

UDC 343.13

## PROCEDURAL ORDER OF IDENTIFICATION

**NURBEK Dana Tasibekkyzy**

master of Law, lecturer  
Zhetysu University named after I. Zhansugurov  
Taldykorgan, Kazakhstan

*This article shows objects that belong to the recognition series. It is also established that the subject of this investigative action is the submission to the recognizer in accordance with the procedure provided for by law for the purpose of establishing equality of objects, corpses and other objects or photographs of them. On the basis of this investigative action, the recognition of an object that had previously remained in the mind of observation among other objects, its mental comparison, the result of comparison gave a conclusion about their equality, similarity or difference.*

**Key words:** recognition, recognition procedure, objects, display rules for recognition.

The specified objects may include: a person, a corpse, an object, an item, an animal, in some cases an apartment, a room, or a separate place. The subject of this investigative action is the submission to the recognizer in accordance with the procedure provided for by law in order to establish the equality of the above-mentioned objects, objects and other objects or their photographs.

At the heart of this investigative action is the psychological process by which the recognizer presents an object that was previously left in the mind during observation, as well as its mental comparison with other objects. The result of such a comparison is the conclusion of their equality, similarity or difference.

Rendering for recognition is not possible in the following cases:

- the presence of physical or mental disabilities in the recognizer that resist the conduct of a particular type of presentation for recognition;
- the person to be recognized does not have any features that make him / her recognizable, that is, personalizing him / her;
- the identification of the relevant object was previously accepted by the applicant on another investigative action;
- when the recognizer clearly identifies the object to be recognized, so as not to raise doubts about the individuality of this object, because it has already known it well;
- when performing a visual identification due to the presence of information about the object (for example, the number on the watch and the coinci-

dence of such a number in its passport).

General rules for recognition:

- 1) the recognizer is interrogated in advance about the circumstances under which he previously observed the person or object concerned, as well as by what signs and features he can recognize this object;
- 2) the number of objects offered for display must be at least three;
- 3) objects proposed together for recognition must have an external similarity as possible; the object to be recognized is represented together with other homogeneous objects;
- 4) for recognition, the display condition must be close to the one that perceives this object at the scene of the incident (proximity of the object, during the day, at night, when the light falls, etc.);
- 5) before the start of the demonstration attempt for recognition, it is recommended that the person to be recognized take his/her chosen place among the persons presented together;
- 6) demonstration actions for recognition are carried out in the presence of witnesses;
- 7) if there are persons recognized by the witness or the victim, then they are brought to criminal responsibility for giving false testimony and refusing to show it;
- 8) it is forbidden to ask leading questions and make road movements;
- 9) if the recognizer indicates one of the presented persons or objects, it is required to explain by what signs and features he recognized this object.

Features of rendering a corpse for identification

are observed in the following cases:

- the possibility of rendering a corpse for identification without preliminary questioning from witnesses (for example, when a corpse is found without a statement about the disappearance of a particular person – to present it to the nearest population);

- an attempt to «style» the corpse, i.e., if necessary, at the direction of the investigator, before showing the corpse to the recognizer, the specialist makes a grimace (the presence of injuries, decontamination of the corpse);

- show yourself separately to each person who recognizes the corpse;

- to present the corpse without clothes, and then to present his clothes among other things.

Much depends on the completeness of the information presented in the pre-confession investigation. For example, it simplifies the search for accurate data on the sign of a person or the sign of an object, forms the correct selective selection of all displayed objects, guarantees the reliability of recognition and the correct evaluation of the results obtained during the production of a demonstration for recognition.

When determining the situation in a controlled form, the investigator should identify objective and subjective factors that contribute to the completeness and correctness of the investigation [12].

It is necessary to determine the situation in which the subject was before, during and after the occurrence of the incident; the direction of attention, perception, duration of observation, the degree of familiarity with the object being explored, the strength and direction of illumination, the mutual location of the object being explored with other surrounding objects.

It is important to know whether there is a defect in the eyes and ears of the recognizer in order to evaluate the indications of the respondent. It is expedient to ask the interrogator to determine whether he remembers the person and object well. When investigating the list of signs of items in the possession of the respondent, it is necessary to determine whether any part of this item remains with the questioner. If there are any of them, then they should be reviewed and stored as much as possible, as forensic, commodity-recognition chemical and other examinations can be carried out to find the

substances required to confirm recognition.

Starting the investigation based on the features of the face of a person who has seen it before, the investigator offers the interrogator to report everything that he remembers. Listening to the conversation, the investigator makes a record, marking the marks named by the respondent. It is also necessary to ask control questions about the correctness of the respondent's indications, which allow sifting them [13, p. 187].

If the information provided by the respondent in a free conversation is sufficiently justified, but not exhaustive, the investigator gives clarifying questions aimed at complementing the description of the verbal portrait. The sequence of questions related to the description of the features of the human body part should correspond to the system of description by the method of verbal portrait accepted in criminalistics. First, the respondent is asked a question about common features (for example, height, body structure), and then about individual features (head, face, forehead, etc.).

To help the respondent describe the appearance of a person, the investigator can use visual aids: drawings, slides with the image of a separate facial part of a person, color tables, computer, compositional portraits.

