

**HISTORIA USTANOWIENIA W NAUCE KRYMINALISTYCZNEJ  
PROBLEMATYKI ZWIĄZANEJ Z BADANIEM PRZESTĘPSTW  
POPEŁNIONYCH PRZEZ SKAZANYCH W ZAKŁADACH KARNYCH  
NA UKRAINIE**

**Batiuk Oleh**

doktor nauk prawnych, docent,  
profesor w Katedrze Prawa Karnego i Sądownictwa  
Prorektor ds. integracji europejskiej i współpracy międzynarodowej  
Międzynarodowego Uniwersytetu Ekonomiczno-Humanistycznego  
imienia akademika Stepana Demianczuka, Równe, Ukraina  
[olegbatiukmegu@gmail.com](mailto:olegbatiukmegu@gmail.com)

**Streszczenie.** W artykule naukowym autor podtrzymuje historię badań naukowych dotyczącą przestępstw popełnianych przez skazanych w zakładach karnych na Ukrainie i dzieli je na cztery okresy. Bada prace naukowe wybitnych naukowców z zakresu procesu karnego oraz kryminalistyki, którzy częściowo zajmowali się aktualną problematyką o charakterze teoretycznym, prawnym i praktycznym dotyczącym zasad przyjęcia i realizacji decyzji śledczego na etapie postępowania przygotowawczego na zasadach KPK 2012 roku. W artykule naukowym przedstawiono poszczególne aspekty badania przestępstw w formie wyznaczonej przez prawo oraz zgodnie z metodami i środkami działalności operacyjno-poszukiwawczej zaprezentowanymi w pracach wiodących naukowców kryminalistów z Ukrainy. Autor dochodzi do wniosku, iż problematyka badania przestępstw w zakładach karnych, nosi charakter nie tylko teoretyczny, ale również i praktyczny oraz wymaga dalszego poznania naukowego i badań. Jednak przeprowadzona analiza obejmująca prace naukowe i inne źródła doktrynalne świadczy o tym, iż w większości dotyczą one działalności organów Policji Narodowej Ukrainy oraz niektórych innych organów ścigania, jednak wciąż niewystarczająco są zbadane przez Państwową Kryminalistyczną Służbę Wykonawczą Ukrainy, co dość negatywnie wpływa na stan oraz efektywność badania przestępstw, popełnionych przez skazanych w zakładach karnych oraz w całości negatywnie wpływa na stan porządku prawnego miejsc odbywania kary oraz w arestach śledczych.

**Słowa kluczowe:** kryminalistyka, przestępstwo, badanie, skazani, zakład karny.

**IN THE FORENSIC SCIENCE THE HISTORY OF DEVELOPMENT OF  
PROBLEMS, THAT ARE RELATED TO INVESTIGATION OF CRIMES,  
WHICH HAVE BEEN COMMITTED BY CONVICTS IN THE PENAL  
INSTITUTIONS OF UKRAINE**

**The annotation.** In the provisions of the scientific article, the author shares the history of scientific researches relating to the investigation of crimes, which have been committed by convicts in penal institutions of Ukraine on four periods. He conducts research of scientific works by leading scientists in the field of criminal process and forensic science, which partially dealt with the actual problems of the theoretical, legal and practical nature regarding the procedural procedure for the adoption and execution of decisions of the investigator at the stage of pre-trial investigation under the CPC 2012. In the provisions of the scientific article, certain aspects of investigation of crimes that are defined in the law by forms, methods and means of operative-investigative activity have been researched in scientific works of leading scientists of forensic of Ukraine. The author comes to the interim conclusion, that the problems of investigation of crimes, including in correctional colonies of Ukraine, are not only purely

theoretical but also practical and require further scientific knowledge and development. However, the analysis of scientific papers and other doctrinal sources showed that largely they relate to the activities of the bodies of the National Police of Ukraine and some other law enforcement agencies, but they are not sufficiently studied in the work of the State criminal executive service of Ukraine, which has a very negative effect on the state and efficiency of the investigation of crimes that have been committed by convicts in the correctional colonies, and in general on the state of law and order in the Penal Institutions of Ukraine and the pre-trial detention centers of Ukraine.

