

## CRIMINAL PROCEDURE

### **Face-to-face interrogation and rights of the accused to contestation**

**Elena A. Artamonova** – PhD in Law, Associate Professor in the Department of Criminal Law and Procedure of the Law Institute at the North-Caucasian Federal University.

The article criticizes the common practice of face-to-face interrogations with the accused persons who have declined to give evidence during the first questioning; it is asserted that a face-to-face interrogation with involvement of the accused is legitimate only provided his/her testimony relevant to the indictment is available. The author analyzes amendments made to Article 281 of the Criminal Procedural Code of the Russian Federation, and points out that they do not meet the legislative regulations which set forth independence of the investigator (interrogating officer) in his/her choice of the ways to obtain evidence, virtually forcing him/her in every case to confront the accused with all witnesses for the prosecution and with the aggrieved persons, even in absence of conflicts in the available testimony, as well as fail to take into account the right of the accused to decline giving evidence. The article substantiates the need for further improvement of the criminal procedural legislation on this matter and, a mechanism is proposed for exercise of the right of the accused for contestation of the evidence made against him/her by witnesses for the prosecution and by the aggrieved persons.

*Keywords:* face-to-face interrogation; right for contestation; evidence of the accused; disclosure of evidence; refusal of the accused to give evidence.

### **On some novelties in legal regulation of proceedings with a plea bargain**

**Madina T. Ashirbekova** – Doctor of Laws, Associate Professor, Professor in the Department of Criminal Law Disciplines at Volgograd Institute – Branch of the Russian Presidential Academy of National Economy and Public Administration.

The article considers issues of support made to scrupulous fulfilment of the commitments assumed by the accused under the plea bargain. The author notes that scrupulousness on the part of the accused is construed as the pacing factor of the bargain, without which the commitments assumed by the accused lose sense as false commitments, and therefore may not be estimated as the subject matter of the bargain. To this end, the author analyzes certain new provisions which were introduced by Federal Law No. 322 dated 03.07.2016 for the purpose of improvement of proceedings with a plea bargain. In particular, attention is drawn to the ground for recalling and altering the sentence stated in respect of the defendant within the framework of the plea bargain concluded with him/her.

*Keywords:* bargain; plea; subject matter of bargain; terms and conditions; commitments; false evidence; non-disclosure; ground for resentence; new circumstance.

### **Status of legislation as a problem of criminal procedural law**

**Vladimir O. Belonosov** – Doctor of Laws, Associate Professor, Professor in the Department of Criminal Procedure and Criminalistics at Samara Law Institute of the Federal Penitentiary Service of Russia.

The article considers the current status of the Criminal Procedural Code of the Russian Federation as an important problem of the criminal procedural law. The author analyzes trends of amendments and practical amendments made to it in 2016. Conclusions are made on reasonableness of the amendments made and on the further paths of development for the criminal procedural legislation.

*Keywords:* criminal procedure; legislation; interpretation; development of the new Criminal P-rocedural Code.

### **Specific features of obtaining information about electronic messages transmitted by means of subscriber's mobile devices of cellular communication**

**Vitaliy F. Vasyukov** – PhD in Law, Associate Professor in the Department of Criminal Law and Criminal Procedure at Orel Law Institute of the MIA of Russia named after V.V. Lukyanov.

The article considers problematic issues of investigating action in whose course electronic messages created, transmitted and received by means of subscriber's mobile devices of cellular communication are examined and seized. The author gives recommendations for examination of such devices and specifies the algorithm for obtaining information from communication providers. Also, the author

analyzes amendments made to the legislation, which are to be applied by law enforcement authorities starting 1 July 2018. The author proposes some adjustments of the provisions which stipulate the procedure for examination and seizure of the information contained in electronic messages.

*Keywords:* examination; seizure; electronic message; subscriber's devices; investigator; investigation; investigating action; computer information.

### **Problems of differentiation of format of criminal proceedings**

**Irina V. Golovinskaya** – Doctor of Laws, Associate Professor, Professor in the Department of Public Law Disciplines of the Faculty of Law and Administration at Vladimir Law Institute of the Federal Penitentiary Service of Russia.

The article considers problems of determining criteria to be applied to formats of criminal proceedings and, dynamics of private prosecution and private-cum-public prosecution. The author considers differentiation of formats of proceedings as the most important area of the reform of the criminal proceeding according to the Concept of Judicial Reform of the Russian Soviet Federated Socialist Republic; the author singles out a set of factors which precondition the necessity and possibility of differentiation of the criminal procedural format. The author notes that, as before, no standard list of criteria exists currently which can be used as the base for differentiation of the procedural format; at the same time, elaboration of the main criteria of differentiation of criminal proceedings with account taken of both realities of application of procedural formats and the consequences arising because of its application, is a vital task of today. The author considers formats of differentiation of criminal proceedings, as well as singles out the problem of absence of any established criteria for differentiation of the procedural format, which has a negative effect on the proceedings themselves.

*Keywords:* differentiation; purpose of criminal proceeding; criminal procedural format; private prosecution; private-cum-public prosecution; defense of rights and freedoms of individuals.

### **Check of a report of a crime: obtaining explanations or an interrogation?**

**Igor A. Zinchenko** – PhD in Law, Associate Professor in the Department of Legal Disciplines at the Kaliningrad branch of the International University (in Moscow).

