

METHODOLOGY OF CRIMINALISTICS: DISCUSSIONS, TENDENCIES, PROSPECTS

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Annotation

The author discusses the debatable problems of the methodology of criminalistics and analyzes the tendency and prospects for its development. It is determined that the formation and modern development of criminalistics as an independent science is naturally connected with the formation of a system of methods of scientific knowledge of this science, which are determined and conditioned by a complex of tasks solved by criminalistics, its functions and aims. It is impossible to ensure the further development of criminalistic science, without having and without using the necessary methods of scientific knowledge. Recently, however, in the criminalistical literature there are opposing opinions and approaches regarding individual issues of the methodology of criminalistics, which are debatable in nature.

It is substantiated that the wrong methodological approach leads to a violation of the methodological principles of criminalistics, such as the unity of the theory and practice, the systems approach, the use of other sciences in forensic research, etc. Besides, in criminalistics studies, as in practical work, unfortunately the criteria for the possible usage of criminalistics and practical methods are not always taken into account. Recently, criminalistic science often goes into self-development and often without theorizing. Moreover, there are proposals, "innovations" for the creation and development of various private forensic theories, which are far from being such ones. It is argued that in forensic science there can be no "pure", abstract theories, principles and concepts, and other theoretical construction should have a practical way out, to serve the solution of various practical problems. Among the debatable problems of the formation of the methodological foundations of criminalistic science, the issues of the language of forensic science and the emergence of so-called "new" forensic terms are of particular importance nowadays. Recently, some criminalistic scientists have proposed new terms that are absurd, and their introduction into

scientific circulation is unreasonable. The violation of the principles of methodology leads to clogging of the language of criminalistics. Therefore, the problem of unification, standardization and codification of criminalistical terms and the establishment of uniform wording is very relevant today.

The improving of the methodology of criminalistics should be connected with the further development of the general provisions of the theory of knowledge, its categories in adapting to the concepts of criminalistics, the formation on this basis of individual integrative criminalistics theories, where the effective practical recommendations should be developed. Today, further research is required by the integrative function of criminalistics, the use of system-structural, active, functional, technological approaches, strengthening the practical orientation of criminalistics research, which will raise modern criminalistics to a qualitatively new level of development. Scientific approaches and proposals for solving the identified discussion problems of the methodology of criminalistics science are formulated.

Key words: methodology of criminalistics, methods of criminalistics, methods of practical activity, methodological principles of criminalistics, methodology of criminalistic research, integrative function of criminalistics.

Introduction

Establishment and development of criminalistics as a scientific discipline in its own right is consistently connected to the formation of system of this discipline's scientific and educational methods, which are defined and determined by the complex it's tasks, functions, purposes and object of cognitive specific. It's impossible to provide a further development of criminalistics without having and using necessary methods of scientific cognition, specially adapted for analysis of such specific phenomenon as crimes and activity for their exposure, investigation and prevention.

So, it's important to mention, that during the last decade criminalistics progressive development has been marked by the methodologization of scientific and educational process. Now days, the activation of scientific development dedicated to analysis and invention of criminalistics' methodological basis is observed. The criminalistics' increasing interest to the problem of methodological direction first of all is due to modern tendencies and details of the criminalistics development¹. Among them, the effects of integration process,

¹ . . . : /
5 . 2013, - : , /

ers that “ourcriminalistic is in crisis”, because “it gives knowledge not for acting, but knowledge for its own sake”⁹. G. A. Zorin, tried to systematize and analyze criminalistics methods, in his work “Forensic methodology” claims that “with the loss of marcsism-leninism as a all-conquering study criminalistics was “orphaned” from the ideological standpoint. Faded ideals of promised bright future did not find adequate replacement for themselves. Pessimistic perspectives of hopelessness have gradually started to push them out, dropped their wings giving way to the forces of evil. Now criminalistics reminds a play, ripped by the author, overfilled with doubtfulness, which reflects corridors of trick mirrors... and different points of view on the problems that need to be solved¹⁰.

So, consider the scientists, mentioned above to be undoubtedly talented representatives of criminalistic science, but on our part of view, it's unacceptable to agree with the claim that criminalistics was “orphaned” from the ideological standpoint with the loss of marcsism-leninism and of criminalistics reminding “a play ripped by the author overfilled with doubtfulness, which reflects corridors of trick mirrors” etc.

