ODOROLOGICAL EXAMINATION IN THE CRIME INVESTIGATION PROCESS. THEORY, METHODS AND PRACTICE

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Annotation

This scientific article discusses various problematic aspects of the odorological examination method – as a specific branch of forensic technology that studies the mechanisms and patterns of the formation of odor traces and their procedural application in the process of pre-trial investigation. Natural science, technical and tactical, as well as procedural aspects are taken into account.

Key words: science, odorology, method, smell, examination, sample, crime.

Introduction

In the process of pre-trial investigation of crimes in modern conditions, law enforcement agencies use various scientific achievements to study the patterns of preparation, commission and disclosure of crimes, the occurrence and existence of its traces, the collection, examination, evaluation and use of evidence.

It should be emphasized that odorological examination is purposefully studied in Kazakhstan as a branch of forensic examination, which includes the detection and removal of traces of smell from the crime scene.

An odorological laboratory has been operating in the operational forensic department of the internal affairs since 1998, where odor traces are stored and further investigated.

Odors are seized at the crime scenes and afterwards are delivered to the odorological unite of the forensic department, where they are stored until the investigative unit assigns an odorological sample – when there is a detainee from whom the comparative odor is removed. In practice, specialists – odorologists go to the scene of the incident as part of an investigative and operational group. The OKU laboratory is one of the most efficient laboratories in Kazakhstan. Over the years of the existence of this laboratory, it has contributed to the

disclosure of many grave and especially grave crimes. For example, in the first half of 2020, specialists compared 15 samples, 14 of which gave a positive result.

These studies are carried out on the basis of the police dog training center, in which an inspector-dog handler and a specially trained dog-biodetector participate. Since the sense of smell of a dog is 700 times greater than the sense of smell of a person. The dog captures two atoms per liter of air. This research will always be relevant, because at the slightest contact of a person with any object, his individual smell always remains.

Main part

An important role in solving crimes is played by the study of traces of smell left by the criminal at the scene of crime. They are directly related to the mechanism of committing a crime and carry complete and objective information about the person who committed the crime, the victim, the instruments of crime, the subject of the crime and the objects of the scene. As a result of many years of practice of using sniffer dogs for various purposes related to work on tracks, samples, the reliability of the results of using a live odor analyzer has been repeatedly proven.

Thus, a group of criminologists consisting of A. Vinberg, V. Bezrukov, M. Mayorov and R. Todorov opened the forensic odorology or odorological method to the world[1], which consists in the collection and preservation of odor traces during investigative actions, as well as their further use in laboratory examination. In this case, it is possible to solve the diagnostic and identification problems of forensic medical examination.

Commonly known that the detection of odor traces is probabilistic in nature, since an assumption is made about the possibility of their formation on certain objects. Smell marks may remain on crime instruments, the ground, and furniture, however they often disappear inconspicuous and traditional marks at the crime scene are seized. Since most of the odor traces cannot be perceived by humans due to their physiological characteristics, the olfactory apparatus of a specially trained dog, which has the highest resolution compared to currently existing specialized devices, is most often used as a detector of odor traces[2].

Traditionally, the odorological method was widely used in operational-search activities, but with the first proposals for using this method in the

1 Ishchenko, E. P., Toporkov, A. A. (2005). *Forensic Medicine: Textbook*. Ed. 2nd, 74.

2 *Dogs can sniff out criminals with amazing accuracy*: https://www.ifiscience.com/plants-and-animals/dogs-able-sniff-out-criminfls-crime-scenes/

process of proving, some problems arose. The founder of the Soviet school of criminology R. S. Belkin believed that the problem of the odorological method can be reduced to four aspects: natural science, procedural, technical and tactical, and ethical[3].

The natural science aspect should be considered from the point of view of the presence of those circumstances, on the basis of which it can be concluded that it is advisable to use this method for identifying a person. It explores the essence and nature of odor traces, their features, characteristics. The theory of odorological examination is often criticized, but it should be said that even despite the absence of a general theory of smell, its properties, such as relative immutability and individuality, have been acknowledged as indisputable facts for rather long period, because this is confirmed by the studies of biologists, doctors, dog specialists and most forensic experts[4].

The human odor trace is a complex set of odors. We agree with the opinion of A. I. Vinberg[5], who included into this system: a) smells of certain parts of the body with certain olfactory characteristics; b) individual smell; c) the smell of a person in clothes, including professional smell and side smells of perfume, soap, toothpaste, tobacco, etc.

Since the individual smell of a person depends, first of all, on the state of the sources of secretions of sweat and fatty glands, the vital activity of which is subject to known age-related changes.

In the technical and tactical aspect, the degree of effectiveness of methods, tactics, technologies for detecting and preserving odor traces, as well as their sampling, is determined by forensic science. They play an important role in determining the veracity and reliability of the data obtained.