**Artem A. Popov** – PhD Student at Griboedov Institute of International Law and Economics.

Discussion of problems of legal regulation of the procedures to be performed at the stage of initiation of a criminal case, the procedures stipulated by adoption of the Federal Law of the Russian Federation No. 21 dated 4 March 2013, continues unabated in the legal literature. In a majority of cases, the edge of the criticism is pointed against enlargement of the number of investigatory action and other procedural action to be implemented at this stage of criminal proceedings and against uncertainty of status of the subject involved in it. The article analyzes the character of explanations as the most common way to collect information coming from various categories of persons. The author justifies a conclusion that including interrogation into the number of «verifying» investigatory action would provide completeness to the stage of initiation of a criminal case.

*Keywords:* stage of initiation of criminal case; proving; obtaining explanations; interrogation.

### **Implementation of rules of the institute of plea bargain in criminal proceedings of the Republic of Belarus and foreign countries**

**Roman G. Zorin** – PhD in Law, Associate Professor.

**Vladimir S. Sorkin** – PhD in Law, Associate Professor, Associate Professor in the Department of Criminal Law, Criminal Procedure and Criminalistics at Yanka Kupala State University of Grodno (Belarus).

The article considers the institute of plea bargain and the problems of its implementation in proceedings of the Republic of Belarus. The institute is compared with institutes of plea bargain in other countries. The authors consider the key conditions for execution of the bargain. In summary, the authors state that the criminal procedural practice of application of this institute can be extended, and that it will occupy one of the leading places in the system of criminal proceedings.

*Keywords:* institute of plea bargain; bargain; criminal procedural legislation; prosecutor in criminal proceedings.

### **Problems of judicial evidentiary activity implemented by the defense lawyer in a criminal case**

**Evgeny A. Karyakin** – PhD in Law, Associate Professor, Chairman of Aleksandrovskiy District Court.

The article is devoted to issues of efficient participation of a defense lawyer in judicial proving in criminal proceedings: basics of the planning and tactics of judicial evidentiary activity are formulated.

The article studies certain aspects of collection of evidence by the lawyer, organization of collection of information with private detectives on a contractual basis, the lawyer's outsourcing of a specialist for participation in the case. The author analyzes specific features of use of results of the evidentiary activity performed by the lawyer in judicial proving. On the basis of findings of the study, a number of conclusions are made.

*Keywords:* judicial proving; defense lawyer; authority; judicial defensive activity; tactics and planning; favour of defense; collection of evidence; private detective activities; collection of information; conclusion and evidence by specialist.

### **Most recent trends of criminal procedural policy in Russia**

**Andrey A. Kozyavin** – PhD in Law, Associate Professor, Associate Professor in the Department of Criminal Procedure and Criminalistics at Southwestern State University.

**Anna V. Milenina** – Master of Law.

The article analyzes the current doctrinal understanding and status of the criminal procedural policy, its systemic identity, the most recent trends pertaining to the reform of the criminal procedural law without changes made to the organizational structure permeating the criminal process per se, formalization of criminal proceedings and their standardization in respect of proving and the procedural decisions, differentiation of the criminal procedural format, as well as impact on it from such government authorities as the President of Russia or the Constitutional Court of Russia. The authors substantiate that the current criminal procedural policy, though it exists as a specific legal phenomenon and can be identified, analyzed and categorized, is at the same time of indiscriminate and conflicting character, and, by using the example of change of the traditional rule on prohibition of a turn for the worse, is of the regressive character from the point of view of constitutional values as well.

*Keywords:* criminal proceedings; criminal procedural policy; judicial discretion; limits of judicial proceedings; rule of inadmissibility of a turn for the worse.

### **The purpose of proving must be statutorized in the Criminal Procedural Code of the Russian Federation**

**Svetlana V. Kornakova** – PhD in Law, Associate Professor in the Department of Criminal Procedure and Public Prosecutions at the Baikal State University.

**Vladimir A. Shcherbakov** – Deputy Prosecutor of Novoaltaisk, Altai Region.

The article considers an issue of the purpose of criminal procedural proving, analyzes views of researchers on the character and content of the knowledge achieved in the course of proceedings in a case; and critically assesses arguments of opponents of the concept of objective truth. On the basis of the study of categories of «veracity» and «reliability», a conclusion is made about the possibility to formulate the purpose of proving as reliable establishment of the circumstances stipulated by Article 73 of the Criminal Procedural Code of the Russian Federation.

*Keywords:* criminal proceedings; purpose of proving; assessment of proof; truth; reliability.

### **Prosecutorial bias in criminal proceedings: myths and reality**

**Vladimir M. Kornukov** – Doctor of Laws, Professor, Professor in the Department of Criminal Procedure and Criminalistics at Tollyatti State University.

The article considers issues associated with the prosecutorial bias in criminal proceedings. The author analyzes causes and conditions of this phenomenon and expresses some proposals for its eradication and for elimination of judicial errors.

*Keywords:* criminal proceedings; justice; verdict of acquittal; prosecutorial bias; elimination of judicial errors.

### **Some issues arising in analysis of provisions of Chapter 51<sup>1</sup> added to the Criminal Procedural Code of the Russian Federation: «Proceeding of criminal procedural sentencing in case of exemption from criminal responsibility»**

**Anatoly P. Kruglikov** – PhD in Law, Professor, Professor in the Department of Criminal Procedure and Criminalistics at Volgograd State University.

