted, more than 200 witnesses were interrogated at the end of the process, the terrorist was sentenced to death penalty [3]. On the fact of the terrorist act on in Aktobe on June 5, 2016, the investigative task force completed a pre-trial investigation in a criminal case. On november 12, 2011 in Taraz, a jihadist, killed two employees of the Department of the NSC in Zhambyl region and during the prosecution shot two policemen.

The success of the rapid detection and comprehensive investigation of any type of crime consists of many components. To list and analyze them all is not possible, because in each case at each time develops its own, by uniqueness and dynamism of the investigative situation, which is a set of elements of the forensic characteristics of a particular crime. According to the task, the forensic characterization of the above-mentioned category of crimes, supplemented by some elements that determine the effectiveness of their suppression, that is, the quality of the pre-trial investigation at the initial stage largely depends on the success of the disclosure as a whole. By studying the types and prerequisites of the crime, we can prevent the Commission and development of such terrorist acts [4-7].

The legislation of the Republic of Kazakhstan adopted that the pre-trial investigation is carried out by means of various procedural and investigative actions, where, along with the General dialectical method, General and private scientific methods of cognition are used: historical, comparative legal, system-structural, formal-logical, logical-legal, statistical analysis and generalization. Investigative actions are made for obtaining the proofs necessary and sufficient for establishment of the truth on criminal case [5]. The programme of action, the sequence and timing of investigative actions, the investigator chooses their own, based on the typical investigative situation [6; 16]. The General provisions of the tactics of individual investigative actions are developed in detail in the science of criminology, so we will focus on the features of inspection of the scene and interrogation in the investigation of terrorism [8-11].

Identification during investigative actions, performed with the aim of establishing identity or difference with a person, a suspect in the execution of the terrorist attack. A person carrying out a pre-trial investigation may present for identification the object or corpse to the witness and the victim. With regard to the categories accepted in criminology identification-one of the ways of identification. Identification, as it is known, can be carried out both on materially fixed maps (traces, models, etc.), and on sensually-concrete representations (images) which have remained in memory of the person [7]. Identification essentially refers to the identification of the second type, as it is based on the memorization of the signs seen or previously known object. This means that the object was observed by a person in connection with the committed crime or was familiar to him earlier (for example, his thing). Then it came the perception and memorization. In the process of presentation of the object to recognize the face maps signs, etched in his mind (a mental image), with signs placed on the object and if there is a match identifies the object (person, object). What happens is what is called subjective identification [12-15]. The understanding of the essence of identification as a psycho physiological process is facilitated by the introduction of such a concept as recognition, i.e. identification of the perceived with the perceived earlier. The degree of recognition can be different: from the unclear feeling that the object was somewhere previously seen, to full confidence in the identity. The degree of recognition will depend on the conditions of the initial perception of the object, on the abilities and state of the subject, perceiving the object, on the properties of its memory, on the conditions in which recognition is carried out, from the time elapsed since the previous perception, to the moment of recognition [9]. Each of the above conditions can significantly affect the results and should be taken into account when carrying out this investigative action [16-19]. So, to solve the question of whether it is advisable to present the object for identification, it is important to analyze the conditions of perception of this object: the duration of observation, the distance from the observer to the object, the illumination of the object, the type of the object (characteristic of its features, the unusual object, etc.), the presence or absence of extraneous phenomena (interference), etc. [20-22].

The most important element of preparation for presentation for identification is preliminary interrogation of the identification person. The purpose of the preliminary interrogation, identifying is to clarify and record in the minutes of the circumstances and conditions in which the private features of the object, preserved in memory, under which the interrogated can identify it. The necessity and the importance of questioning, before the identifying the presentation object has repeatedly pointed to processuality and criminologists. Participation of the expert criminalist in this investigative action is expedient at all stages of its carrying out. The specialist prepares the necessary technical and forensic means for fixing the course and the results of the identification. A forensic specialist can assist in obtaining more detailed and accurate data on the features of objects that will be presented for identification. For this purpose, it is advisable to use directories, catalogues, databases in reference systems, where there are images and descriptions of objects similar to those described by the interrogator. At the same time, the specialist must not only demonstrate the images, but also explain the signs that individualize them, thereby contributing to the revival of the associative memory of the interrogated. The specialist will also help in the preparation of a subjective portrait, that will help in describing the signs of appearance, which later will be used to search for images of people [17, 18].

