

## **ПРОТИДІЯ ЗЛОЧИННОСТІ: ПРОБЛЕМИ ТЕОРІЇ ТА ПРАКТИКИ**

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### **INDIVIDUALIZATION OF TERMS «SEARCH» AND «TRACING» IN THE CONTEXT OF CRIME DETECTION PROCESS**

*Article provides analysis of terms «search» and «tracing» as essential components of crime detection process. Key characteristics (features) common for both analyzed phenomena are determined (integrated in the context of crime detection process). A number of specifying characteristics is identified including primacy (exploratory nature), focus on information (procedural and non-procedural) required for investigation of crimes, awareness-raising and tactical potential of collected data (collection of data itself is not completing the process but provides a sustainable foundation for further investigative actions to be taken and vice versa – any search result is basically completion of tasks defined by investigative actions (e.g. establishment of a case prioritized by criminal proceeding).*

**Keywords:** crime detection, quick search, tracing, unlike concepts.

**P**ractical activity and theoretical research of any factual statement starts from search of basic information. Search as a scientific category is the first step of cognitive process (search activity is an essential element of cognitive operation) [1, p. 33].

Certain theoretical disciplines operate with terms «tracing», «search», «detection», «identification of primary features», etc. defining the method for search tasks performance in practice. Search activity is of the utmost importance as detection and further investigation is obstructed with latent (covert) character of crimes and specific data sources [2, p. 39–100]; it is performed under conditions of suspects' opposing and requires covert investigative operation to be

launched for obtaining operative data obtaining. In fact, crime detection is a motivated activity of operatives and investigators aimed at identification and documentation of facts, circumstances and individuals with certain relation to the crime committal and obtaining information for its further use as evidence in pre-trial investigation. There is a difference between terms «crime solution», «crime detection», «identification of crime constituent elements», «operative search for crime constituent elements»; crime detection requires law enforcement to collect the data concerning criminal act which was not previously disclosed and recorded in official statistics (crime register); law enforcement activity aimed at crime solution stipulates awareness of fact and circumstances of the crime (in some cases – information about related individuals) and requires special measures to be taken for identification of individuals who committed the crime and potential accomplices/witnesses after the circumstances and fact of crime had been defined (victim's statements, results of investigative activity, etc.); identification of crime constituent elements requires law enforcement to collect information about the crime from individuals or legal entities. Operative search is considered to be an autonomous form of investigative activity aimed at detection of facts and individuals related to the crime (complex of measures taken to detect, collect and accumulate new data to be further used in the crime solution process). Operative search must be performed with due consideration to specific facts, committed and registered crimes and in cases when these facts and data are missing stimulating the initiative to complete the search procedure. The basic difference between operative search and crime detection is the subject which specifies its application. Separating the abovementioned terms and analyzing the previous scientific developments we can state that operative search is a specific term in comparison to crime detection as this task is performed exclusively by subjects of operative and investigative activity and does not include the examination of obtained data for its admissibility as evidence of criminal activity; one of the key elements of crime detection is identification of crime constituent elements – individuals, items and phenomena related to the crime by defining the level of homogeneity (after the completion of investigative actions taken to collect the data used as standard of reference).

The abovementioned definitions allow to provide interpretation of «tracing» category but do not eliminate the imperceptions of its

difference from the category of «search» as they demonstrate a high level of homogeneity in terms of subjects, methodology, tasks etc.

Scientists distinguish a number of terms used to describe the tracing activity which are not synonyms but have common meanings. Moreover, these terms are used by representatives of different scientific schools in the course of research activity (difference in theory of criminal process, criminalistics, investigative activity etc) in chosen areas. Theory of operative and investigative activity does not provide any unified approach for definition and content of tracing activity. It can be explained by the fact that usually search and tracing concepts are mistakenly interpreted as synonyms [3, p. 343]. Some scientists similize tracing only with covert investigative actions and traditional search procedures [4]. Others refer to non-procedural nature of this activity and prioritization of covert actions and methods and claim that tracing can't be defined as structural component of investigation [5, p. 43]. Scientists also use broad meaning for interpretation of the term «tracing activity» in the context of crime detection and investigation (defined as activity performed after investigative, search, verifying and other actions) [2, p. 3] – «search» category is considered as a stage of cognitive process in the course of crime detection and investigation. Tracing is aimed at detection of information sources for the criminal proceeding and «a required attribute, important link of every investigation step» [6, p. 45].

To define the correlation of categories «tracing» and «search» in the course of crime detection and investigation.

In many cases investigation stipulates optimal combination of investigative actions including undisclosed search activities and covert surveillance. Search activity as a basis of any investigation reveals the «strength of investigator's and operative staff collaboration» [7, p. 105]. At the same time «search» and «tracing» categories are (according to scholars) of diverse nature [1, p. 38] (our interpretation serves for the research purpose including current state of legal regulation of the abovementioned activity) recognized in proportion to the level of subject's awareness of the traced object:

– specific features of traced objects have already been identified during the search operation; tracing stage stipulates formation of initial individual's (object's) image in the subject's (operative's) conscience – a presumptive model of visual attributes, skills, qualities, condition etc.;

– search process is completed with the identification of traced object therefore its success directly depends on availability of identifying object's/individual's features (identification stage precedes detection). Search process requires awareness of unmasking features of specific criminal's/object's category (type) placed in surrounding environment or environment conducive to concealment;

– tracing is an autonomous activity performed by law enforcement in order to detect and identify individuals and objects not related to a specific crime being committed in relatively unlimited space and time period; search is performed only in the framework of specific criminal proceeding and required investigative actions.

