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Юлія ГРИШКО

КРИМІНАЛІСТИЧНА ХАРАКТЕРИСТИКА ОСОБИ ЗЛОЧИНЦЯ ТА ОСОБИ ПОТЕРПІЛОГО ДОМАШНЬОГО НАСИЛЬСТВА

Анотація. Наукова стаття присвячена дослідженню криміналістичної характеристики особи злочинця та особи потерпілого домашнього насильства. Розглянуто кримінологічні ознаки структури особи злочинця, а також особливості постраждалого, як елемент криміналістичної характеристики домашнього насильства. Проаналізовано питання пов'язані з характеристикою осіб, які вчиняють домашнє насильство та жертву домашнього насильства.

Ключові слова: домашнє насильство, криміналістична характеристика, особа злочинця, особа потерпілого.

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ESTABLISHMENT OF QUALIFICATION FEATURES OF SHORT-BLADE COLD WEAPONS AND CONSTRUCTIVELY SIMILAR PRODUCTS

Abstract. The conducted scientific work is devoted to the study of qualification features of short-bladed melee weapons and structurally similar products. On the basis of a careful study of the opinions of weapons scientists, information and reference literature, a thorough analysis of expert practice, certain discrepancies in the assessment of research objects, their structural elements, etc. were identified. Modern and sustainable approaches to the definition of cold steel in terms of reflection of qualifications and their consideration in the process of short-bladed cold steel are studied. Examples from our own expert practice and illustrative material of short-bladed melee weapons were used to illustrate the study.

Key words: cold steel, short - bladed cold steel, qualification features

Relevance of the study. Among the forensic examinations of weapons assigned by pre-trial investigation bodies and courts to the divisions of the Expert Service of the Ministry of Internal Affairs of Ukraine, almost a quarter are forensic examinations appointed as part of the

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investigation of crimes under Part 2 of Art. 263 of the Criminal Code of Ukraine by expert specialty 3.3. "Cold Weapons Research".

There is no separate division by types of melee weapons. However, the results of the study of expert opinions and interviews with forensic experts show that among the research in the field of cold steel research, 80% are short-bladed products. It is clear that the most common objects are (types of short-link) and so on. And if during the expert study on cold steel of industrial manufacture more or less there are no controversial issues, then on short-bladed products, especially knives, the situation is opposite.

Therefore, to establish whether an object is a melee weapon and to what type it is necessary, it is necessary to have basic knowledge about the existing system of classification of melee weapons, its structure and so on.

Resent publications review. The basis of this scientific work were the scientific achievements of prominent forensic scientists: R. Belkin, P. Bilenchuk, I. Gerasimov, V. Berger, L. Drapkin, A. Ishchenko, B. Komarinets, A. Kofanov, O. Podshibyakin, E. Tikhonov, A. Ustinov, A. Filippov, N. Yablokov and others. However, it should be noted that the current requirements for the study of short-bladed melee weapons do not fully reflect the scientific and practical achievements, which are certain conflicts in expert research and require further study.

The article's objective is an expert study of short-bladed melee weapons and the influence of qualifications on the outcome of the study.

Discussion. It is known that the history of criminal liability for the manufacture, carrying and sale of cold steel dates back to the 30s of last century – due to the increase in 1934-1935 malicious hooliganism with the use of cold steel. Until now, there are different views on the recognition of short-bladed products as cold steel. Let's analyze how well-known weapons scientists in different periods reveal the concept of cold steel.

Thus, according to the definition of A. Ustinov: an object specially made to inflict bodily harm and intended for attack and active defense in hand-to-hand combat [4, p. 35]. Adds a qualification feature – the appointment of N. Emelyanov. The scientist notes that a cold weapon is an object specially made or adapted to inflict bodily harm, convenient and suitable for its size, shape and strength for this purpose and has no direct purpose in the household and in everyday life [4, p. 34].

In turn, in the content of the concept of cold steel M. Lyubarsky includes certain qualifications. According to his definition, a cold weapon is an object that has no direct industrial or household purpose; Specially designed or adapted to inflict bodily harm on them during an attack or active defense; corresponding to these goals in terms of design features of their parts, their size and properties of materials (strength, hardness, elasticity) [4, p. 35].

If we transfer the requirements of certain concepts to the plane of current realities and expert practice of today in relation to knives, we tried to separate from the concept of "cold steel" qualifications and take them into account in short-bladed weapons.

Cold steel - objects and devices, structurally designed and by their properties suitable for repeated tasks by direct action of severe (life-threatening at the time of infliction) and fatal injuries, the action of which is based on the use of human muscular strength [3, p. 1].

According to the Methodology of forensic research of cold steel and structurally similar products, the concept of cold steel blades includes objects and devices, the striking element of which is the blade. There are weapons with short (up to 40 cm), medium (40 to 52 cm) and long (more than 52 cm) blade [3, p. 2].

