

УДК 343.98

DOI: 10.37635/jnalsu.27(1).2020.162-176

Володимир Андрійович Журавель

Національна академія правових наук України

Харків, Україна

МОВА КРИМІНАЛІСТИКИ: ФОРМУВАННЯ ПОНЯТІЙНО-ТЕРМІНОЛОГІЧНОГО АПАРАТУ

Анотація. *Будь-яка теорія припускає наявність свого термінологічного апарату – мови, яка створюється для вирішення специфічних наукових завдань і призначена для опису відповідної предметної області; у криміналістиці він також служить ефективним засобом мислення, має бути вкрай спеціалізований для відтворення неповторності предмета дослідження, що актуалізує дослідження в цьому напрямі. Розглянуто наукові підходи до формування мови криміналістики, її понятійно-термінологічного апарату, за допомогою якого наука криміналістика описує свій предмет дослідження. Наголошено на тому, що розвиток науки визначається, передусім, становленням її мови як системи загальних та окремих понять, що знаходять своє відбиття у певних термінах, знаках. Констатовано, що мова криміналістики являє собою складну, багаторівневу, цілісну систему, елементами якої виступають категорії, поняття, терміни, знаки, символи. Звернуто увагу на те, що протягом розвитку криміналістики безперервно відбувається вдосконалення її мови, уточнення визначень, збагачення термінологічного словника (тезаурусу). Зазначено, що сучасний стан розвитку криміналістики, формування перспективних учень (теорій) обумовили необхідність упровадження до її наукового апарату значної кількості нових понять, термінів, знаків, шляхом застосування різноманітних лінгвістичних підходів, терміноелементів, лексичних одиниць. Нововведення торкаються не лише загальної теорії криміналістики, а й її основних розділів – техніки, тактики та методики. При цьому мова криміналістики, її понятійно-термінологічний апарат має розвиватися за певних критеріїв та умов, визначених як в спеціальній, так і в криміналістичній літературі. Відмова ж від традиційних підходів щодо визначення окремих криміналістичних понять, прагнення до новацій і уніфікацій завжди потребують особливої обережності та всебічної обґрунтованості.*

Ключові слова: понятійно-термінологічний апарат, мовні нововведення, критерії розвитку мови, символи.

Volodymyr A. Zhuravel

National Academy of Legal Sciences of Ukraine
Kharkiv, Ukraine

CRIMINALISTICS' LANGUAGE: CONCEPT- TERMINOLOGICAL APPARATUS FORMATION

Abstract. *Any theory assumes the presence of its terminological apparatus – a language that is created to solve specific scientific problems and is designed to describe the relevant subject area; in criminalistics, it also serves as an effective means of thinking, should be highly specialised to reproduce the uniqueness of the subject of study, which actualises the study in this direction. Scientific approaches to the formation of the criminalistics' language, its conceptual and terminological apparatus, through which this science describes its subject of study, were considered. It is emphasised that the development of science is determined primarily by the formation of its language as a system of general and individual concepts, which are reflected in certain terms, signs. It was stated that the criminalistics' language is a complex, multilevel, holistic system, the elements of which are categories, concepts, terms, signs, symbols. Attention is drawn to the fact that during the development of criminalistics there is a continuous improvement of its language, clarification of definitions, enrichment of the terminological dictionary (thesaurus). It was noted that the current state of development of criminalistics, the formation of promising doctrines (theories) necessitated the introduction into its scientific apparatus of a large number of new concepts, terms, signs, through the use of various linguistic approaches, terminological elements, lexical units. The innovations concern not only the general theory of criminalistics, but also its main sections – techniques, tactics and methods. In this case, the criminalistics' language, its conceptual and terminological apparatus must develop under certain criteria and conditions defined in both special and forensic literature. The rejection of traditional approaches to the definition of certain forensic concepts, the desire for innovation and unification always require special care and comprehensive justification.*

Keywords: conceptual-terminological apparatus, language innovations, criteria of language development, symbols.

INTRODUCTION

The problem of the science language is general theoretical, so it is studied not only by criminalistics, but also by other branches of law; the objects include the language of criminal proceedings, the language of criminal procedure law, and philosophy, psychology, philology and other sciences study this issue. Among forensic doctrines (theories) of scientific orientation a separate, independent place is occupied by the doctrine of language [1], i.e. the conceptual and terminological apparatus by which forensic science describes its subject of study. And this is not accidental, because the development of science is determined primarily by the formation of its language as a system of general and individual concepts, which are reflected in certain terms, signs. Forensic categories and the

conceptual apparatus as the basis for the formation of forensic theory have a special meaning, because they allow to achieve unambiguity in the terminology used by various forensic theories. According to the figurative expression of I.F. Panteleev, the language of science is its face. The high level of its development is one of the bright indicators of maturity, improvement of theoretical positions of science. As a form of reflecting the results of scientific knowledge, the science language must adequately reflect the content of its ideas, conclusions and practical results, be bright, accurate, definite, unambiguous, economical (especially in the rapid growth of scientific information) and strongly linked to its basis – natural literary language. Only under these conditions, professional language is able to successfully perform its cognitive and informational role, as well as the function of professional communication [2].