However, tactics must ensure clarity, objectivity, impartiality, reliability, credibility and evidence. To solve these problems, R. S. Belkin proposed to establish tactical rules that must be observed when sampling. Firstly, specially trained dogs should be used for these purposes. Secondly, it is necessary to minimize the influence of a specialist dog handler on the activity of dogs[6] in order to ensure maximum objectivity and reliability of the results of these procedural actions. Thirdly, it is necessary to use several dogs, because, as A. Aubakirov wrote, "the positive result of two "identifications" by two dogs is

3 Belkin, R. S. (2007). *Criminology course*. T. 3, 268.

4 Strogovich, M. S. (1972). *On forensic odrology,* 122.

5 Vinberg, A. I. (2004). *On the issue of organoleptic-odorological forensic medical examination*, 60.

6 Belkin, R. S. (2007). *Criminology course*. T. 3, 61.

not two, but four times the value of each of them separately"[7]. Fourth, it is necessary to create appropriate conditions for sampling in order to exclude the possibility of influencing the result by exposing the dog to various stimulus. Fifth, it is worth using standard odor carriers that do not differ from each other in appearance – color, shape, size, in order to provide a sample solely by smell, and not by other criteria. Also, despite the fact that sampling is carried out as a technical procedure, if it is used in the process of proof, then the presence of observers who are not interested in the outcome of the case, who will act as a kind of witness in the production of an investigative action, is necessary. Based on the results of sampling, an special document should be drawn up, in which not only the result itself is recorded, but also a detailed description of the course and conditions of sampling are described.

The procedural aspect of the problem is central and the most difficult to overcome. Opponents of this method are convinced that the results of the sample can only be important in operational-search activities, since, as V. Yu. Karlov said "We do not know the Charles action"[8].

An analysis of judicial practice in this context shows the emergence of legal relations in the field of application of odrological expert knowledge and, as a result, their possible violation in legal proceedings, to a greater extent is associated with the procedural regulation of the ordering and performance of an odrological examination existing in Kazakhstan.

As an example, it suffices to cite the norm of the Criminal Procedure Code of the Republic of Kazakhstan on the possibility of ordering an expert examination in the process of pre-trial proceedings.

In any case, one cannot but agree with the position of A. I. Vinberg, V. Arseniev and other supporters of the odorological method of proof, who have repeatedly emphasized that "the actions of a dog, like any evidence, are subject to evaluation in conjunction with other evidence, can in each case decide on the evidence provided by forensic odorology and evaluate them in together with other available evidence in the case"[9]. One of the solutions to this problem may be the use of the odorological method within the framework of an already existing investigative action or investigative experiment.

The risk in the research process is the possibility of erroneous determination of the individual smell of a person in identical twins, since they have the

7 Aubakirova, A. (2019). *Fixation of evidence in criminalistics and legal proceedings*, 17.

8 Karlov, V. Yu. (2011). *Forensic Medicine: Thesaurus Dictionary and Diagrams: Textbook*, 42.

9 Andryushina, A. V. (2020). Problems of the odorological method. *Young scientist*, 20, (310), 241–243.

same genetic structure. Possibly incorrect determinations of odor traces by detector dogs due to various reasons, including the physical, psychological state of the animal and the individual psychophysiological state of a person[10].

At the same time, it can be noted that the problem of applying the odrological method in the system of case investigation is still under discussion and solution. Of course, an undeniable solution to this problem by instrumental methods would put an end to disputes about the admissibility of an odrological examination.

In practice, the unresolved issue of discussing the problem of the odorological method is the question of the evidentiary value of the results of its application. Opponents of odorological identification allow the use of service-search dogs only in the field of operational-search activities and categorically deny any possibility of using a dog as a means of identification by smell in the field of evidence. However, V. I. Shikanov and N. N. Tarnaev[11] believe that the results of using a search dog cannot be considered as evidence, since the legislation of the Republic of Kazakhstan does not mention a search dog in an exhaustive list of sources of forensic evidence. On the other hand, when considering what documents may be used in prooving procedure it is obvious that the certificate of the results of odorological sampling fully corresponds to this characteristic. It also satisfies the conditions for the admissibility of a document as evidence.

According to A. I. Vinberg, V. Arseniev[12] and other supporters of the odorological method in proof, they repeatedly emphasized that the actions of a dog, like any evidence, are subject to evaluation in conjunction with other evidence and that is prerogative of the court as final decision maker.

As already noted, the sensitivity of the dog's olfactory analyzer is so much higher than the sensitivity of existing and possible in the foreseeable future devices – odor analyzers, which practically excludes any competition with the biodetector. The individual smell of any object and a person in particular cannot be reproduced by a simple synthesis of the components corresponding to it. It is characterized not so much by the quantitative and qualitative composition as by the specific one. Attempts to recreate a specific odor by mixing the odor

10 Raimzhan, S. B. (2020). On the issue of using odrological knowledge in the practice of detecting and investigating crimes. *Bulletin of the Academy of Law Enforcement Agencies*, 1, (15), 73: http://185.107.174.154:8080/bitstream/handle/7171/499/09.pdf?sequence=1&isAllowed=y

11 Panfilov, P. B. (2007). *Basic principles for ensuring the reliability of the study of human odor traces using detection dogs in forensic examination*, 264.

