

OPINION

Children suicide: grown-up problems of classification and prevention

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This article is devoted to the problem of children suicide which has become more acute recently. Children suicides are frequently preceded by psycho-programming treatment of children on websites of social networks, in particular «VKontakte». Children are indoctrinated persistently that the world around them is horrible, that no one loves them or understand them, that life is tragic and senseless and that death is the only true way to settle the emerging difficulties. Beyond the edge of death, everything will be wonderful. The authors analyze the criminal legislation currently in effect and substantiate the statement that actions of «interlocutors» of suicidal children on websites should be classified according to Article 105 of the Criminal Code of the Russian Federation. The authors briefly consider the current psycho-programming (zombifying) technologies of influence on the human subconscious and the ways to detect them. Examples are given that are taken from suicidal practice and proposals are made to solving the problems under consideration as soon as possible.

Keywords: children; suicide; classification; problems; social networks; the Internet; virtual reality; psychotechnologies; programming; death.

CRIMINAL LAW

Recognition of public danger (dangerization) as the first stage of the criminalization process

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The article considers public danger of an act as the necessary but not sufficient ground for criminalization. A category of «dangerization» is introduced into the scientific glossary, which denotes the process and the results of recognition of an act as publicly dangerous. Having set the research boundaries of dangerization as the first stage of criminalization, the author proposes a cumulative estimate of public danger on the basis of criteria of harmfulness and degree of incidence. The author substantiates necessity of analysis of harmfulness via formulating the prescribed type of behavior and via projecting the behavioral connections in the direction of detection of social effects of the act, which effects cannot be reduced to criminal harm or social effects of crime.

Keywords: criminalization; public danger; dangerization; harmfulness; degree of incidence; penal prohibition.

Criminal responsibility of minor convicts: legal uncertainty and consequences

Sergey N. Ovchinnikov – PhD in Sociology, Research Officer at the Research Institute of the Russian Federal Penitentiary Service.

The institute of criminal responsibility of minors presents an individual subject of research. It is important to identify essential elements of the subject in case of crime against state power. In case a person possessing partial legal capacity is brought to criminal responsibility for commitment of crime envisaged by Part 2 of Article 20 of the Criminal Code of the Russian Federation, the minor acquires the status of a special subject to whom the rules extend which are mandatory during the time period of service of sentence. At the same time, on the basis of the meaning of Part 2 of Article 20 of the Criminal Code of the Russian Federation, minors who are fourteen years to sixteen years old may not be brought to criminal responsibility for crimes against justice or crimes against administrative order, which contradicts goals and principles of criminal law.

Keywords: juvenile justice; criminal responsibility; minors; enforcement and service of sentence.

Majordamage as an essential element of environmental crimes

Yulia A. Timoshenko – PhD in Law, Associate Professor, Senior Prosecutor in the Organizational and Analytical Division of the Central Criminal Court Department at General Prosecutor's Office of the Russian Federation.

On the basis of analysis made on dispositions of Articles 255, 260 and 262 of the Criminal Code of the Russian Federation, as well as on judicial practice in such cases, the article identifies shortcomings committed in description of socially dangerous consequences of criminally liable acts; also, rules are formulated for legislative technique, which rules would allow to raise efficiency of application of legal provisions in improving application of articles of criminal law.

Keywords: environmental crimes; rules of legislative technique; evaluative characteristics of crime; socially dangerous consequences; major damage.

CRIMINAL PROCEDURE

Relevant problems of the procedural process of exclusion of evidence in criminal cases

Roman V. Kostenko – Doctor of Laws, Professor, Professor in the Department of Criminal Procedure at Kuban State University.

The article considers problematic issues associated with the procedural process of exclusion of evidence procured with violation of requirements of the Criminal Procedural Code of the Russian Federation, in the course of proceedings in criminal cases.

Keywords: evidence in criminal process; admissibility of evidence; exclusion of inadmissible evidence; pre-trial proceedings in criminal cases; judicial proceedings in criminal cases.

Procedural and epistemological essence of judicial investigation in a criminal case

Olga N. Minimurzina – PhD Candidate in the Department of Judicial Proceedings at Ural State Law University.

