

THE LAW ENFORCEMENT BY THE BODIES OF PRELIMINARY INVESTIGATION AND INQUIRY

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THE INFLUENCE OF THE PARADIGM OF FORENSIC SCIENCE ON LAW ENFORCEMENT

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The subject. The subject of the study is the relationship between the methodology of the theory of forensic science and law enforcement issues. The nature of the forensic science and the paradigms of theory are subject to significant changes today. Philosophical and scientific postulates revealed differences in post-non-classical science. The author substantiates the need for the evolution of some essential criteria of scientific knowledge in forensic science. The article deals with the concepts of private forensic theories and the structure of the general theory of forensics. It shows the impact of scientific research on the needs of practice, the ambiguous nature of the preparation of practical recommendations, the complex path from basic forensic research to the integration of investigative methods in investigative practice.

The purpose of the article is to confirm or disprove the hypothesis that changing the general forensic paradigms should lead to changes in the method of detecting and using traces of crimes in criminal proceedings.

The methodology of the research includes analysis, synthesis, deduction as well as private scientific methods of forensics, in particular, the doctrine of traces.

The main results of the research. Any scientific research, especially in the field of forensics, is aimed at solving practical problems if they are unsolvable by existing methods and recommendations. Sometimes the problem, especially at the initial stage of its study, is difficult to be identified clearly. First of all, you need to prove that it exists, then define it in general, and only then look for approaches, methods of scientific research of its causes and essence, and concentrate on finding a solution. In forensic science, this is expressed in the identification of inefficiency in solving the problems of investigating crimes using existing scientific recommendations. One of the essential elements of private forensic theories is their practical implementation. Practical orientation in forensics implies the availability of knowledge that is potentially suitable for the development of practical recommendations on methods, techniques for detecting traces of crime and related events, means of collecting evidence, the possibilities of using the extracted and processed information for the purposes of criminal proceedings. The relevance of the results is determined by the significance of the scientifically proven tasks, questions and problems. For investigative practice, it is not the status of theoretical recommendations that is important, but their qualitative content.

Conclusions. Relevance in practice does not always determine the scientific significance of theoretical research in forensic science. The fundamental nature of scientific knowledge and overcoming outdated paradigms require time and at a certain stage may not be in demand in practice. However, changes in scientific views are strategically necessary for law enforcement and should be reflected in recommendations for forensic practitioners.

1. Introduction.

In this study, we will refer to the designation of the science of criminalistics in its new paradigm (post-non-classical science). On the one hand, the main characteristics of traditional understanding remain dominant. At the same time, they gradually lose their positions, yielding to the evolutionary-synergetic interpretation of reality. On the other hand, the new scientific picture of the world has already established other values that cannot be ignored. When comparing the differences in the attitudes of the old and new approaches, there is an understanding of the urgent need and relevance of adjusting the established criteria of scientific competence.

Respected forensic scientists and philosophers V. N. Karagodin, E. A. Mamchur, A. S. Maydanov, A. A. Exarchopulo, and I. V. Chernikova expressed their opinions on this topic. These works will be discussed later in this article. A pioneer in this matter, of course, stands megascience, philosophy.

2. The major differences in attitudes of old and new approaches to scientific cognition.

F. Capra draws attention to some fundamental differences in approaches to scientific knowledge [1; 2; 3, p. 165]. First, it concerns the essence of things (material objects). Traditionally, they were considered as separate individual substances of matter. Today, there is more support for the interpretation of their energy component. Thus, in the science of criminalistics, there is a noticeable tendency to perceive traces of crime events not as objects and things, but as a set of ordered energy flows. When studying the patterns of occurrence, detection and investigation of traces of events and phenomena related to crimes, attention is drawn to the close relationship of these

circumstances. Information about the crime is contained in such media, which interact, generate the most complex physical and chemical processes. The result of this movement of material objects is their changes into certain atomic formations, previously unknown phenomena. Modernity poses challenges to forensic science in the field of smell, biological, communication and many other traces, which can no longer be simplistically equated to material units (tracological traces). Things are getting a lot more complicated. For law enforcement issues, it is important that new scientific approaches to the essence of material objects allow us to pay attention to the identification of traces of a broader order when investigating crimes. Today, genomic, thermal, electrical, optical, radioactive and other traces have become widespread, the study of which makes it possible to solve and investigate crimes more effectively.

