

Basis of Criminalistic Classification of a Person in Republic Kazakhstan and Republic Mongolia

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ABSTRACT

In this article reviewed problems of the criminalistic classification building of a person. In the work were used legal formal, logical, comparative legal methods. The author describes classification kinds. Reveal the meaning of classification in criminalistic systematics. Shows types of grounds of criminalistic classification of a person. Identified and substantiated grounds of classification of a person in criminalistics. On the basis of conducted research by the author, it is proposed to insert changes in the previously used definition of the first-order basis of classification of a person in criminalistics. The author analyzed and showed correlation between criminal law of republic Kazakhstan and republic Mongolia with the goal to make a parallel of a second-order basis of criminalistic classification of a person. Contained conclusions can be used in the work of law enforcement authorities to increase in efficiency, and also during specialists training in disclosure and investigation of crimes in juridical educational establishments. Correctly made criminalistic classification will help to make reforms in prevention, investigation and disclosure of a crime.

KEYWORDS

Criminalistic theory, criminalistic classification of a person, objects of classification, classification basis, investigation of crimes

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Introduction

Process of Kazakhstan establishment as a powerful and independent country associated with overcoming of significant difficulties of political, economic and social character. The transition to the market economy is characterized by abrupt change of the crime structure, it's growth, appearance of new types of crimes and methods of commissions. Law enforcement authorities

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face manifestations of corruption, counteractions to investigation and to disclosure of crimes.

Situation is complicated by lack of efficiency of law enforcement authorities activity in disclosure and investigation sphere. They're slowly adapt to new circumstances fighting the crime. There are a lot of reasons of that, but the one – low level of professional training of investigators, operational staff in criminalistics field and mostly in criminalistic tactic. For that matter now indebted to practicers a criminalistic study, which designed to work out science-based recommendations, that corresponds to peculiarities of disclosure and investigation of crimes in modern conditions. Within the frameworks of this problem a substantial meaning acquires the criminalistic classification of a person, as one of the essential conditions for improvement of criminalistic theory and practice.

Objects of classification are a lot of phenomens, related to the mechanism of preparation, commitment and concealment of a crimes, and also to the process of disclosure, investigation and prevention (Belkin, 2000). However, fundamental research, that can make a foundation of the basis of criminalistic classification theory, still didn't implemented. As a result, in this field of research remains variety of unsolved problems (Belkin, 1997), which in turn slow down the development of science. Particularly, remains under discussion questions about the concept of criminalistics classification, it's goals, principles, classification basis, it's usage on practice, etc.

Such scientists as R.S. Belkin (1997), C. Fenyvesi (2015), M.R. Clinard, R. Quinney & J. Wildeman (2014) subdivides types of criminalistics classification on common and private classificational systems. Thereby, R.S. Belkin (1993) to private classifications refers classificational systems of different objects, actions and processes, which are studied in criminalistic science. It is noticeable that there are exist very substantial moment, which means that "these classifications represent itself as one of the instruments of practical activity, developed by criminalistics specially for the needs of crimes fighting" (Panteleev & Selivanov 1993). In other words, during construction of classificational systems it is possible to take into consideration the practical activity of law enforcement authorities. In it's turn, criminalistics classifications must serve for optimization of this activity; it's not always taken into developers account.

One way or another the problem of criminalistic systematics in the works in question of many scientist-criminalists: J. Douglas (2013), R.S. Belkin (1997). Nevertheless, in vast majority of cases it's review doesn't goes out of the frame of separate chapters or paragraphs in monographies, handbooks, manuals on criminalistics (Belkin, 1986). There are only a few complex monographic investigations of criminalistic subject-matter. In specialized literature also exist opinions about the presence in criminalistics scientific system a theory of criminalistic systematics and classification (Ishchenko, 1996).

In literature there are no single opinion about a definition of classification.

According to the author's opinion the classification is represent itself an «attempt to sort objects consciously, which belongs to two or more classes», in other words, the form of detection procedure and dividing. The definition appears interesting, because according to it "classification" is a "system of subordinate concepts (classes of objects) of any science or human activity domain, which frequently represented as a different schemes (tables) and is

used as a way for making connections between these concepts and classes of objects, and also for the orientation in diversity of concepts or relevant objects” (Ilyichev, 1983).

Successful realization of the goals and tasks of criminal proceedings impossible without regular appeal to methodological apparatus of criminalistic science.