**Keywords.** Forensic, crimes, investigation, convicts, penal institutions.

## **ІСТОРІЯ СТАНОВЛЕННЯ В НАУЦІ КРИМІНАЛІСТИЦІ ПРОБЛЕМ, ПОВ'ЯЗАНИХ ІЗ РОЗСЛІДУВАННЯМ ЗЛОЧИНІВ, УЧИНЕНИХ ЗАСУДЖЕНИМИ В УСТАНОВАХ ВИКОНАННЯ ПОКАРАНЬ УКРАЇНИ**

**Анотація.** У положеннях наукової статті, автор поділяє історію наукових досліджень що стосуються розслідування злочинів, учинених засудженими у виправних колоніях України на чотири періоди. Проводить дослідження наукових праць провідних науковців в царині кримінального процесу та криміналістики які частково займалися актуальними проблемами теоретичного, правового і практичного характеру щодо процесуального порядку прийняття і виконання рішень слідчого на стадії досудового розслідування в умовах дії КПК 2012 року. В положеннях наукової статті, окремі аспекти розслідування злочинів визначеними у законі формами, методами і засобами оперативно-розшукової діяльності досліджені в наукових працях провідних вчених криміналістів України. Автор приходить до проміжного висновку, що проблеми розслідування злочинів, у тому числі у виправних колоніях України, носять не тільки суто теоретичний, але й практичний характер та потребують подальшого наукового пізнання і розробки. Проте проведений аналіз наукових праць та інших доктринальних джерел показав, що у більшій мірі вони відносяться до діяльності органів Національної поліції України та деяких інших правоохоронних органів, але недостатньо вивчені в роботі Державної кримінально виконавчої служби України, що досить негативно впливає на стан і ефективність розслідування злочинів, вчинених засудженими у виправних колоніях, та в цілому на стан правопорядку в Установах виконання покарань і Слідчих ізоляторах України.

**Ключові слова.** криміналістика, злочини, розслідування, засудженні, установи виконання покарань.

**A problem statement in general and its connection with important scientific or practical tasks.** According to the judicial and investigative practice, every year in Ukraine by persons serving sentences in penal institutions (further PI), it have been committed more than 400 different crimes (*Babyak A.V., Vasylevych V.V., Zhuravska Z.V., 2014, 254 p.*), and from 2014 to date - up to 300 of such socially dangerous actions (*About the activity of divisions..2018, p.6*). It is these official data indicating the need for both theoretical scientific study of a particular problem, as well as the practical improvement of the activity of specially authorized actors that commit activity of disclosure and investigation of crimes, which have been committed by the convicts in the penal institutions of Ukraine.

**An analysis of recent researches and publications, which began the solution to this problem, the allocation of previously unsettled parts of the general problem.** It is worth mentioning that for today there is no comprehensive scientific research, which is devoted exclusively to the actual questions of investigation of crimes that have been committed by convicts in the penal institutions of Ukraine. Some aspects of this

problem in their scientific works were disclosed by such scholars as Averyanova T.V., Belkyn R.S., Zaharov V.P., Ilnytskyi V.Ya., Kolb O.G., Myronchuk V.A., Sas S.M., Serbin M.M.. That is why it was necessary to investigate the history of the formation in forensic science of problems, which are related to the investigation of crimes that have been committed by convicts in the penal institutions of Ukraine.

**The purpose of this scientific article** is to conduct a comprehensive scientific study of the history of the formation in the forensic science of problems, which are related to the investigation of crimes that have been committed by convicts in the penal institutions of Ukraine and the development on this basis of the periodization of scientific research on a specified problem.

**The description of main material.** The science study of some issues that are related to the investigation of crimes that have been committed by convicts in the penal institutions of Ukraine, in our opinion, is appropriate to share into such periods. *The first period* concerns 1961 - the mid-70's of the twentieth century - the time of adoption and adaptation in practice of the norms of the CPC of the Ukrainian SSR, which for the first time provided for in the system of correctional labor establishments the bodies of inquiry, the functions of which have been carried out by different state bodies until the 30th of the 20th century. As M.A. Pyetuhovskyi noticed about that, the archival documents (orders, instructions, circulars of the People's Commissariat of Internal Affairs, the Ministry of Internal Affairs of the USSR, others), archival criminal cases testify to the fact that in the 30 years of the 20th century in the places of deprivation of liberty an investigation was conducted by specially created units for this purpose – by the operative-chekist, operative-regime, and even judicial (*Petuhovskyi M.A. 1979, p. 191*). It should be noted that the basis for determining the first period of research of problems, which are related to the investigation of crimes that have been committed by convicts in the correctional colonies, were the scientific developments, which were held in the walls of the High school of the Ministry of Internal Affairs of the USSR led by R.S. Byelkin and G.G. Zuikov, who brought out at that time separate elements of the methodology of the initial investigation of crimes.

