

## METHODS OF COMMITTING AND INVESTIGATION OF FRAUDULENT MOTOR VEHICLE TRANSACTIONS

LARYSA ARKUSHA,

National University Odessa Law Academy (Odessa, Ukraine)

NATALIIA CHIPKO,

National University Odessa Law Academy (Odessa, Ukraine)

DOI: 10.17589/2309-8678-2018-6-4-126-153

*Having set the goal to investigate and analyze modern methods of committing fraudulent motor vehicle transaction, we systematize and classify them. Special attention is paid to systematizing data on the identity of scammers, organized criminal groups and victims. Methodological recommendations aimed to create computer psychological profiles of scammers involved in fraudulent motor vehicle transactions are offered. Empirical methods of investigation based on available historical information about the peculiarities of the methods of committing crimes in fraudulent motor vehicle transactions are developed herein. Application of such methods will increase the effectiveness of law enforcement institutions in detecting, preventing and investigating fraudulent motor vehicle transactions.*

*Keywords: methods of committing fraud; psychological profiles of scammers; fraudulent motor vehicles transaction; victim; methods of investigation; version.*

**Recommended citation:** Larysa Arkusha & Nataliia Chipko, *Methods of Committing and Investigation of Fraudulent Motor Vehicle Transactions*, 6(4) Russian Law Journal 126–153 (2018).

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## **Introduction**

The Ukrainian economy is faced with a multitude of problems. The comprehensive and effective resolution of these problems depends on the protection of property rights. Two factors, namely, the inefficient condition of the Ukrainian law-enforcement system and the reduction of the living standards of the overwhelming majority of population have led to an aggravation of the criminal situation and an increase in encroachments on others' property. This has resulted in various forms of widespread fraud (including in motor vehicle transactions). Taking into account the rapid development of the motor vehicles market, such crimes become more and more attractive to criminal groups developing sophisticated methods of criminal activity. Moreover, high profitability of criminal activity is a system-forming factor for organized criminal groups specializing in this field.

Although the statistics of the General Prosecutor's Office of Ukraine on recorded fraudulent activities shows a reduction in the number of registered crimes; this can be considered as a proof of the increasing level of latency with regard to the given category of crimes.<sup>1</sup> Meanwhile, such reports do not consider the specific features of motor vehicle transactions and do not reflect the objective situation due to the high latency of this category of crimes. Furthermore, this fact is supported by the analysis of media materials and by the study of public opinion regarding the effectiveness of law-enforcement agencies towards detection and investigation of this crime category. This leads to the reasonable conclusion that fraudulent activities in motor vehicle transactions are clearly linked to changes in Ukrainian and foreign legislation. This factor and others are the reasons for the decrease in detection of fraudulent activities. The increase in undetected fraudulent motor vehicle transactions is also

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<sup>1</sup> According to the data of the General Prosecutor's Office of Ukraine, 47,142 scammers were registered in 2013; 41,963 in 2014; 45,904 in 2015; 46,019 in 2016; and 37,014 in 2017. 11,310 criminal proceedings were sent to court with an indictment in 2013; 8,775 in 2014; 8,154 in 2015; 6,379 in 2016; and 8,662 in 2017. See Офіційний сайт Генеральної прокуратури України [Prosecutor General's Office of Ukraine, Official website] (Oct. 13, 2018), available at [https://www.gp.gov.ua/ua/stst2011.html?dir\\_id=110381&libid=100820&c=edit&\\_c=fo](https://www.gp.gov.ua/ua/stst2011.html?dir_id=110381&libid=100820&c=edit&_c=fo). For more details on the peculiarities and existing problems of the application of monitoring methods to determine the peculiarities of obtaining statistical data in Ukraine, see, e.g., Гречанюк С.К., Сердюк П.П. Состояние преступности против жизни и здоровья и против собственности в Украине // Всероссийский криминологический журнал. 2018. Т. 12. No. 1. С. 23–31 [Sergey K. Hrechanjuk & Pavel P. Serdiuk, *The State of Crime Against Life and Health and Against Property in Ukraine*, 12(1) Russian Journal of Criminology 23 (2018)].

a factor. Moreover such category of fraudulent activities is a category of crime that is committed, as a general rule, by highly professional criminals.

Analysis of relevant materials (documents issued by police authorities and other public bodies) shows that a large number of problems are faced in the course of investigation of these crimes.

At the same time, modern methods of committing fraudulent motor vehicle transactions, and the characteristic signs of single-player scammers and organized criminal groups, remain to be explored; investigation records (as a body of information available to investigators on committed crimes) and methods which are dependent on these records will be particularly important.

In order to determine the general features of the methods of committing fraudulent motor vehicle transactions and the resulting tactical features of detection and investigation, we research and systematize the current manifestations of fraudulent motor vehicle transactions and offer appropriate methods of investigation depending on the information available from law enforcement agencies on the specifics of fraudulent activities of this type.

### **1. General Theoretical Basis of Methods of Committing and Investigation of Fraudulent Motor Vehicle Transactions**

Fraudulent motor vehicle transaction is not just a separate category of crimes; it is a profitable direction of illegal “business” for the organized criminal activity that provides the opportunity for significant gains with minimum financial inputs.<sup>2</sup>

Permanent criminal activity is a component of this type of the motor vehicle transaction. This criminal activity is connected with many sorts of motor vehicle transaction, e.g. purchase and sale, rent, and use of separate units, exercising separate actions where the motor vehicle is the important part. Moreover, this type of criminal activity permanently creates a corresponding criminal “market,” i.e. criminal “market” of motor vehicles as a product which is allowed in civil transactions but implemented with violations of certain conditions; a criminal “market” for motor vehicles when transactions therewith are prohibited (e.g. selling motor vehicles which were obtained as a results of illegal acquisition of property); a criminal “market” for motor vehicles as product which is allowed in civil transactions (e.g. car services for replacement of spare parts; overcharging for the provided repair services, etc.); a criminal “market” for corrupt services which enables fraudulent activities to be committed.

It is worth mentioning that term criminal “market” has been used in scientific teaching for a long period of time,<sup>3</sup> but it has not been studied appropriately.

<sup>2</sup> For more information on fraudulent activity as a separate type of organized criminal activity see Tiggey May & Bina Bhardwa, *Organised Crime Groups Involved in Fraud* (Cham: Palgrave Macmillan, 2018).

<sup>3</sup> See, e.g., Ізовіта А.М. Поняття та структурна характеристика кримінального ринку земель в Україні // Актуальні проблеми держави і права: Зб. наук. пр. Вип. 67 [Andrey M. Izovita, *The Concept and Structural Characteristics of the Criminal Land Market in Ukraine in Actual Problems of State and Law: Collection of Scientific Articles. Issue 67*] 619 (S.V. Kivalov (ed.), Odessa: Yuridicheskaya literatura, 2012).

However, as regards the development of criminal activities in this field, it is becoming more crucial and it often includes traditional methods of criminal activity.

In Ukraine and other CIS members, there is an academic discussion about the possibility of using a technical approach to determine the specific features of committing and investigation of a separate category of crimes which, as well as fraudulent motor vehicle transactions, are characterized by systematicity, organization and the application of professional skills.

Researching the technological side of criminal activity, Alexander Golovin wrote about the technological pattern typical for the crime mechanism,<sup>4</sup> and Nikolay Yablokov determined the technological level of criminal conduct as a detailed behavioral act.<sup>5</sup> Later, Yablokov offered to equate the terms “mechanism of criminal activity” and “methods of criminal activity” while characterizing the quality side of criminal activity. According to his opinion, a mechanism as an element of a forensic characteristic describes its sequencing, i.e. its technological side.<sup>6</sup>

In analysis of the scientific views towards the peculiarities of the use of the term “methods,” which you can find in forensic literature of soviet and post-soviet countries, reveals an understanding of methods of committing fraudulent motor vehicle transactions as a set of agreed actions, methods and methods of criminal activity directed at selecting the object of criminality, the scene and the methods of committing the crime, using the results of criminal activity, organizing a counteraction to the detection and investigation that combines complexes of interconnected crimes and can be considered as systematic activity.

Relying on a systematic approach, we will outline the principles of the forensic technological approach, which should be understood as those conditions that determine the direction of the process of scientific knowledge, consisting of: 1) the reproducibility of methods, regardless of the personal qualities of the subject of activity and other conditions for its implementation; 2) the distribution of the whole and continuous process to interrelated procedures; 3) the coordinated and phased implementation of procedures aimed at achieving the desired result; 4) the unification of the implementation of the procedures included in the methods, which is an indispensable and decisive condition for achieving the planned results; 5) the presence of feedback.