The article is devoted to apprehension of procedural and epistemological aspects of the core stage of judicial proceedings – judicial investigation. Particular attention is paid to achievement of the ultimate goal by participants of criminal judicial proceedings, the goal of making a legitimate and substantiated decision in the criminal case – on the basis of the data of judicial investigation. The author cites opinions in respect of definition of the notion of truth as the cognitive goal of judicial investigation and, a conclusion is substantiated on possibility to recognize such truth as legal or judicial. Also, within the framework of analysis of topics of this article, the author proposes versions of improvement of the criminal procedural legislation of the Russian Federation currently in effect. As a result of the study, the author concludes on interrelation and mutual interdependence of the form (procedural essence) and content (epistemological essence) of judicial investigation.

Keywords: judicial investigation; truth; cognitive goal; proving; judicial proceedings.

Criminal procedural policy of Russia at the present stage: essence and its implementation in pre-trial proceedings

Yury G. Ovchinnikov – PhD in Law, Associate Professor, Associate Professor in the Department of Criminal Procedure at Vladivostok branch of the Far Eastern Law Institute of the Ministry of Internal Affairs of Russia.

The article considers implementation of the modern criminal procedural policy as part of the entire national legal policy of Russia. The author's own view of the definition of the legal phenomenon under analysis is proposed. The author characterizes individual areas of implementation of the criminal procedural policy in respect of pre-trial proceedings. Content of the subprogram «Preliminary Investigation» is assessed critically.

Keywords: pre-trial proceedings; criminal procedural policy; subprogram «Preliminary Investigation»; crime prevention; defense of rights and legitimate interests of individuals.

CRIMINALISTICS

Optimization of investigation of crimes committed by medical workers

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Tatiana N. Petrova – Lecturer of professional knowledge management lab at the Academy of the Investigative Committee of the Russian Federation.

The process of investigation of crimes committed by medical workers is badly in need of optimization currently. On the basis of the studies made, the authors have identified typical problems of investigation of the said group of crimes, the key problem being the long period of investigation because of forensic medical expert panel review of defects in delivery of medical aid. The study and analysis of investigative practice have helped to draw out recommendations in efficient optimization of preliminary investigation of crimes associated with inappropriate delivery of medical aid.

Keywords: crimes committed by medical workers; defects in delivery of medical aid; optimization of preliminary investigation; forensic medical expert panel review.

Role of forensic specialist in detection of signs of criminal breach of duties in upbringing a minor

Ekaterina I. Smyk – PhD Student in the Department of Criminalistics at Moscow University of the MIA of Russia named after V.Ya. Kikot.

Examination of the locus of an accident is one of the key investigative acts. In the course of this act, traces having evidential significance in investigation of the criminal case are detected, fixed and seized. For the highest-quality possible examination of the locus of accident, it is necessary to attract a forensic specialist who would contribute to detection of the maximum volume of evidentiary information.

Keywords: examination of the locus of an accident; forensic specialist; minor; breach of duties; violence; traces of crime.

On the role of cognition and emotion in polygraph testing (reference abstract of the article by M. Handler, P. Shaw and M. Gougler)

Said R. Khamzin – Polygraph Examiner.

The article considers the theory of cognitive appraisal of emotions in respect of the situation of psychophysiological studies by means of polygraph. Well-known American experts in the area of application of polygraph put forward a hypothesis that the responses to stimuli being examined during the study are a result of combined effects of the emotional state, cognitive activities and behavior taking shape as a result of learning. The American experts believe that their subjects appraise or compare the polygraph test questions against the threat which the goal and objective of the study poses for them. Such appraisals serve a mediating function for valence and salience of emotional and physiological response.

Keywords: polygraph; emotions; polygraph test; emotional state; cognitive activities.

FORENSIC EXAMINATIONS

Problems of establishing reasonableness and responsibility of conclusions of an expert (on the basis of material of criminal cases associated with investigation of fraud)

Sergey A. Pichugin – PhD in Law, Senior Lecturer in the Department of Forensic Expert Activity at Moscow University of the MIA of Russia named after V.Ya. Kikot.

Irina V. Fedorova – Senior Investigator at the 9th Division of the Central Investigative Department of Investigative Committee of the MIA of Russia in Moscow.

The article considers relevant problems of establishing the fact of reasonableness and reliability of conclusions made by experts of the Russian Federal Center of Forensic Enquiry in the cases associated with investigation of fraud.