*The second period* falls on 1979-1991, which were devoted to the improvement of norms of the CPC, especially those relating to the regulation and enhancement of the effectiveness of the pre-trial investigation, as well as the elimination of existing problems in practice. In the context of the content of the subject and the tasks of this dissertation study, the development of a methodology for investigation of crimes in places of deprivation of liberty became important in this period, the authors of which were M.P. Hilobok and V.Ye. Zharskyi (*Belkyn R.S., Zyikov G.G., 1970, p.54*).

*The third period* of the scientific studies, which are devoted to the problems of investigation of crimes that have been committed by convicts in the correctional colonies, refers to 1991-2012 and is related to the establishment of criminal procedural activity in the conditions of independent Ukraine. The most powerful in this sense were the scientific developments of M.M. Serbin, which formed the basis of his research and culminated in the defense of a dissertation for getting the scientific degree of a candidate in law sciences «The investigation of crimes that have been committed in the places of deprivation of liberty» in 2006 (*Serbin M.M., 2006., 16p.*).

It should be noted that with the adoption in 2012 of the new CPC of Ukraine, the fourth period of scientific investigations and accompaniment of criminal procedural activity has began and continues, including those, which are related to investigation of

crimes that have been committed by convicts in the correctional colonies. The most actual and such, that represent the theoretic-applied value in this case remain such problems that, in particular, are connected with:

1) the abolition of the institute of inquiry in the system of the State Penal Service of Ukraine and a significant change of the content and procedure of pre-trial investigation, including the correctional colonies (section III of the CPC);

2) the introduction of the institute of investigative (search) (chapter 20 of the CPC) and implicit investigative (search) actions (chapter 21 of the CPC);

3) the entrenchment of clear principles of criminal proceedings (chapter 2 of the CPC);

4) the change in the procedure for collecting evidences (article 93 of the CPC);

5) the of provision of criminal proceedings (section II of the CPC);

6) other novel and modifications of the CPC that are aimed at that anyone, who committed a criminal offense, must be held responsible in measure of his guilt ( article 2 of the CPC «The task of criminal proceedings»), and did not avoid it due to various circumstances (gaps in the law, conflicts of legal norms, inappropriate legal procedure and practice of its implementation).

At the same time, this problem is as eternal as in the whole the criminal process (*Faks G., 1981., p. 76-77*). As O.F. Kistyakivskyi remarked on this occasion in his time, as throughout the whole process there is a danger that the accused may avoid investigation and trial and by that will make the public justice powerless, then it is necessary to determine its position during the whole process. For this purpose, the known methods are used. They consist in the deprivation and restriction of the will of the defendant for the entire duration of the investigation (*Kystyakovskyi A.F., 2005, p. 63*).

In modern scientific developments, largely, the investigations of crimes are considered in the works of not only scholars of proceduralists as well as criminologists. In particular, they are very covered in the works of Yu.P. Alenin «Procedural features of conducting investigative actions» (*Alenyn Yu.P., 2002, p. 112-114*); R. O. Bashtega «The protection of secrecy of confession in criminal proceedings» (*Bashtega R. 2004, p. 86*); O.V. Batyuk «The conducting of investigative (search) actions in penitentiary institutions» (*Batyuk O.V., 2013, p.1-7*); Yu.M. Groshevyi, S.M. Stahivskyi «The evidence and proving in the criminal procedure» (*Groshevyi Yu.M., Stahivskyi S.M., 2006, p. 194*); S.M. Gulina, V.M. Chernyshov, L.I. Shapovalov «The inquiry in internal affairs bodies» (*Gulyna S.N., Chernyshov V.N., Shapovalov L.Y., 2000, p. 164-168*); V.Ya. Dorohov «Criminal-procedural nature of kinds of evidence» (*Dorohov V.Ya., 1982, p.94*); G.O. Dusheiko «Organizational and tactical bases of realization of operative-search information at the stage of initiation of a criminal case» (*Dusheiko G.O., 2001, p. 11-12*); M.I. Kostin «The smuggling. The proof of the circumstances of committing a crime on pre-trial investigation» (*Kostin M.I., 2003, p. 99*); V.T. Malyarenko «The reforming of criminal procedure of Ukraine in the context of European standards: theory, history and practice» (*Malyarenko V.T., 2003, p. 244-245*); O.R. Myhailenko «The investigation of crimes: the legality and provision of rights of citizens» (*Myhailenko A.R., 1999, p. 322*); M.M. Myheyenko, V.T. Nor, V.P. Shybiko «The criminal process of Ukraine» (*Myheyenko M.M., Nor V.T., Shybiko V.P., 1992, p. 412*); M.P. Polyakov «The fundamentals of criminal-procedural interpretation of the results of operative-search activity» (*Polyakov M.P., 2000, p. 52-53*); A.I. Berendeyeva