In our opinion, research of the methods of fraudulent motor vehicle transactions provides a study based on the forensic characteristics of the peculiarities of fraudulent motor vehicle transactions taking into consideration the definition of the relationship with the subject of criminal assault, the scene of the crime, methods of

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<sup>4</sup> Головин А.Ю. Теоретические основы и актуальные проблемы криминалистической систематики на современном этапе развития криминалистики: Дис. ... докт. юрид. наук [Alexander Yu. Golovin, *Theoretical Basis and Actual Problems of the Forensic Taxonomy on the Modern Development of Criminalistics: Thesis for a Doctor Degree in Law Sciences*] (Tula, 2002).

<sup>5</sup> Криминалистика: Учебник [Forensic Science: Textbook] (N.P. Yablokov (ed.), Moscow: BEK, 1995).

<sup>6</sup> Криминалистика: Учебник [Forensic Science: Textbook] (N.P. Yablokov (ed.), 3<sup>rd</sup> ed., Moscow: Yurist, 2005).

preparation, committing and concealment of fraudulent motor vehicle transactions, and characteristics of criminals and victims.

At the same time, it can be concluded that the methods of fraudulent activities in the sphere of motor vehicle transactions as a direction of criminal activity generally combines the complexes of interrelated crimes (directly fraudulent activities, a number of misdemeanors when using and installing corrupt connections with the purpose of committing and concealing fraudulent activities), and acquires the signs of systemic activity. One of the main factors in the existence of a complex of crimes as a system is the existence of such a link between crimes which unites them in a single chain of criminal behavior.

Under the functional orientation, the information technology model of fraudulent activities in the sphere of the motor vehicle transactions is the basis for the promotion of certain forensic versions and the identification of a typical range of persons involved in the commission of the crime, as well as the development of a methods model for detection, prevention and investigation. Meanwhile, the proposed methods are designed to investigate crimes which are well concealed.

It is also reasonable to consider the methods for detection and investigation of fraudulent activities in the sphere of motor vehicle transactions as a sequence of interrelated stages where the "analytical" stage is the forensic analysis of fraudulent activities based on their forensic characteristics and correlation links of its individual elements, taking into account the relevant situation; and the "effective" stage is the collection, by the subject of the application of these methods (investigator, employee of operational units or expert), of information about a specific fact of fraudulent activities by conducting tactical operations, the use of investigative (search) actions and specialist knowledge.

Researching the methods of investigation of fraudulent activities in the sphere of the motor vehicle transactions involves determining the specifics of the use of information about a specific crime by an investigator, an employee of operational units or an expert (subject of application of the specified methods) in identifying, preventing and investigating crimes by conducting tactical operations, conducting investigative (investigative) actions and applying specialist knowledge.

In our opinion, the use of the technological process to identify, prevent and investigate fraudulent activities in the sphere of the motor vehicle transactions is justified by the fact that this type of criminal activity is one of the directions of organized criminal activity but has purely theoretical significance.

## **2. Typical Methods of Committing Fraudulent Motor Vehicle Transactions**

Information about typical methods of committing fraudulent motor vehicle transactions plays an important role in operational activity. Firstly, it forms the basis for the consideration of objective and relative factors, which formulate a method

of a previous or future case. Secondly, it provides for the fast detection of criminals and improves the comprehensiveness and promptness of the investigative process. It follows the argument that detection of one of these interrelated characteristics considering the method of commission the crime gives a possibility to generalize the method itself; that helps an investigator to detect complete trace of a crime and to link all information in an appropriate method. Furthermore, the characteristics of a method of committing a crime optimize the work of an investigator to find the criminal and to connect him/her to an organized criminal group.

A method of committing fraudulent motor vehicle transactions can be defined as a complex system of actions towards preparation, commission and concealment of consequences of this category of crime. We identify a complex of all criminal actions, in essence, starting from the appearance of intention to finalize criminal activity by concealment of consequences.

Quite often, fraudulent schemes for the purchase and sale of used cars under a power of attorney are used. This means that purchase of a car under a power of attorney without further registration of the technical passport can be used by the seller to get the car back to him/her or his/her heirs after his/her death. Moreover, it should be noted that if the buyer dies in case of purchase under the power of attorney, its enforcement power expires as well and the car must be returned to the original owner. There are financial risks in this situation, for example, if the car has been insured with a franchise, after the buyer receives the insurance premium, the seller can formally claim the franchise payment.<sup>7</sup>

Sometimes a scammer buys a used car without having enough financial means, paying a minimum deposit and writing a receipt for the rest of the payment; after he/she becomes the owner of the car he/she immediately sells the car and forgets to return the rest of payment to the original seller.<sup>8</sup>

A widespread scheme of fraudulent activities nowadays is the acquisition of cars through auto sales websites. Externally, the advertisements on these sites look like any other and include the official photo of the car in the showroom, the mark and model, year of release, list of options, and price. The price attracts attention because it is 30–50% below the market price. Sellers explain such a discount on the basis that the car is not new. These websites contain the offers of various models; usually not luxury because their target is a middle-income buyer. They usually contain advertisements for VAZ, ZAZ Sens, Volkswagen Polo Sedan, Hyundai Accent, Renault Logan and Ravon R2 cars. An analysis of the information contained in such advertisements shows that cars of the year of production offered for sale were not widely produced at the time of production. A characteristic feature of this

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<sup>7</sup> See, e.g., Шахрайства при купівлі та продажі автомобіля // Енциклопедія шахрайств та лохотронів [Fraud in Buying and Selling Cars, Encyclopedia of Fraud and Scams] (Oct. 13, 2018), available at <http://history.lohotron.in.ua/avto-shahrajstvo/shahrajstva-pri-kupivli-ta-prodazhu-avtomobilja>.

<sup>8</sup> See, e.g., *Id.*

scheme is that sellers communicate with customers only using the phone number indicated in the advertisement. In addition, sellers often characterize the object of sale as a car from the EU, which makes it impossible to inspect it and yet necessary to provide a prepayment in order to cover the costs of delivery from a warehouse located near the border of Ukraine. Prepayment is 10–20% of the cost of the car. The agreement is concluded by signing a contract; the buyer signs up to transferring the advance payment.<sup>9</sup> Quite often the contract is an agreement on the provision of information services and it will not say a word about buying a car. A separate sign of such websites is that customers do not have the opportunity to write a review on the information provided in the advertisement.<sup>10</sup>

Sometimes it is the buyer who commits fraud when purchasing a car. For example, a scammer calls the number stated in the advertisement on the website with the intention of buying a car. At the same time, he asks for the number of the card to which the money is to be paid. A person who introduces themselves as the bank's employee calls the seller to inform them that the money will be transferred; but the seller will not receive the money. Moreover, there is a chance that the seller will lose his/her money because the money may be withdrawn from the credit card without the consent of the cardholder.<sup>11</sup>

Another interesting scheme is fraudulent actions through advertisement on a website. The seller specifies a phone number on the answering machine where the advertisements are recorded. A lot of calls are made because the price is attractive, but every time a person listens to the recorded message on the answering machine, a certain amount of money is charged to that person's phone bill.

Sometimes the scammer offers to sell cars at a lower cost. At the same time, the buyer tries to arrange a deposit that must be transferred to an electronic wallet or make a payment in advance to a mobile phone account. The seller asks for this service from all persons interested in buying the same car.<sup>12</sup>

<sup>9</sup> This method was used by scammers in 2018 in Lviv, Vinnitsya, Zhytomir, and Chernivtsi districts and caused affected 150 citizens of Ukraine to the tune of 7 mln UAH. See Мошенники продали украинцам несуществующих авто на 7 млн // Факты. 01.06.2018 [The Scammers Sold to Ukrainians Non-Existent Cars for 7 mln, Facts, 1 June 2018] (Oct. 13, 2018), available at <https://fakty.ictv.ua/ru/lifestyle/auto/20180601-shahrayi-prodaly-ukrayintsyam-neisnuyuchyh-avto-na-7-mln/>.

<sup>10</sup> See, e.g., В Україні новий вид шахрайства при купівлі авто // 24 канал. 28.11.2017 [A New Type of Fraud When Buying a Car in Ukraine, 24<sup>th</sup> Channel, 28 November 2017] (Oct. 13, 2018), available at [https://24tv.ua/shahraystvo\\_pri\\_kupivli\\_avto\\_cherez\\_internet\\_v\\_ukrayini\\_n894900](https://24tv.ua/shahraystvo_pri_kupivli_avto_cherez_internet_v_ukrayini_n894900).

<sup>11</sup> See, e.g., Як розпізнати Інтернет-шахрая і повернути вкрадені з картки чи електронного гаманця гроші // Лохотрон в Україні: популярно про шахрайства та захист. 27.08.2015 [How to Recognize an Internet Scammer and Get the Money Stolen from the Card or E-Wallet Back, Scam in Ukraine: Popular About Fraud and Protection, 27 August 2015] (Oct. 13, 2018), available at <http://lohotron.in.ua/2015/08/yak-rozpiznaty-internet-shahraya-i-povernuty-vkradeni-z-kartky-chy-elektronnohamantsya-hroshi>.