The words and terms of the respondent describing certain features may not be changed by the investigator in the interrogation protocol, which is used in forensic terminology. The evidence is set out in the investigation protocol. However, the investigator should not limit himself to the words «warm color, beautiful face», or «not beautiful», «like the figure of an athlete», which give a certain image of the person describing the person. By keeping these images in the investigation protocol, the investigator must obtain confirmation of information that gives a description of the actual appearance of the person being answered by asking clarifying (clarifying) questions [14, p. 67].

After listening to the respondent's answer, asking interrogative and control questions, as well as finding out whether the answer contradicts or does not correspond to the generally accepted concept, known facts, the investigator should pay attention to the respondent and take measures to eliminate the contradiction. Here he should not

express his opinion and details regarding the signs of the recognizer.

When completing the investigation, the investigator asks the respondent if he can recognize the person among other people who have a mutual similarity with the above-mentioned features.

Often, the respondent finds it difficult to describe his appearance, even if he remembers the signs of the observed person well. This is explained by the fact that for a person who does not have the skills to describe the appearance of another person – a more psychologically difficult task than recognition. Therefore, there is a situation when the respondent says that he can recognize the person who was previously observed, but it is impossible to list his symptoms in full. In this case, the investigator must find out what such beliefs of the respondent are based on, what is their general field of view, etc. Most likely, the respondent will have a good ability to remember what he saw and will not be able to describe what he saw at all.

Among lawyers, there is an opinion that recognition on the basis of preliminary indication, description of the sign for recognition loses its evidential significance. Given the importance of this, lawyers agree with the data of modern psychology, which states that the reliable measure of recall performed in the absence of the objects we are talking about is a copy.

The result can be considered reliable if a complete preliminary description of the sign of the person to be recognized is sufficient, and the respondent no longer emphasizes these signs in recognition. The evidentiary value of such recognition is questionable if it is not clear for what reason the person to be recognized did not name the signs during the investigation, or if the person to be recognized declared without consideration of the signs, and then familiarized with what was indicated.

On the basis of the data of modern psychology, it is necessary to consider the question of the expediency of re-investigation before showing it for preliminary recognition. If the respondent cannot fully correct the signs of the person who asked him, there is a need for a second investigation. Conducting such an investigation will bring positive results if there is a loss of

consciousness in the short time spent by the forces of the properties of this person's body (for example, the pressure of nerve cells). Next, if you relax and restore the smooth functioning of your nerve cells, you can renew the temporarily forgotten ones again. The next thing you know, the initial memory immediately after the discovery will be more detailed than the memory that you postponed for two or three days.

If the re-investigation contains not only additional information about the person's symptoms, but also a different description of the symptoms from those mentioned in the first investigation, the investigator must determine the reason for the change in the response. In the first and second investigations, the character of a person is described differently, and if this discrepancy is not corrected by a direct contradiction in the testimony, then subsequent cognition also has no evidential significance.

Thus, the court, having examined the case of car theft and analyzed the irreparable contradiction in the testimony, brought the person to the defendant twice for recognition, and then came to the conclusion that the recognition is not reliable, because the victim, describing the criminal in the investigation of the police body, noted that his face was kind, bright, but not white, like a Russian. At the next investigation, the victim said that the image of the citizen who stole the car was darkened, so he could not remember the color of the offender well. The obvious contradiction between the first and second investigations was not corrected by the testimony of the victim in this part, which was a serious error in the investigation of the case [2].

Sometimes, when an investigator interrogates several people who later become recognizers, he encounters the following phenomenon: one person to be recognized is described differently by each of the respondents. In this case, it is necessary to analyze whether there is a serious contradiction in the description of one of the features of the person to be recognized, or the correct orientation of the appearance of the person remembered in the expression of attention, memory and image of each of the respondent.

In investigative practice, it is also known that each viewer correctly describes the appearance of the same criminal, but the respondents paid

attention to different features.

Display an object next to other objects that have external similarities.

In criminal proceedings, the person to whom the recognition is made must be indicated among other persons who have an external similarity with the recognized one, and the recognized one must be indicated in the same number of objects. Fulfilling these procedural requirements is actually difficult, but mandatory. Recognizing a person (or other object) among other analogies creates confidence in the correctness of the results obtained. Usually, a person who recognizes a person he has seen before retains his image in his memory so much that he classifies the set of features in a differentiated way, and then distinguishes from the ones that are similar to him the features that individualize the features of a person who is exactly like him.

If the image of the previously seen object does not remain in memory accurately, then by looking at the similarities between the objects, the recognizer will not be able to distinguish individual features of the marked object from the similarities, in which case there is no exact similarity. In this regard, if a violation of the procedure specified in the procedural rules is allowed, favorable conditions will be created for the detection of errors. When he is unable to correctly compare similar features and clearly distinguish the same person, he is critical of his mind and soon leads the knower to the wrong conclusion in recognizing the same person.

What do you need to understand when showing people by external similarity in order to recognize them? The selection of these people must meet the following requirements:

1) there should be no immediate changes in their height, age or body structure.