The article analyzes provisions of Federal Law No. 323 dated 3 July 2016, «On amending the Criminal Code of the Russian Federation and the Criminal Procedural Code of the Russian Federation on issues of improvement of grounds for exemption from criminal responsibility». This Law makes amendments to the Criminal Code of the Russian Federation and the Criminal Procedural Code of the Russian Federation, including the amendments in respect of essence of the court fine, procedures for

determining its amount and exemption from criminal responsibility with imposition of court fine. In the opinion of the author, certain provisions of the said Law conflict with provisions of the Criminal Code of the Russian Federation, the Criminal Procedural Code of the Russian Federation and the Constitution of the Russian Federation. Proposals are made for improvement of the criminal legislation and the criminal procedural legislation.

*Keywords:* court; the suspect; the accused; sentence; punishment; exemption from criminal responsibility; measures of criminal procedural character.

### **New ground for termination of criminal case (Article 25<sup>1</sup> of the Criminal Procedural Code of the Russian Federation): consequences of introduction**

**Yulia V. Kuvaldina** – PhD in Law, Associate Professor in the Department of Criminal Procedure and Criminalistics at Samara National Research University named after academician S.P. Korolev.

The article is devoted to analysis of provisions of the Criminal Procedural Code of the Russian Federation on the court fine and on the procedure for its imposition (Article 25<sup>1</sup>, Chapter 51<sup>1</sup>). The author considers possible consequences of introduction of this institute and concludes that the use of the new ground for termination of criminal case (criminal prosecution) will result in considerable reduction of amounts of application of criminal case termination in connection with conciliation of parties and active repentance. In addition, the author casts doubt on efficiency of application of court fine from the point of view of defense of personal rights in criminal proceedings.

*Keywords:* court fine; termination of criminal case; conciliation of parties; active repentance; consent of victim; admission of the offence by the accused.

### **Problems of admissibility of evidence in the light of the FZ-23**

**Valentina A. Lazareva** – Doctor of Laws, Professor, Professor in the Department of Criminal Procedure and Criminalistics at Samara National Research University named after academician S.P. Korolev.

The article considers modern problems of evidence law which are determined by extension, made by the law dated 4 March 2013, of the list of non-investigative collection of evidence before initiation of criminal case; comparative analysis is made of these ways of collection of evidence and of the investigative actions, the author analyzes the evidence obtained in this way from the viewpoint of its correspondence with the admissibility criteria developed by theory. The article considers practical application of the rule of criminal procedural law introduced by FZ-23. The author formulates her conclusion that though implementation of the idea of fast track procedure in cases of insignificant crimes (abbreviated form of inquiry) cannot be regarded as successful, however, extension of the limits for evidence admissibility is an expected result of introduction of the adversarial principle into criminal proceedings; the author expresses her opinion on possible ways of overcoming the theoretical and practical problems arisen in connection with adoption of the law under consideration.

*Keywords:* evidence; proving; evidence admissibility; inquiry; initiation of criminal case; pre-investigation check; investigative actions; collection of evidence.

### **Collection of evidence by means of use of special knowledge**

**Larisa V. Lazareva** – Doctor of Laws, Professor, Professor in the Department of Criminal Procedure and Criminalistics at Vladimir Law Institute of the Federal Penitentiary Service of Russia.

The article is devoted to problems of use of special knowledge in proving under criminal cases. The article considers specific features of involving a specialist into investigation of crime, and use of his/her opinion as evidence. The author studies the issue of procedural significance and priority of the evidential significance of opinions and testimony of the specialist and the expert. On the basis of analysis of the legislation currently in effect and practical enforcement of law, the author proposes ways for solution of the problems identified, which ways are aimed at improvement of collection of evidence.

*Keywords:* special knowledge; specialist; proving; evidence; criminal proceedings.

### **Consequences of declaring a citizen missing or deceased where the citizen is the suspect and accused in criminal proceedings**

**Elizaveta V. Mezhenina** – PhD Student in the Department of Criminal Procedure at Ural State Law University.

The article considers problems arising in case of declaring a citizen missing or deceased where the citizen is the suspect and accused in criminal proceedings. The article studies the definition and history of the institute of declaring a citizen missing or deceased. The author touches upon the issues of prejudicialness of the respective court decisions within the framework of legal proceedings in a

criminal case. On the basis of findings of the study, the author concludes on significance of declaring a citizen missing or deceased for criminal proceedings.

*Keywords:* declaring a citizen missing; declaring a citizen deceased; criminal proceedings; prejudicialness; decision of civil court in criminal proceedings.

### **Specific features of initiation of criminal cases on crimes committed by means of electronic means of payment and electronic systems of payment**

**Nina V. Olinder** – PhD in Law, Associate Professor in the Department of Criminal Procedure and Criminalistics of Law Faculty at Samara National Research University named after academician S.P. Korolev.

The article analyzes typical instances of detection of crimes committed by means of electronic means of payment and electronic systems of payment; typical motives for initiation of the category of criminal cases under consideration. The author considers composition of the data pointing to the elements of crime. The author singles out that generally, the primary actions at the initial stage of investigation of crimes committed by means of electronic means of payment and electronic systems of payment are confined to the following: examination of the place of incident; establishing contact with the owner of the electronic system of payment or its legitimate representative for the purpose of having support in the investigation; seizure and adduction of the data attributed to the investigation; decision-making on necessity of organizing observation over operation of electronic systems of payment for the purpose of detection of new attempts of criminal infringements; identification of causal relations between the events happened and the foreseeable criminal actions; collection and generalization of the data which allow to determine the way of committal of the crime. Separately, the author considers the issues of engagement of a specialist at the stage of checking the report of the crime.