<sup>12</sup> See, e.g., Мошенничество при покупке и продаже автомобиля // Первая коллегия: Центр судебной защиты [Fraud in Buying and Selling a Car, First College: Center of Judicial Protection] (Oct. 13, 2018), available at <http://opravdaem.ru/fraudulent/moshennichestvo-pri-pokupke-i-prodazhe-avtomobilya>.

In addition, nowadays the acquisition of motor vehicles registered in European countries (especially, in the EU) is widespread due to a rather low cost. There are schemes for importing non-customs vehicles to Ukraine. This is regulated on the legislative level and this situation creates conditions for fraudulent activities. The essence of one of the schemes, for example, is that a Ukrainian citizen who wants to buy a non-cleared “cheap” car (amounts vary from 3 to 10 thousand dollars depending on the brand and condition of the car), appeals to the intermediary. He promises to register the car with a Lithuanian company (which, in fact, also belongs to scammers) and to bring it to Ukraine by proxy. Allegedly, the client can freely move around the country using this car. In addition to the cost of the car itself, the company asks for a payment for its intermediary services in the amount of \$1,000. Sometime later after the transaction, scammers re-register the Lithuanian firm to another owner and after an “accounting audit” this car is not counted and another owner threatens to declare that the car was stolen. Having the data of the Ukrainian buyer, which he/she provides when buying a car, a certain legal company easily finds the driver; the company advises him to “settle everything peacefully and transfer the company’s property for inspection at the service station and subsequent shipment to Lithuania.” At the service station, it turns out that the car is in terrible condition, although it was ostensibly sold in an ideal condition. Thus the buyer is asked not only to return the car itself, but also to pay for its repair. Legally everything is correctly designed because a Lithuanian company has the right to demand its property to be returned, since there is no such thing as a “power of attorney for driving a car.” Moreover, scammers do not need to call and make threats demanding the return the car and money for its repair. This scheme applies not only to cars on Lithuanian registration numbers, but in general to all non-cleared cars in Ukraine which were imported by intermediary firms.

Part of this scheme is the use of falsified official documents. In particular, we are talking about the posting the fictitious seals of foreign consulates in foreign passports of owners of non-customs cars from Europe who are Ukrainian citizens; these cars were allegedly on consular registration in European countries.<sup>13</sup>

Sometimes the criminals use the forged documents to sell cars – these documents were obtained by scammers as a result of illegal possession. In this case they are usually registered with frontmen from whom the criminals buy or take the passports for the duration of the scam. At the next stage, vehicles are resold on behalf of the same persons. Sometimes the car is stolen but the buyer is assured that the car was “sold” legally. In order to ensure the maximum level of reliability in the preparation of counterfeit documents, criminals try to use their connections with corrupt police officers.

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<sup>13</sup> See, e.g., На Львівщині викрили ділка, який організував схеми із нерозмитненими авто // ZIK. 15.07.2018 [A Criminal Who Organized Schemes with Non-Cleared Cars Was Identified in Lviv, ZIK, 15 July 2015] (Oct. 13, 2018), available at [http://zik.ua/news/2015/07/15/na\\_lvivshchyni\\_vykryly\\_dilka\\_yakyy\\_organizuvav\\_shemy\\_iz\\_nerozmytnenyemy\\_avto\\_607661](http://zik.ua/news/2015/07/15/na_lvivshchyni_vykryly_dilka_yakyy_organizuvav_shemy_iz_nerozmytnenyemy_avto_607661).

In order to reduce the risk of exposure resulting from a review of records of missing vehicles, registration at service centers is carried out immediately after acquisition or using forged registration documents for the car body and engine numbers. The number is changed by one digit (3 is changed to 8, 1 is changed to 4, etc.), which prevents detection of inconsistencies in the vehicle registration certificate.

Legalization of stolen vehicles is carried out by its registration with the changed identification numbers according to forged documents in the relevant public bodies. For the purpose of legalization of stolen vehicles and their subsequent official registration, criminals purposefully establish contacts, organize mediation or directly collude with police or service centers, as well as steal or manufacture fictitious forms of registration documents. At the same time, the legalization of stolen vehicles using corrupt staff of service centers or police often occurs as a result of the latter committing the following illegal actions:

- Registration of a vehicle using documents that are questionable because of their authenticity or obvious signs of forgery;
- Registration of a vehicle on a list of missing vehicles;
- Registration of a vehicle for citizens who do not reside on the territory of the relevant administrative-territorial authority;
- Ignoring the requirements for compulsory sending of requests to the places of the previous registration of the vehicle;
- Deliberate distortion of data in inquiries concerning a vehicle;
- Illegal registration and removal of a vehicle;
- Rejection by the responsible officials of the established measures of storage of the security documents.

More often, professional car scammers have repair trucks for the maintenance of cars and use a certain “technique.” Within a few hours, the car in this repair truck is dismantled and the metal parts of the car body with no numbers (roof, hood, bumpers, etc.) are forwarded to warehouses of auto parts or to another repair truck that use such “stolen by pre-order” details instead of buying new ones. The number of such operations is constantly increasing. This is explained by the fact that new spare parts cost more and their revenues are to be expected within a week or even a month. In addition, the labor costs in such repair truck are much higher. Warehouses that buy “stolen by pre-order” spare parts supply them very quickly (sometimes even for one day). After the specified actions this car can be sold in a car market or through a motor show at understated reduced price.

Scammers purchase cars at auctions where cars are sold after crashes and pretend that they have no damage. These auctions are organized to partially cover insurance payments. At the same time, it is officially stipulated that the vehicles are sold for spare parts or for restoration, but they are usually so damaged that repair would be unprofitable. Criminals buy such cars, take possession of a car of the same brand, replace identification numbers and other signs in it with those from the damaged car (which takes only a few hours), and then they register it as a recovered one. The profit from this operation is higher than from the sale of a car for spare parts.

It is worth noting that fraudulent actions dealing with the sale of motor vehicles is a method of concealing illegal possession of a motor vehicle registered in EU states. A vast majority of motor vehicles are stolen with the initial aim of transferring them to other states; which can be characterized as a high transnational component within this category of crime. This phenomenon depends on an insufficient supply on the markets of several states (this situation occurred in Western Europe in the 1990s when the borders between Eastern Europe states were opened). Today, stolen cars (especially, highly expensive cars) are transferred with aim of selling outside the state in which the crime was committed. For example, a car that was stolen in Germany is sold in the Middle East or neighboring countries (or Ukraine).

A majority of car thefts are committed by professional organized criminal groups with precise roles and responsibilities. An increased area of geographical access has a tendency to increase the crime and make criminals' actions, roles and responsibilities more sophisticated. We suggest that the quantity of detected motor vehicles with a fraudulent history depends on some factors: characters of operations, area of a state, supply of motor vehicles in the relevant market, place of a state on the globe, system of international communications, etc.

The fraudulent sale of cars by official or unofficial representatives of a particular motor vehicle model is performed through the use of:

- Poor-quality advertising (an unavailable model is advertised, the price of the car in the advertising does not include VAT, the advertising declares interest-free installment that turns out to be a loan);
- Manager's proposals to fix the price by prepayment, but actually the auto loan agreement is signed (at the same time, the manager spends a lot of time trying to persuade the buyer of the expediency of such a transaction);
- Actions aimed at selling used car under the guise of it being new (the car may have hidden defects, etc.);
- Calculation of the price in conventional units while the exchange rate in the car dealerships is always much higher than the official one;
- Actions aimed at masking the real contract (for the signature of the buyer, he is given several contracts, ostensibly copies, but the buyer reads only one and signs the rest signed without reading);
- Fraudulent actions when lending cars purchased (advantageous credit terms are offered and in fact the buyer must pay an additional commission for the bank's services, moreover, he is obliged to insure the car for the entire loan period);
- Actions aimed at the sale of a lien car can be seized to secure the transaction, etc.;
- Actions aimed at justifying the need to purchase a car with a more expensive bundle or with other bonuses (a set of tires, installation of alarm equipment, etc.).<sup>14</sup>

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<sup>14</sup> See, e.g., Как обманывают в автосалонах // SafeCrow. 17.06.2016 [How They Deceive in Car Dealerships, SafeCrow, 17 June 2016] (Oct. 13, 2018), available at <https://www.safecrow.ru/article/obman-pri-pokupke-avto-v-salone>.

In addition to these schemes, informal representatives (“gray dealers”) quite often understate the cost of the cars offered, although such a price may be due to a simple car kit. Gray dealers may also facilitate sales of cars that are received as a result of illegal possession or are not cleared. Gray dealers typically sell warranties for up to 10% of the total cost of the car.