From our point of view, this situation is largely due to the ability of many problems of criminalistic methodology and should be discussed. So, the claim of V. E. Konovalova¹¹ is considered to be right and it is necessary to pay attention to criminalistic theory and its examination, criminal procedural law and to the necessity to investigate problems of scientific methodology, to the necessity of interaction between dialectic categorical concepts and methods of certain scientific fields and directions. It can contribute to definition and improvement of methodology concept of certain disciplines. Because of that study of the dialectical methodology problem and its connection with methods of sectoral research, including criminalistics is important for creating of methodological basis.

Analyzing the modern situation of criminalistics, A. A. Khrestovnikov announces about the necessity to review methodological mechanism of criminalistics as a science, which could directly serve and provide fight against crime

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practice¹². As A. F. Lubina claims theoretical and methodological underdevelopment of criminalistics does not let it come to the modern level of scientific criminalistic technologies. If methodological rules exist in criminalistics, they mostly were not formulated on purpose and were accepted not truly consciously, sometimes even “unconsciously”¹³. These and other circumstances determine the necessity of further fundamental development of criminalistic methodological problem as one of the criminalistic research perspective directs.

It's known that criminalistic methodology is based on dialectical approach. So, materialistic dialectic determines not only world-view criminalistic research principals and approaches, but also defines the common research direct, criterions of criminalistic means and estimation of their using results. Dialectical method helps to reveal the philosophical fact of the problems, which are distinctive for criminalistics, to find out which role practice plays both in scientific criminalistic research and investigators' activity, based on recommendations and conclusions of forensic science.

The theory of cognition and reflection is considered to be the methodological basis of criminalistics. In fight against crime criminalistic science and practice philosophical thesis about theory and practice unity, dialectical thesis about substance ability for reflection, thesis about interconnection and intersectionality between phenomena play an important role.

During the crime investigation process, it's necessary to analyze different forms of reflection: starting with simple forms, connected to contact interaction between two objects, continuing with psychophysical forms, when facts and circumstances are reflected in consciousness of people¹⁴. It should be noted, that some scientists consider dialectical materialism as the only method of criminalistic cognition. For example, V. G. Goncharenko sees dialectic together with metaphysics, the value and the necessity of which lie in the studying of research object in static, beyond the connections, through their “deadening”, that means through “metaphysical method”. Without metaphysics there will be nothing to study for dialectic. Without elements as they are there is no movement, interconnection and interdependence, without ontology,

¹² 2007, 9, .50.

¹³ ,1997, .16;

¹⁴ : 3- ,2001, .228, 229.

there is no gnoseology as V. G. Goncharenko¹⁵ thinks. Supporting this point of view, E. V. Smahtin points out that along with dialectical approach there are some other philosophical directions. As he thinks, a lot of definitions, laws and principals of methodological grounding of any scientific work are within the framework not just materialistic dialectic, but also metaphysics. Philosophical method, based on dialectical imagination of the actual reality, is characterized by comprehensiveness of consideration of subject of cognition; using the dialectical categories in scientific research and other principals. Metaphysical cognition of the reality consists in one-sided study of any process, phenomenon, law conception through putting them into absolute form and considering them beyond the connection with the actual reality.

It's difficult to accept this claim, because gnoseology, revealing laws of cognition the reality, is based on dialectic, which can give the universal image of the world, where phenomenon of the reality is considered in revealing interconnections, transfusion, fight between opposing trends. Metaphysics can be considered as an alternative for dialectical method just under certain conditions.

In an effort to give the whole finished study of world phenomenon, metaphysics replaces its comprehensive scientific understanding by the mechanical speculative construction of elements of the world. Today metaphysics is rather setback for scientific research, because it's not able to understand and learn qualitative changes from empirical to theoretical level of the reality cognition, and in accordance it does not give the fully representation of research object, and it cannot give objective picture of the world¹⁶.

Studying these problems, N. P. Yablokov pointed out that materialistic determinism effectively protects methodological mechanism of criminalistics from pseudo-scientific devices, based on prejudices, mysticism and occultism¹⁷. As criminalistic theory shows, the crime investigation practice protects, but not always and not entirely safely.

In our opinion, the other side of this problem is connected with it, and mentioned scientists kept it in their mind, namely, that the wrong methodological approach leads to breaching of methodological principals of criminalistics,

¹⁵ V. G. Goncharenko, *Methodology of Criminalistics*, T. 1, Moscow, 2011, p. 30.