Keywords: interrogation techniques; reasonableness of conclusion; reviewing; expert institutions; expert opinion.

On a new paradigm in forensic biological expert review

Dmitry Yu. Yakovlev – PhD in Law, Associate Professor, Associate Professor in the Prosecuting Organization Department at Irkutsk Law Institute (branch) of Academy Prosecutor General's Office.

The article considers issues of formation of a new paradigm of forensic biological expert review. An attempt is made at defining the key terms: «object of forensic biological expert review», «subject matter of forensic biological expert review», «methods of forensic biological expert review». The author shows that the development of conceptual foundations of forensic biological expert review under current conditions has practical, rather than only theoretical importance.

Keywords: forensic biological expert review; paradigm; object of expert examination; subject matter of expert examination; object of forensic biological expert review; subject matter of forensic biological expert review; methods of forensic biological expert review.

LAW ENFORCEMENT AGENCIES

Prerequisites for creation of special operations units. Their essence and significance at the present stage

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Vyacheslav V. Zykov – PhD in Law, Senior Inspector for special assignments at Special Operations Center Rapid Reaction Force and Air Force of the Ministry of Internal Affairs of the Russian Federation.

The article analyzes prerequisites for creation of special operations units of law enforcement bodies, as well as their essence and significance at the present stage. Prerequisites for creation of special operations units of law enforcement bodies are specified and, comparative analysis of various structures of special operations units at the present stage is carried out, which analysis contributes to the fullest possible explanation of this definition. After having studied and analyzed essence of this category of structural subdivisions of law enforcement bodies, as well as history of their development in the course of performance of their tasks in special conditions, authors of the article propose some solutions for improvement of special operations units.

Keywords: special operations units; functions and tasks of special operations units.

INTERNATIONAL CRIMINAL LAW AND JUSTICE

Extraterritorial Criminal Jurisdiction of Ukraine

Pyotr A. Litvishko – PhD in Law, Head of the Division of International Cooperation, Department of International Legal Cooperation of the Investigative Committee of the Russian Federation, Colonel of Justice.

The article describes the constituent components of substantive and procedural criminal jurisdiction of Ukraine exercised overseas, among others, issues of consular legal assistance in criminal matters and criminal law measures in respect of foreign legal entities, and draws a conclusion that the national legal regulation in this area has both positive and negative sides.

Keywords: extraterritorial criminal jurisdiction; Ukraine; foreign legal entities; consular legal assistance in criminal matters.

International legal foundations of Russian-Korean cooperation in the area of criminal judicial proceedings

Aleksandr N. Sukhareenko – Director of the Center for the Study of new challenges and threats to national security of the Russian Federation.

The article analyzes the main provisions of Treaties between the Russian Federation and the Democratic People's Republic of Korea on mutual legal aid in criminal cases and on extradition, signed late in 2015. Special attention is paid to issues of criminal persecution and extradition.

Keywords: international treaty; mutual legal aid; extradition, Democratic People's Republic of Korea.

COMPARATIVE LAW

Use of video recording in French criminal proceedings

Maksim R. Glushkov – Head of the Department of Criminalistics of the Sixth Faculty for Professional Development of the Institute for Professional Development at the Academy of the Investigative Committee of the Russian Federation (Saint-Petersburg branch).

The principle of liberty of evidence, the principle enunciated in early 19th century, is implemented via provisions of Article 81 of the French Criminal Procedural Code – any investigating action is allowed which is necessary for establishment of truth, as well as Article 427 – crime can be established by any kind of evidence. As a result, no clear system is available for either investigating action or evidence. Some cases of mandatory use of video recording are listed by the Code, as for the rest, the police and the investigating judge recourse to it whenever necessary. In the absence of any formal rules, the court assesses such records on a par with other evidence.

Keywords: Code of Napoleon; French Criminal Procedural Code; investigating judge; judicial police; liberty of evidence; investigating action; use of technical facilities; video recording.

Methodological foundations of crime investigation. Part IV. Planning of crime investigation; types of plans and technologies of their comparison

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

The article provides insight into the planning of crime investigation and its principles; types of plans are identified which should be the basis of organization of efficient activities of the investigator; practical recommendations are proposed for making out certain types of plans.