A new trend we should mention is the organization of fraudulent activities by car companies on a global level. In 2015, there was a famous scandal at global level called “dieselgate” by the media. This year the researches from West Virginia University have tested American and European diesel cars to compare their compliance ecological standards. It resulted in overwhelming conclusion “Jetta” models exceeded standards by 15–35 times. Volkswagen pled guilty and acted in accordance with prosecutor of the Braunschweig decision.<sup>15</sup> As a result of such activity, the car concern sold 10.7 bln diesel cars with motors working on illegal software (senior executive Oliver Schmidt had taken to responsibility for criminal activity<sup>16</sup>). This story has a Ukrainian continuation – in the so-called “certificatesgate.” Porsche Ukraine Ltd. that is an exclusive distributor of Audi, Volkswagen, SEAT in Ukraine, and sold 2800 diesel cars Golf SportWagen (Variant) made in Mexico. These cars were in high demand in Ukraine because of the low price rate on the market. But the price was conditioned by “made in Wolfsburg, Deutschland” record in the certificate. This “mistake” was identified after the car owners had registered them and paid relevant taxes.<sup>17</sup> Consequences of this criminal activity can influence the use of the cars by Ukrainian owners. The investigation is still pending.

In Ukraine, the car rental market is just becoming more active. Fraudulent schemes are gaining momentum. Rental cars are resold under fictitious documents or they are stolen. Among the clients are citizens of Ukraine who buy minibuses, off-road vehicles for travel and to provide a tourist service. Scammers find a person, give him/her money for hire and bail. The specified person rents a car, passes on a fake power of attorney (certified by a “private” notary) to a third party and the car simply disappears. Sometimes illegal seizure is carried out by clients without collusion (but this usually involves collusion with the employees of the rental company).

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<sup>15</sup> See, e.g., *Немецкий концерн наказали за манипуляции с программным обеспечением дизельных двигателей* // ТСН. 13.06.2018 [A German Firm Was Fined Because Of Manipulation with Program Data of Diesel Motors, TSN, 13 June 2008] (Oct. 13, 2018), available at <https://ru.tsn.ua/svit/dizelnyy-skandal-v-germanii-oshtrafovali-volkswagen-na-1-mird-evro-1171020.html>.

<sup>16</sup> See *Бывший топ-менеджер Volkswagen получил семь лет по делу о дизельном скандале* // ГОРДОН. 07.12.2017 [Former Senior Executive at Volkswagen Given 7 Years in Diesel Case, GORDON, 7 December 2017] (Oct. 13, 2018), available at <http://gordonua.com/news/worldnews/byvshiy-top-menedzher-volkswagen-poluchil-sem-let-po-delu-o-dizelnom-skandale-220814.html>.

<sup>17</sup> *Id.*; «Дизельный скандал»: В Украине продали 2800 машин «Volkswagen», которые незаконно прошли сертификацию // АНТИКОР. 26.05.2018 [Diesel Scandal: In Ukraine 2,800 Volkswagen Cars Were Sold with Illegal Certification, ANTIKOR, 26 May 2018] (Oct. 13, 2018), available at <https://news.pn.ru/money/199867>.

Furthermore, cars can be transferred to a pawnshop under forged documents or sent for dismantling.

Sometimes fraudulent actions involve the organization of economic activities of enterprises that provide car rental services. They fulfill contract conditions (for example, the car may not have a filled fuel tank, it may be damaged, require servicing, etc.).<sup>18</sup>

This scheme of fraudulent activities is possible to commit due to the corresponding requirement to carry out maintenance of the car every 10–15 thousand km (so-called planned maintenance), but at least once a year. In general, the “every year check” rule is conditional; it is used by the service stations to enforce visits to warranty maintenance stations. During the diagnostics, the mechanic checks the condition of the car and recommends parts (filter, oil, running gear, etc.) that need to be replaced. The mechanic will tell the customer that, for safety reasons, the customer cannot be present during the maintenance, and then the mechanic either fails to carry out any replacement or replaces spare parts with used spare parts. In addition parts can be installed, the quality of which does not correspond to the price stated in the calculation (original spare parts with codes and an emblem of the car brand are much more expensive than substitutes manufactured by other manufacturers).<sup>19</sup>

Another scheme is as follows: pedestrians simulate accidents using the mechanism of getting under the car with subsequent extortion of money by blackmailing and threats to apply to law-enforcement bodies.

Frequently conscientious drivers cut corners or brake on slopes, thereby creating the inability to avoid a collision. Scammers usually use previously damaged and used cars of famous brands such as BMW or Mercedes. After the collision with the car that triggered the accident, a scammer comes out and exerts psychological pressure on the driver, causes serious damage or even threatens the driver. Then he/she proposes leaving the current location to prevent the cars from being seen by the patrol police or for other reasons (drivers can claim that they do not have a driver’s license or technical passport) and demands payment of a certain amount of money (usually \$100–200 or several thousand UAH) in exchange for leaving peacefully and not calling the police. The reimbursement of the insurance company is not within the scope of criminals’ interests because later they plan to blackmail other drivers, therefore, in such cases it is very important to act completely within the law (firstly, never leave the scene of an accident; secondly, as soon as a collision occurred, call the police without leaving the car and wait in the car; thirdly, to record (photograph) the state license plate of the other vehicle).

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<sup>18</sup> See, e.g., *Вергун Д.* В Украине развернули массовые мошенничества с прокатными авто // UBR. 13.06.2017 [Denis Vergun, *Mass Frauds Were Launched with Rental Cars in Ukraine*, UBR, 13 June 2017]. (Oct. 13, 2018), available at <https://ubr.ua/market/auto/v-ukraine-razvernuli-massovye-moshennichestva-s-prokatnymi-avto-3845274>.

<sup>19</sup> See, e.g., *Типи шахрайства на СТО: Як уникнути?* // UA-news. 02.06.2015 [Types of Fraud at the Motorway Service Stations: How to Avoid, UA-news, 2 June 2015] (Oct. 13, 2018), available at <http://ua-news.in.ua/ekonomika/15549-tipi-shahrajstva-na-sto-yak-uniknuti.html>.

There may be more complicated schemes. The driver may be pursued by a vehicle and requested to stop. After stopping, the driver of the motor vehicle leaves, examines the car, leaves his phone number on request and does not notice any damage continues to move. However, this scheme does not end there. The scammers continue the pursuit and again demand a stoppage of the motor vehicle and this time it turns out that the scammers' vehicle is damaged. And then threats and extortion begin. Under this scam the cars have already left the scene of an accident and therefore it is impossible to claim insurance compensation and there are additional arguments for psychological pressure on the driver. In addition, providing a phone number to scammers will mean that they can call and terrorize the victim and demand money or make threats in the future.<sup>20</sup>

In March 2017 the cyber police discovered and liquidated the group of auto scammers who sent out text messages telling the receiver that he/she had won a new Chevrolet. Short text messages with the beginning "Congratulations! You have won a car..." were received by a lot of people one or even several times. These text messages contained the numbers of "hot lines" and addresses of sites whose names were skillfully disguised as domains of well-known auto brands. After the calling such a number "the win was confirmed," but for its receipt it was necessary to deposit a certain amount into the account as a "tax on the prize." Clearly paying only a few percent of the cost of a new car is a rare good fortune. The scammers used people's trust. The scam was conducted on a highly professional level. The scammers had their own hardware: GSM gateways for mass mailing, a server station that hosted 67 phishing sites, about 12,000 SIM cards with phone numbers and these so-called "entrepreneurs" did not even have time to activate about 1500 numbers. A lot of bank accounts were used for the victims to transfer funds for "prizes." In total, this organized group, which was based in the Kharkiv Region, included 11 people, 3 of them were detained. Equipment and other means that scammers used to deceive citizens were seized, and the server with pages of fictional car dealerships was stopped.<sup>21</sup>

The Law of Ukraine "On Mandatory Liability Insurance of the Owner of a Motor Vehicle"<sup>22</sup> sets out, peculiarities of the insurance procedure, rights and duties of the parties, as well as specific cases for assignment of liability.

<sup>20</sup> See, e.g., *Ромашченко І.* Як не потрапити у халепу і не стати жертвою шахраїв? // ЛІГА.Блоги. 01.04.2015 [Ivan Romashchenko, *How Not to Get into Trouble and Not to Become a Victim of Scammers?*, LIGA.Blogs, 1 April 2015] (Oct. 13, 2018), available at <http://blog.liga.net/user/iromashchenko/article/17641.aspx>.

<sup>21</sup> See *Новицький О.* Кіберполіція ліквідувала групу авто шахраїв, які розсилали SMS з «виграшами» // AUTO.RIA. 03.03.2017 [Ostap Novitsky, *Cyberpolice Eliminated a Group of Car Scammers Who Sent Out Text Messages with "Winnings,"* AUTO.RIA, 3 March 2017] (Oct. 13, 2018), available at <https://auto.ria.com/uk/news/autolaw/231857/doigralis-kiberpoliciya-likvidirovala-gruppu-avtomoshennikov-rassyl.html>.