«The observance of rights and freedoms of man and citizen in operative-search activity» (*Berendyeyeva A.I., 2009, 224-227p.*), V.M. Tertyshnyk «The guarantees of truth and protection of human rights and freedoms in criminal proceedings» (*Tertyshnyk V.M., 2002, p. 122-124*); V.G. Uvarov «The problems of the conceptual model and legal form of realization of the results of operative and investigative activity by the inquiry body» (*Uvarov V.G., 2006, p. 114-115*); V.M. Fedchenko «The investigation of crimes by investigative and investigative-operative group: legal and organizational basis» (*Fedchenko V.M., 2006, p. 56*); V.S. Chernyak «The five centuries of the secret war» (*Chernyak V., 1989, p. 421-423*); M.Ye. Shumylo «The scientific basis of use of operative-search materials in proving in criminal cases» (*Shumylo M.Ye., 2002, p. 189*) etc.

It should be noted that the general theoretical and applied basis of pre-trial investigation, which were reflected in various projects of the CPC of 2012 and became the methodological basis for the preparation of this dissertation, are also stated in scientific works of O.Yu. Tatarov (*Tatarov O.Yu., 2012, 640p.*). In particular, in his monograph: «The pre-trial proceedings in the criminal process in Ukraine: theoretical-legal and organizational principles (based on materials of the Ministry of Internal Affairs)» (2012), a number of issues that directly relate to the content of this study are revealed, namely:

- a) the historical and legal preconditions of the establishment and development of pre-trial proceedings in Ukraine (clause 1.1.);
- b) the concept, the essence and task of pre-trial proceedings and its place in the criminal justice system (clause 1.2);
- c) the guarantees of legality and justification of the adoption of procedural decisions at the initial stage of pre-trial proceedings (clause 2.3);
- d) the improvement of the institution of prosecutorial supervision in pre-trial proceedings (clause 4.2.);
- e) the pre-trial proceedings in the criminal process of foreign countries (clauses 5.1., 5.2.) (*Tatarov O.Yu., 2012, 640p.*).

Namely in the specified monograph O.Yu. Tatarov, on the basis of the analysis of law practice, normative legal acts and literary sources, other problems of pre-trial proceedings in the criminal process of Ukraine are investigated comprehensively. In doing so, in the work the theoretical positions are combined with examples of errors, violations of law and positive experience, which are the most widespread in the daily work of the investigative units of the internal affairs agencies and serve as the basis for generalization of problematic issues, the introduction of reasoned positions to the national legislation and departmental regulation on the improvement of pre-trial proceedings (*Tatarov O.Yu., 2012, 640p.*).

We believe that very topical problems of the theoretical, legal and practical nature regarding the procedural procedure for the adoption and execution of investigator's decisions at the stage of pre-trial investigation under the terms of the CPC 2012, are considered in the monograph of I.V. Basysta «The adoption and enforcement of procedural decisions of the investigator at the stage of pre-trial investigation: theoretical and practical problems» (*Basysta I.V., 2013, p.600*). In particular, the following questions, which are highlighted in this monograph, became the methodological basis of this work:



- a) the genesis of pre-trial investigation and of procedural decisions of the investigator (clause 1.1);
- b) the notion and legal basis of the procedural decisions of the investigator (clause 1.2.);
- c) the role of procedural decisions of the investigator in the investigation of criminal offenses (clause 1.5.);
- d) the procedural and practical decisions of the investigator, their interconnection and intersectionality (clause 1.6.);
- e) the procedural order and tactics of making procedural decisions at the stage of pre-trial investigation (clauses 2.1 - 2.4). In doing so, it should be noted that I.V. Basysta considered the specified problem through the prism of objective and subjective factors influencing decision-making by investigator, of psychological bases and problems of the content of procedural decisions at the stage of pre-trial investigation (*Basysta I.V., 2013, p.600*).

Interesting enough from the specified theme of research is the information that has been collected, in particular in the work of Yu.I. Rymarenko and of V.I. Kusherets «The anthology of the investigation» (*Rymarenko Yu.I., Kusherets V.I., 2005, 596p.*) and in science popular literature (*Karyshev V.M., 2009, 832 p.*) etc.