¹⁶ E. V. Smahtin, *Methodology of Criminalistics*, 2-nd ed., Moscow, 2017, p. 374.

¹⁷ N. P. Yablokov, *Methodology of Criminalistics*, 3-nd ed., Moscow, 2005, p. 82.

such as theory and practice unity, systematic approach, using other disciplines' achievements in the criminalistic study¹⁸ etc. Furthermore, in criminalistic research, the same is in practical activity of law enforcement bodies, unfortunately, admissibly criteria of using forensic and practical methods not always are taken in account.

Criminalistic Methodology and Practical Directoin of Study

Analysis of scientific study shows that recently, especially during last twenty years, criminalistics often goes in self-development and objectless theorification. One example is proposal of the "novation" in creation and development of different private criminalistic theories: criminalistic eidology (the theory of forming, developing, practical use of the criminalistic ideas); criminalistic cadavrology (the study of dead bodies); criminalistic factology (criminalistic theory about facts and systems); criminalistic heuristics (criminalistic theory about processes of information transfigurations when it being searched, analyzed, reworked, used in substandard criminalistic situations); criminalistic phenomenology (approach to crime as an original phenomenon, only one of its kind phenomenon); criminalistic interpretation; criminalistic argumentation etc.

As G. A. Zorin thinks, it's time to talk "in accordance to problem statement" about the development of new criminalistic fields: criminalistics of prosecution, "cradle" of all other criminalistic fields; criminalistics of defense; criminalistics of criminal investigation; criminalistics of economic activity. It's possible to go further and mark as forensic fields: criminalistics of murders (problems, which penetrates all criminalistic sections) economical criminalistics (reflects patterns of fantastical growth of economic crimes), transnational criminalistics, transboundary criminalistics¹⁹ etc.

We think that, it's impossible to accept such proposals, because they contradict the principals of scientific character, theory and practice unity. In this connection V. P. Bahin asks the following question: "Criminalistics for criminalistics or for practice?"²⁰ In our opinion, it's obvious, that criminalistics, being an applied science, should study patterns of objective reality not as goal in itself, but exclusively for solving tasks of revealing, investigating and preventing

¹⁸ ... , 1996, . 31-36.

¹⁹ ... , 2000, . 19, 20.

²⁰ ... ?

... , 2002, . 53-61.

crimes. So there can't be "clear", abstractive theories, principals and conceptions in criminalistics, because any theoretical construction should have pragmatic solution and service solving any given practical tasks. In criminalistics science as a practice value of any theory, theoretical construction or conception determines the practical direct.

So, the claim of V. Y. Coldina that in criminalistics, only theories, principals and definitions, which lead to optimization of fight against crime practical activity and solving applied criminalistic tasks, have methodological value is considered to be absolutely true²¹. By supporting such approach, V. Kim²² marks that it's very important to criminalistics for distinguish between content of theoretical knowledge and methodological function of this science (right organization of subject's activity, cognizing and transforming reality) and criminalistic practice direction. Moreover, analysis of methodological functions of criminalistic theory lets determine them more strictly and use them effectively as instrument of criminalistic cognition and practice.

Methodological Problems of Criminalistic Language

The fact that the upsetting of methodological principals leads to "contamination" of forensic language is obvious. Lately some forensic scientists are proposing new terms, sometimes they are absurd, and their introduction into scientific circulation is unreasonable, for example criminalistic cadavrology (A. A. Potasevich), criminalistic gipnology (V. A. Obrazcov), criminalistic psychology (V. A. Obrazcov, S. N. Bogomolova), "parametrization of forensic methodology", "typical retrospective modelling of crime activity", (A. A. Khrestovnikov, V. Y. Coldin), "substanceology", "oerdology", "oerdistics", "oerdological regulation", "methodic of overcoming of certain crime types and groups" (A. A. Kirichenko, V. Antonov) etc.

The arbitrary process of introduction of a new term in criminalistics is leading to inconsistency in names of criminalistic terms²³. As R. S. Belkin thinks, recently the capture of other disciplines by "trendy" time periods, which are

²¹ V. Y. Coldina, *Methodology of Criminalistics*, Moscow, 2001, 1, .61-67.

²² V. Kim, *Methodology of Criminalistics*, Moscow, 1986, No 3, .80, 81.