Keywords: planning of crime investigation; types of plans; recommendations for making out plans.

Fight against corruption: linguistic aspect and law-enforcement aspect of the problem

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Olga E. Frolova – PhD in Pedagogical Sciences, Doctor of Philology, Head of the Laboratory of Phonetics and Speech Communication of Philological Department at Lomonosov Moscow State University.

The article considers the word «corruption», specific features of negative information associated with it, as well as the circumstances which are characterized by means of this word and its derivatives. Analysis of the Russian National Corpus shows the following: as opposed to word combinations «take bribes», «give bribes», the noun «corruption» describes the situation of law infringement in a non-transparent fashion. It is no surprise that within the framework of criminal policy over the recent decade, it is possible to observe manifestation of two contradictory trends at the same time. On the one part, percentage of cases of application of fines for corruption crimes (which is clearly a mitigation of punishment when compared with imprisonment) is growing. On the other part, the President of the Russian Federation and heads of law enforcement authorities favor tougher punishment by means of extension of practice of use of property seizure for this category of criminal cases.

Keywords: corruption; corruption-related crimes; fight against corruption; bribery; fine; seizure.

SCIENTIFIC LIFE

Virtual currency in Russia: possible models of legal regulation (A survey of the International Scientific and Practical Conference «Electronic Currency in Light of Modern Legal and Economic Challenges»)

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.

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.

Olga I. Semykina – PhD in Law, Senior Researcher in the Center for Comparative Legal Research at the Institute of Legislation and Comparative Law under the Government of the Russian Federation.

The article analyzes possible areas of development of the Russian legislation in the domain of regulation of crypto-currency and, a survey is given for the International Scientific and Practical Conference held on 2 June 2016 in the State Duma of the Federal Assembly of the Russian Federation.

Keywords: electronic currency; crypto-currency; financial security; risk-oriented approach; cash equivalents.

International scientific and practical conference «Criminal proceedings: current state and main areas of improvement»

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.

The article presents a survey of the international scientific and practical conference devoted to current trends in the development of criminal procedural law and its law enforcement practice, the conference commemorating the 50th anniversary of Professor A.V. Grinenko. The survey precedes publication of selected material from the conference.

Keywords: criminal proceedings; criminal procedural law; criminal case; investigator; prosecutor; court; preliminary investigation; judicial proceedings; A.V. Grinenko.

Problem of predetermination, by the judge, of the issue of culpability at pre-trial stages of criminal proceedings

Lyudmila A. Aleksandrova – PhD in Law, Associate Professor, Associate Professor in the Department of Criminal Procedure at Ural State Law University.

Transfer of the function of control over legitimacy of decisions made to the court has resulted in numerous problems of law enforcement. Practice evidences that it is impossible to subdivide certain issues into those which are settled at pre-trial stages of judicial proceedings and those which the court considers during core proceedings only. As a result, the constitutional principles of defense of personal rights and freedoms are violated.

Keywords: institution of criminal case; detention; predetermination of the issue of culpability; constitutional principles and rights and freedoms of person.

Genesis of the institute of legal aid in criminal cases

Nail R. Akhmetzairov – Acting Prorektor at the Academy of Law Enforcement Agencies of the Prosecutor General's Office of the Republic of Kazakhstan.

The article considers consistently the history of origin of international cooperation on the whole and, legal aid in particular. With account taken of the geopolitical realities, considerable attention is paid to the legislation of the Russian Federation. Conclusions are made on continuity of legal traditions and their correspondence with worldwide tendencies. Current international documents in this domain are analyzed.

Keywords: international cooperation; legal aid; treaty; fight against crime.

Essential features and properties of principles of criminal proceedings

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 underlines methodological significance of determining the essential features and extrinsic properties of principles of criminal process. As essential features, the author names the characteristics which communicate to the principles an ability to form the basis of the entire system of criminal procedural law. As extrinsic properties, the author names the characteristics which are dependent on essential features and which express the potential that is inherent in them.

Keywords: criminal process; principle; system; transparency.