In our opinion, the question of investigation of crimes are highlighted no less substantively and comprehensive in the works of scientists criminologists (*Saltevskiy M.V., Lukashkevych V.G., Glibko V.M., 1994, 320 p.*). In doing so, that is important from the perspective of solving the tasks of this dissertation study, in the center of their attention there are such significant problems that affect the effectiveness of the investigation of crimes, which have been committed by convicts in the correctional colonies of Ukraine, as:

- a) the overcoming counteraction to pre-trial investigation;
- b) the comprehensive consideration of the specifics of the investigation of certain categories and types of crimes, in particular those committed in places of deprivation of liberty;
- c) the establishment of proper interaction between investigators and operational units during the conduct of investigative (search) and implicit investigative (search) actions;
- d) the increasing the level of procedural leadership by the pre-trial investigation (articles 36, 38, 39 of the CPC); others.

That is why, in practically every textbook (training manual, etc.) the course «The forensics» has a special chapter (section), which is devoted to the problems of counteraction to the investigation of crimes and ways to overcome it, and also the concept of this phenomenon is given, the forms and methods of realization in practice are determined, etc. In doing so, approaches regarding defining the concept of «counteraction» in science can be found different. So, a number of scientists (T.V. Averyanova, R.S. Byelkin, Yu. G. Koruhov, Ye.R. Rosinska) noticed about it, that if earlier, under the concept of counteraction of the investigation was understood mainly different forms and methods of concealing crimes, now this concept is filled with a broader meaning and can be defined as intentional activity in order to prevent the investigation and ultimately the establishment of the truth in a criminal case (*Averyanova T.V., Byelkyn R.S., Koruhov Yu.G., Rossynskaya E.R., 1999, p.691*).

Let's note, that in this regard V.M. Tertyshnyk noticed, that admitting to use in the criminal-procedural proving the materials of operative-investigative activity, it is very important to worry about, that the precisely the criminal procedural proving must exclude the use of questionable sources and faulty carriers of information as well as inaccurate data (*Tertyshnyk V.M., 2008, p. 294*).

According to O.Yu. Golovin, the establishing a method of concealing a crime may serve as a kind of key to the disclosure of crimes, the establishment of the perpetrator's personality, the detection of stolen property, the identification of causes and conditions conducive to the committing of crimes (*Golovyn A.Yu., 2002, p. 161*). In this case, such is as the activity of a separate investigator or operational officer, as well as investigative operative groups (*Gordin L.Ya., 2009, p. 35-36*).

It is worth pointing out that for the first time, the means of countering the investigation of crimes on the legal and forensic were divided according to the source of origin by R.M. Shehavitsov, who in general understands under this concept the norms, that establish responsibility for actions that impede the process of investigation of crimes, the specific procedure for conducting into criminal cause in the condition of countering the investigation (*Shehavitsov R.M., 2004, p. 61*).

We believe that professor is quite correctly equates the activity of the perpetrators on protection their rights and legitimate interests and counteraction the latters, which they commit during the pre-trial investigation, which is aimed at refuting the actual and legal parties of the appeared suspicion or accusation (of criminal prosecution in other forms) (*Popelyushko V.O., 2008, p. 229*).

Namely, A.O. Lyash and S.M. Stahivskiyi indicate on the necessity of taking into account the peculiarities of pre-trial investigation of crimes, who are convinced, that the consideration of these features makes it possible to grasp the content of the whole process of the proving more deeply and ensures the fulfillment of the tasks facing the criminal proceedings (*Lyash A.O., Stahivskiyi S.M., 2006, p. 140*).

Among a number of current problems, which are related to the needs to improve the content of the investigation of crimes, V.A. Zhuravel calls the modernization of existing and the development of new methodological recommendations for the investigation of certain categories of crimes (this refers, first of all, to new or substantially altered ones) on the basis of the introduction of a universal, basic model of crime investigation, situational approach, etc., which, in fact, correlates with activity of overcome the counteraction in the investigation of crimes (*Zhuravel V.A., 2009, p.363*). In order to neutralize the mentioned counteraction, V.Yu. Shepitko proposes to apply complex approaches, noting, in particular, that current trends in the forensics are characterized by an appeal to integrated approaches, the development and providing of reliable means of combating crime (*Shepitko V.Yu., 2009, p. 355*), in our opinion, this position is very relevant.

It should be noted that about the features of the investigation of crimes, one of the manifestations of which is the counteraction to pre-trial investigation, is said in works and other scientists in the field of the OIA (*Nekrasov V.A., 2001, p. 147*). This phenomenon, as correctly concluded by a number of scholars, is due to the fact that criminals are oriented towards:

- a) the constant search for new ways to commit crimes;
- b) the masking criminal links;
- c) the study of tactics of application of means and methods of the OIA;

d) the conducting counter-surveillance of employees of operational units and obtaining the necessary information on operative investigative activity (*Goryaynov K.K., Ovchynskiy V.S., Synylov G.K., Shumylov A.Yu., 2004, p. 665*).