After a thorough examination of the subject submitted for examination, checking the presence of structural elements, measuring its linear dimensions, etc., the expert establishes its purpose and suitability for the target. At this stage, the first problem arises, which requires positive consideration – the sufficiency of the established features.

According to the Methods of forensic examination of cold steel and structurally similar products for the recognition of objects as short-bladed cold steel, when analyzing the identified general technical and forensic requirements must take into account that the determinant for the recognition of a particular device cold steel there is a set of features:

- main purpose; design features of the striking element (for example, for the blade – shape, size, sharpening of the blade, shape and location of the tip relative to the longitudinal axis);

- design features of the handle (ease of holding, availability, shape and size of the handle or limiter);

- design features of the connection of the handle with the striking element;
- strength and elasticity of the structure as a whole;
- the possibility of defeating the target [3, p. 8].

However, a significant number of knives under study do not fully meet the above for any one or more indicators.

An example of this is the following fragments of expert opinion (Fig. 1, 2). During the experiment, the expert found that due to the configuration of the tip, it penetrates the target by 7 mm. The method established that the tip must penetrate the target at least 10 mm. (In general, in the presence of a blade with a sharpening angle of more than 70° , it is problematic to immerse the knife blade in the target to a depth of more than 10 mm).



Fig. 1. Type of knife with a sharpening angle of 74°

During the experiment, the expert found that due to the lack of a plug or limiter, when applying 2 blows, the hand slips on the blade. No further studies were performed due to the possibility of damage to the experimenter. (In general, in the absence of a plug or limiter, it is problematic to hold the knife when hitting a pine board with a force increasing to the maximum).



Fig. 2. Type of knife with no stick or limiter

From the examples we see that the above knives do not comply with the Methodology: "the shape and location of the tip relative to the longitudinal axis" and "the presence of the shape and size of the plug or limiter". We have clearly demonstrated only a few cases of non-compliance with the qualifications. Expert practice indicates the prevalence of similar manifestations. Along with this, the expert is faced with a conflict of norms. On the one hand, he is obliged to conduct static and dynamic tests of the subject.

On the other hand, it would be logical to stop the research at this stage and form a categorical conclusion. In addition, it is possible to avoid such collisions under the condition of clearly regulated features, in particular:

- click length not less than 90 mm;
- blade thickness not less than 2.6 mm;
- the presence of a tip with a sharpening angle up to 70° ;
- the presence of a limiter or plug;
- strength of the structure;
- ease of use;
- the presence of subdigital notches.

In the final assessment of the object, the expert is guided by the above set of requirements and the absence of at least one of the signs gives grounds for a negative conclusion.

Conclusions. In conclusion, during the research of short-bladed melee weapons in

practice there are some inconsistencies in the assessment of research objects, their structural elements, and so on. Taking into account the historically formed scientific point of view of weapons scientists and modern expert experience, ways to eliminate this problem and establish the necessary set of permanent features for the recognition of cold steel were proposed. In particular, we proposed to supplement the general requirements of Methods of forensic examination of cold steel and structurally similar products, namely: the length of the blade; blade thickness; the presence of a tip; the presence of a limiter or plug; structural strength; ease of use. In their absence - to stop research.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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Роман МОСКАЛЕНКО

ВСТАНОВЛЕННЯ КВАЛІФІКАЦІЙНИХ ОЗНАК КОРОТКОКЛИНКОВОЇ ХОЛОДНОЇ ЗБРОЇ ТА КОНСТРУКТИВНО СХОЖИХ З НЕЮ ВИРОБІВ.

Анотація. Наукова робота присвячена дослідженню кваліфікаційних ознак короткоклінкової холодної зброї та конструктивно схожих з нею виробів. На підставі ретельного вивчення думок вчених-зброєзавців, інформаційно-довідкової літератури, ґрунтовному аналізі експертної практики було встановлено певні неузгодження в оцінці об'єктів дослідження, їх конструктивних елементів тощо.

Досліджено сучасні та сталі підходи до визначення холодної зброї з точки зору відображення кваліфікаційних ознак та врахування їх в процесі короткоклінкової холодної зброї. Привернуто увагу до встановлення загальних техніко-криміналістичних критеріїв, як основне цільове призначення; конструктивні особливості уражуючого елементу, конструктивні особливості руків'я тощо. Запропоновано можливі варіанти усунення зазначених проблем шляхом окремих змін та уточнень загальних вимог Методики криміналістичного дослідження холодної зброї та конструктивно схожих з нею виробів поняття холодної клінкової зброї, а саме: довжину клинка; товщину клинка; наявність вістря; наявність обмежувача або утику; міцність конструкції; зручність застосування.

Задля наочності проведеного дослідження були використані приклади з власної експертної практики та ілюстративний матеріал різновидів короткоклінкової холодної зброї. •

Ключові слова: холодна зброя, короткоклінкова холодна зброя, ніж, кримінальна відповідальність.