<sup>22</sup> Закон України від 01.07.2004 No. 1961-IV «Про обов'язкове страхування цивільно-правової відповідальності власників наземних транспортних засобів» [Law of Ukraine No. 1961-IV of 1 June 2004. On Mandatory Liability Insurance of the Owner of a Motor Vehicle] (Oct. 13, 2018), available at <http://zakon3.rada.gov.ua/laws/show/1961-15/print1510177503534526>.

At the present moment, car insurance use in Ukraine is increasing and constantly being reformed due to various problems the resulting in a non-stable insurance environment and slow progress. Other factors can be defined as follows: non-obligatory character of examination of insurance an certificate by police (this clearly has an impact on the level of governmental control over compliance with legislation by car owners); a low level of knowledge of frequently changing legislation; distrust of the overall insurance system and insurance companies; a low level of paying capacity of car owners; the absence of informational campaigns on insurance and changes in the relevant market through the media, etc.

It is worth noting that, starting from 2018, paper insurance certificates are being replaced by electronic certificates; according to the opinion of public authorities this will make the examination by police easier and will reduce expenses on its issuance and maintenance. Moreover, a special procedure was introduced for drivers, it is called "EuroProtocol" and is aimed at documenting incidents using a mobile gadget with access to the internet.<sup>23</sup> We suggest that such ideas are forward-thinking, but there are various objective and subjective factors which will hamper incorporation (e.g. absence of constant access to the internet for part of the some population, part of the population finding mobile and other devices difficult to use, absence of licenses of the relevant applications, etc.).

These processes, as well as factors which became grounds for their incorporation, create favorable conditions for new types of fraud in the field of car insurance. These fraudulent activities in the field of motor vehicle insurance can be divided into two groups: committed by a) insurers and/or employees of insurance companies; b) insured persons and other persons for the purpose of obtaining an insurance payment. Therefore, in cases when drivers have an insurance called "avtokasko" for the purpose of obtaining insurance payments, the following schemes can be applied:

- The falsification of a car accident or the provision of false information about the consequences of a real car accident (virtually impossible without establishing corrupt relations with the police, since the insurance company requires the report of relevant authorities about the fact of an accident);
- The use of a look-alike false car, i.e. for cars with fake state number which does not belong to them. The real car can be damaged after an accident or by criminal activity. In parallel, a car accident is staged in order to receive an insurance payment;
- Concealment of damage to the car in a situation where the insurance premium is not paid (for example, when driving while intoxicated, etc.);

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<sup>23</sup> Шевченко В. Автогражданка в 2018 году. Что поменяется // Минфин. 09.01.2018 [Vladimir Shevchenko, *Car Liability Insurance 2018. What Will Change?*, Minfin, 9 January 2018] (Oct. 13, 2018), available at <https://minfin.com.ua/2018/01/09/31818093/>; Автострахування зі смартфонів за хвилину: вийшов оновлений сервіс штрафи // 5 канал. 22.06.2018 [Car Insurance from Smartphones in a Minute: The Updated Service Has Been Fined, 5<sup>th</sup> Channel, 22 June 2018] (Oct. 13, 2018), available at <https://www.5.ua/suspilstvo/avtostrakhuvannia-cherez-smartfon-za-khvylynu-vyishov-onovleniyi-servis-shtrafyua-172226.html>.

– Concealment of the real cost of diagnostic and repair work and an increase in expenses.<sup>24</sup>

There were separate cases of insurance being bought from two insurance companies (due to close cooperation between insurance companies).

Sometimes employees of insurance companies criminally conspire with customers of companies and they apply for insurance after the car was damaged and overestimate its price or steal it. Quite often, there are fraudulent activities associated with the formulation of fake insurance with the participation of employees of insurance companies in order to avoid payment of insurance premiums.<sup>25</sup>

This method is used not only in Ukraine but in other European countries as well. For example, in Eastern Europe there are many organized groups which regularly visit large European cities (i.e. Berlin, Hamburg, Brussels, Prague, Paris, and Budapest) where they engage in illegal possession of motor vehicles. Often they are assisted by car owners themselves (for an appropriate fee), handing out originals of car keys for criminals to make copies. Then they declare their car “stolen” and receive insurance compensation for the new car, to make additional money under this scheme.

Sometimes there are schemes for buying a motor vehicle with a bank loan. In this case, there is a necessity to make insurance for the vehicle and the illegal possession of the vehicle as one of the insurance cases. The owner of the vehicle conspires with an organized criminal group that has international channels for sending cars illegally obtained to other countries. These organized groups steal the vehicle, and pay the owner 20–30% of its value. After the statement of theft, the insurance company makes a payout and becomes a victim of fraudulent actions.

The above listed types of fraud involving motor vehicles are not exhaustive. Each method has its own characteristics depending on the place, object (type of vehicle), and the identity of scammers and victims.

### 3. Classifications of Fraudulent Motor Vehicle Transactions

In many academic works of well-known criminologists<sup>26</sup> it is noted that the improvement of methods of investigating certain types (groups) of crimes largely depends on the development of classification of crimes.

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<sup>24</sup> See, e.g., Четыре схемы мошенничества в автостраховании // Bigmir)net. 09.09.2011 [Four Auto Insurance Scams, Bigmir)net, 9 September 2011] (Oct. 13, 2018), available at <http://auto.bigmir.net/autonews/autoworld/1511559-Chetyre-shemy-moshennichestva-v-avtostrahovanii>.

<sup>25</sup> See, e.g., Страховой рынок Украины наводнен сотнями тысяч фальшивых полисов “автогражданки” // Факты. 19.05.2016 [Ukrainian Insurance Market Flooded with Hundreds of Thousands of False Motor Liability Policies, Facts, 19 May 2016] (Oct. 13, 2018), available at <http://fakty.ua/216897-strahovoj-rynok-ukrainy-navodnen-sotnyami-tysyach-falshivyh-polisov-avtogradhdanki>.

<sup>26</sup> See, e.g., Журавель В.А. Криміналістична класифікація злочинів: засади формування та механізм застосування // Вісник Академії правових наук України. 2002. No. 3(30). С. 160–163 [Volodimir A. Zhuravel, *Forensic Classification of Crimes: Principles of Mechanism Formation and Application*, 3(30)

In forensic science, a classification of fraudulent activities in general,<sup>27</sup> as well as a classification of fraudulent activities in the field of the motor vehicles insurance was offered,<sup>28</sup> but there is no classification of fraudulent activities in the sphere of motor vehicle transactions taking into account the specifics of methods of their execution.

According to the rules of logic, it is necessary to find the essential criterion (basis) for the distribution of objects into groups (classification). This criterion may be a quantitative or qualitative attribute common to objects with a need of distribution. In this case, for objects with need of classification, it is necessary to find exactly such a feature that would have a distinctive difference – quantitative or qualitative. This feature (characteristic) should be the most significant one to ensure the stability of the classification as a whole and for each of its patterns in the overall distribution system as a set of components.

As a rule, the basis of classification is the signs of objects or phenomena, and the purpose of classification determines the signs, which should be taken as a basis. A variety of goals causes the need to choose the basis of classification – various features – which entails different classification schemes or typologies of the same phenomenon. Thus, the problem of choosing the basis of classification is closely related to the problem of establishing the purpose for which this classification is given.

On the base of all the above mentioned arguments, we propose such classification of fraudulent activities dealing in the field of motor transport:

- The object of a criminal offense (a fraudulent activities) can be money or vehicles; the latter should be subdivided into light and freight, passenger and goods vehicles;
- Within the context of the crime: using the current conditions or using artificially created conditions;

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Bulletin of the Academy of Legal Sciences of Ukraine 160, 160–163 (2002); *Тищенко В.В.* Теоретичні і практичні основи методики розслідування злочинів: Монографія [Valery V. Tishchenko, *Theoretical and Practical Bases of the Methodology of Investigation of Crimes: Monograph*] 260 (Odessa: Feniks, 2007).

<sup>27</sup> See, e.g., *Мусянко О.Л.* Теоретичні засади розслідування шахрайства в сучасних умовах: Монографія [Oleg L. Musienko, *Theoretical Foundations of Fraud Investigation in Modern Conditions: Monograph*] 20–36 (V.Y. Shepitko (ed.), Kharkiv: Pravo, 2009); *Мусянко О.Л.* Теоретичні засади розслідування шахрайства в сучасних умовах: Дис. ... канд. юрид. наук [Oleg L. Musienko, *Theoretical Foundations of Fraud Investigation in Modern Conditions: Thesis for a Candidate Degree in Law Sciences*] 24–37 (Kharkiv: Yaroslav Mudryi National Law University, 2007); *Пазинич Т.А.* Криміналістична характеристика шахрайств та основні положення їх розслідування: Дис. ... канд. юрид. наук [Tetyana A. Pazinich, *Forensic Characteristics of Fraud and the Main Provisions of Their Investigation: Thesis for a Candidate Degree in Law Sciences*] 29–40 (Kharkiv: Kharkiv National University of Internal Affairs, 2006).