*Keywords:* investigation of crimes associated with use of electronic means of payment and electronic systems of payment; initiation of criminal case.

### **Ways of improvement of the stage of initiation of criminal case in implementation of criminal proceedings in respect of judges**

**Natalia V. Romanenko** – PhD in Law, Senior Lecturer in the Department of Judicial Acti-vity at Ural State Law University.

The article is devoted to the study of problems associated with the procedure for initiation of criminal cases in respect of judges (bringing them to responsibility as the accused persons if the criminal case was initiated in respect of other persons or upon the fact of committal of an act containing elements of crime), and their influence on the constitutional principle of equality of all before the law and court and, unavoidability of criminal responsibility.

*Keywords:* immunity; judge; initiation of criminal case; unavoidability of responsibility.

### **Participation of witness in abbreviated form of inquiry**

**Elena I. Svechnikova** – PhD Student in the Department of Criminal Procedure and Criminalistics at Samara National Research University named after academician S.P. Korolev.

**Lidiya A. Yarygina** – Assistant in the Department of Criminal Procedure and Criminalistics at Samara National Research University named after academician S.P. Korolev.

The article is devoted to problems of participation of witness in abbreviated form of inquiry. The authors provide comparative analysis of status of witnesses and persons who make statements in the course of checking a report of a crime. The article studies the evidential significance of statements obtained at the stage of initiation of criminal case. The authors conclude that in investigation under rules of Chapter 32.1 of the Criminal Procedural Code of the Russian Federation, statements of persons are very significant. On the basis of analysis of scientific literature and results of generalization of practice, authors argue in favour of proposals on further improvement of the legislation.

*Keywords:* witness; person making a statement; abbreviated form of inquiry; statements; testimony; pre-investigation check.

### **Differentiation of pre-judicial significance of court rulings in the criminal proceedings of the Russian Federation: grounds, problems, prospects**

**Mechislav V. Slifish** – PhD in Law, Associate Professor, Lecturer in the Department of Criminal Procedure at the Military University, Moscow.

The article analyzes theoretical and practical problems of using the enforceable court rulings in proving under criminal cases; the author substantiates a conclusion that differentiation of pre-judicial significance of court sentences reduces the degree of legal certainty and substantiation of court rulings that are enforceable and that have not been duly repealed, being in essence a means for weakening their mutual consistency.

*Keywords:* prejudgement in criminal proceedings; presumption of verity of the enforced sentence; assessment of evidence in the course of judicial examination of the criminal case according to special procedure.

### **Placement into a medical organization which provides psychological assistance in medical conditions (unsettled issues)**

**Larisa G. Tatyantina** – Doctor of Laws, Professor, Professor in the Department of Criminal Procedure and Law-Enforcement Activity at Udmurt state university.

Placement of persons with psychic disorders into a medical organization which provides psychological assistance in medical conditions causes numerous questions in its practical application. The author substantiates advisability of preservation of the procedural status of the accused for a person in whose respect psychiatric experts have stated an opinion on application of compulsory measures of medical character, prior to consideration of the criminal case in court and before the person is brought non compositis. The author proposes to transfer the person into the medical institution which has a general psychiatric hospital. The author proposes to exclude any possibility of placing the person into in-patient facilities recommended by psychiatric experts before the court decision on the criminal case is pronounced. The author proposes to envisage transfer of the criminal case in accordance with jurisdiction to the investigative authorities starting the time of establishment of the psychic disorder requiring application of compulsory medical treatment. The author substantiates the necessity to refer the criminal case to the court with the indictment.

*Keywords:* medical organization; procedural status; the accused; application of compulsory measures of medical character; psychiatric assistance; compulsory measures; psychic disorder; forensic psychiatric examination.

### **Legal investigation in criminal cases and free-of-charge competent legal assistance: funding as a problem and ways to solve it**

**Darya O. Chistilina** – Lecturer in the Department of Criminal Procedure and Criminalistics (PhD Student) at Southwestern State University.

The article is devoted to analysis of the conceptual possibility of including full-fledged legal investigation into the modern Russian criminal process. The author analyzes the current powers of defense lawyer in the domain of proving. In addition, the author has studied the key problems of free-of-charge competent legal assistance and ways to solve them.

*Keywords:* legal investigation; defense lawyer; victim; investigator; free-of-charge legal assistance; investigating judge.

### **Criminal procedural policy, science and criminal proceedings**

**Victor S. Shadrin** – Doctor of Laws, Professor, Professor in the Department of Criminal Procedure and Criminalistics at St. Petersburg Law Institute (branch) of the Academy of the Russian Federation Prosecutor General's Office.

Legal regulation of the Russian criminal proceedings undergoes currently ongoing amendments, which are of systemless character on the whole. At the same time, a trend manifests itself toward reinforcement of interests of the society and of the state in criminal proceedings, which raises questions as to the degree of correspondence of such trend with the Constitution of the Russian Federation which proclaims priority of rights and freedoms of the person and of the citizen. In order to determine the necessary grounds and conditions for further reform of criminal proceedings, it is necessary to have a criminal procedural policy carefully worded and in this regard, an active role should be played by the science of criminal proceeding, with account taken of modern specific features of the Russian legal science.

*Keywords:* criminal procedural policy; science of criminal proceeding; reform of criminal proceedings.

## CRIMINOLOGY

### **Modern criminological measures for prevention of religious extremism in Germany as a means of defense of the constitutional order**

**Renat R. Abduganeyev** – PhD in Law, Head of the Scientific Research Division at Kazan Law Institute of the MIA of Russia.