General theory of criminalistics significantly refill and enriched due to creating private criminalistics studies, researching separate relatively independent subsystems. Among the recent, to the full extent, we can include here the problem of criminalistics classifications (or, in more broad plan – criminalistic systematics) – the one of the prospective courses of science and practical material rationalization.

Any object, no matter what it is – has peculiar systematic buildings, classifications, which reflect real nature of the object. However, in the aspect of the possible creation of a new private criminalistic theory, matters exactly the formulation of the problem of criminalistics systems and classifications with the goal to detect it’s criminalistics specifics or even to state a fact, that classifications and systems, used in criminalistics, doesn’t have distinguishing features and specifics in comparison to similar constructions in any other science (that in fact means an opportunity to comprehend this problem just logically and philosophicaly). When the specificity of criminalistic classifications and systems revealed it’s highly desirable to distinguish, as an addition for research, a specific (criminalistic) object as conditions of demonstration expediency in appliance of systematics in criminalistic theory, and also for output private practical recommendations about optimal usage of concrete forms(classes) of the object in certain situations.

An increase in crime and a variety of forms, in which it appears, requires equivalent improvement of criminalistic theory and practice, systems of corresponding methods and instruments of investigation crimes. Undoubtedly, those authors are right, who denote, that nowadays in criminalistics, as in any other science, it’s hard to expect the success in scientific surveys and in practice without usage of different groups, classifications, systematics; refer these categories to substantial instruments of development and functioning of criminalistics science in the whole and included in it private criminalistic theories. And that’s why not accidentally in recent years to these problems devoted monographic works by R.S. Belkin (2000), G.F. Cole, C.E. Smith & C. DeJong (2015).

Moreover, it is reasonably to appeal to any monographic research on criminalistics and it will be found, that all the classification questions appear, almost primarily, the subject of every author’s research. To their number may be attributed, as an example, next R.D. Bachman & R. Paternoster (2016), M. McShane (2013):

- footprints classification;
- crimes classification;
- classification of criminal groups;
- classification of expert researches;
- classification of conflicts on preliminary investigation and investigating situations.



At the same time, despite existence of the above, and others, undoubtedly, interesting works in modern criminalistics, there are still exist series of classificational problems remaining without proper monographic research. As an example, problems of private criminalistic classifications, particularly, classification of a person. That's, undoubtedly, both directly and intermediary, affects the condition of methodology and theory of criminalistics classification in the whole and development of applied issues of private criminalistic classifications.

Criminalistic classifications – existing part of a criminalistic systematics. Criminalistic classifications are called private, because they are related to one criminalistically significant group of objects. Aside from it's gnoseological meaning, as one of the instruments of achieving knowledge, these classifications represent also the one of the instruments of practical activity, which is under development by criminalistics, specially for the needs of fighting criminality.

Main criminalistic classifications are:

1. Classification of a person (Known and unknown criminals):
2. Classification of subjects (Footprints, documents, arms, samples for comparative investigation, tools of crimes fulfillment and others):
3. Classification of actions and processes:
4. Classification of properties and features:
5. Logical-criminalistic classifications (of versions, expert conclusions, attitudes, etc.) (Belkin & Vinberg, 1969).

Research has as a goal studying of a person classification, that's why we make a stop directly on the review of this type of criminalistics classification.

Methods

Methodological base for today research compose issues of dialectical and historical cognition methods, theory of application of law. For completeness and veracity of research were used also methods of formal-juridical, logical, comparative legal.

As a theoretical base of the research, came out works of the general theory of law and criminalistics, presented in specialists' works in the field of law enforcement.

Data, Analysis, and Results

Classification of a person. The objects of this classification are known and unknown criminals. As a basis of classification usually serves, firstly, the type of a committed crime, and then, secondly, the method of commitment this type of crime.

Aims of a classification are the following:

- to narrow the circle of persons, among which it is necessary to find a criminal;
- to give in management of an investigator or operative worker existing information about a wanted person;
- identification of a person, who is in the classification system, by his financially-fixed signs, that are reflected in credentials, on photoimages, in fingerprints, etc.

The sphere of a proving process, where classification of a person can find its appliance, is a criminal investigation and identification of the legal proceedings – detention, submission for identification, expertise.

On the whole, accepting the proposed classification, it is necessary to look more detailed on the main statements of criminalistic classification of a person.