<sup>28</sup> See *Іщук І.В.* Початковий етап розслідування шахрайств у сфері страхування автотранспортних засобів: Дис. ... канд. юрид. наук [Inna V. Ishchuk, *Initial Stage of Motor Vehicle Insurance Fraud Investigation: Thesis for a Candidate Degree in Law Sciences*] (Kiev: National Academy of Internal Affairs, 2010); *Боровських Р.Н.* Кримінологические, уголовно-правовые и криминалистические проблемы противодействия преступлениям в сфере страхования: Монографія [Roman N. Borovskikh, *Criminological, Criminal and Forensic Problems of Counteraction of Crimes in the Field of Insurance: Monograph*] 48 (Yu.P. Garmayev (ed.), Novosibirsk: Alfa-Porte, 2016).

- Depending on the scope of operation of motor transport, fraudulent activities can be divided into the following types: when a person rents a vehicle and, is in the process of using a rented vehicle; at the moment of registration of the right of ownership to a vehicle; in the process of customs clearance (taxation) of a vehicle; when moving a vehicle across the state border; in the course of implementation of motor transport insurance conditions; in the process of repairing a vehicle;
- By the number of fraudulent activities in the field of motor transport: single and serial;
- By the extent of the caused harm: those who caused significant material damage (part 2 of Article 190 of the Criminal Code of Ukraine); those who caused material damage (part 3 of Article 190 of the Criminal Code of Ukraine); those that caused material damage in especially large amounts (part 4 of Article 190 of the Criminal Code of Ukraine);
- By the level of professionalism of the perpetrator of a crime: committed by a “professional”; committed by an “amateur”;
- On the territorial basis of the activity of a criminal group (organization): committed by a criminal group at an interstate level; committed by a criminal group at an interregional level; committed by a criminal group at a local level;
- By the number of persons who participated in the crime: sole; committed by a group of persons; committed by an organized criminal group; committed by a criminal organization;
- Depending on the availability and use of the possibilities of corruption: using corrupt links to ensure criminal activity and using corrupt links with an aim to avoid criminal liability.

Separately we should focus on the peculiarities of choosing a place, time and conditions for committing fraudulent activities in the sphere of motor vehicle transactions by the scammer, which is largely determined by their relative favorableness for the implementation of the scammers’ intended fraud and the specifics of the method of fraudulent activities. The above analysis of the methods and conditions of committing fraudulent activities in the sphere of the motor vehicle transactions allows us to state that scammers are guided by the following criteria in the choice of the location of the crime:

- Location in this area of the property, which permanently or temporarily has value for a scammer and a possibility of a scammer to quickly and easily verify this (for example, temporarily or permanently functioning car markets);
- The presence in this area of favorable conditions for impact on the individual (victim);
- The possibility of establishing contact with the owner or person responsible for, or with access to, vehicles;
- The presence of favorable conditions for the effective use of various aids to mislead the victims (the presence of a service station or a mechanic);

– The alleged high level of “neutrality” of possible casual witnesses of fraudulent activities.

Facts of committing fraudulent activities in this category can be created artificially, taking into account the purpose of the criminal encroachment, the actor, personal characteristics of the victim.

The changing conditions of life, the introduction of new methodology, the internet, the newest computer systems for financial calculations, all allow us to form innovative schemes for establishing contact with victims at the preparatory stage of criminal activity (taking into account sources for obtaining and submitting relevant information about the object of the possible commission of a crime and the victim of a criminal offense), namely:

– Scammer (or group of scammers) – Victim (owner of a motor vehicle or cash) (visual contact);

– Scammers (or group of scammers) – Internet resource (website, blog, etc.) – Victim (owner of a motor vehicle or cash) (non-visual contact);

– Victim (the owner of a motor vehicle or cash) – Internet resource (website, blog, etc.) – Scammer (or a group of scammers) (non-visual contact).

Depending on the channel to bring a criminal to the victim or blocking beneficial fraudulent information methods, fraudulent activities can be subdivided into those committed: 1) at a personal meeting (direct contact); 2) using the media (television, radio, newspapers and magazines); 3) using means of telecommunication (in particular, mobile phones); 4) using internet resources; 5) using e-mail, as well as various combinations of the above channels.

By its nature, information may be divided into: a) absolutely false information; b) a combination of false information and true information; c) true information.

In more than half of cases, scammers skillfully supplemented, to a greater or lesser degree, true information with false information. Among the methods of using such a combination, it is necessary to distinguish: 1) “design” – the deliberate concealment of parts of the true information by replacing them with false information; 2) “selection” – a selective passage containing true and false information; 3) “distortion” – reduction, exaggeration and violation of portions of any constituent parts of true information.

Generally, the messages contain three components: 1) the message content (for example, the particulars of the offer for sale, the description of the vehicle, etc.); 2) the means of transmission (channel) of the message (telephone or e-mail for communication, etc.); 3) a person who reports (for example, with the aim of creating an image of confidence in the seller by offering a meeting, or transferring money after an overview of the vehicle).

Thus, by manipulating the information provided to the victim, the scammers count on their disorientation in the environment and the implementation of appropriate actions corresponding to the created presentation of the situation (“false

reality"). As a result, the victims are misled and voluntarily transfer their property to the offender, believing that he has the right to receive it.

Thus, using the classification (typology) of scammers used in forensic and other sciences,<sup>29</sup> persons who commit crimes in the field of motor vehicle transactions, can be divided by the following criteria:

1. Depending on the amount of committed fraudulent activities, crimes and availability of professional skills:

– One-time scammers who commit a crime under for personal gain (for example, with the aim of avoiding taxation during customs clearance);

– Professional scammers who commit fraudulent activities repeatedly and professionally (a type of criminal trade concerned with repeated commitment of fraudulent actions);

2. Depending on availability of specialist knowledge:

– Scammers, who have specialist knowledge (know about technical equipment and construction of a vehicle; are familiar with legal nuances of contracts; use resources on the internet to create specialized websites and to post advertisements);

– Scammers, who do not have specialist knowledge. They may involve a third party who has specialist knowledge;

3. Depending on the form of participation in a crime:

– Scammers, who participate in a crime personally and contact the victims themselves (for example, personal participation when concluding a contract of sale; scammers can give their passport (ID) or sign IOUs);

– Scammers, who do not contact victims personally or act through a representative (for example, selling of a car with the help of a secondhand dealer; use of internet-resources to imply sale of a vehicle that does not belong to a criminal in order to obtain money from victims);

4. With participation of legal entities in commitment of a crime:

– Scammers, who use legal entities created specially to commit a crime (these entities can be residents or non-resident);

– Scammers, who use real legal entities (these entities can be used with or without consent);

5. Depending on the amount (number) of participants:

– Single persons, who act alone;

– Scammers, who act as a part of an organized criminal group;

– Scammers, who act as a part of an organized criminal group which is part of a criminal organization;

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<sup>29</sup> See *Даньшин И.Н.* Криминологическая характеристика личности мошенников // Криминологические проблемы борьбы с преступностью [Ivan N. Danshin, *Criminological Characteristics of the Identity of Scammers in Criminological Problems in Combating Crime*] 18 (Kyiv: Kiev Higher School of the Ministry of Internal Affairs of the USSR, 1985); *Якимов И.Н.* Современные мошенничества // Административный вестник. 1925. No. 6. С. 36–39 [Ivan N. Yakimov, *Modern Fraud*, 6 Administrative Bulletin 36 (1925)].

#### 6. Availability of corrupt ties:

- Scammers, who act using corrupt ties;
- Scammers, who only use corrupt ties to avoid criminal liability.

It is needed to research the individual features of the personality of the scammers and victims of fraudulent activities, taking into account the specifics of the field of motor vehicle transactions that affect the method, background and trace pattern. Also, psychological characteristics of the behavior of the victims, and the motives of their entry into contact with scammers have major forensics significance.

Forensic information about the identity of scammers and victims of fraudulent motor vehicle transactions is important for counteracting the crime itself and may be used in investigative and research activities.

The analysis of practical material shows that single criminals, organized criminal groups and criminal organizations are all involved fraudulent motor vehicle transactions.

We conclude that fraudulent motor vehicle transactions are committed by single persons as a one-off, even if it is committed by persons who have already been convicted of violent crimes. Perhaps criminals prefer to act by themselves, thereby reducing the probability of disclosure.

The study of the identity of scammers, as well as organized criminal groups, who operate in the field of motor vehicle transactions, evidence their professionalism, narrow specialization, wide outlook and knowledge of law. The majority of scammers are individuals with clever minds and strong imaginations, have the ability to persuade people, attract their interest and attention, and are able to use different circumstances to complete their criminal plan. These features allow them to feel like leaders in almost any circumstances. In our opinion, these criminal units pose a significant social threat, because crimes committed by them are carried out professionally and mainly include several criminal episodes over a long period of time.