The article is devoted to the current criminological approaches for overcoming the problem of religious extremism in the Federative Republic of Germany. The article considers the most prospective programs for prevention of this negative social phenomenon, in the conditions of the 2015–2016 migration crisis, the author gives his own classification of the programs and analyzes possibility of application of Germany's positive experience in Russia.

*Keywords:* religious extremism; negative social phenomenon; constitutional order; security of the state.

### **Factor analysis of reasons for support of terrorist organizations in some countries**

**Elina L. Sidorenko** – Doctor of Laws, Associate Professor, Professor in the Department of Criminal Law, Criminal Procedure and Criminalistics at Moscow State Institute of International Relations (University) of the MFA of Russia.

The article expresses results of the author's study of factors of tolerance of the society to terrorism. On the basis of comparison of statistical and sociological data, conclusions are formed on influence of economic, political and cultural factors on public sentiments.

*Keywords:* terrorism; tolerance; toleration; prevention; factors of criminality.

## CRIMINALISTICS

### **«Forensic expert» activities of investigator**

**Oleg Ya. Baev** – Doctor of Laws, Professor, Professor in the Department of Criminalistics at Voronezh State University.

The article considers, on a systemic basis, activities of the investigator which are associated with appointment and implementation of forensic expert reviews – starting from collecting objects for their implementation to determining the sequence of appointment of individual types of expert review for one object, to the content of the ruling on appointment of forensic expert review and formulation of the question to be set to experts, to familiarization of the investigator with the opinions of expert reviews in the criminal case. The author gives practical recommendations for implementation of all stages of this activity and offers a number of lawmaking proposals.

*Keywords:* «forensic expert activities of investigator»; «forensic expert» problems in activity of the investigator.

### **Line of interrogation – an integrative criminalistic means for achieving the goal of an investigative act**

**Aleksandr I. Bayanov** – PhD in Law, Associate Professor in the Department of Criminalistics of Law Institute at Siberian Federal University.

The article considers various views pertaining to the notion of «line of conduct». The author comes to a conclusion on necessity to replace the said notion with the notion «line of interrogation» and, argues in favor of his point of view. The author studies the structure of line of interrogation and, two of its constituent parts are singled out: the logical-cum-conceptual part and the operative and efficient part. The first part is a system consisting of strategic and tactical tasks, while the second part is an array of interrogative techniques and their combinations. With account taken of the character of the situation of interrogation, individual types of «line of interrogation» are singled out: the line supporting the position of the interrogatee; the wait-and-see line; the line opposing the position of the interrogatee; the formal business-like line. Line of interrogation is characterized on the part of style and manner of interrogation. The author considers some types of style and manner of interrogation.

*Keywords:* goal of interrogation; task of interrogation; situation of interrogation; line of interrogation; tactics of interrogation; strategy of interrogation; technique of interrogation; style of interrogation; manner of interrogation.

### **Tactical features of interrogation of injured person in criminal cases of abuse of power carried out by means of physical or verbal violence, special tools or arms**

**Mikhail Yu. Grigoryev** – Senior Prosecutor in the Department for supervision over criminal and investigation proceedings and operational search activity at Prosecutor's Office of Komi Republic.

The article recites some tactical recommendations of interrogation of an injured person in criminal cases of abuse of power carried out by means of physical or verbal violence, special tools or arms. The author gives an outline plan of interrogation, the issues to be established, and the ways to record testimony of the injured person.

*Keywords:* criminalistical tactics; tactics of interrogation; testimony of injured person; planning of interrogation; application of technical and criminalistical tools.

### **Principle of «complementarity» of special knowledge and its use for certain types of investigative search in criminal cases associated with illegitimate turnover of drugs**

**Svetlana I. Zemtsova** – Lecturer in the Department of Criminalistics at the Siberian Law Institute of the Federal Drug Control Service of the Russian Federation.

The article specifies the author's position that the principle of «complementarity» consists of integration of special knowledge from various areas, aimed at solution of investigation problems on the whole and investigative search in particular. In support of this assertion, the author cites arguments on advisability, in search of drug laboratories, to supplement knowledge available with a forensic specialist by means of knowledge available with a chemical specialist and a bomb-disposal expert; and in case of investigation of illegitimate cultivation of drug-containing crops, by means of knowledge available with an agricultural technician and a botanist. The most detailed study is applied to the role of a specialist in the area of information technologies, in case of examination of a cellular phone, in criminal cases associated with illegitimate sales of narcotic drugs, committed by means of the Internet.

*Keywords:* narcotic drugs; investigative search; specialist; cultivation; drug laboratory; cellular phone; Internet.

### **Methodology of forming the structure of criminalistic methods for support of public prosecution**

**Sergey L. Kislenko** – PhD in Law, Associate Professor in the Department of Criminalistics at Saratov State Law Academy.

The article considers the methodological issues of forming the structure of criminalistic methods for support of public prosecution. The author gives his own view of the process of construction of this structure. The article substantiates necessity of such use, as well as the place and significance of the general standard pattern of activity for support of public prosecution in the said process. The article considers elemental composition of activity for support of public prosecution and informative content of such composition.

*Keywords:* support for public prosecution; criminalistic methods; methodology for support of public prosecution; structure of activity; methodology.

### **User information from smart phone as a source of criminalistically important information**

**Mikhail A. Mikhailov** – PhD in Law, Associate Professor, Head of the Department of Criminal Procedure and Criminalistics at Tavrida Academy of V.I. Vernadsky Crimean Federal University.