The expression of R.S. Belkin is fair, in which he notes that the language of criminalistics “is not a special, accessible only to a narrow circle of specialists conceptual and terminological apparatus. There is no such language and cannot be. It is a system of concepts, first, of everyday and general scientific character, second, those that function in the structure of the criminalistics language, specific to this area of knowledge” [3]. The criminalistics’ language and its analysis is a complex multifaceted problem that has historical roots – the problem of the science language exists as long as there is scientific consciousness. Author’s statements of the solution of this problem very much differ in the content. In modern scientific literature and journalism in official documents and regulations, a variety of conceptual apparatus and terminology are used, which are borrowed from different areas of scientific knowledge and express the essence of phenomena and categories in many ways and ambiguously.

Diversity, lack of unification of terms of criminalistics, unsystematic nature of terms and concepts used to denote the same phenomena and concepts creates certain difficulties, because in different cases there is a different meaning, the difficulty of understanding a true meaning of an idea in each case. Differentiation of different terms and concepts that make up the criminalistics’ language has theoretical and applied significance, in particular for rule-making and law enforcement. It should be noted that during the development of criminalistics there is a continuous improvement of its language, clarification of definitions, enrichment of terminological vocabulary (thesaurus). In this aspect it is worth to mention the works of M.O. Selivanov [4], R.S. Belkin [3; 5; 6], Yu. V. Golovin [7], V. Ya. Karlov [8], V. Yu. Shepitko [9] and others. The only dissertation work of V. Ya. Radetskaya in the domestic forensic science was devoted to the problem of formation of the doctrine of the criminalistics’ language [10]. Of particular importance in terms of the formation of the modern concept of the criminalistics’ language should be considered the publication of encyclopaedic publications [11; 12], the initiator and direct leader of the author’s teams of which is V. Yu. Shepitko. At the same time, in the modern forensic literature, there are proposals for the formation of the conceptual and terminological apparatus of this science, which are contradictory, require additional argumentation and separate consideration. The criminalistics’ language also changes in connection with the replacement of some definitions by others, clarification of existing definitions, in connection with the differentiation of definitions on different grounds. The criminalistics’ language is influenced by the unification of the terminology of criminalistics: reduction of the number of terms denoting the same object; replacement of existing terms with new

ones that are different from the old terms or exist instead of them; updating and replenishment of criminalistics terminology through the use of terms of new areas of scientific knowledge – computer science and modelling, legal logic, etc.

As it can be seen, today criminalistics as a science has a fairly large scientific and categorical apparatus. At the same time, some forensic terms have not yet found unity in interpretation and have ambiguity in the interpretation of their content, which creates a vagueness of wording. Therefore, the question of systematisation and streamlining of terminology as one of the priority tasks of the theory of criminalistics remains relevant.

1. MATERIALS AND METHODS

These issues relate to the scientific problems of the general theory of criminalistics connected to the elucidation of trends in the science of criminalistics, the formation of its conceptual and terminological apparatus, determining the specifics of forensic knowledge and language forms of their expression. Each science uses a special language, which consists of concepts expressed by definitions and symbols (signs and terms). The criminalistics' language is one of the objects of study of criminalistics, but the content and meaning of the criminalistics' language and means of expression in criminalistics are insufficiently studied by criminologists – there is no reason to talk about the sufficiency of material for research.

Recently, the study of the language of criminal law, criminal justice, criminalistics and forensic science is given great importance. The problem of the language of science is general theoretical, so it is studied not only in criminalistics, but also in other branches of legal sciences (language of criminal justice, language of criminal procedure law, etc.), as well as philosophy, psychology, philology and other sciences. This leads to the involvement for analysis of the methods of these sciences. Although thinking and consciousness are perfect, the language that expresses them is material. Language arises in society, is a social phenomenon and performs two important functions – the expression of consciousness and the transmission of information. Problems of language, thinking and conversation are the subject of research in psychology, so it is advisable to use the methodology of this science in the analysis.