On legal consequences of changes made to indictment by the prosecutor in the court of first instance

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The legal positions formulated by the Constitutional Court of the Russian Federation in its regulation dated 2 July 2013 have helped courts to loosely interpret the independence of court on the will of the parties. In its regulation dated 10 February 2016, the Constitutional Court of the Russian Federation has suggested that the court should examine the motives and grounds of such decision of the prosecutor, rather than has explained the limits of independence of the court in case of changes made by the prosecutor to the indictment only. The article analyzes the legal positions formulated in those regulations, proposes ways to improve the procedural sequence of changes made by the prosecutor in the court, as well as considers the issues of obligatoriness, for the court, of the decision of the prosecutor on changes made to the indictment.

Keywords: state prosecutor; limits of changes made to indictment; independence of court; adversarial nature of judicial proceedings.

Criminal proceedings: from the past to the future

Aleksandr V. Grinenko – Doctor of Laws, Professor, Professor in the Department of Criminal Law, Criminal Procedure and Criminalistics of the International Law Faculty at the Moscow State Institute of Foreign Relations (University) of the MFA of Russia.

The article contains a study of historical aspects of the Russian criminal proceedings and determines prospects of its improvement. Special attention is paid to substantiation of changes made to the legislation currently in effect, whose introduction would help to significantly streamline the pre-trial processes and judicial proceedings in criminal cases, as well as ensure exercise of rights and legitimate interests of the parties involved in the proceedings.

Keywords: criminal proceedings; criminal case; investigator; prosecutor; court; defender.

Areas of improvement of justice of the peace

Vladimir V. Doroshkov – Doctor of Laws, Professor, Professor in the Department of Criminal Law, Criminal Procedure and Criminalistics of the International Law Faculty at the Moscow State Institute of Foreign Relations (University) of the MFA of Russia.

The article analyzes the area for further reforms to be made to justice of the peace in the organizational-cum-legal aspect and in the procedural aspect, with account taken of the specific environment where the modern society is situated.

Keywords: judge of the peace; justice of the peace; criminal proceedings

Does the stage of initiation of criminal case require preservation?

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Olga E. Zhamkova – PhD in Law, Senior Lecturer in the Department of Criminal Procedure at Moscow University of the MIA of Russia named after V.Ya. Kikot.

The article cites additional arguments favoring preservation and reformation of the stage of initiation of criminal case. The information obtained in the course of checking the report of a crime could be used as evidence in the criminal case in case the information is obtained in accordance with requirements of the law.

Keywords: criminal process; stage of initiation of criminal case; proving; check of the report of a crime; investigator; inquiry officer; prosecutor; evidence.

Current criminal procedural policy of the Russian Federation: the status and the prospects

Oleg A. Zaytsev – Doctor of Laws, Professor, Prorector for Science at Moscow Academy of Economics and Law, Honored Science Worker of the Russian Federation.

The article analyzes the key legal sources of the Russian Federation which are devoted to the criminal legal policy and to the criminal procedural policy; generalizes information on the development of theoretical thought in this area. The author shows significance of the 1991 Concept of Judicial Reform and the 2001 Criminal Procedural Code of the Russian Federation. Particular attention is paid to the content, key features and focal points of the current criminal procedural policy.

Keywords: criminal proceedings; criminal policy; criminal procedural policy; judicial legal reform.

Some aspects of administration of pre-trial restriction in the form of detention

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The article considers problematic issues of selection and administration of pre-trial restriction in the form of detention. On the basis of systemic analysis of official statistical data of the Court Department of the Superior Court of the Russian Federation and the Prosecutor General's Office of the Russian Federation, the author concludes on the persisting practice of excessive administration of pre-trial restriction in the form of detention.

Keywords: right for freedom and personal inviolability; pre-trial restrictions; detention; legal consciousness; criminal process; prosecutor; investigator; judge.

Relevant issues of injunctive relief for civil lawsuit in case of preliminary investigation, for the purpose of creation of indemnity to persons who are victims of crime

Dmitry A. Ivanov – PhD in Law, Associate Professor, Deputy Head of the Department of Preliminary Investigation at Moscow University of the MIA of Russia named after V.Ya. Kikot.

The article considers issues pertaining to the key areas of activity of investigator and inquiry officer, which activity is aimed at injunctive relief in pre-trial investigation of criminal cases. The author proposes a set of procedural, organizational and disciplinary measures aimed at creation of conditions for indemnity of harm caused by the crime, by means of injunctive relief in preliminary investigation. In conclusion, the author substantiates supplements to be made to the criminal procedural law, which would help to increase efficiency of activities of investigator and inquiry officer in respect of indemnity of harm caused by the crime, including that by means of injunctive relief.