The article analyzes new opportunities for extraction of electronic information from the modern cellular communication facilities and, its use for detection and investigation of crimes and for search of criminals. The author considers the character and the criminalistic significance of the information which the user stores in his/her smart phone. The author substantiates extraction of such information in the course of examination of the items, without involving capabilities of the computer engineering expert review. The author gives a brief overview of capabilities of Russian and foreign universal complexes for extraction of data from cellular communication facilities. The article proposes to train a wide circle of investigators and operational officers, rather than specialists in the area of computer engineering expert review only, in the skills of work involving such devices.

*Keywords:* examination of smart phone; computer engineering expert review; electronic tracks; data from cellular communication facilities in forensic science «Mobile forensic expert»; UFED; XRY.

### **Information and reference support of law enforcement activities (a case study of the Federal Republic of Germany)**

**Aleksandr N. Pershin** – PhD in Law, Associate Professor, Associate Professor in the Department of Criminalistics at Omsk Academy of the MIA of Russia.

**Aleksey D. Maile** – PhD in Law, Master of Administrative Law, Official at the National Department for Migration and Refugees of the MIA of Germany.

The article considers various types of criminalistic, operative reference- and search records of the Federal Republic of Germany, which are used in fighting terrorism and organized crime. The article considers information data sets of Europol and Interpol, to which the access of the Federal Department of Criminal Police is possible in case of detection and investigation of some especially dangerous crimes. The material tells about the legal regulation for formation of the databank «Anti-terror». In conclusion, the authors give a list of anti-terrorist databases, dates of their creation, number of the recorded objects and purpose of the recording.

*Keywords:* criminalistic records; police records; databank of Interpol; databank of Europol; terrorism; Federal Department of Criminal Police of the Federal Republic of Germany; objects of criminalistic records.

### **HONEYPOT system as a tool for collection of information for cybercrime prevention**

**Vitaliy V. Polyakov** – PhD in Law, Associate Professor in the Department of Criminal Procedure and Criminalistics at Altai State University.

The article considers issues of collection of criminalistically and operatively significant information on modern computer crimes. For this purpose, the author proposes to use the honeypot research system. The author analyzes technical, organizational, methodical and legal issues of introduction and use of the honeypot systems in work of investigative and operative-and-search bodies. The author notes that activities in creation and introduction of these systems should be governed by regulatory acts specially developed, and that it is advisable to restrict subjects of their application by employees of operative-and-search bodies. For the purpose of improvement of the effectiveness of operation of honeypot systems, the author proposes to install them on criminogenic objects. The author substantiates a thesis that in case of application of honeypot systems, no provocation for committal of crimes occurs. The author asserts that the use of honeypot systems can extend capabilities of criminalistic prevention of cyber crime.

*Keywords:* computer crime; cyber crime; electronic documents; way of committal of crime; o-perative-and-search activity; provocation to committal of crime; honeypot system.

### **Classification of tactical operations of preliminary investigation. Main and optional tactical operations**

**Natalia Yu. Ponomarenko** – Assistant in the Department of Forensic and Criminalistics at the Law Institute of Belgorod State National Research University.

The article carries out analysis of opinions of forensic experts in respect of the problem of classification of tactical operations for preliminary investigation of crime; the author substantiates his opinion in respect of the most popular ones of such operations and the author argues in favour of his own position associated with optimization of classifications of tactical operations for practical purposes of investigation of crimes.

*Keywords:* tactical operations; classification of tactical operations.

### **Criminal procedural and criminalistic aspects of maintenance of appropriate quality of preliminary investigation**

**Valery I. Sankov** – PhD in Law, Senior Lecturer in the Department of Criminalistics at the Academy of the Investigative Committee of the Russian Federation.

The article considers problematic issues of quality of preliminary investigation in Russia, its disadvantages which remain relevant over the entire period of existence of the Russian institute of preliminary investigation. These issues can be solved by means of determining quality characteristics of preliminary investigation, improvement of both its criminal procedural form and its criminalistic content. Proposals are made on the respective amendments to be made to the criminal procedural law, on criminalistic means for supporting high-quality investigation.

*Keywords:* investigation quality; disadvantages of preliminary investigation; criminal proceeding; forensic science; tactics.

### **Activities of bodies of interior Ministry of the Russian Federation in investigation of transnational crimes**

**Denis S. Khizhnyak** – PhD in Law, Associate Professor in the Department of Criminalistics at Saratov State Law Academy.

Since, over recent decades transnational criminal activity grows rapidly and with a threatening rate, undergoes ongoing modification and assumes new shapes, activity of law enforcement authorities in fighting this variety of criminal activity should improve as well. The purpose of this article is to track the change of forms and methods of counteraction to transnational crime in activities of bodies of the Interior Ministry of the Russian Federation over recent years. The ratio between characteristics of manifestation of transnational criminal activity and measures for counteraction to it can contribute to the development of methodology of forensic studies.

*Keywords:* criminal activity; transnational crime; crime dynamics; investigation of crime.

## FORENSIC EXAMINATION

### **Toward classification of quality of fingerprints and finger impresses**

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The article considers characteristics of quality parameters of images of fingerprints and finger impresses on the dactyloscopic card made by the traditional way, which were subdivided into five criteria. The last three criteria were studied in detail: satisfactory, hardly satisfactory and non-satisfactory. The author found 20 parameters of low quality of main fingerprints and 10 parameters of control fingerprints. The author present his definition of the notion «dactyloscopy technique». This provides an opportunity for practical workers to optimize measures for improvement of quality of the dactyloscopic card which will affect quality of coding of the image of papillary pictures in the database AFIC (Automated Fingerprint Identification System).