Means of expression consist of a system of verbal and nonverbal signs and concepts that reflect information about material and ideal objects and phenomena. The process of analyzing the language of criminalistics involves the use of both means of expression. Verbal (from the Latin *verbalis* – verbal) means of expression – concepts, categories, terms and terminological phrases. Nonverbal (symbolic) means of expression – formulas, graphs, diagrams, plans, photographs, holograms, models, etc. In addition, it is possible to use mixed means of expression that combine verbal and nonverbal means: video and film images, computer technology, accompanied by the recording of verbal language. All these means of expression allow you to record and transmit information about crimes committed, as well as about any other objects and phenomena studied by forensic science. It is obvious that the system of means of expression in criminalistics, like any language, is not stable, is in a state of constant development. This leads to the deepening of scientific knowledge, improvement of the conceptual apparatus of science and research methodology. In addition, the development of means of expression in criminalistics. The use of accepted terminology should reveal the content of relevant concepts at the level of modern ideas

about them, and especially the most general concepts – forensic categories, defined by the subject of criminalistics.

The correctness of perception, the presence of the content of criminalistics terminology is significantly influenced by the correctness of the use of terms, their compliance with grammatical and stylistic rules and logical patterns of definition. Therefore, methods of philology are used for analysis. In order to solve the outlined problems, a set of general scientific and special methods of scientific cognition was used in the work. Thus, the use of dialectical and historical methods of cognition allowed to study the evolution of scientific views on the criminalistics' language, the specifics of the formation of its conceptual and terminological apparatus, the validity of the introduction of new scientific concepts, terms, signs, symbols. The comparative method provided an opportunity to analyse the recently proposed terminological innovations in the criminalistics' language, identify their positive aspects and certain shortcomings that do not contribute to the real enrichment of the modern criminalistics' language, but, conversely, lead to terminological looseness and cluttering the language of this field. This kind of research allowed to talk about the necessity to develop the criminalistics' language, its conceptual and terminological apparatus under certain criteria and conditions defined in both special and criminalistics literature.

The use of formal-logical and system-structural methods led to the conclusion that the scientific apparatus of criminalistics is a complex, multilevel, holistic system of categories, concepts, terms, special signs, symbols formed in the process of origin and development of criminalistics, serving to reflect special concepts and the names of typical objects of this science. The method of analysis provided a generalisation of accumulated theoretical knowledge on the formation of the scientific arsenal of criminalistics based on the specifics of the development of this field of knowledge, prospects for creating a separate doctrine of the criminalistics' language, the possibility of attracting relevant knowledge from various scientific fields. The choice of research methodology for the conceptual and terminological system of criminalistics is also due to the fact that this science is in constant dynamics, characterised by the mobility of the content of concepts and terms against the background of the constancy of the sign, different interpretations; as well as the multifaceted terminological nominations. Conscious attitude to language in criminalistics, understanding of methodological bases and terminological apparatus, principles of language formation and rules of use of concepts and terms, are the main postulates of modern scientific development. Therefore, the analysis of the criminalistics' language is one of the important tasks of modern methodology of science. Research of problems of criminalistics' language promotes strengthens processed of science theorising, provides unity of various ways of display of the analysed phenomena, creates universal methods of research, systematises an information field of the analysis and system of criminalistics knowledge.

Criminalistics categories and the conceptual apparatus are the basis for the formation of forensic theory, because it is the formation of a qualitative conceptual apparatus allows to unambiguously use the theory of terminology. Despite the rather large scientific apparatus of the science of criminalistics, some criminalistics terms still have ambiguity in interpretation, which requires further systematisation and streamlining of the terminology of the criminalistics theory.

2. RESULTS AND DISCUSSION

In the special literature various definitions of the concept “science language” are offered [13-15], where the main features are as follows:

- the language of science is a synthetic concept of the methodology of science, which combines all the linguistic means used in science to express the acquired knowledge at a specific historical stage of its development [16];

- the language of science is a set of means of formation and justification;
- provisions of science, the conceptual apparatus of scientific theory together with the methods of proof and confirmation [17];

- the language of science is a tool for knowing the world and presenting the acquired knowledge [18];

- the language of science is a system of concepts, signs, symbols that are created and used by a particular field of scientific knowledge in order to obtain, reflect, process, preserve and use knowledge. It arises and is formed as an instrument of cognition of a certain sphere of phenomena and its specificity is determined both by the peculiarities of the sphere under study and by the methods of its cognition [19];

- the language of science is a specific sign system that serves as a material expression of the results of scientific cognitive activity, which can act as a natural language (language of direct communication) and artificial (signs, symbols, mathematical expressions, chemical formulas, etc.) [20].