One more important element of forensic science characterization of fraudulent motor vehicle transactions is characterization of an identity of a victim, which is mostly victimological. Often victims provoke fraudulent activities by themselves. In our opinion in order to study the behavior of a victim it is necessary to use criminological and psychological knowledge that can be used as a basis of scientific and methodological recommendations for counteracting fraudulent activities. It is important to note the fact that among victims of fraudulent activities there is huge number of persons who intentionally violate legislation that is capably used by scammers (for example, sale of a vehicle using a general power of attorney with the purpose of avoiding taxation or customs payments). This explains the high latency of fraudulent activities.

When studying forensic science's characterization of fraudulent activities, it is important to keep in mind that victims sometimes conceal crimes themselves. It is possible to expect this, when fraudulent activities evidences negative qualities of

victim's character (greed, gambling, etc.), and when detection of fraudulent activities would make him liable.

In order to increase the level of public awareness about the methods of committing fraudulent activities in the motor vehicle transactions used by scammers, the law enforcement agencies need to improve the effectiveness of interaction with the media through briefings, specialized permanent television projects, the creation of specialized websites, blogging,<sup>30</sup> etc.,<sup>31</sup> on which to conduct explanatory work with the population. In addition, the specified measures will create conditions for a prompt response to new challenges of scammers.

#### 4. Methods of Detection and Investigation of Fraudulent Motor Vehicle Transactions

Detection, prevention and investigation of crimes in general and fraudulent motor vehicle transactions in particular should be examined as a consequence of the separate operations which make up this activity. It makes sense to attribute both the essence of operations and their consequences in the whole structure of forensic activity to the process of detection and investigation of the specified category of crimes.

One of the most important components in the process of counteracting fraudulent motor vehicle transactions is their detection and prevention with the means and possibilities of investigative activities.

It should be noted, that Rafail Belkin sticks to an opinion, that signs of crime can be detected by three methods: 1) by operative officers during investigative activities; 2) by individuals, representatives of different governmental and non-governmental organizations when conducting revision or other controlling activities, etc.; 3) directly by an investigator, prosecutor and court.<sup>32</sup>

While describing the features of the investigation of fraudulent motor vehicle transactions, it should be noted that the investigative situation is key. After analyzing the existing points of view in the forensic science regarding the essence and

<sup>30</sup> See, e.g., Як не стати жертвою шахраїв при купівлі автомобіля // Гроші в кредит: новини світу банківських послуг [How Not to Become a Victim When Buying a Car, Money on Credit: News of the World of Banking Services] (Oct. 13, 2018), available at <http://groshi-v-kredit.org.ua/yak-ne-staty-zhertvoyu-shahrajiv-pri-kupivli-avtomobilya.html>; Ткаченко О. Як не стати жертвою шахраїв під час купівлі автомобіля // Перша. 19.03.2018 [Olga Tkachenko, *How Not to Become a Victim When Buying a Car*, Persha, 19 March 2018] (Oct. 13, 2018), available at <https://persha.kr.ua/news/life/157502-yak-ne-staty-zhertvoyu-shahrajiv-pid-chas-kupivli-avtomobilya/>.

<sup>31</sup> For more information see, e.g., Булгакова Е.В. Особенности расследования и предупреждение вымогательства и мошенничества, совершенных путем фальсификации обстоятельств дорожно-транспортных происшествий: Дис. ... канд. юрид. наук [Elena V. Bulgakova, *Features of Investigation and Prevention of Extortion and Fraud, Committed by Falsification of Circumstances of Road Traffic Accidents: Thesis for a Candidate Degree in Law Sciences*] 167–171 (Volgograd, 2003).

<sup>32</sup> See Белкин Р.С. Курс криминалистики [Rafail S. Belkin, *Course of Forensic Science*] 480 (Moscow: Yurist, 1997).

significance of the investigative situation in the investigation of crimes, it can be concluded that there is no unified approach to understanding the concept, essence, content, fullness and types thereof.<sup>33</sup>

An analysis of the existing points of view in forensic science regarding the notion of an investigative situation makes it possible to understand the situation as an objective reality at a particular moment of a pre-trial investigation. In this reality, a pre-trial investigation of a criminal offense is shaped, under the influence of specific objective conditions, circumstances and activities of the subject of the investigation. It displays and contains information about the committed or prepared criminal offense under investigation, the conditions and circumstances of the investigation and other information which is needed to perform criminal proceedings. This allows the promotion of investigative leads, the choice of effective means and methods of investigation, and tactical decision-making. In our opinion, the investigative situation can be considered exactly as a kind of a model of investigation. Especially, if it is related to crimes in relation to which investigators have considerable practical experience. Fraudulent activity and types thereof could be related to such crimes.

Distinguishing the investigative situations allows the investigator to approach the investigation process in the most rational way. At the same time, the correct diagnosis of the initial situation allows information uncertainty to be eliminated using a typical forensic description of the crimes; proper classification of the situation, which leads to the correct choice of methodology, as well as rational sequential use thereof.<sup>34</sup>

The relevant tasks in the investigative technique are the construction of possible areas of investigation, depending on the specific circumstances of the investigation. No less important is the forecasting of possible developments, and the assessment of the probability and correctness of the onset of one or another result. It should be noted that it is impossible to create a technological model of investigation that would be able to adequately reflect the complexity of the most modeled activity without an information analysis of the activities on the detection and investigation of crimes.

The analysis of typical situations that arise at the initial stage of the investigation of fraudulent motor vehicle transactions showed that the investigator's program of activities is subject to common laws. This allows us to consider them within the framework of one methodology, and the allocation and streamlining of investigative situations that arise in the investigation of a fraudulent motor vehicle transaction to be carried out on an informational basis.

When analyzing materials about the fact of fraudulent motor vehicle transaction, an investigator can determine in what situation he is on the basis of available information. Assessments of the situation before the start of the investigation and in

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<sup>33</sup> See, e.g., Musienko 2009, at 97–108.

<sup>34</sup> Зорин Г.А. Теоретические основы криминалистики [Georgy A. Zorin, *Theoretical Foundations of Forensic Science*] 65 (Minsk: Amalfeya, 2000).

the course of its conduct are important stages of the investigator's work. Questions of decision-making in one or another investigative situation are related to the structuring of the source of information about it and the formation of many versions. As a result of the information obtained, the investigator forms a number of versions. Initial versions should be narrow enough to allow the investigator to continue to verify alternatives and determine which of the versions to check in the first place.

After the general versions are decided upon, more specific ones are presented. They are mainly related to the circumstances of the crime (versions of the organizers, the victims (involvement of the victim in other crimes, etc.), the circumstances of the commission (place (location within an individual region, or transnational crimes), etc.), time (the time of committing fraudulent actions is connected with the mode of work of the scammer or the availability of computer equipment, etc.), the mechanism of commission (the use of advanced methods, the psychological impact on the victim, etc.)). As a result of checking the proposed versions, the investigator deliberately shapes the mechanism of the situation and predicts possible methods of solving it.

An investigator needs to be able to adapt to any situation. This implies the possibility of prompt response, in the course of the investigation, to a change in the terms and conditions of the investigation. The essence of the adaptation is to change the organization of the investigation on the basis of not only *a priori*, but also current and predictive information in order to achieve and maintain a favorable investigative situation with a changing set of conditions for conducting an investigation. Selected methods of investigation may change in the process of receiving current information as a reaction to this incoming information, and, in predicting the development of an investigative action, the investigator may change the purpose of its conduct.

As a rule, the algorithms for detecting, disclosing and investigating crimes are of a "non-strict" nature. They provide not for a rigid sequence of elementary actions, but for "blocks" of actions that are the most effective in one or another situation. The algorithms developed by the investigator during investigations in these situations should not be as strict as a law for him. One of the opinions in the scientific literature proposes the need to create a computer program of investigator actions in a specific situation.<sup>35</sup>

Using records of investigative activities, it is possible to typify investigative situations that arise at different stages of obtaining information about the fact of committing fraudulent motor vehicle transactions on various grounds.

Thus, at the stage of checking information on the presence of signs of fraudulent motor vehicle transactions, the following investigative situations arise:

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<sup>35</sup> Шепитко В.Ю. Теоретические проблемы систематизации тактических приемов в криминалистике [Valery Yu. Shepitko, *Theoretical Problems of Systematization of Tactical Methods in Forensic Science*] 200 (Kharkiv: Grif, 1995).

– The available information allows us to make a final conclusion about the presence of signs of fraudulent motor vehicle transactions in the actions of an individual or a group of persons (the information is related to the method of committing fraudulent activities, the subject of a criminal offense, and data on the scammers and the victim (or victims));

– The available information does not allow us to draw a final conclusion on the signs of fraudulent motor vehicle transactions in the actions of an individual or a group of individuals (the information on the method of committing fraudulent activities, the subject of a criminal offense or the identity of a scammer and a victim is fragmentary and requires verification).