*Keywords:* classification of fingerprint quality; classification of finger impress quality; dactyloscopy technique; quality of dactyloscopic card; parameters of quality of fingerprints and finger impresses.

### **Judicial portrait expert review by means of video images in investigation of crimes against sexual freedom and sexual immunity**

**Nikolay N. Ilyin** – PhD in Law, Senior Lecturer in the Department of Criminalistics at the Academy of the Investigative Committee of the Russian Federation.

The article considers theoretical and practical aspects of judicial portrait expert review by means of video images in investigation of crimes against sexual freedom and sexual immunity. On the basis of practical expert reviews, the author presents capabilities of study of video images containing restricted and fragmentary information.

*Keywords:* video recording; video images; attributes of outer appearance of a person; judicial portrait expert review; crimes against sexual freedom and sexual immunity.

### **Towards interrelation between customs criminalistic expert reviews and judicial criminalistic expert reviews**

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The author of the article considers some organizational issues of criminalistic expert reviews carried out by customs expert institutions. With account taken of specific features of expert activities of customs authorities, the article illustrates the agenda of mutual relations between customs expert reviews and judicial expert reviews, in terms of study of criminalistic objects not only within the framework of criminal or administrative proceedings, but also in customs control. At the same time, the author continues his attempt to substantiate such notion as customs forensic science and to introduce it into practical activities of customs authorities.

*Keywords:* judicial expert review; customs expert review; criminalistic investigation technique; technical means of customs control; customs clearance; special knowledge; customs forensic science.

### **Some aspects of purpose of construction and technical expert review of quality of materials**

**Olga N. Nadonenko** – PhD in Law, Associate Professor in the Department of Criminalistics at the Second Faculty for Professional Development of the Academy of the Investigative Committee of the Russian Federation (Ekaterinburg branch).

The article is devoted to specific aspects of preparation of materials in appointment of construction and technical expert review of quality of materials.

*Keywords:* construction and technical expert review; certification of laboratories; incident site inspection; quality of materials.

### **Possibility of application of digital processing of images (solarization) for identifying changes made to the original content of a document by means of adscript**

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**Olga A. Barinova** – PhD in Law, Senior Lecturer- Methodist in the Department of Criminalistic Techniques of the Training and Scientific Complex of Expert Criminalistic Activities at Volgograd Academy of the MIA of Russia.

**Olga Yu. Prokofyeva** – Lecturer at Volgograd Polytechnical College named after V.I. Vernadsky.

The article analyzes possibility of application of digital processing of images for differentiation of character strokes of details of a document. The authors have carried out statistical processing of results obtained by means of computer graphic editors implementing the effect of solarization in identification of changes made to the original content of a document by means of adscript. The authors underline that the key advantage of application of computer graphic editors implementing the effect of solarization is in obtaining diagnostic information without any damage caused to the document which is the physical exhibit. The authors formulate a conclusion that application of the effect of solarization for identification of changes made to the original content of a document can serve as a supplement to traditional methods of technical criminalistic expert review of documents, which supplement will, in its own turn, raise reliability of the results obtained by means of the latter.

*Keywords:* technical criminalistic expert review of documents; computer graphic editors; changes made to the original content of a document; adscript; solarization.

## LAW ENFORCEMENT AUTHORITIES

### **On raising the status of defense lawyers within the professional legal community**

**Victor N. Grigoryev** – Doctor of Laws, Professor, Professor in the Department of combating drug trafficking of the International training center for inter-agency staff operational units at All-Russian Institute for staff development of the MIA of Russia.

The 2016 elimination of the task of raising the status of defense lawyers within the professional legal community from the 2014 «Justice» state program of the Russian Federation does not mean any lack of necessity in this task in reality. The author of the article sees a high potential, in this area, in what concerns glorification of the profession of defense lawyer. The article cites results of a study of the phenomenon of glorification of the profession of defense lawyer as a means possessing a considerable potential of raising the status of defense lawyers within the professional legal community.

*Keywords:* raising the status of defense lawyers; professional legal community; civil society; legal profession; legal profession; defense lawyer; glorification of the profession of defense lawyer.

### **Police activity and its legitimacy in the conditions of globalization**

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**Evgeny A. Apolsky** – PhD in Law, Associate Professor, Head of the Department of theory and history of state and law at All-Russian State University of Justice (Rostov-on-Don branch).

**Lyudmila A. Popova** – PhD in Law, Department of Theory and History of State and Law at North-Caucasian Federal University.

The article considers trends of modern police activity, as well as the current globalization of modern international relations and, therefore, also globalization of law enforcement activity in the developed countries of Europe, America and Asia. The authors analyze views of «policists» who uphold the so-called «neoliberal ideology» and the «traditional democratic ideology». In this connection, the authors try to look at forms of legitimization of police on the basis of theoretical rationale of European and American scholars.

*Keywords:* police activity; globalization; Interpol; public order; legitimacy; transnational level.

## INTERNATIONAL CRIMINAL LAW AND JUSTICE

### **Problem of inter-sectoral collision in implementation of the non bis in idem principle in the Russian legislation and law enforcement practice**

**Elizaveta Yu. Chetvertakova** – PhD in Law, Associate Professor, Leading Researcher of International Cooperation and Comparative Jurisprudence Department of Research Institute of the Academy of the General Prosecutor's Office of the Russian Federation.