2) the similarity of all shown persons in a separate part of the face should also be taken into account the type, shape, size, color of hair and appearance, hair color, as well as racial and national characteristics of the viewer's appearance.

3) outerwear and shoes of the demonstrator must be similar in name, shape, color, and degree of wear.

When it comes to the identity of the displayed items, it should be borne in mind that in this case the following is understood: identity of the name of the item, similarity of brands,

models, type, size, color, degree of wear. The Criminal Procedure Law only defines the minimum number of persons who indicate for recognition: there must be at least three of them. A large number of those shown for recognition is determined by the investigator. It should be borne in mind that as the number of displayed objects increases, the concentration of the recognizer's attention decreases. The law does not determine the number of objects displayed for recognition, but only indicates that they should be a group.

Considering other cases related to the correct choice of people and objects in which the recognizable object is located between them, it should be noted that these people and objects should not be previously familiar to the recognizer. In the opposite case, recognition loses the significance of proof, since the recognizer in such a situation is deprived of the opportunity to compare similar features, differentiate them, and divide them, and the investigator cannot come to an agreement on the objectivity of recognition.

It is also necessary to know the exact address of citizens who will be shown for recognition, and the court should be able to call them if necessary.

To this day, the question of the rules of procedure for persons to be shown for recognition remains open. Citizens invited to participate in this investigative case, as in the rules, gratefully accept the offer of the investigator, but they also have the right to refuse. Thus, a person as a showman requires his consent to participate. If this person is present for recognition, the investigator has the right to receive a salary at the place of service for the duration of his stay. Transportation costs associated with Arrival and departure are paid to the investigator according to the applicable rules.

The person called as a demonstrator must be presented by the investigator for recognition in order to contribute to the success of the investigative case and, if necessary, have a real opportunity to appeal against the actions of the investigator. At the same time, these people also have certain responsibilities. By agreeing to participate as a showman for recognition, they must comply with the investigator's instructions about the tour, to answer the questions raised in order to hear their voices and words. With a warning from the investigator, they should not

disclose information that they have learned from the preliminary investigation.

The question is whether the investigator has the right to photograph or videotape the entire group, or whether the consent of the recognized person among them is required. In our opinion, since citizens have given their consent to participate in the investigation, they do not have the right to interfere in its conduct and recording, so it should be considered that without the additional consent of the participants, they have the right to take a video recording of the entire group to photograph. The purpose of the photo or video recording should be explained to the participants.

Analyzing the above, in our opinion, the order of presentation for recognition can be attributed to:

1. The recognizer is questioned in advance about the circumstances under which he

previously observed the person or object concerned, as well as by what signs and features he can recognize this object.

2. The number of objects offered for display must be at least three.

3. Objects proposed together for recognition must have an external similarity as possible; the object to be recognized is represented together with other homogeneous objects.

4. For recognition, the display position must be close to the position in which this object was perceived at the scene of the incident (proximity of the object, during the day, at night, when the light falls, etc.).

5. Before the start of the demonstration attempt for recognition, it is recommended that the person to be recognized take his / her chosen place among the persons presented together.

## REFERENCES

1. *Buzmakov V.A.* Discovery and study of local Biological Research: a textbook. – Tyumen: Tyumen Legal Institute MIA of Russia, 2009. – 101 p.
2. *Burova E.E., Karabayeva A.G., Kirilova G.R.* Introduction to philosophy and methodology of science. «I'm sorry» she said. – Republican Executive Office of the Kazakh Academy of Education. «No,» I said. – Almaty, 1999 – 269 p..
3. Vienna UN Convention on Combating Illicit Trafficking in Narcotic Drugs and Psychotropic Substances of 20 December 1988. – URL:[http://online.zakon.kz/Document/?doc\\_id=31622648#pos=0;180](http://online.zakon.kz/Document/?doc_id=31622648#pos=0;180).
4. Palermo UN Convention on transnational organized crime of 9 December 1998. – URL:[http://online.zakon.kz/Document/?doc\\_id=1024718#pos=0;0](http://online.zakon.kz/Document/?doc_id=1024718#pos=0;0).
5. *Vasiliev A.N., Mudyugin G.N., Yakubovich N.A.* Planning of planning of prestupleniy. Moscow, 1957.

## ПРОЦЕССУАЛЬНЫЙ ПОРЯДОК ПРЕДЪЯВЛЕНИЯ ДЛЯ ОПАЗНАНИЯ

**НУРБЕК Дана Тасибеккызы**

магистр права, преподаватель-лектор

Жетысуский университет им. И. Жансугурова

г. Талдыкорган, Казахстан

*В данной статье перечислены объекты, относящиеся к разряду распознавания. Также установлено, что предметом данного следственного действия считается представление опознавателю в порядке, предусмотренном законом, с целью установления равенства предметов, трупов и других объектов или их фотографий. На основании данного следственного действия было дано заключение о равенстве, сходстве или различии признанного ранее в наблюдаемом сознании объекта в ряду других объектов, его мысленном сопоставлении, результате сопоставления.*

**Ключевые слова:** опознание, порядок опознания, объекты, правила предъявления для опознания.