²³ R. S. Belkin, *Methodology of Criminalistics*, Moscow, 2002, c. 1; R. S. Belkin, *Methodology of Criminalistics*, Moscow, 2012, .115-131.

offered for application to replace generally accepted definitions, has become a negative pattern. Such “modernization” does not contribute to its “unification”, but, contrarily, brings confuse, artificiality, polysemy in the usage of terms. It’s necessary to react negatively on proposes of new terms introduction, if it is not determined by necessity. The replacement of existing definition by a new one warranted only when a new term means a new definition of a concept, the which, meaning of has changed or is significantly specifying²⁴.

In the criminalistic literature²⁵ it’s fairly noticed that there are such problem questions of terminology and criminalistic language as polysemy of terms; double variation in the use of terms; inattention to the semantics of the word; excessive emotional coloration of terms; violation of the logical sequence in the formulating of the definitions; wrong transliteration; author’s interpretations; inconsistency between conceptual criterion and logical-stylistic organization, which leads to a violation of the logical connections of the term and content in the text.

As R. S. Belkin rightly notes that introduction to criminalistic science of a new term, borrowed from another field of knowledge, to refer to concepts existing in criminalistic science, is permissible only in the following cases: 1) when this term means a new aspect of considering the old concept, that is, in fact an appearance of a new definition (in another aspect, from a different angle) of the object; 2) when a new term more correctly and more fully reflects the definition of the concept used in the criminalistic science, in this case, new terms replace the previously used ones; 3) when the separation of the concept, connected with the previous term, occurred, and it no longer reflects the whole concept as a whole. In this case, a new term is introduced to determine a separate part of the concept, and the old one is used to determine the part of the concept that remains²⁶.

Taking into consideration mentioned above, we think, that nowadays the problem of unification, standardization and codification of criminalistic terms and the establishment of uniform wording is highly relevant. Theoretical studies of criminalistic science should be carried out in accordance with the norms of the scientific style of the Ukrainian literary language, lexico-semantic norms,

²⁴ , P. . : 3 . T. 1: . , 1997, . 275-277.

²⁵ : . . : 12.00.09 / . , 2002, c. 7.

²⁶ , P. . : 3 . T. 1: . , 1997, . 275-277.

taking into account their inherent features. The language of scientific sources in criminalistic science should correspond with the principle of accessibility, especially if it is designed for the primary perception of the provisions of forensic science by the reader (for example, textbooks, encyclopedias, dictionaries).

The language of criminalistics is dynamic, and it is constantly developing. In criminalistic science, the emergence of new terms or neologization of the forensic language is determined by objective changes in modern life and it is a natural process, reflecting the development of the Ukrainian language and the language of science. In criminalistic science, the expansion of the range of used concepts and definitions, the emergence of new terms and concepts are also due to the active use of borrowed (foreign language) vocabulary, as well as in the process of borrowing the achievements of other sciences by criminalistics. To date, certain trends in the development of the scientific language of criminalistics have been identified and analyzed in detail by scientists and they require a further research²⁷.

Criminalistical Methodologies and the Declarative Nature of its Presentation

In the criminalistical literature, it is rightly noted that it's an anxious fact that in a large flow of textbooks, sections of methodology, the general theory of criminalistic and individual theories are hardly indicated or completely absent or have a purely declarative character. What is it? Absence of material, misunderstanding, ignoring or other reasons? In addition, it is alarming that during the past decade, according to published data, there has not been a single dissertation defended on the methodology and general theory of criminalistics. There is a legitimate question: why?

Analyzing the problems mentioned above, V. E. Konovalova²⁸ correctly notes that in the plan of criminalistic theory development, some controversial issues relating to the science methodology are must be pointed out. If the problem of the criminalistic subject still remains controversial, despite established definitions, and becomes an obstacle every time, then the problem of the after-days methodology does not cause any discussion, despite the fact that

²⁷ , E. . : , 2019. . 90-100; -
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 : - . , 2012. . 115-131.

²⁸ , / - : . . -
 , , 2006. . 6. . 11-16.

the forensic methodology does not really exist. Those systems of methods that have a separate character can be easily transferred to scientific laws, supposedly absorbed by the dialectical method, and *in their essence they are categories of formal logic*. Offered as universal methods of cognition, the fact of which is the methodology, they focus on such postulates as measurement, comparison, modeling, etc.