Discovered by professor R.S. Belkin main trends in the development of the criminalistics’ language remain relevant today. At the same time, there are modern trends in the development of means of expression in criminalistics (the use of computer technology and computer modelling, etc.), which requires updating the methodological basis of analysis. Criminalistics, like any science that deals with the acquisition of knowledge through the understanding of one or another side of objective reality, cannot do without individual words and their combinations that reflect certain concepts, i.e. without terms, in their totality (system), in other words without terminological apparatus. In this case, the terms mean a well-defined and suitable for use in science vocabulary. Scientific terminology of criminalistics, as a set of terms and special signs formed in the process of origin and development of criminalistics and those that serve to reflect the special concepts and names of typical objects of this science, and is a linguistic form of professional knowledge.

The concepts of criminalistics form a complex, multilevel, holistic system. In particular, the categories of criminalistics can be considered extremely general, such that are not generalised further within this science, concepts – for example, forensic techniques, forensic tactics, forensic methods, forensic recommendation, forensic technique, forensic tool, tactical operation, traces, tactics crime, method of crime, etc. These categories include other concepts that fall within their scope and are in a relationship of subordination. Thus, the category “trace of crime” includes “materially fixed traces of reflection” and “ideal traces” (“traces of human memory”), the category “modus operandi” – “method of preparation”, “method of commission” and “method of concealment”. Thus, the criminalistics’ language is a dynamic conceptual system based on definitions and designations (terms, signs), which are a means and method of criminalistics thinking and are used in the description (fixation) of forensic information in the practice of lawyers [21].

The current state of development of criminalistics, the formation of promising students (theories) necessitated the introduction of a significant number of new concepts, terms, signs in its scientific apparatus. The innovations concern not only the general theory of criminalistics, but also its main sections – techniques, tactics and methods. The basis of the doctrine of the criminalistics' language is the theory of reflection, because each degree of reflection of reality in the human mind implies the need for cognitive procedure of reality and certain research procedures through the language form. In the philosophical literature it was noted that in the structure of the science language can be distinguished two sublanguages – the language of observation and the language of theory. The language of observation includes those statements of science that form the results of observation and experiment; the language of theory includes statements that are the result of logical reasoning [16]. In V.M. Pashchenko's interpretation, verbal scientific language is an intertwined unity of two complementary sublanguages: 1) language for describing real facts, phenomena and essences that exist independently of human, it is the so-called “object-essential verbal scientific sublanguage”; 2) the language of descriptions of research results and interpretations, generalisations, creation of scientific concepts and theories, this is the so-called “subject-knowledge verbal scientific sublanguage”. This sublanguage has all the definitions derived from the names of science. And if the first sublanguage serves as an empirical presentation of data, it is a language for defining the source materials of research – and presentation of the studied entities, the second – to reflect the processes of processing, understanding and verification of collected source material – empirical, theoretical and methodological [22].

The special literature also rightly emphasised that without the use of natural language it is impossible to explain and interpret the scientific provisions reflected in the concepts and terms of science [23]. In this case, it is mainly about verbal texts, which, of course, can be supplemented by meaningful symbols, formulas, models and accompanied (decorated) with pictorial elements: diagrams, graphs, drawings, maps and more. But, as I.L. Mikhailin emphasises, symbols and depicted elements do little without meaningful correct verbal text to inform a consumer of scientific knowledge [18]. In this regard, the criminalistics' literature drew attention to the fact that today its main part has not gone beyond natural language, and has not yet managed to construct a comprehensive system of formalised language operating scientific categories and concepts, as well as concepts of crime investigation [24]. At the same time, with the use of methods and concepts of formal logic, information theory, forecasting, higher mathematics in criminalistics, the question of developing sign systems arises, i.e. the replacement of vocabulary description with symbols, signs, formulas. In this regard, M.S. Polevoy once drew attention to the fact that the means and methods of criminalistics are based and created on the basis of means and methods of many natural and technical sciences, including mathematics and cybernetics. And if so, then in the language of criminalistics in its interaction with mathematics and cybernetics, it is impossible to assimilate elements of the latter [25]. Given this language of criminalistics, its conceptual and terminological apparatus must develop under certain criteria and conditions. According to R.S. Belkin modern trends in the criminalistics' language include the following:

1) *expanding the range of concepts and definitions used* – a reflection of both growth and qualitative changes in forensic knowledge, which can manifest itself in two directions:

a) in increasing the number of forensic definitions, i.e. definitions of such concepts, which only forensic science uses; b) in increasing the number of forensically interpreted definitions used in scientific and everyday language;

2) *change of definitions* – both replacement of some definitions by others, and specification of the definitions used;

3) *differentiation of concepts and their definitions* – the separation of definitions relating to the broadest forensic concepts – categories that are generic in relation to the definitions of concepts included in the content of these categories;

4) *unification of criminalistics' terminology* – reduction of terms defining the same object, or replacement of several accepted terms by one new one, which will exist not next to the old terms, but instead of them;

5) *development of criminalistics' sign systems* – formalisation of language criminalistics by creating unified systems of mathematical and other symbols that reflect certain forensic concepts [26].