Secondly, the knowledge of reality as atomically structured, consisting of separate parts of matter, has ceased to satisfy forensic science. In forensic knowledge, attention began to be drawn to more complex connections and relationships. Thus, the inextricability of links between events and people, between people, between people and the environment, between events and the environment, between events and nature in all countries and continents is quite obvious. In our multipolar world, the events of a crime are shrouded in many accompanying circumstances, never appearing as separate actions. They and their accompanying events and phenomena have connections and relationships in geographical, economic and social aspects. The detection and investigation of many criminal offenses depends not only on the ability and capability of investigators. Today, thousands of factors generated by thousands of connections should

be taken into account. Thanks to new scientific approaches, law enforcement practice in the investigation of crimes has been enriched with systematic methods that take into account the multiplicity of corresponding links and relationships. Investigators and operatives to solve crimes began to explore the information flows not only of the immediate circle of connections between crime and criminals, but also expanded their heuristic search activities in terms of geographical, economic and social relations.

Third, the traditional perception of the world itself presupposes a mechanism for the emergence, state, development and disappearance of nature. In the modern sense, reality is a spontaneous self-organizing integrity of the organizational sense. This position is extremely sympathetic to forensic knowledge. When solving and investigating crimes, it is necessary to perceive absolutely all circumstances as a single integral phenomenon. This applies not only to events and phenomena related to the offense, but also to processes of a more distant order. Recognition of their common relationship will allow us to learn more about the patterns of information flows. Accordingly, other opportunities for detecting information about what happened organically appear, and the results of the evidence study become more reliable. Understanding that the world is one as a self-regulating whole allows the subjects of crime investigation to perceive a specific event as part of the whole. The violation or change of the whole existence within the framework of reality provides investigators with unlimited new opportunities to obtain information about criminal encroachment.

Fourth, the time of technological progress as the main engine of world development is over. In forensic science, the increasing importance of communication is particularly evident. In social relations, which are the quintessence of

crime investigation, tolerance and even co-evolution are more in demand. Many traces of crime events cannot be identified if we ignore the possibilities of communication, the requirements of tolerance, taking into account the joint evolution of biological species in the ecosystem (the impact of human actions on changes affecting individuals of other species). Recognizing that communication links are the engine of progress, the subjects of crime investigation shift their focus from the capabilities of technical information retrieval to the capabilities of the increased communication system. The process of getting information and its volume became dependent on the range of data distribution, speed and availability of its movement. Understanding the mechanism of mutually dependent changes in the elements that make up the developing integral system allows the investigator or operative to more effectively identify traces of events, solve and investigate crimes.

Fifth, the attitude to the economy as the main way of people's struggle with each other has changed. Conciliatory relations and mutual adjustment come to the fore. The new view changes criminally significant postulates about the motives of criminal activity, the motives of the behavior of victims, witnesses and other participants in the proceedings. The patterns of trace formation change, and the methods of detecting significant information change accordingly. Such scientific paradigms of criminalistics are a guarantee of correct and therefore more effective practical activities of preliminary investigation bodies. Using the changed motivations of the actions of witnesses, victims, and even subjects of crime, investigators are more likely to receive reliable criminally significant information from them. Understanding the nature of the relationships of persons involved in events allows you to correctly choose and apply existing tactics for conducting investigative and other actions, and

form new ones. Thus, the patterns of trace formation and, accordingly, the methods of trace detection change.

3. Analysis of new paradigms regarding the criteria of scientific competence.

Forensic science today requires fundamental changes in the scientific and social Outlook, revolutionary radical approaches to the formation of new knowledge. The coming holistic understanding of reality creates new thinking and radically different values: unusually broad cooperation, enhanced partnership, free communication, and pervasive integration. Forensic cognition is increasingly moving away from using linear thinking. The demands of time encourage you to turn to mastering the skills of a systematic approach. This in turn creates a connection of thinking with a certain environment (contextual, linguistic, conceptual, semantic). In connection with this transformation of the scientific worldview, the scientific provisions and categories that have been established and accepted by the majority of forensic scientists lose their meaning. It has become necessary not only to look at known ideas from a different angle, but also to re-understand the essence of scientific truth, scientific knowledge, scientific method, and criteria of scientific validity.