**Pavel A. Smirnov** – PhD in Law, Associate Professor, Senior Researcher of International Cooperation and Comparative Jurisprudence Department of Research Institute of the Academy of the General Prosecutor's Office of the Russian Federation.

The article considers problems of legal regulation of the non bis in idem principle in various sectors of the national legislation, through the prism of decisions of international and national judicial instances and doctrinal positions. The authors state the fact of absence, in the Russian legislation, of understanding of the non bis in idem principle which would be universal for all sectors of law. The article considers the problems arising in this connection and the ways to resolve them. The authors substantiate the thesis that in order to exclude repeat prosecution of a person, in comparison of offenses it is necessary to be first of all based upon specific features of the Russian legal regulation which delineates violations depending on the degree of public danger. The respective legal categories are singled out.

*Keywords:* non bis in idem; universal principle of law; inter-sectoral legal collision; the accused; criminal prosecution; essential elements of an offense; criteria of demarcation of offenses in inter-sectoral relations.

### **International standards in the area of state reimbursements to crime victims**

**Stanislav V. Yunoshev** – PhD in Law, Associate Professor, Associate Professor in the Department of Criminal Procedure and Criminalistics at Samara National Research University named after academician S.P. Korolev.

The article analyzes provisions contained in international legal acts concerning guarantees of state reimbursements to crime victims (aggrieved persons). The acts under consideration recognize the necessity of world-wide defense of such persons, restoration of their violated rights and also development of the respective measures and support of their efficiency as one of the main standards of proceedings in criminal cases. In this connection, in developing the respective national measures it is necessary to take into account and to apply these international standards.

*Keywords:* international standards; international legal acts; crime victims; aggrieved person; state reimbursements; indemnity; criminal proceedings.

## COMPARATIVE LAW

### **Crimes against life and health of person in the muslim criminal law**

**Ammar Abdul Karim Manna** – PhD in Law, Associate Professor, Associate Professor in the Department of Criminal Law, Criminal Procedure and Criminalistics at Peoples' Friendship University of Russia.

Cesare Beccaria asserted that «it is better to prevent crimes than to punish them» [4, p. 230]. Currently the validity of this statement is confirmed on an ongoing basis, however, in order to prevent a crime, it is necessary to identify its causes and the conditions conducing to them. Over recent years the Muslim law has been subject to regular changes, however, within the framework of the continuous development of the criminal legislation, a certain category of crimes has taken shape which refer to the Qisas [Retribution] category and which are directed against life and health of person, against physical integrity.

*Keywords:* murder; uqubat; qisas; life and health of person.

## FROM LEGAL SCIENCE TO PRACTICE

### **Documents identifying personality of the suspect/accused and the defendant in criminal proceedings**

**Anna A. Lebedeva** – PhD in Law, Leading Researcher at All-Russian Scientific Research Institute of the MIA of Russia.

The article considers personal identification documents. The author gives their tentative list stipulated by provisions of regulatory acts of the Russian Federation. Personal identification documents contain the so-called fundamental data which can differ in terms of amount of information recorded in them. It is necessary to distinguish personal identification documents from documents confirming status of their holders. The author draws attention to the fact that far from all documents confirming status of their holders can be suitable for personal identification of the suspect / accused or the defendant in criminal proceedings.

*Keywords:* personal identification documents; criminal proceedings; fundamental data; biographical data; personality of the suspect, the accused, the defendant.

### **On necessity to specify height of person when preparing information retrieval card for him/her**

**Nikolay V. Maksimov** – Associate Professor in the Department of Criminal Law Disciplines at I.N. Ulyanov Chuvash State University.

The article notes that one of the most important data of the information retrieval card is the data on height of the registered person, which have orienting and identifying significance. On the basis of historical development of registration of criminals, it is proven that under the current registration system, it is impossible to compare similar registration attributes from various registration systems. In addition, within the current unified information retrieval system for registration of persons and crimes, height is determined as «low», «medium», «tall» and «very tall», without account taken of the gender. Both these and other factors specified by the article complicate and make inefficient the use of the height parameter as a registration parameter for searching for persons implicated in crimes by means of the recording array.

*Keywords:* forensic science; diagnostic studies; footprints; determining the approximate height; human foot length; information retrieval card; registration, recording.

## HISTORY OF LEGAL SCIENCE

### **Genesis of elaboration of the concept of investigation of infringements upon freedom of individual**

**Aleksandr N. Kalyuzhny** – PhD in Law, Associate Professor, Service Officer at the Academy of Russian Federal Security.

Using the status of development of the legislative base in a certain domain and preparedness of scientific research as the basis of content of the concept of investigation of criminal activities, we have studied specific features of development of this concept by means of an example of infringements upon freedom of individual; we have carried out its periodization, from its first mentions till present time; we have substantiated and characterized every one of the stages proposed by us; we have summed up conclusions of the study.

*Keywords:* concept of investigation; genesis; crimes; freedom of individual; periodization; methodology of investigation.

## IN MEMORIAM

### **Aleksandr Sergeevich Podshibyakin**

**Aleksandr G. Volevodz** – Doctor of Laws, Professor in the Department of Criminal Law, Criminal Procedure and Criminalistics, Deputy Dean for Science of the International Law Faculty at the Moscow State Institute of Foreign Relations (University) of the MFA of Russia.

### **On certain tactical features of interrogation**

**Aleksandr S. Podshibyakin**