In the opinion of A.I. Berendeyeva, which should be agreed, one of the reasons for such a situation is the imperfection of operative investigative legislation, which consists in the fact that, owing to the strong financing and the support of corrupt officials of higher levels of power and political lobbyists, organized crime has reached such a level that it is impossible to combat it with modern methods, it is necessary to develop new methods of counteracting this anti-social phenomenon, which should be enshrined at the legislative level (*Berendeyeva A.I., 2009, p. 225*). As correctly concluded O.A. Martynenko in this regard, it makes the system of justice and criminal legislation dependent in its process not only on external factors, which are initiated by the activity of the criminal world. In the legal field, in this manner, a certain gap creates between responding to offenses and situations, which, due to their novelty and non-standard nature, cause difficulties in their legal assessment and resolution. The lag of the criminal-law base from the real development of the criminal world has chronic nature and law enforcement agencies daily are deal with a similar shortage of effective legislation (*Martynenko O.A., 2005, p. 265-266*).

Let's note, that the problems of investigating crimes, including in correctional colonies of Ukraine, are not only purely theoretical but also practical and require further scientific knowledge and development. However, the analysis of the aforementioned and other doctrinal sources has shown that largely they relate to the activity of the bodies of the National Police of Ukraine and some other law enforcement agencies, but are not sufficiently studied in the work of the SPSU of Ukraine, which has a very negative effect on the state and efficiency of the investigation of crimes, that have been committed by convicts in correctional colonies, and in general on the state of law and order in the IES and pre-trial detention centre.

At the same time, state, level, structure and other indicators of crime among convicts, who are in the places of deprivation of liberty in Ukraine, and the features of criminal-executive relations, which consist during the execution and serving of such criminal punishment between the personnel of correctional colonies and convicts, stipulate the need for an active development of the specified problem, taking into account peculiarities of pre-trial investigation in the places of deprivation of liberty. Especially, that the number of scientific research in this direction is insufficient. In particular, only partially the specified problem was the subject of scientific research in the candidate's dissertation of O.I. Pluzhnik «The criminal liability for violation of the regime of serving sentences in correctional institutions and detention» (*Pluzhnik O.I., 2003, 19 p.*); of dissertation of V.Ya. Ilnytskyi «The role and place of the operative apparatuses of places of deprivation of liberty in the investigation of crimes that have been committed by convicts» (*Ilnytskyi V.Ya., 2009, 19 p.*); of dissertation of V.V. Kondratishyna «The Criminal executive policy of Ukraine: formation and implementation» (*Kondratishyna V.V., 2009, 17 p.*); of collective monograph (V.P. Zaharov, O.G. Kolb, S.M. Myronchuk, L.I. Milishchuk) «The organization of individual prevention of crimes in a criminal-executive institution» (*Zaharov V.P., Kolb O.G., Myronchuk S.M., Milishchuk L.I., 2007, 442 p.*) and of doctoral dissertation of O.G. Kolb «The institution of the enforcement of sentences as a subject of prevention of crimes» (*Kolb O.G., 2007, 513 p.*); etc.



However, M.M. Serbin the most substantive investigated the mentioned problems in this context, who in his dissertation «The investigation of crimes, which have been committed in the places of deprivation of liberty» comprehensively and fully analyzed the following issues of:

- 1) the modern socio-legal, economic and organizational-regime features of execution of sentences in Ukraine;
- 2) the modern criminal situation in places of deprivation of liberty and a forensic description of crimes that have been committed in a closed-type cells;
- 3) the typical factors for correctional colonies that have the most significant influence on the forms and methods of activity of the bodies of inquiry and pre-trial investigation on the disclosure and investigation of crimes, which have been committed in the places of deprivation of liberty;
- 4) the features of conducting preliminary (preliminary inquiry) verification of information about crimes, which have been committed in places of deprivation of liberty;
- 5) the admissibility and conditions of effective use in the situations that are typical for correctional colonies, for organizational, tactical-forensic and criminal-procedural recommendations of a general nature concerning the respective activity of the bodies of inquiry and pre-trial investigation;
- 6) the procedural and organizational tactical features of the application of preventive measures in places of deprivation of liberty;
- 7) the features of interaction of the investigator with the inquiry authority - the head and administration of the IES during the investigation of crimes that have been committed in this institution;
- 8) the features of the use of special knowledge and technical means during the disclosure and investigation of crimes in places of deprivation of liberty (*Serbin M.M., 2006, p. 2-3*).

