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Description of the stages of proving

Abstract: A stage of proving as the process of ascent from the unit to the whole, must possess certain properties of the whole, a part of which it is, at the same time have properties that distinguish it from the other stages of proving.

Stages of proving can be conditionally compared to the stages of the formation of an accusation because these activities are interconnected, but the parameters of the stages of formation stages of accusation is less of the stages of proving and do not allow us to determine the properties of each of the stages, which distinguish it from other parts of the whole.

Keywords: proving; stage; accusation; structure; evidence; criminal and legal matrix.

Describing the stages of proving as a process that following from unity to whole, it is necessary to take into account that a stage as part of whole process of proving must possess certain properties of the whole, a part of which it is, that is, by parameters, characteristics and properties inherent to the whole process of proving, and be directed to achieve the general task of proof i.e. to establishment of the objective truth.

At the same time, the stage should have properties that distinguish it from the other stages of proof and allows to distinguish it as a independent stage of the whole and in the connection with the above have clearly defined boundaries, and to be linked in one system with other stages of proving, to interact with them as a strictly sequential and mutually conditioned part overall process (1, p. 211-212).

Stages of proving might be conditionally compared with the stages the formation of a

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accusation because these activities are interconnected, namely:

- a) the presence of a certain amount of evidence makes it possible to accept a system solutions that causes the next stage and changing a status of accusation;
- b) the prosecution and proving are the activity to identify and consolidate of the constituent parts of structure of these concepts;
- c) activities to identify and fixing these constitute parts find its expression, usually in one of procedural decisions, that is caused the process of implementation of criminal responsibility upon recognition by the court truthfulness of this assertion, that is the recognition of accusation as proven (4, p. 300-302).

In turn, a correlation between the process of formation of charges and process of proving might be present as correlation of the form and the content, since the process of formation of accusation is not only a simple accumulation of parts and properties of the whole and transition the assertion from one qualitative state into other but it is also activity to detect material structure of a crime, directed on research of material and intellectual traces-reflections of this phenomenon.

At the same time, from our point of view, the parameters of the stages of formation of accusation are less than stages of proving and do not allow to define the properties of each of this stages, which distinguish it from other parts of the whole.

If a priori proceed from the fact that the reliability is the truth, in the knowledge of which can be convinced, then the criterion of determining of that or this stage in the process of achieving the outcome of the criminal procedural cognition can be considered establishing of conformity and identity between the ideal model of this type of crime and criminalistical model of specific offense, built by a subject of proving in the process of establishing of the traces reflection of the system of “crime” in an appropriate environment on a particular stage of the fight against crime.

In connection with this, it is presented, that the stages of proving on its contents are agreed in full extent with appropriate stages of combat crime: with stage of crime detection; with stage of solution of crime (pre-trial investigation); with stage of court proving. It is explained by the fact that a content of the process of proving on

mentioned stages of the combat against crime in full meets all requirements that produced to the definition of the stage as such, and in spite of a single algorithm, criminalistical work on establishing the elements of material reflection of the system of “crime” does have its local specificity and possesses the characteristic parameters and features peculiar to this, specific, stage of proving. In addition, only the overall activity on proving is eventually the basis for court decision and, therefore, resolution of the case on the merits (2, p. 56-57).

In criminalistic aspect it can be allocated the following structural elements of the stages of proving: a) establishing of criminal and legal matrix of specific crime; b) designing of criminalistical matrix of application of criminal and criminal-procedural law for consideration of a specific criminal case; c) detection, investigation, fixation, verification and evaluation of the elements of criminalistical structure of a crime, criminal activity, that are caused a collection of information, adequate criminal and legal matrix of crime, carried out by the subjects of proving in accordance with the stage of combat crime; d) designing of a criminalistical model of proving of a fact of a crime, the model of proving of criminal activity on each stage of combat crime in separate, and general criminalistical model of proving – empirical basis of a process of criminal and procedural cognition; e) determination of method and tactics of the most effective verification and evaluation of the criminalistical techniques of proving through implementation of tactical operations and actions that directed on formation of a system of procedural proofs; procedural realization of the processes of reflection of the system of “crime”, and the stages of this realization; including all necessary participants in the processes of proving on the stages of detection crime and pre-trial investigation; systematization of establishing proven facts; verification of proofs; implementation of a control system over a process of criminalistical proving; evaluation of proofs; formation of the results of executed proving on pre-trial investigation; f) formation and substantiation of the conclusions during determination of identity of the elements of established criminalistical model of a crime with the elements of its criminal and legal matrix during acceptance of interim procedural

decisions on a particular stage of proving; during determination of identity of the general criminalist model of the system of “crime” with its ideal model – criminal and legal matrix – through formed procedural evidence to achieve the objective truth on completion of combined process of proving (4, p. 291-294).

Summarizing above stated, it can be made a conclusion that a stage in process of proving is a spatiotemporal, objectively, procedurally fixed period in the general system of proving that is characterized by the beginning of qualitatively determined changes which connected with establishing of the traces-reflections of circumstances of the subject of proving in result of activities of authorized subjects, and united by the general task that is by achievement of the objective truth in process of court proceedings (5, p. 160-161).

The process of proving should be considered as consecutive and permanent combination investigated processes carrying out in all stages of combat crime and therefore, it can be made a conclusion that the goals and algorithm of realization of mentioned activity in a whole, equally as in all constituted its stages, practically are equal, but the means of achievement of the goals are differ. In connection with this the sequence of actions that directed to determine the elements of material structure of a crime and also its reflections in appropriate environments, should also be united.

Proceeding from above stated, in activity of proving we allocate the following stages, each of which in turn presents a certain activity: a) establishing of criminal and legal matrix of a crime; b) designing of criminalist matrix of application of criminal and criminal-procedural law for consideration of a specific criminal case; c) implementation of maximum collection of information on this model-matrix to establish all structural elements of the system “crime” as paramount task of criminalist proving; d) verification and evaluation of established factual data, detected facts and criminalist methods their detection, and accordingly, - of the fact of committed crime, presence of tools of committing and criminal behavior of accused persons. This is implemented through the system of tactical operations and actions, with help of which subjects of proving check, for example, established fact

of committed crime that is they check also the sources of criminalistical means of its detection. During this check, besides of fact of committed crime established through structural, functional, genesis, communicative analyses, is decided one more an important task – establishment, investigation and once again verification of the elements of criminalistical structure of criminal activity and criminalistical structure it reflection and these processes are mutually induce each other; e) designing of criminalistical model of proving activity.

It should be said that all listed stages do not follow in formally delineated strict order, one by one, since the stages to combat crime and accordingly the stages of procedural proving. And identify the actual data, their verification and evaluation can be simultaneously element of criminalistical designing of the model of proving, and the element of the system of procedural cognition. Under this, designing of this model carries out permanently and it is continuously adjusted in all stages of proving (3, p. 210-215).

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