Philosophers in their research of scientific criteria, associate them primarily with methods. M. Thompson writes that the difference between science and pseudoscience is determined not by the content of judgments, but by research methods [4; 5; 6, p. 297]. Thus, it is classically assumed that the universalist methodology is used in any science (in criminalistics, hypothetical-deductive and comparative-historical methods). Today, the idea of diversity, multiplicity of explanations of phenomena and circumstances, and description of regularities of processes is more

acceptable. However, the system of knowledge, clarity, and coherence of the presentation remains an immutable requirement. The methodological transparency of the initial judgments and the reasonableness of the scientific result are still important. This change in the criteria of scientific knowledge is positively perceived by forensic knowledge. As in other Sciences, criminalistics distinguishes the levels of scientific research (empirical and theoretical). Empirical objects of forensic scientific knowledge are abstract objects, the result of mental processing of the perceived human senses. Theoretical objects in criminalistics are created by rational modeling of empirical objects. Forensic science deals not with things, but with models.

The most concise and convincing famous scientist philosopher who devoted a special monograph to the analysis of scientific theory, G. I. Ruzavin. He defined scientific theory as a system of abstract concepts and statements that represent an idealized representation of reality. In this idealized representation, concepts and statements "describe not the properties and relations of real phenomena or systems, but the behavior of an idealized system, or a conceptual model that was built as a result of the study of a real system" [7, p.166]. Based on the proposed construction of the scientific theory, it can identify a number of components inherent, of course, any formed forensic theory. These include, first of all, an idealized model of a real phenomenon described by the theory as interacting abstract objects. Any forensic theory, representing an idealized model of a fragment of reality that is known by forensic science, concentrates the accumulated scientific knowledge and displays the laws of functioning of real objects [8, p.5-25].

Questions of truth and objectivity in science are not simple. There is a well-known dispute between A. Einstein and R. Tagore, where the

former argued that the truth does not depend on a person, and the latter is convinced that when identifying General patterns, science is always human [9]. There can be no absolute truth in science, but the rejection of absolute truth does not mean subjectivism in science in the sense of rejection of objectivity. R. Tagore questions not the existence of objective reality, but the uniqueness of the truth corresponding to reality [10, p. 130-133]. There are other judgments on this issue from philosophers and forensic scientists [11; 12, c. 35-36; 13; 14, c. 15-20; 15; 16, c. 248; 17, c. 26-33; 18; 19]. As for the objectivist image of science, it is preserved. Objectivity remains important as the main value of science, as noted by E. A. Mamchur, who analyzed the images of science in modern culture [20, p. 172]. However, the interpretation of objectivity is changing. Objectivity is no longer identified with or opposed to subjectivity. Objectivity is understood as the ability to give a relatively true picture of a subject and as the impartiality of research.

4. General theory of criminalistics in the modern era.

The provisions of the General theory of forensic scientific knowledge, especially questions about the content and structure, have always been actively discussed. Recognition and dominant success was achieved here by the well-known processalist and criminologist R. S. Belkin. According to his concept, the General theory of criminalistics is an independent unit with a rather complex internal structure. Its main elements were defined by the author: postulates about the subject, the concept of science, ideas about the laws of mechanisms of crime and its investigation, occurrence, detection, research, evaluation and use of information about the criminal manifestation. R. S. Belkin referred to the structure of science private forensic

theories, combined in it worldview principles, various theoretical categories, concepts, terms, methods, concepts [21, p. 17].

The main contentious issue for critics of this judgment about the theory of forensic science is the relationship to the content and place of frequent forensic theories. The postulate about the inclusion of private forensic theories in the content of the General theory of science is denied, since their provisions do not allow to characterize the object and subject of criminalistics. Denying the integrity of the General theory, they present particular theories as a "kind" of the General one, where they also distinguish individual elements [22, p. 12; 23, p. 206]. However, this approach of universal construction can be assessed as meaningless, impossible a priori, since even the highest level of universalization and theoretical development is not able to create a system of knowledge of this kind [24, p. 80-91]. A well-known forensic scientist V. N. Karagodin agrees with this judgment. In his opinion, the content of the General theory of criminalistics R. S. Belkin did not limit only private forensic theories, it covers concepts, categories, scientific positions that are not elements of private forensic theories. The relevance of these elements of the General theory of criminalistics is determined by their functional purpose, i.e. their purpose for implementing explanatory, synthesizing, and predictive functions [25, p. 26-33].