Thus, S.I. Reva pointing to the need for a preliminary interrogation, identifying signs and features on which he will be able to make an identification, notes: «Clarification of these circumstances is important, both to address the issues of the expediency of the identification of this or that object and the possibility to trust his perception, and for the subsequent assessment of the correctness of the results of the presentation for identification» [19].

The testimony of the person interrogated before the presentation for identification must be given in the form of a free narrative, which is a means of obtaining more complete information about the object to be presented [20, 21]. On this in his work points T.A. Goncharova: «In the process of free telling, the investigator has the opportunity to better study the identity of witnesses, victims, suspects and accused persons, their po-

sition in relation to the case, the level of development, communications, etc. Therefore, the investigator should not interrupt the interrogators, as this may distract from the actual circumstances of the case, and they can give evidence corresponding to the truth» [22].

If there are several people able to identify the object, the interrogation of each of them should be conducted separately and at different times, so that they will not have the opportunity to exchange views on the features of the object or the circumstances of its observation. The exchange of views between individuals, that can be used to identify the object, can be of mutual suggestion of the image of the object observed by them in the same form as presented to each of them [23]. The timeliness of the presentation of objects is of great importance for the identification. Considering this issue, A.V. Mardojan points out: «The Image that arose during the initial observation of the object is not always firmly fixed in memory. Man tend to forget what he saw, lay down on him new visual, auditory and other impressions. Therefore, the presentation for identification, as a General rule, should be carried out as soon as the specific circumstances of the investigation allow» [24].

In cases of acts of terrorism, some identifiable individuals can disrupt the identification process by provocative shouting, hooliganism and even openly threatening the identifying. The task of the investigator is to prevent such situations. If still identifiable began to make threats identified or committed other provocative acts, it is necessary to terminate the identification, questioned witnesses and identified the details having a place of incident and recorded their statements [25]. As mentioned above, a number of terrorist attacks involving explosive devices is carried out by people belonging to terrorist organizations. However, even after the arrest of perpetrators and organizers of some of the collaborators remain at large. For the fear of reprisal, witnesses and victims may refuse to participate in the identification. In such a situation, according to the article 230 part 11 of the code of criminal procedure, to ensure the security of the identifying person, the presentation of the person for identification can be made in the conditions, precluding the visual observation of the identifying person. This can be achieved by changing or masking the appearance of the witness, conducting the identification with the help of video equipment or through a special glass, transparent only on one side [26].

Identification by means of video equipment differs in that the image of persons presented for identification is transferred by means of the video camera on the monitor which is in the next room or is recorded on a videotape and right there reproduced on the same monitor. At the same time, the operator must fix the appearance of all people equally in time and angle, without paying special attention to the identifiable, i.e., without «prompting» the identifying person [27]. The described procedure of identification loses its meaning if the Protocol, which is identifiable in any case and should be familiar with, indicates the identity of the identifying person [28].

In this case, the investigator, according to article 97 of part 3 of the code of criminal procedure, restricts access to information about the protected person from the beginning of the criminal process at the request of the person and consists in removing from the materials of the criminal case information about the questionnaire data of the person and storing them separately from the main production, About application of this measure the person carrying out pre-judicial investigation makes the resolution in which the reasons of the made decision on preserving in secret of data on the personality are stated the pseudonym and the sample of the signature of the protected person which it will use in protocols of investigative actions with its participation. Procedural actions with the participation of the person being defended may be performed under conditions that exclude his identification. The decision and the materials separated from the main proceedings shall be placed in a sealed envelope, which shall be stored in the body investigating the criminal case, and the contents of which, except for the person carrying out the pre-trial investigation, may be consulted by the Prosecutor and the court [29].

The terrorist act causes a great public response and alarm of citizens. The fact of a terrorist act can not be hidden, because the purpose of terrorists is to cause a wide public response. Let us turn to foreign experience. In the US, there are three main types of identification. Operational knowledge (eng. show up), procedural identification (eng. lineup) and the lineup for fotocard (eng. photo arrays). Operational identification (show up) is carried out in cases where after the crime has passed a short time, with the victim or eyewitness presented one suspect. This type of identification is allowed to carry out on the scene. The procedural form of identification (lineup) lineup at the police stations, the witness shall be presented at least six people, and the courts of at least three. Statisticians participating in the identification procedure must be agreed with the lawyer, he can offer his order of formation of the group. An interesting fact is the absence of this type of identification of witnesses. Their functions are carried out by five strangers presented to the identification

along with the suspect. The legality and objectivity of the identification procedure is monitored by counsel. Identification by photo cards (eng. photo arrays) photos are presented to the identifying person in the amount of at least six. The difference between live and photographic identification is that suspects are not entitled to the presence of a lawyer during the presentation of photographs, since they are absent. The advantage of this kind of identification is that the police can use a photo of a potential suspect as many times as necessary. Also, this gives the police the opportunity to ensure greater similarity between all people presented for identification, since there are quite large «arrays» in police stations – collections, albums of photographs of people previously detained for similar crimes [30, 31].