In the same context, as a methodological basis for this dissertation study, it is worthwhile to identify a science manual of M.I. Kulagin «The organization and tactics of preliminary investigation in places of deprivation of liberty», in which he disclosed the general organizational and tactical issues of the activity of investigator in the correctional colony (the significance and specificity of the investigation of crimes in these cells; the special role of the interaction of investigator with the administration of the correctional colony; another problems) (section I of the manual), as well as the tactics of certain procedural and other actions of the investigator (section II) and the preventive activity of the investigator in correctional colonies and the use of help of other persons during the investigation of crimes (section III) (*Kulagyn N.Y., 1997. 126 p.*).

Similar methodological principles, which are relevant in the modern (fourth) period of scientific researches, are also formulated in the scientific manual of M.A. Pyetuhovskiyi «The inquiry and preliminary investigation in corrective labour institutions», in which he attempted to comprehensively cover the problems of investigation of crimes, which have been committed in the specified institutions, as well as he carried out an analysis of theoretical and applied problems that arise in the prosecution of criminal cases and the investigation of crimes in conditions of deprivation of liberty, and he examined the main factors that affect the peculiarities of the activity of investigators and the administration of the closed-type cells, while developing methodological recommendations for the most effective investigation of crimes, which have been committed by convicts in correctional colonies (*Petuhovskiyi M.A., 1979, 191 p.*).

It is worthwhile to note that after the adoption of the CPC of Ukraine in 2012 (*The CPC of Ukraine, 2012, 304 p.*), which established a new procedure for conducting pre-trial investigation in the bodies and IES and deprived the heads of the IES and of the pre-trial detention centre the right to inquire on the facts of committing crimes in the territories of these institutions and investigative isolators, as it was predicted in the art. 101 of the CPC of Ukraine in 1961 (*The CPC of Ukraine, 1961*), the relevant scientific and methodological basis for conducting this research was created in modern doctrinal sources. In particular, the issues of the general provisions of the pre-trial investigation were reflected in the scientific and practical comments to the CPC of Ukraine (*The CPC of Ukraine, 2012, 304 p.*) and in the works of scientists of criminal procedural law (*of Kovalenko V.V., 2013, 168 p.*) and of specialists in the field of the operative and investigative activity (*Nykyforchuk D.Y., Tarasenko O.S., Vasylynchuk V.I., Kyslyi A.M., 2015, 176 p.*). In our opinion, namely in this context the scientific developments of the department of criminal procedure of the National Academy of Internal Affairs deserve special attention and value, among which should be distinguished the works of L.D. Udalova («The criminal procedure in the issues and answers» (*Udalova L.D., 2013, 212 p.*); «The course of lectures on the criminal procedure under the new CPC of Ukraine» (*Udalova L.D., 2012, 234 p.*); «The chief of investigation department as a subject of criminal-procedural proof» (*Udalova L.D., 2012, 116 p.*); of D.P. Pysmennyi «The conduct of implicit investigative (search) action prior to the issuance of a decision of the investigating judge» (*Pysmennyi D.P., 2012. P. 24-29*); of Yu. I. Azarov «Regarding the problem of the institute of witnesses in the criminal proceedings of Ukraine» (*Azarov Yu.I. 2012, p. 71-87*); of O.V. Batyuk «The proceedings of investigative (search) acts in penitentiary institutions» (*Batyuk O.V., 2013, p.1-7*) etc.

**As a conclusion**, let's note that the generalization of all scientific developments of the specified problem gives grounds to state that: firstly, the development of scientifically substantiated recommendations, which take into account the specifics of typical situations that arise in the investigation of crimes, which have been committed by convicts in the correctional colonies, predicts the use of all diversity of both current and past achievements of scientists, in the first place, of the criminal process and the forensics.

Secondly, the concentration in the places of deprivation of liberty of the most socially dangerous convicts, regarding whom the courts did not apply other punishments, that are not related to the isolation of a person from society, their consolidation in accordance with the principles and rules of the criminal community (the same name subculture), as well as modern processes of reforming the current legislation of Ukraine and its humanization (the CC, the CPC, the CEC etc.), that are aimed at easing the regime requirements for the convicts, and reducing the social protection of the personnel of the IES and pre-trial detention centre, led recently to intensify the counteraction of these two subjects of criminal-executive and criminal-procedural relations, its exacerbation and conflict of interest. Proceeding from this, in this study, for a greater reasoning of the specified problem, as well as for the reflection of its relevance and the necessity of its development, the term «counteraction» is used.