We can agree with this position on the place of private forensic theories, but this is not the end of the question. The most difficult thing is that not every theoretical judgment, idea, or construction can be recognized as a private forensic theory, even if the content of these includes a special subject, object, and methods. This is probably due to the fact that the criteria for recognizing certain theoretical positions as theories are not sufficiently developed. In our opinion, it is important to have an innovative and scientifically significant essence in the

content of theoretical developments, especially in their results. In this regard, we support the judgment of V. N. Karagodin, who believes that criminalistic teaching, like any private theory from another branch of knowledge, should be based on an independent scientific concept [17, p.26-33].

When discussing the essence or concept of a particular theory, you can focus on the basic requirements for achieving this status. It seems that scientific substantiation of the state of the object under study, the phenomenon, identification of the regularities of the process associated with their development, as well as reasoned conclusions of fully completed knowledge becomes necessary. The degree of completeness of the concept development determines the assessment of the completeness of the theory. At the same time, the content and conclusions of a private forensic theory should differ significantly from other theoretical statements of other authors. In a more correct, subtle understanding of these requirements, taking into account the dynamically developing scientific ideas, of course, new approaches to existing particular theories are not excluded. In this case, in our opinion, with a reasonable change in the essence or part of such a theory, it will remain. New judgments, having received the status of new concepts, theoretically proven judgments will become part of the same, but improved private forensic theory.

In any case, as A. S. Maydanov rightly pointed out, the concept is based on independent ideas about the essence of the object under study. The content of the approach also includes strategy, tactics and means of solving the identified problems [25, p. 51]. And here it is important to emphasize the necessary connection and conditionality of such elements as strategy, tactics, concept, methodology of the tasks to be solved, and the depth of object research.

One of the essential elements of private forensic theories is their practical implementation. This question is simple only at first glance. Practical orientation in criminalistics implies the availability of knowledge that is potentially ready to develop practical recommendations on methods, methods, techniques for detecting traces of crime and related events, means of collecting evidence, and opportunities to use the extracted and processed information for the purposes of criminal proceedings. Today, there is a bleak picture of the creation of countless methods of investigation of certain types and groups of crimes. The paradox is that, contrary to philosophical postulates, quantity not only does not grow into quality, on the contrary, it significantly worsens it. Many methods of investigation of various crimes are surprisingly similar to each other, as if written "under a carbon copy". This becomes meaningless for the practice of investigating specific crimes.

Of course, theoretical scientific developments are not guidelines for practical activities. However, recommendations for crime investigation are based on qualitative theories. Currently, many scientific developments do not reflect the specifics of the Commission of different types of crimes, do not offer an adequate modern forensic classification of them, and the proposed scientific approaches to the investigation of crimes of one type do not correlate and sometimes contradict each other. Therefore, there is an objective need for new paradigms.

The designated elements of the essence and content of a private forensic theory do not claim to be complete, but they dictate the most important requirements for it. The relevance of the results is determined by the significance of the set, scientifically proven tasks, questions and problems.

From the point of view of law enforcement, the question arises about the need for the

presented scientific distinctions for investigative practice, it is not the status of theoretical recommendations that is important, but their qualitative content. Indeed, the relevance of practice does not always determine the scientific significance of theoretical research. The fundamental nature of scientific knowledge, overcoming outdated paradigms, and preparing grounds for more pragmatic research require time, and at a certain stage may not be required by practice [26, p. 21-22].

That is why special attention is being paid to changing paradigms in criminalistics. However, this process is complex both from the theoretical point of view and from the practical point of view. In science, there are different situations of paradigm change: development, detail, argumentation, extrapolation (evolution of paradigms); proof of paradigm failure in the absence of replacement; special research aimed specifically at studying established positions; research of particular issues can lead to the detection of inconsistencies in a priori positions. In any case, the paradigm shift is accompanied by deep scientific thoroughly reasoned research.

Thus, research in the field of genetics has not only led to the conduct of genetic identification examinations, but also initiated the process of changing rather imperfect methods. In addition, there is a tempting prospect of using scientific developments in this field for diagnostic research, which will allow the investigation of crimes in the event of the discovery of any biological material of the suspect to determine many of its characteristics, creating favorable conditions for his detention.