Regarding the debatable problems of criminalistic examination methodology, V. E. Konovalova notes that we find separate attempts to find our own methodology in the studies, dedicated to criminalistic examination. In studies of the theory and methodology of criminalistic examination, it is often called a complex of various types of examinations and their methods of expert activity methodology. There is also a substitution of concepts (a set of methods) with the name of the methodology of expert research, that is a new idea, which immediately dissolves in individual methods of specific types of expert analysis²⁹. The study of the theoretical problems of criminalistic examination revealed another idea - to approach the methodology of criminalistic examination with the cognitive fact of such a category as "abstract and concrete", declaring the last one as the methodological basis of the theory of criminalistic examination³⁰. So, talking about the cognitive nature of the mentioned category, the author reduces it to the traditional sequence of expert research (analysis, comparative research, synthesis), which is not manifested in interaction with other categories of dialectics, performing a variety of functions during expert research. The wish to name those that methods (separate studies) by the term "methodology" also occurs in other works.

We consider it to be necessary to pay special attention on another important problem that now remains debatable in the criminalistical literature. It is the issue of classification and systematization of criminalistic methods.

In our opinion, the most acceptable and successful classification is the one of the methods of R. S. Belkin³¹, who proposed a three-level system of criminalistic methods: 1) a general method of criminalistical science; 2) general scientific methods; 3) a system of special criminalistical techniques.

²⁹ - , E. . - : . . . , 2004, . 176.

³⁰ , . . . , 2012, 5, . 122-131.

³¹ , . . . : 3- . . . , 2001, . 221-227.

At the same time, in modern criminalistic literature³² there are true, in our opinion, objections to the name and the term “general method of criminalistics”. Analyzing these proposals, we think, first of all, that it is hardly reasonable to consider the dialectical method as a general method of criminalistics, because its connection with the system of methods of a separate science is more complex. So, in view of its all-generality and the unification in it of such cognitive principles, units which are universal, it serves as a foundation on the basis of which a system of methods of individual sciences is developed. The dialectical method is basic for many sciences, including criminalistic science. That’s why, the dialectic method is implemented in the system of methods of individual sciences, therefore, the level of development of the science methodology is viewed according to the compliance of the system of its methods with the basic provisions and requirements of the dialectical method.

Conclusions

In conclusion, it should be noted that none of the above mentioned methods can be absolutized, transformed into the only possible one, taken separately from others, cannot lead to the full success of such research. Only the totality, the system of these methods can ensure the achievement of truth. The theory of knowledge, the theory of reflection, the methods of dialectical and formal logic, and other scientific methods based on them are used in dialectical unity and interconnection³³. All of them in total form a complex system of methods of scientific knowledge in criminalistic.

The tendency in the development of the criminalistic methodology should be reflected in the development of the general provisions of the cognitive theory, its categories in adapting to the concepts of criminalistics. Such adaptations have already been presented by studies of the theory of identification and its individual structures in accordance with the provisions of the criminalistic technique and tactics³⁴. Besides, the further improvement of the criminalistic

³² , 2000, . 24; 2016, . 185-192.

³³ : 2 . . 1 / , 2019, . 14-19.

³⁴ , 2006, . 6, .

methodology should be associated with the expansion of the base of its separate methodology through the use of so-called “inter-scientific integrators” and the formation on their basis of separate integrative forensic theories, within which effective practical recommendations should be developed. So, nowadays, a criminalistic integrative function requires further research, the usage of system-structural, active, functional, technological approaches, strengthening the practical focus of criminalistic research, will raise the modern crime-list to a qualitatively new level of development.

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KRIMINALISTIKOS METODOLOGIJA: DISKUSIJOS, TENDENCIJOS, PERSPEKTYVOS

Shevchuk Viktor

Santrauka

Straipsnyje pristatomi šiuolaikinės kriminalistikos vystymosi ir tendencijų diskusiniai aspektai, pateikiamos jos tolimesnio vystymosi perspektyvos bei prognozės. Autorius iškelia klausimą, ar tinkamai yra naudojami kriminalistikos metodai, ar kriminalistikos mokslas nepasidavęs savieigai, kuri iškreipia jo esmę ir turinį. Autorius dar kartą rodo, kad kriminalistikos moksle kiekviena naujovė ir siūlymai turi būti pagrįsti praktinio pritaikomumo analize, užtikrinant leistinumo, patikimumo ir kitus kriminalistikos metodais taikomus principus laikymosi ir gyvendinimui.

Pagrindiniai sakiniai: kriminalistikos metodologija, kriminalistikos metodai, praktiniai veiklos metodai, metodiniai kriminalistikos principai, kriminalistiniai tyrimų metodologija.

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