Search. The procedure for conducting the search is defined in chapter 31 articles from 252 to 256 of the code of criminal procedure. The search is carried out for the purpose of detection and seizure of items or documents relevant to the case, including the detection of property subject to arrest. The basis for the search is the availability of sufficient data to believe that these items or documents may be in a certain room or other place or at a particular person. A search may be carried out to find the wanted person and the corpse of a person. Tactics of carrying out such investigative action as a search is well covered in the forensic literature, so it is advisable to focus on the features of the search in the investigation of a terrorist act. The search proceedings in cases of terrorism have a certain specificity. The success of the search is largely depends on the quality of the preparatory phase. Prior information about the objects, the investigator can draw from the results of the examination of the incident, the initial interrogation of operational data. Taking this information into account, the composition of the group and the necessary technical support are determined.

The task of participating in the search of specialists – employees of forensic units is to advise the investigator, the use of search devices, the packaging of detected items of interest to the investigation, fixing the course of the search on the photo and videotape. In some cases, for geocaching as specialists may involve joiners, carpenters, electricians, and others: involved in the search, the handler may, on the instructions of the investigator to use a sniffer dog to detect explosives. As technical support, in addition to the means of detecting caches, it is advisable to have a portable gas chromatograph «Echo» for rapid analysis. Such a device can be used to determine, for example, the presence of explosive particles in the room air, on various objects and to determine the type of these substances. It is very effective to use a portable detector of explosives «MO-2», which allows to detect trace amounts of vapors of explosives at various facilities. It includes test paper, which can be used to determine the presence of traces of TNT, nitroglycerin and other explosives on various surfaces, including hands, tissues, etc. [32, 33].

When conducting searches, as rightly noted by M. Kekhlerov, «seems to be the obligatory personal participation of the investigator, made the decision about it. Re-assignment of search proceedings to operational or other services often leads to their superficial conduct and to the possible loss of evidence, to procedural violations».

In the implementation of urgent investigative actions of great importance is the search at the place of residence and work of the suspect. In that case, if the search is subjected to a large area of terrain, buildings or there are sufficient data to assume that the person had or is dealing with explosives, the search should be carried out only in the presence of engineering units of the Ministry of defense of the Republic of Kazakhstan, since mines and other explosives can be installed on the surveyed territory. The search of a residence suspected to be detection and removal along with the instruments of terrorist encroachment objects with traces of the crime; the remnants, wrapping paper and labels from explosives, boxes of blasting caps; the device feeding radio signals to initiate the explosion, tools, materials, individual components used to manufacture improvised explosive devices or modifications of standard ammunition, traces of which found on the items seized from the scene; firearms and grenade launchers (or their parts); ammunition; literature on explosives, various documents showing the purchase, storage or transportation of explosives, descriptions, drawings, charts being made by criminals funds an attack. Computer equipment and electronic media must be removed in order to detect information relevant to the truth. An inspection of computers and media should be carried out with a computer technician. If there are reasons to believe that an explosive device was manufactured in the room under search, it is advisable to collect and remove dust from the floor, from the desktop and other objects during the search, in order to identify the micro particles of the explosive during the subsequent expert examination [33, 34].