Keywords: investigator; inquiry officer; victim; harm; civil lawsuit; pre-trial proceedings.

Specific features of circumstance in proof in execution of final judicial decisions in criminal proceedings

Viktor I. Kachalov – PhD in Law, Associate Professor, Professor in the Department of Criminal Procedure, Criminalistics and Forensic named after N.V. Radutnaya at Russian State University of Justice.

The author considers the issue of specific features of circumstance in proof in execution of final judicial decisions in criminal proceedings; a conclusion is made on diversity and non-uniformity of the circumstance in proof at this stage; the author's classification is proposed for the circumstance to be proven in execution of final judicial decisions.

Keywords: circumstance in proof; facts to be proven; execution of final judicial decisions.

On legal nature of principles of criminal procedural law

Oksana V. Kachalova – PhD in Law, Associate Professor, Head of the Department of Criminal Justice at Russian State University of Justice.

The article considers the issue of the legal nature of principles of criminal procedural law, and a conclusion is made that principles of the Russian criminal procedural law are the most important facility of legal regulation. The article determines the circle of principles of criminal procedural law: publicity, segregation of procedural functions, equality before the law and the court; defense of rights of parties to criminal proceedings, objective truth.

Keywords: principles of criminal procedural law; form of law; segregation of procedural functions; equality before law and court; principle of defense of rights of parties to criminal proceedings; principle of objective truth.

Inquest in a contracted form: current status and prospects

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Dmitry A. Grigoryev – Senior Lecturer in the Department of Criminal Procedure at Moscow University of the MIA of Russia named after V.Ya. Kikot.

The article provides a brief analysis of the legal regulatory acts, theoretical views and statistical data pertaining to inquest in a contracted form.

Keywords: criminal proceedings; preliminary investigation; inquest; inquest in a contracted form.

Specific features of judicial proceedings in the case where a plea deal has been made with the accused

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 practical consideration, by courts, of cases where a plea deal has been made with the accused. With account taken of provisions of Articles 316 and 317.7 of the Criminal Procedural Code of the Russian Federation, Article 62 of the Criminal Code of the Russian Federation, explanations of the Plenum of the Superior Court of the Russian Federation, the article notes the key faults committed by courts in application of the said provisions and regulations of the Plenum; recommendations are proposed for their elimination.

Keywords: plea deal; special process for judicial proceedings; representation by the prosecutor; consent with indictment.

Criminal prosecution in court of jury

Inna V. Makeeva – PhD in Law, Senior Lecturer in the Department of Social and Legal Disciplines at Russian Academy of Entrepreneurship.

The article analyzes problems of legal regulation and law enforcement practice in the area of exercise of powers of the court of jury within the framework of criminal proceedings. The author also analyzes the historical prerequisites of formation of this institute and their influence on its genesis in the conditions of the current Russian statehood.

Keywords: criminal prosecution; court of jury; jury; evidence; judicial investigation.

Problematic issues of provision of security of witnesses in judicial proceedings

Natalia V. Makeeva – PhD in Law, Associate Professor in the Department of Preliminary Investigation at Moscow University of the MIA of Russia named after V.Ya. Kikot.

The article analyzes the problematic issues arising in the course of judicial proceedings in case of ensuring security of participants to criminal proceedings. In particular, Article 278 of the Criminal Procedural Code of the Russian Federation sets forth the procedure for interrogation of the witness in conditions excluding its visual observation, however, introduction of such provision does not guarantee security of the witness in full scope.

Keywords: security measures; party to criminal proceedings; witness; victim; the accused.

On conciliation of parties in the current Russian criminal proceedings

Elena V. Markovicheva – Doctor of Laws, Associate Professor, Professor in the Department of Criminal Law and Criminal Procedure at Turgenev Orel State University.

Problems associated with termination of criminal cases on non-rehabilitating grounds arise in the Russian judicial and investigatory practice on a regular basis. Issues of termination of criminal cases in connection with conciliation deserve particular attention. The article analyzes the legislative model and practice of termination of criminal cases in connection with conciliation. The author formulates a conclusion on possibility and advisability of using mediation procedures in the Russian criminal proceedings.