12 Zhizina, M.V. (2012). *Fundamentals of forensic tactics of judicial interrogation in the civil (arbitration) process: Scientific and practical guide,* 67.

components in the proportions indicated by the analysis were unsuccessful.

A group of scientists believed that in this aspect of the problem, the most promising method of modern bionics is the direct use of biological mechanisms in technical systems[13]. Based on this idea, they proposed the construction of an odorological examination as a kind of organoleptic examination, widely used in the food and perfume industries. There is another option for a procedural solution to the problem. The odorological method can be used as part of one of the legalized investigative actions – this is an investigative experiment[14]. Adopt the methods of the developed international standard for dog training to conduct such studies. Where each state at this stage accumulates its personal experience.

However, the impossibility of using the results of the sample in court proceedings as one of the main evidence, since the criminal procedure legislation provides for this type of evidence as an additional, recommendatory nature. Lack of sufficient scientific evidence to conclude that the dog's behavior in the sampling was reliable.

There is no possibility of rechecking the results of using live express detectors, due to the unreasonableness of the creatures, the dog cannot be "interrogated" in order to find out the reasons for the mistakes it makes, and therefore there are no guarantees of the reliability of its behavior.

Along with objections of a procedural nature, opponents of the use of the odorological method in crime investigation as proving procedure assign an important role to objections of an ethical nature. The main one is the humiliation of the dignity of tested people, both suspected and obviously not involved in the case, presented with him[15]. As in deciding on the very admissibility of using the odorological method, the approach to determining its ethics is twofold, if the method is used in the process of operational-search activity and its moral character is not in doubt.

With the development of forensic science, expert practice and the development of the whole society in general, the range of objects that can acquire evidentiary value will constantly expand. It seems that among them completely new categories of objects will appear, the evidentiary properties of which will be directly inaccessible to the perception of the investigator.

13 Averyanova, T. V., Belkin, R. S., Borodulin A. I. (2009). *Forensic support of the activities of the criminal police and preliminary investigation bodies*, 19.

14 Belov, A. *Examination of human odor traces*: http://sntg5.com/obshchestvo/zakonodatelstvo/mesto-prestupleniya-imeelzapah.html

15 Ishchenko, E. P. (2007). *Criminalistics: a course of lectures*, 9.

Conclusions

Along with the above, we propose to study the best practices of foreign countries actively practicing odrology for further analysis and the possible prospect of using information obtained in the course of odrological studies as an evidence base during pre-trial proceedings.

Constantly improve the methods and means of detecting, removing, storing and using odor traces, which are so difficult to determine by the human sense of smell, but are distinguished by efficiency and accuracy.

On the territory of the Republic of Kazakhstan, it is necessary to develop this direction and constantly form new centers specializing in odrological research.

To form an extensive experimental, practical, material, technical, legal, organizational and methodological base, the main purpose of which should be to provide effective and invaluable assistance to law enforcement agencies in the detection and investigation of offenses and crimes.

However, we believe that the development of science in our country, aimed at improving and improving the application of odrological methods, will lead to the expected irrefutable results that can be used with confidence in legal proceedings as one of the main sources of evidence.

ODOROLOGINĖ EKSPERTIZĖ ĮRODINĖJIMO PROCESE. TEORIJA, METODAI IR PRAKTIKA

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Santrauka

Moksliniame straipsnyje nagrinėjama geriausia Kazachstano praktika tiriant odrologiją – kaip savarankišką teismo ekspertizės šaką, įskaitant kvapo pėdsakų aptikimą ir paėmimą nusikaltimo vietoje. Įvairūs probleminiai odorologinio metodo aspektai nagrinėjami kaip speciali teismo ekspertizės dalis, tirianti kvapo pėdsakų susidarymo mechanizmus ir dėsningumus. Atsižvelgiama į gamtos mokslų, techninius ir taktinius bei procedūrinius aspektus.

Tobulėjant kriminalistikai, ekspertinei praktikai ir apskritai vystantis visai visuomenei, objektų, galinčių įgyti įrodomąją vertę, spektras nuolat plėsis. Dėl ilgametės praktikos Kazachstane naudojant šunis įvairiems tikslams, įskaitant

darbą su pėdsakais, mėginiais, gyvų biodetektorių naudojimo rezultatų patikimumas buvo ne kartą patvirtintas.

Raktiniai žodžiai: mokslas, odorologija, tyrimo metodai, kvapas, šuo, nusikaltimas.