The abovementioned statement is somewhat controversial as detection of criminal/object or the search process are autonomous but still deeply interrelated functional areas of crime investigation. Scientists claim that «tracing... individual's (object's) image in the subject's (operative's) conscience – a presumptive model of...» comparing to «search... availability of identifying object's/individual's features» [1, p. 38].

In our opinion correlation of tracing and search activity reveals its key distinctions on different stages of law enforcement activity (before the crime is solved):

– during operative search of objects and facts still not featured as case files elements;

– at early stages of pre-trial investigation, especially in challenging situations, tracing is defined as prioritized activity for investigators and operative staff (under condition of certain data – criminal's identity or crime specificity – availability tracing is transformed in search, e.g. during identification of individual's exact location);

– after notifying of the suspicion (active phase of investigation) search activity is facilitated (e.g. search of suspect avoiding the pre-trial investigation) along with the tracing process as in the course of investigative activity primary information can be obtained. Despite the directional selectivity (collection of evidence) of this process search activity still precedes the analyzing phase. In logically regulated process of investigative analysis methods of data filtering outstrip methods of evidence examination – in some cases both are applied in the same period [8, p. 12–21];

– the concluding stage of investigation subject's activity is characterized as systematizing providing new opportunities for the operatives to continue the tracing procedures (productive tactical

environment is established after suspect had become ready to provide law enforcement with additional information of accomplices, crime episodes and other circumstances). It means that tracing methodology is of utmost importance in the concluding stage defined by challenging situations [8, p. 12–21].

Correlation of search and tracing also depends on the course of pre-trial investigation. Simple «non-confrontational» investigative context with sufficient amount of initial operative data sources [9, p. 237] and streamlined process of evidence obtaining can be described as consistent expansion of information traffic almost deprived of any tracing activity (replaced by analytical activity with processing of obtained results). Complex context is characterized with circumstances which can substantially influence the pre-trial investigation transforming the concluding stage into initial one facilitating the tracing procedures.

This tendency tends to change the offered theory of gradual tracing component decrease and facilitation of search activity in further investigation stages [2, p. 9–14] separating search as specific term from a broad one. Scientists claim that «search as specific term» reflects tracing realia as well. But in our opinion this interpretation is wrong – if «search as specific term» stipulates presentation and examination of investigative versions concerning possible location of searched objects, this search activity is characterized by its own legal background, directions and forms. What scientists present as «search as broad term» is basically the activity of pre-trial investigation bodies and operative units aimed at detection of information sources and further collection of relevant data [10, p. 72] – it is nothing but identification of crime circumstances that must not be mistaken for tracing as tool for basic data obtaining.

«Search as specific term» is based on set of different features of searched object resulting in specific determination of search process of individually defined person or item – it ensures gradual transition from general to collective and eventually to individual features [11, p. 196]. This category of search ensures identification of appropriate information sources (identifying the location of defined objects).

Search of individual or item may be performed in parallel with pre-trial-investigation (in the framework of relevant operative procedure) but if investigator requires additional information to prove the suspect's guilt, he/she tasks operatives to launch tracing process

(detect certain individuals, items or facts by features required to launch the investigation). In this case we mean opportunity to initiate the tracing activity before obtaining the information concerning the searched object (depending on the environment and after/before detecting the source of mentioned data). This activity (search interpreted by scientists as broad term) sources of operative information are detected along with additional data allowing to specify and even individualize some objects. Many relevant measures taken coincide with essential activities performed in the course of crime solution – detection, establishment and proving of the crucial facts in criminal proceeding (criminal act, suspect's identity, victim's identity and other objects of criminal activity, ways of crime committal, amount and nature of damage, etc). It is clear that in case if such objects are identified a number of key procedural actions are taken (detention, search, etc.). That is why this activity is considered as typical «tracing activity» initiated in the framework of crime investigation process along with proving in criminal proceeding (collection, examination, evaluation and use of evidence). After obtaining the required data of searched object (e.g. suspect's identity or type of stolen valuables) «search as specified term» is launched with aim to define its possible location which is the foundation of traditional «search activity» [12, p. 181].

Analysis of terms «tracing» and «search» allowed to identify key features (characteristics) common for both categories in the context of crime facts detection. A number of features used to distinguish the abovementioned categories include primacy of information collected, validity for obtained procedural and non-procedural data, tactical purpose of obtained data (used as background for initiation of investigative activity and vice versa – completion of tasks defined by investigative actions e.g. proving the crime facts).

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**Розмежування понять «розшук» і «пошук» у контексті змісту діяльності, що забезпечує процес виявлення злочинів**

Проаналізовано терміни «розшук» і «пошук» у контексті з'ясування змісту діяльності, що забезпечує процес виявлення злочинів. Визначено головні змістові властивості (ознаки), спільні для обох процесів, а також ті, на підставі яких розмежовують ці поняття.

**Ключові слова:** виявлення злочинів, оперативний пошук, розшук, розмежування понять.