Among the peculiarities of criminalistic classification, as a diversity of criminalistic scientific knowledge systematization, should be allocated:

1. Object of classification.

The object of a criminalistics classification is always a concept, with the meaning of a thought, which reflect essential characteristic features of any subject or phenomena, included into the studied subject of criminalistics.

In criminalistics, as in any other branch of scientific knowledge, there are exist series of classifications of objects and phenomenas. These classifications have not only epistemological, but also a practical meaning, including the evidence process.

From the number of substantial, for the evidence process, criminalistics classifications, it's important to make a stop on the classification of a person.

The object of the study of criminology, are the two opposed sides of human activity: criminal activity and disclosure, investigation and prevention activities. It is seen from there, that by persons in criminalistics means also those, who commit crimes and also those who fights them.

One of the first who begins to practice a classification of a person is a I.N. Yakimov (1924), who in his study "Practical guide to investigation of crimes", noted: "...Though, despite all the variety of criminals types, they're may be summarized to the most frequently occurring; namely a criminal:

1. professional,
2. random,
3. due to passion,
4. lunatic,
5. degenerate.

From all these types the main interest represent a group of criminals-professionals. The group of professional criminals is the most numerous, but due to its composition not a homogeneous, and can be subdivided due to usual methods and technique of criminal activity on the series of categories". (Yakimov, 1924).

Usage of criminology in classification of criminalistic concepts must be under the following rules: every element of classificational system must be indicated with an notion, which, first, reflect affiliation of an element, his distinctive(subordinate notion) to classificational system of a certain generic term: second, reflect individuality of an element, his distinctive attribute from other elements of classificational system.

Present designation of this classification is correct, but there enumerated not the all objects. That's why we offer to review as objects of criminalistic classificati and on of a person: all persons who performs activiti that is included in the criminalistics object, i.e. both criminal activity and activity upon disclosure, investigation and prevention of crimes. This implies, that the basis of



the first order of criminalistic classification of a person is a, due to our opinion, the attitude to criminalistic activity. And in the first group of the subgroups, which is formed this way, persons, who commit criminal activity – will be included known and unknown criminals; and in the second will be included persons who commit activity upon disclosure, investigation and prevention of crimes.

2. Basis of classification.

In the logical-philosophical literature the basis of building a classification is determined as an attribute, due to which division of the notion is performed.

By the scientists-criminalists classificational basis is viewed in different meanings. So, according to opinion of R.S. Belkin and A.I. Vinberg (1969), as the basis of classification must serve the most substantial sign, for achieving a stability of classification and consistency of each element in the system of members classification”. N.A. Obraztsov (1988) expressed the viewpoint, and according to it– as the grounds may be attributes not just of classified object, but also connected with this object systems (particularly, due to attitude to criminalistic classification of crimes, signs of situation of commission of a crime and signs of activity in disclosure and investigation of crimes). P.B. Kutsonis (1990) determine the basis of classification as a” sign of classified objects, due to which a lot of these objects are divided into classes“. G.S. Garbuz (2007) shows, that: “.. such division is performed due to basis, that can be used substantial attribute, which is defined both in nature of objects, and in practical aim”..

Analysis of the above definitions allows to establish, that definition basis, firstly, has an objective nature; secondly, serves as fundamental condition of building of classificational system.

Objectivity – the main requirement to classificational attribute. It means, that chosen basis of classification must exclude an opportunity of subjective approach to classificational system creation. Violation of objectivity requirement, place in a question built criminalistic system scientific and practical meaning. Classifications, that bears strongly-marked subjective character can be found in criminalistics. As such, as an example, we can use a classificational system, offered by K.K. Fahrutdinov, who divided all tactical techniques on ineffective, low-effective and high-effective ("Criminal law", 2016). It seems, that effectivity of any of the tactical techniques is determined in every concrete case, taking into account emerged investigative situation by a person, who handle the investigation; that's why such division is hardly possible.

Classificational attribute must be distinct, i.e. logical, graceful, well-understood. This circumstance must be taken into account also in construction of criminalistic classificational systems, because controversial interpretation of an attribute, due to which a volume division of definition is held, can put in a question scientific nature of built classification.