Thus, the search is one of the most important investigative action of the criminal proceedings, so the investigator, in order to effectively investigate the criminal case of a terrorist crime, in addition to criminal procedural aspects and forensic tactics, should also be guided by scientifically based recommendations developed by the scientific community. On the basis of all the above, it should be concluded that the investiga-

tive actions, especially the search in the case of the act of terrorism, it is difficult to carry out qualitatively exclusively by investigative units and employees of the Ministry of internal Affairs. In this regard, it seems expedient to organize closer cooperation between the staff of the internal Affairs bodies of the Republic of Kazakhstan, the NSC of the Republic of Kazakhstan, and the Prosecutor's office, specialists in arms and sappers of the Ministry of defense, military and civilian experts in explosive engineering, to put into practice such a progressive form of organization of work as the implementation in the regions of joint training with investigators, operational staff of these bodies on the tactics of urgent investigative actions and operational-investigative measures, as well as the method of disclosure and investigation of terrorist acts, and the prevention of these crimes. In this regard, it seems appropriate for the NSC and the Ministry of internal Affairs to develop and approve a joint instruction on the procedure for interaction in the detection and investigation of crimes related to terrorist acts.

In order to improve interdepartmental cooperation in the investigation of terrorist acts, it is necessary to grant the Prosecutor the right to create an interdepartmental investigative group consisting of investigators and operational staff, and specialists of the NSC, internal Affairs bodies of the RK, the Ministry of defense.

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Терроризм актілерін тергеу кезінде техникалық-криминалистикалық іс-әрекеттерін қамтамасыз ету

Мақала терроризммен байланысты техникалық-криминалистикалық іс-әрекеттерін қамтамасыз ету ерекшеліктері, тергеу кезінде қылмыстарды тану және тінту қарастырылды. Мақала терроризм актілерінің тергеу кезінде тінту және тану тақырыбын ашып, алдыңғы ғылым-криминалистер тәжірибесіне сүйене отырып, құқықтық нормалар, құқық қорғау статистикалары, ғылыми-практикалық материалдар, қазіргі заманғы техникалық-криминалистикалық әдістемелер мен жабдықтар туралы деректер, олар әлі күнге дейін бізде және шетелде терроризм актілерін тергеу кезінде табысты қолданылады. Террористік акт кезінде техникалық-криминалистикалық тану және тінту жүргізудің келешегін зерттеу кезінде әр түрлі ғылыми әдістерді қолдануды талап етеді, кешенді және тарихи негізде материалистік диалектикалық ережелерге негізделген, объективті даму заңдылықтары мен өзара байланысты құбылыстар. Қатысып отырған адамдардың өмірі мен денсаулығына тәуекелге бармау үшін ҚР заңнамасына сәйкес тергеу іс-әрекетін жүргізу кезінде куәгерлер және жергілікті атқарушы орган өкілдерінің қатысқанын талап етеді. Тінту барысында атыс және суық қаруды, оқ-дәрілерді, жарылғыш материалдарды немесе оларды дайындау үшін қолданылатын бөлшектерді, уларды, сондай-ақ ланкестерге іздеу жүргізіледі, егер жоғарыда көрсетілген тұлғаларға қатысуы қамтамасыз етілуі мүмкіндігі болмаса, онда қылмыстық-іс жүргізу нормалары мен талаптар қауіпсіздік арасындағы тартыс айқын болады.

Кілт сөздер: тергеп-тексеру, тану, тінту, терроризм, тергеу іс-әрекеттері, техникалық-криминалистикалық ерекшеліктер.

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Технико-криминалистическое обеспечение следственных действий при расследовании актов терроризма

В данной статье рассматриваются особенности технико-криминалистического обеспечения опознания и обыска при расследовании преступлений, связанных с терроризмом. Статья раскрывает тему производства обыска и опознания при расследовании актов терроризма, опираясь на предыдущий опыт ученых-криминалистов, правовые нормы, правоохранительную статистику, научно-практические материалы, содержащие современные данные о технико-криминалистических методиках и оборудовании, которые до сих пор успешно применяются при расследовании актов терроризма здесь и за рубежом. Изучение перспектив технико-криминалистического проведения опознания и обыска при совершении террористического акта требует применения комплекса разнообразных научных методов, основанных на положениях материалистической диалектики об исторической обусловленности, объективных закономерностях развития и взаимосвязи явлений. Законодательство РК требует при проведении следственного действия присутствия понятых и представителей местного исполнительного органа для избегания неоправданного риска жизни и здоровью присутствующих. В ходе обыска ведется поиск огнестрельного и холодного оружия, боеприпасов, взрывчатых материалов или деталей для их изготовления, ядов, а также разыскиваемых террористов. Если же присутствие указанных выше лиц не может быть обеспечено, то налицо конфликт между уголовно-процессуальными нормами и требованиями безопасности.

Ключевые слова: досудебное расследование, опознание, обыск, терроризм, следственные действия, технико-криминалистические особенности.

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