Thirdly, in the context of clarifying the content of this study, it is important to explain such use in the work of the phrase as «places of deprivation of liberty». To such, in particular, in accordance with the current legislation of Ukraine, are included:

a) the places of pre-trial detention, which are defined by the Law of Ukraine of June 30, 1993 «On pre-trial detention» and in the art. 176, 177 and 183 of the CPC of Ukraine (in this work are talking only about pre-trial detention centres of the SCES), as institutions, where the convicts to deprivation of liberty are serving sentences (persons, who are left in the household service (the art. 89 of the CEC of Ukraine));

b) the institutions of serving sentences (part 2 of art. 11 of the CEC of Ukraine) – in this work they are: correctional centers, correctional and educational colonies, as in arrest houses, since their consolidation in the CEC of Ukraine as the IES (January 1, 2004), the crimes have not been registered, and therefore there is no empirical basis for research.

### References:

1. Averyanova T. V., Belkyn R. S., Koruxov Yu. G., Rossynskaya E. R. Krymynalystyka: Uchebnyk dlya vuzov / Pod red. R. S. Belkyna. - M.: Yzdatelskaya gruppa NORMA-YNFRA-M, 1999. - 990 s.
2. Azarov Yu.I. Shhodo problemy instytutu ponyatyh u krymynalnomu provadzhenni Ukrayiny / Yu.I. Azarov, S.I. Ostapenko. // Pravo Ukrayiny. - 2012. - №6. - S. 71-87.
3. Alenyn Yu. P. Processualnye osobennosti proyzvodstva sledstvennyx dejstvij. – Odessa: Portal, 2002. – 264 s.
4. Antalogiya sysku: [v 14 tomax] /Vidp. red. Yu. I. Rymarenko, V. I. Kusherecz. - K.: Znannya Ukrayiny, 2005. - T. 1: Dokumenty ta materialy z krymynalnogo sysku (1397-1918). - 596 s.
5. Basysta I.V. Pryjnyattya i vykonannya procesualnyh rishen slidchogo na stadiyi dosudovogo rozsliduvannya: teoretychni i praktychni problemy: monografiya / I.V. Basysta. - Lviv: Lv DUVS, 2013. - 600 s.
6. Batyuk O.V. Provadzhennya slidchyh (rozshukovyh) dij v penitenciarlyh ustanovax // Chasopys Akademiyi advokatury Ukrayiny – №21 (4), - 2013., - S.1-7.
7. Bashtega R. Oxorona tayemnyci spovidi u krymynalnomu sudochynstvi //Pravo Ukrayiny. – 2004. – № 6. – S. 86-87.
8. Berendyeyeva A. I. Dotrymannya prav i svobod lyudyny ta gromadyanyna v operatyvno-rozshukovij diyalnosti //Zabezpechennya prav i svobod lyudyny i gromadyanyna v diyalnosti organiv vnutrishnix sprav za suchasny`x umov: Mater. Mizhn. nauk. konf., Ky`yiv, 4 yrudnya 2009 r. - K.: DNDI MVS Ukrayiny, 2009. - S. 224-227.
9. Golovy`n A. Yu. Krymynalystycheskaya systematyka. - M.: Leks Est, 2002. - 189 s.
10. Gordin L. Ya. Slidcho-operatyvna grupa: problemy stvorennya ta diyalnosti: Monografiya. - X.: Vydavnyctvo "FINN", 2009. - 192 s.
11. Groshevyj Yu M., Staxivskij S. M. Dokazy i dokazuvannya u krymynalnomu procesi: Naukovo-praktychnyj posibnyk. – K.: Vydavnychj Dim «Yurydychna knyga», 2006. – 272 s.
12. Gulyna S. N., Chernyshov V. N., Shapovalov L. Y. Doznanye v organax vnutrennyh del: Ucheb. posobyе. – Doneczk: RYO Doneczk. yuryd. yn-ta, 2000. – 258 s.
13. Doroxov V. Ya. Ugolovno-processualnaya pryroda vydov dokazatelstv: Monografiya. – M.: Yuryst, 1982. – 186 s.
14. Dushejko G.O. Organizacijno-taktychni osnovy realizaciji operatyvno-rozshukovoyi informaciyi na stadiyi porushennya krymynalnoyi spravy: Avtoref... dys. kand. yuryd. nauk / 12.00.09 – X., 2001 – 18 s.
15. Zhuravel V. A. Aktualni problemy krymynalystychnoyi metodyk` rozsliduvannya zlochynev //Problemy zakonnosti: Resp. mizhvidom. nauk. zb. /Vidp. red. V. Ya. Tacij. - X.: Nacz. yuryd. akad. Ukrayiny, 2009. - Vy`p. 100. - S. 362-375.