

CRIMINALISTIC METHODOLOGY AND PRAKTIKAL OF STUDY

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Summary The author discusses the debatable problems of the methodology of criminalistics and analyzes the tendency and prospects for its development. 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 criminalistic literature there are opposing opinions and approaches regarding individual issues of the methodology of criminalistic science, 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. 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. 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.

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

Recently some controversial opinions and scientific attitudes about some issues of the criminalistics methodology, which have contentious nature, have appeared in criminalistical literature [4, p. 221-249; 11; 7, p. 58-64; 9, p. 30-33; 14, p. 159-173]. Moreover, in the criminalistics literature during last twenty years certain scientists have often mentioned about some “contradictions and problems” in criminalistic research [13], and in some cases it was a matter of crisis in criminalistics, and even about “mortal sins” of it [2]. Furthermore, lately there have been certain scientists’ proposals in the literature for establishing a special criminalistical methodology, necessity to change the scientific paradigm of the criminalistics, the use of non-traditional methods in it and crime investigation practice etc. A grounded analysis and criticism of these “accusations against criminalistics” were a subject of acrimonious discussion between scientists and it is still considered to be an urgent problem [6, p. 353-365; 15, p. 63-66.].

While criticizing criminalistic modern situation, scientists express their vision of the current problem. So, scientific discussion, which has been developed recently, demonstrates that criminalistics is in some kind of a specific crisis, that is distinctive for all disciplines in a certain stage, driving them up to the higher level of development. A.S. Aleksandrov considers that “our criminalistic is in crisis”, because “it gives knowledge not for acting, but knowledge for its own sake” [1, p. 3-6]. 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 solved” [5, p. 592-593].

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 marxism-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. Konovalova [7, p. 62] 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 practice [10, p. 50-54]. As A.F. Lubina claims “theoretical and methodological underdevelopment of criminalistics does not let it come it 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” [12, p. 16]. 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 investigator's 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 phenomenons play an important role.

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, such as theory and practice unity, systematic approach, using other disciplines' achievements in the criminalistic study 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.

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 criminalistics [5, p. 19-20] 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?" [3, p. 53-61]. 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 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, 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 true. 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. 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. Konovalova [8, p. 11-16] 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 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.

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.

In conclusion, it should be noted that 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 tactics [8, p. 11-16]. Besides, the further improvement of the criminalistic 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.

REFERENCES:

1. Aleksandrov A. S. (2008). Sudebnaja lingvistika i sudebnaja kriminalistika. Ispol'zovanie dostizhenij inyh nauk v kriminalistike: materialy nauchno-prakticheskoy konferencii (18-19 aprelja 2008). Krasnodar: KGAU, 3-6. [in Russian].
2. Aleksandrov A.S. (data obrashhenija 02.12.2019). Sem' smertnyh grehov sovremennoj kriminalistiki. Mezhdunarodnaja Associacija Protivodejstviju Pravosudiju. URL: <http://www.iuaj.net/node/342>.
3. Bahin V. P. (2002). Kriminalistika dlja kriminalistov ili dlja praktiki? Rol' i znachenie dejatel'nosti R. S. Belkina v stanovlenii sovremennoj kriminalistiki: materialy mezhdunarodnoj nauchnoj konferencii. Moskva: JUrisk, 53–61. [in Russian].
4. Belkin R.S. (2001). Kurs kriminalistiki. Moscow: JuNITI-DANA: Zakon i parvo, 221-249 [in Russian].
5. Zorin G. A. (2000) Teoreticheskiye osnovy kriminalistiki [Theoretical bases of criminalistics]. Minsk: Amalfeya [in Belorusija].
6. Kogutich I. I. (2011). Okremi mirkuvannja shhodo vikladu O.S. Aleksandrovim “superechnostej ta problem” suchasnoï kriminalistiki. Visnik L'vivs'kogo universitetu, 353-365. [in Ukrainian].^[1]
7. Konovalova V.O. (2015). Problemi metodologii galuzevih nauk (kriminal'ne pravo, kriminal'no-procesual'ne pravo, kriminalistika, sudova ekspertiza). Pravo ta inovacii. № 4 (12), 58-64. [in Ukrainian].
8. Konovalova V. E. (2006). Novye tendencii razvitija kriminalistiki. Teorija ta praktika sudovoï ekspertizi i kriminalistiki: Zbirnik naukovopraktichnih materialiv. Red- kol.: M. L. Cimbal, V. JU. SHepit'ko, L. M. Golovchenko ta in. Kharkiv: Pravo, vypusk 6, 11–16. [in Ukrainian].^[2]
9. Kriminalistika. (2011). Akademichnij kurs: pidruchnik / T. V. Varfolomeeva, V. G. Goncharenko, V. I. Bojarov ta in. Kiiv: JUrinkom Inter, 30-33. [in Ukrainian].^[3]

10. Krestovnikov O.A. (2007). Sistema metodologii kriminalistiki. Gosudarstvo i pravo. № 9, 50-54.
11. Krestovnikov O. A. (2013). Sistemno-dejatel'nostnyj analiz metodologii kriminalistiki: monografija. Moskva: JUrlitinform, 16. [in Russian].
12. Lubin A. F. (1997). Mehanizm prestupnoj dejatel'nosti. Metodologija kriminalisticheskogo issledovanija. Nizhnij Novgorod: NJUI MVD, 16. [in Russian].
13. Sokol V.Yu. (2017). Krizis otechestvennoj kriminalistiki: monografija. Krasnodar. [in Russian].
14. Textbook of criminalistics / ed.: H. Malevski, V. Shepitko. W. 1 : General Theory. Kharkiv, 2016. p.159-173.
15. Filippov A. G. (2010). O stat'e professor A. S. Aleksandrova «Sem' smertnyh grehov sovremennoj kriminalistiki». Vestnik kriminalistiki, № 3 (35), 63-66.

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