Scientific developments in the field of digital technologies are relevant today. The created theories allow us to ensure the security of many electronic systems, detect unauthorized impact on software systems, and detect

intruders. There are quite a lot of modern private forensic theories that have a significant positive impact on law enforcement. Here we can talk about new paradigms of the theory of the investigative situation, the doctrine of counteraction to investigation, a new approach to truth and objectivity, the paradigm of the target essence of investigation as the creation of an abstract idealized model of a criminal event.

Investigative situations in the practice of law enforcement agencies are accepted, and their scientific classification is used everywhere. The theory of problem situations of informational, organizational and other types has greatly simplified the understanding of the investigative process. Methodological recommendations for overcoming counteraction to the investigation, based on modern scientific knowledge, eliminate many problems of preliminary investigation. The evaluation of many results of crime investigation is related to the understanding of truth and objectivity. And today, the consequence is influenced by the paradigm fixed in the manuals that objectivity is not related to objectivity, it is much broader, and cannot be opposed to subjectivity. As well as the fact that the truth is diverse. Relative truth is inextricably linked to the dispassionate nature of the investigation. According to a new paradigm that undoubtedly affects the investigation today, the purpose of criminal investigation is to create an abstract idealized, but reliable model of the crime event that occurred.

Otherwise, theoretical research generates unsubstantiated novels. They can include the exclusion of criminal activity from the objects of scientific knowledge and changes in the structure of science [27]. Questions about the structure of any branch of scientific knowledge and science in General (meganoscience) are called "damned", due to the constant desire of scientists to solve them and the no less constant lack of unambiguous research results in this

direction [28, p. 99-108]. In scientific publications, proposals on the structure of criminalistics were reduced to the division of science into General and special parts [29, p. 17-22]. Apart from some enlargement, this idea does not go further, there are no serious arguments for such a change [30, p. 192-194]. At the same time, as O.Ya. Baev writes, criminalistics is in the process of self-identification, and the search for new things, if they are within the framework of scientific research, can only be welcomed [31, p.44].

5. Conclusion.

Any truly scientific research, especially in the field of criminalistics, is aimed at solving practical problems, if they are unsolvable by existing methods and recommendations. Sometimes the problem, especially at the initial stage of its study, is difficult to clearly identify. First of all, you need to prove that it exists, then define it in some General way, and only then look for approaches, methods of scientific research of its causes and essence, and concentrate on finding a solution. In criminalistics, this is reflected in the identification of inefficiency in solving crime investigation tasks using existing scientific recommendations.

So, we talked about some (though numerous) methods of investigation of certain types and groups of crimes that have outlived their usefulness. Today, a different approach is required. we should move away from the classification of crimes of a criminal-legal nature, that is, by the types of crimes and their components specified in the criminal code. In the new paradigm, the basis for dividing crimes for the purposes of their investigation should be elements of the criminalistic characteristics of crimes. For example, traces and the mechanism of trace formation. Then we can talk about creating methods for investigating crimes of a different quality, so necessary for

the investigation today.

Scientific research involves the analysis of scientific paradigms, the identification of defects. Without a broad discussion involving scientists in professional discussion, this kind of work can not be done qualitatively. In modern conditions, this is the only way to ensure the objectivity of research evaluation and the truth of the results.

In conclusion, I would like to remind you that forensic research, as well as research in some other branches of scientific knowledge, is characterized by a significant number of heuristic situations, in the resolution of which it is impossible to use rigid algorithms, and therefore - the construction of unambiguous conclusions. This does not mean that we should exclude the idea of standards and algorithms from the recommendations for investigating crimes. So we can insist (and today, under the undoubted influence of new scientific knowledge, practice has followed this path) that standards for detecting traces of crime are simply necessary. The investigative Committee of Russia, together with scientists, has developed such standards and fixed them at the legal level. Now the investigator is obliged to perform a number of actions to identify traces of a crime in a certain investigative situation.

Of course, you need to understand that only a reasonable combination of creativity and mandatory regulations can ensure success in solving and investigating many types of crimes. In addition, the creative diversity of approaches to problem solving in the vast majority of cases is an incentive for the development of individual paradigms and science as a whole.

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