Depending on the correlation between the moment of detecting the signs of fraudulent activities and the time of the end of the attack, the following investigative situations can be distinguished:

– Signs of committing fraudulent activities in the area of motor vehicle transactions recorded at the stage of preparation;

– Signs of fraudulent activities in the area of motor vehicle transactions detected immediately after the fraud is committed;

– Signs of fraudulent activities lent motor vehicle transaction detected after a certain time after the fraud is committed.

This classification of investigative situations is important for the organization of the activity of law enforcement bodies in “hot pursuit.” The time factor is important because the earlier the signs of committing fraudulent activities are discovered, the more opportunities to prevent the destruction of traces of a crime are available.

The scammer’s use of the same methods in the course of committing a series of fraudulent activities in the area of motor vehicle transactions (may help to assess the possibility of committing such crimes in the future). The available information on the method and identity of the scammer shows that the scammer uses the same method in the course of a series of fraudulent motor vehicle transactions (this situation allows the actions of the scam to be determined without taking into account the number of already registered facts of committing fraudulent activities, for example, committing the investigated category of fraudulent activities using internet advertisements, or payout notices, etc.). The available information on the identity of the scammer and the method of committing fraudulent motor vehicle transactions allows one to assume the type fraudulent activities committed by the scammer (for example, if a scammer acts individually for his own benefit by committing fraudulent actions in order to obtain an insurance payoff, using his own motor vehicle, etc.).

The peculiarities of the method of committing fraudulent activities, as well as the characteristics of scammers in certain situations, allow computer algorithms to determine key factors in the investigation with a high degree of probability.

The program of investigative activities and measures should include: interrogation of the victim or his representatives, examination of witnesses (persons who have

information about the preparation, commission and concealment of Fraudulent Motor Vehicle Transactions, as well as persons who participated in the arrest and have important information); carrying out a search (at the place of residence, and elsewhere, if necessary) and the extraction of material evidence; exploration of the suspect; investigation of objects, documents, computer equipment (especially if the fraudulent activities involve the replacement of spare parts at a service station, etc.); review of the location of the event (especially if the fraudulent activities involve an plan aimed at obtaining insurance payments); a review of postal mail (and e-mail, social networking, etc.); questioning the suspect (suspects); presentation for the identification of the detainee at the place of commission of the crime (to persons who could observe actions on preparation of fraudulent activities); interrogating two or more persons whose evidence revealed contradictions;<sup>36</sup> search and detention of accomplices committing fraudulent activities in the area of circulation of vehicles (if there is information about fraudulent activities of an organized criminal group); implementation of certain secret investigative activities, such as withdrawal of information from transport telecommunication networks, withdrawal of information from electronic information systems (in order to investigate the personality of a suspect and predict his behavior during the investigation); use of forensic and operational search records; appointing the expertise; and using the media to identify other victims of fraudulent activities.

The above investigative activities should be aimed at: searching for and researching information relating to the preparation and committing of fraudulent motor vehicle transactions; detection and verification of the suspect's connections, as well as verification of the information received from the victim (to reveal signs of staging); and identifying the conditions and events that preceded the commission.

The program of investigative activities should be aimed at interviewing victims and witnesses, as well as organizing search and detention, and also further disclosure. It includes questioning the victim(s), questioning witnesses (especially those who may have relevant information about the location of a wanted person), interrogating two or more persons, reviewing the crime scene (if necessary and possible), and reviewing documents, objects, and computer equipment. In addition, a complex of operational and investigative measures should be taken within the limits of separate investigative activities which are aimed at research into suspects (withdrawal of information from

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<sup>36</sup> See, e.g., Головкін С.В. Криміналістична характеристика шахрайства відносно власності особи та її використання на початковому етапі розслідування: Монографія [Sergey V. Golovkin, *Forensic Characteristics of Fraud with Respect to the Property of a Person and Its Use at the Initial Stage of the Investigation: Monograph*] (Luhansk: Luhansk State University of Internal Affairs named after E.O. Didorenko, 2013); Головкін С.В. Криміналістична характеристика шахрайства відносно власності особи та її використання на початковому етапі розслідування: Дис. ... канд. юрид. наук [Sergey V. Golovkin, *Forensic Characteristics of Fraud with Respect to the Property of a Person and Its Use at the Initial Stage of the Investigation: Thesis for a Candidate Degree in Law Sciences*] 85–167 (Kharkiv: Kharkiv National University of Internal Affairs, 2008).

transport telecommunication networks, withdrawal of information from electronic information systems, monitoring of persons who have information about the location of the wanted person, review and withdrawal of correspondence, etc.) with subsequent detention and identification by the victims after finding the location of the wanted person. It is also important to pay attention to the analysis of forensic and operational records, freezing of accounts and property in order to provide for pecuniary damage or call for an international search (if there is information about the movement of a person across the border) with the possible use of the media.

The mentioned situation may contain sufficient information about the scammer which might help to detain the scammer in the nearest future. It may also happen that the available information can be based on counterfeit documents provided by the scammers, which will complicate the process of locating the scammer and will change the components of the investigative situation.

The program of the investigative activities should be aimed at obtaining information about a scammer. The list of investigative activities and tactical operations is actually similar to the actions and tactical operations that are typical for the preliminary investigative situation, but they have a certain specificity. Particularly, the interrogations of the victim and witnesses are mostly of a repeated nature (the peculiarity of interrogation of the victim and witnesses is that they did not contact the scammer personally, only on the phone or on the internet (through social networks), therefore, they cannot describe his appearance). Therefore, the investigator can often only receive information about the conditions and the subject of communication during the interrogation process. Another operation is observing places where a scammer may possibly hide or places where a scammer can engage in further criminal activity (an auto-market, a car showroom, etc.). This might help to conduct interrogations and create photographic evidence with subsequent notification of the public through the media in order to obtain assistance in search of a scammer. Another aspect of investigative activities is taking all necessary measures to determine the location of the scammer, as well as places of sale of things obtained as a result of fraudulent actions (if these things had any individual characteristics).

## **Conclusion**

Analysis of implementation of modern methods used in fraudulent motor vehicle transactions reveals a variety of methods, as well as a tendency to repeatedly use such methods in relation to this crime, especially multi-episode crime, as well as the conditionality of the choice of criminals of one method or another depending on the circumstances (place, time, conditions) under which the crime is committed.

Contemporary fraudulent motor vehicle transactions, in terms of scale and extent of losses incurred the level of organization and means of secrecy, objects of attack and methods of protection against persecution, qualitatively differs from the

previously traditional methods of fraudulent activities known to law enforcement institutions of Ukraine and forms original criminal “markets.”

The proposed scientific development of the applied (tactical) typology of criminals (scammers) is extremely necessary since it will help solve the following issues: limiting the search area of persons who committed fraudulent motor vehicle transactions by establishing the basic parameters of the environment to which they belong; definition of the method of committing a crime of social/antisocial characteristics of the alleged offender/criminal, in particular, the features of his criminal experience; foreseeing of the probable behavior of the offender, e.g. choosing a method of concealing fraudulent actions, places where he prefers to spend time, selection of new objects for committing crimes, circles of persons with whom there can be a trusting relationship, verification of versions of the probability of a series of homogeneous and similar methods of actions in fraudulent motor vehicle transactions by one and the same person (group of persons).

The classification, as well as the available information about the identity of this category of scammers, as well as organized criminal groups, are important for operational and investigative units and allow for formulating methodological recommendations aimed at establishing the circle of people on which the investigation should initially be concentrated.

It is necessary to establish interaction between law enforcement institutions and the mass media in order to prevent fraudulent motor vehicle transactions. This will increase the level of public awareness about the emerging methods of committing fraudulent motor vehicle transactions, which are constantly being changed and improved by criminals.

### **Acknowledgments**

The findings are the result of research carried out in the framework of the research work of the Department of Forensic Science of National University Odessa Law Academy, i.e. “A Comprehensive Study of Ensuring the Effectiveness of Pre-Trial Proceedings” (state registration number 0115U002495) for 2011–2015 as part of the research work of National University Odessa Law Academy entitled “Theoretical and Practical Problems of Ensuring the Sustainable Development of Ukrainian Statehood and Law” for 2011–2015 (state registration number 0110U000671), as well as the scientific and research work of the Department of Forensic Science of National University Odessa Law Academy “Theoretical and Applied Conception of Counteraction to Crime by Forensic Methods and Means” as a part of the research work of National University Odessa Law Academy entitled “Integration Development Strategy of Ukraine: Legal and Cultural Dimension” for 2016–2020 (state registration number 0116U001842).

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## Information about the authors

**Larysa Arkusha (Odessa, Ukraine)** – Professor, Department of Forensic Science, National University Odessa Law Academy (23 Fontanskaya Road St., Odessa, 65009, Ukraine; e-mail: larisa7arkusha@gmail.com).

**Nataliia Chipko (Odessa, Ukraine)** – Assistant Professor, Department of Forensic Science, National University Odessa Law Academy (23 Fontanskaya Road St., Odessa, 65009, Ukraine; e-mail: chipkoref@gmail.com).