Keywords: criminal prosecution; conciliation; mediation; restorative justice.

Some problems of exercise of the right for defense of the person requested for extradition which arise in the course of enforcement of coercive criminal procedural measures to such person

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The article analyzes coercive criminal procedural measures taken in respect of a person requested for extradition in case of his/her criminal prosecution. Significance of the said measures is explained, attention is drawn to necessity of their thorough legal regulation, which is one of the important conditions guaranteeing the exercise of the right for defense of the person in case of his/her extradition for criminal prosecution.

Keywords: coercive criminal procedural measures; detention; apprehension; right for defense; other coercive measures; procedure; international treaty; extradition of a person.

Pre-trial investigation according to the 1867 Military Justice Statute

Sergey A. Nevsky – Doctor of Laws, Professor, Chief Researcher of the Research Organization Department at All-Russia Institute of the MIA of Russia.

The article considers the key provisions of the 1867 Military Justice Statute which regulate pre-trial investigation by military investigators. Attention is paid to conditions of pre-trial investigation, to specific features of certain investigating actions and enforcement of restrictive measures. Specific features of pre-trial investigation in war time are considered separately.

Keywords: Military Justice Statute; military investigator; investigation; investigating action; the accused; witnesses; regulation; protocol; warfare.

Patterns in the mechanism of crimes committed by means of online technologies

Sergey V. Propastin – PhD in Law, Associate Professor in the Department of Criminalistics at Omsk Academy of the MIA of Russia.

Formation of theoretical foundations of crimes committed by means of online technologies predetermines detection of patterns reflecting this variety of illicit trespasses. In this article, the author acknowledges availability of genetic and functional relationships and singles out two blocks of patterns in mechanisms of online crimes, which are interrelated: technical and social relationships which recur on a regular basis. Manifestation of the patterns is demonstrated by means of examples taken from criminal cases.

Keywords: online technologies; investigation of online crimes; crime mechanism; patterns.

Relation of the criminal procedural function of investigator with the principle of procedural independence and autonomy: areas of improvement of pre-trial proceedings through the prism of retrospective analysis and comparative legal analysis

Victor V. Pushkarev – PhD in Law, Associate Professor in the Preliminary Investigation Department at Moscow University of the MIA of Russia named after V. Ya. Kikot.

The article makes retrospective analysis and comparative legal analysis of the criminal procedural functions of Russian investigator and describes its essence and purpose. The article shows the patterns of influence of the function on the scope of procedural independence of the investigator in pre-trial proceedings. The article substantiates necessity to make changes to the wording of a number of provisions

of the Criminal Procedural Code of the Russian Federation, for the purpose of improvement of the criminal procedural legislation, improvement of quality and efficiency of pre-trial proceedings.

Keywords: criminal procedural status; investigator; function of criminal prosecution; principle; independence; autonomy.

Arguable issues of introduction of the institute of investigating judge into the Russian criminal proceedings

Tatiana K. Ryabinina – PhD in Law, Professor, Head of the Department of Criminal Procedure and Criminalistics at the Southwest State University.

The article is devoted to the problem of introduction of the institute of investigating judge. Analyzing arguments of advocates and opponents of the institute, the author casts doubt on necessity of its introduction.

Keywords: investigating judge; judicial control; legalization of evidence; deposition of testimony; preliminary hearing.

Legal certainty of statics and dynamics of the Russian criminal procedural law

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The article makes an attempt to analyze the actual state of legal certainty of the Russian criminal procedural law in the present period, both from the perspective of stability of legal regulation per se and in terms of objectification of this stability in practical acts of law application.

Keywords: stability of law; collision of norms; conflict of law; legal consciousness and mindsets of parties to legal relationships.

Inviolability of property as a principle of criminal proceedings

Igor B. Tutynin – PhD in Law, Associate Professor, Associate Professor in the Department of Criminal Procedure at Moscow University of the MIA of Russia named after V.Ya. Kikot.

The author of the article proposes to regard inviolability of property as a principle of criminal proceedings, which would result in the corresponding changes to be made to the Criminal Procedural Code of the Russian Federation and the law enforcement practice.

Keywords: principle of criminal proceedings; inviolability of property; procedural coercion of property character.