First-order basis of criminalistic classification of a person is, as it was mentioned above – an attitude to criminalistic activity. And in the first of formed this way subgroups, individuals, who commits criminal activity, will be included known and unknown criminals, and in the second – individuals, who commits an activity upon disclosure, investigation and prevention of crimes. R.S. Belkin and A.I. Vinberg (1969). As for the next basis of classification of a

person, who commits criminal activity, we totally support the viewpoint of a R.S. Belkin and A.I. Vinberg (1969).

As the second-order basis of classification of a person, who commit criminal activity, serves the type of a crime, committed by this person.

All the crimes in republic Kazakhstan in an accordance to peculiar part of criminal code are divided onto following types:

- crimes against a person;
- crimes against family and minors;
- crimes against constitutional and other rights and liberties of a human and a citizen;
- crimes against world and safety of humanity;
- crimes against basis of constitutional order and safety of a country;
- crimes against property;
- crimes in sphere of economical activity;
- crimes against serve interests in commercial and other organizations;
- crimes against public safety and public order;
- crimes against health of population and morality;
- ecologic crimes;
- transport crimes;
- corruptional and other crimes against interests of government service and government management;
- crimes against management order;
- crimes against justice and order of execution of judgments;
- military crimes.

All crimes in Republic of Mongolia in an accordance with the criminal code of Mongolia (Clinard, Quinney & Wildeman, 2014) are divided on the following;

- 1) crimes against a state
- 2) crimes against rights and liberties of a human
- 3) crimes against the economy
- 4) crimes against health of population and morality
- 5) military crimes
- 6) humanity crimes against peace and safety of humanity;

Discussion and Conclusion

I.N. Yakimov's (1924) classification exist also nowadays, but R.S. Belkin and A.I. Vinberg (1973) present it as classification of a person. As the objects of this classification due to their opinion run out known and unknown criminals. As a basis of classification usually serves a type of a crime, committed by this person. The basis of second-order classification – it's usually a method of commitment the type of a crime. Aims of classification: 1) to narrow down a scope of persons, among which it's important to seek for a criminal; 2) to give in disposal of investigator or operational officer available information about a personality of a wanted man; 3) indentification of a person, who is in classification system, due to it's material-fixed attributes, reflected in



credententials(photo-images, fingerprints, etc.) The sphere of a proving process, in which a classification of a person can find its appliance – it's a crime detection and identification of procedural actions – detention, submission for identification, expertise (Belkin & Vinberg, 1973).

On the whole, agreeing with the above classification we dare to pay attention, that in our opinion in classification of R.S. Belkin and A.I. Vinberg (1973) in contrast to I.N. Yakimov (1924) – there occurred equalization of notions of a person and a criminal. It seems to us that there is missing one element of classification, because membership of persons in criminalistics includes not only criminals, but also investigators, experts and so on. In other words, in this case we see a violation of division principle of a notion. And that's why, if we consider as a basis of classification, a procedural position of a person – this classification will have another, procedural, character. Here as a basis of classification serves procedural situation of a person, which define the whole scope of its procedural rights and responsibilities in criminal process in total and in proving particularly. Inside every procedural group – elements of classification, it is possible to classify the members due to the other attributes: in an accordance of accused and defendants – due to degree of their participation in a crime (instigators, performer, accomplices, etc.), due to episodes of criminal activity(as an example, a group of witnesses, whose testimonies refer to one episode and so on) or other elements of a crime, etc. These classifications serve, mainly, for the aims of ordering and systematization of bearers evidentiary information and its content.

And because the objects of criminalistics are both criminal activity, and activity upon disclosure, investigation and prevention of crimes, so, that's why, as a regular is considered the appearance of new objects of this classification; such, as an example: persons who held criminal prosecution, persons who involved in criminal process, which aren't noted in this classification. In such a case, it appears that by one and the same notion – “a person”, named objects, which are come out of frameworks of proposed by R.S. Belkin and A.I. Vinberg (1973) objects of classification of a person, such as known and unknown criminals.

Theoretical matters of a work may be used for further scientific development of the theory of criminalistic classification, solving problems of improvement of criminalistic tactics and methodics of investigation of particular types of crimes, and also during preparation of educational and methodological materials on criminalistics.

Contained conclusions may be used in activities of law enforcement authorities for the goal to rise its efficiency, and also during preparation the specialists in disclosure and investigation of crimes in educational institutions of juridical sector.

Correctly composed criminalistics classification will serve for improving the prevention, investigation and disclosure of a crime.

Disclosure statement

No potential conflict of interest was reported by the authors.

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