Specific features of origin and development of rule-making in Russian criminal proceedings

Yury V. Frantsiforov – Doctor of Laws, Associate Professor, Professor in the Department of Criminal Procedure at Saratov State Law Academy.

The article considers historical periods of origin and buildup of rule-making in the Russian criminal proceedings. The author analyzes the current state of rule-making by the ratio of legislative acts and bylaws, which is the most radical way to settle the conflicts, the filling of gaps and the streamlining of provisions of criminal procedural law.

Keywords: rule-making; criminal proceedings; settlement of conflicts; judicial reform; improvement of legislation; filling of gaps; elimination of collisions.

Start of criminal proceedings: a moment or the key stage?

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The article considers options for start of criminal proceedings, from the 1864 Statute of Criminal Procedure till the present time, explains the essence of the current stage of initiation of a criminal case, analyzes the changes which had been made to it during the effective period of the Criminal Procedural Code of the Russian Federation, considers the disputable issues of its reforming, and concludes on objective existence of the stage of criminal procedural activities at which it is necessary to carry out primary checks of crime reports.

Keywords: start of criminal proceedings; stage of initiation of criminal case; check of crime report; initiation of criminal case; refusal to institute a criminal case.

Relevant issues of termination of criminal case (criminal prosecution) in respect of minors

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The article considers relevant issues of termination of criminal case (criminal prosecution) in respect of minors who, as of the time of committal of the crime, have not yet reached the age of criminal responsibility. The author proves that setting the issue of termination of criminal prosecution according to Part 3 of Article 27 and the Clause 2 of Part 1 of Article 24 of the Criminal Procedural Code of Russian Federation is inappropriate.

Keywords: termination; criminal case; criminal prosecution; minor; rehabilitation.

Specific features of observance of rights of the accused in the course of selection of restriction measures in accordance with Articles 102 to 105 of the Criminal Procedural Code of the Russian Federation

Magomed V. Esendirov – PhD in Law, Lawyer at Law Office «Musaev and Partners».

The article is devoted to a study of specific features of exercise of rights of the accused during selection of procedural measures of restriction in the form of written undertaking not to leave the place and proper conduct, personal surety, observation by the command of the military unit and supervision of a minor suspect or accused.

Keywords: the accused; indictment; criminal process; rights; investigator; inquiry officer; preliminary investigation; measures of restriction.

Legal regulation of powers of the court in initiation of a criminal case in Tajikistan

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The article is devoted to determination of judicial duties in terms of initiation of criminal cases by judges. The author determines essence and content of disputable powers of the court and proposes corrections within the framework of their elimination.

Keywords: initiation of criminal case; prosecutorial bias; criminal case; Criminal Procedural Code of the Republic of Tajikistan; lawmaker.

PERSONALIA

Our congratulations on the 70th anniversary of Victor Petrovich Salnikov

Sergey I. Zakhartsev – Doctor of Laws, Professor in the Department of Theory and History of State and Law at Moscow State University of Technologies and Management named after K.G. Razumovskiy, Assistant Director General Joint-Stock Company «Russian machines».

The article is devoted to the jubilee of Victor Petrovich Salnikov, Doctor of Legal Sciences, Professor, Academician, Honored Scientist of the Russian Federation, a honorary employee of law enforcement authorities, a long-standing member of the expert council of the Higher Attestation Commission, former head of the St. Petersburg University of the Ministry of Interior Affairs of Russia, and retired Lieutenant General of Militia.

Keywords: philosophy; jurisprudence; legal sciences.

Please meet comprehensive theory of law

Sergey I. Zakhartsev – Doctor of Laws, Professor in the Department of Theory and History of State and Law at Moscow State University of Technologies and Management named after K.G. Razumovskiy, Assistant Director General Joint-Stock Company «Russian machines».

Viktor P. Salnikov – Doctor of Laws, Professor, Editor-In-Chief of the «Legal Science History and the Present» journal, Honored Science Worker of the Russian Federation.

The article is devoted to an insight into foundations of the new theory of cognition of law – comprehensive theory. The article expresses the main statements of this theory and its relevance for development of modern law. This theory has attracted attention of Russian and foreign experts. The article will be interesting to researchers and to educational researchers, as well as to everyone interested in problems of cognition of law.

Keywords: law; theory of state and law; comprehensive theory of law.