It should be borne in mind that the successful formation of criminalistics' modern language is hindered by the following problems: ambiguity of terms; double variability in the use of terms (the peculiarity is that one word (phrase) has several meanings, i.e. most words are polysemous, while the term must accurately reflect a concept in science); inattention to the semantics of the word; excessive emotional colouring of terms; violation of logical sequence in the formulation of definitions; incorrect tracing (transliteration) of Russian equivalents; stylistic design of author's interpretations; inconsistency of the conceptual criterion and logical-stylistic organisation, which leads to the violation of the connecting connections of the term in the text material [10]. In addition, when formulating a concept it is necessary to adhere to the dialectical unity between the phenomenon of reality, concept and term. This unity is that the main, defining and primary in it is the phenomenon of reality. The concept is a reflection of this phenomenon in the minds of people, and the term serves as a lexical expression of the concept [27]. Since the middle of the last century, the terminological system of criminalistics has been experiencing a period of accelerated development. This is evidenced, on the one hand, by the emergence of new terms (e.g., forensic situation, forensic victimology), on the other – the replacement of existing ones with others, while maintaining the previous meaning of the term, its content (e.g., graphic examination – handwriting examination; microobjects – microtraces; forensic explosives – forensic explosive science, etc.) and changes in its content (for example, investigative tactics – forensic tactics; investigative version – forensic version). There is also a process of unification of terminology, which is associated, firstly, with the reduction of the number of terms denoting the same object, and, secondly, with the replacement of several accepted terms with one new [28].

The formation of the conceptual apparatus of criminalistics, its terminological system took place on the basis of various sources: words and phrases formed by applying various linguistic approaches, in particular, on the basis of Greco-Latin terminological elements (dactyloscopy, poroscopy, edgeoscopy, habitoscopy, phonoscopy, homeoscopy, odorology, homology (doctrine of an identity of an offender, etc.), lexical units borrowed from other foreign languages (diagnostics, tactics, information, etc.), vocabulary units of Russian origin and which are interpreted to the scientific apparatus of domestic criminalistics (detention “by hot traces” (following a hot scent), the establishment of the

whole in parts, etc.). These processes and their results give scientists a reason to single out certain elements in the structure of the criminalistics' language. Ya. Radetskaya distinguishes three groups of terms that are represented in the criminalistics' language: 1) general scientific terms, which are used to achieve the stylistic design of theoretical works on criminalistics; 2) legal terms, the main fund of which is contained in legislative acts, and where the following are distinguished: a) terms of generalised meaning; b) intersectoral terminology; c) industry terminology; 3) the actual forensic terminology [10]. In other words, the concepts used in forensics can be divided into the general, adapted and forensic.

Analysis of the modern criminalistics' language allows the proposed innovations, provided they are evaluated, to be combined into three groups. The first includes concepts and terms that are really aimed at increasing the scientific potential of criminalistics, activation of its cognitive function. The second group consists of such concepts and terms that need clarification, coordination of positions. Finally, the third group contains concepts and terms, the feasibility of which causes significant criticism [29]. Consider in more detail, first of all, those that relate to the conceptual provisions of criminalistics, the definition of its nature, the elucidation of the object-subject area of research. In the early 1970s, a new scientific concept emerged, based on the so-called activity approach. According to this concept, the object of criminalistics research is the activity: on the one hand – criminal, on the other – detection, investigation and prevention of criminal acts. The proposed concept could not but affect the transformation of scientific views on the object-subject area of criminalistics, the formation of its conceptual apparatus. In the forensic literature, along with the term “criminal activity” [30; 31] the term “forensic activity” is increasingly used [32] and, as a consequence, there are proposals to consider forensics itself not only as a science and academic discipline, but also as a kind of practical activity [33]. In particular, V.Ya. Koldin notes that “the task of practical forensic research is to establish the truth in a particular criminal case, i.e. the truth of a single fact” [34]. M.P. Yablokov writes that “predicting the practical nature is associated with the prediction of the peculiarities of forensic activities for the detection and prevention of a particular crime” [35].

It seems appropriate to make some remarks on the above positions. First, criminalistics is not directly involved in the detection and investigation of a specific crime. It is known that this is the function of investigative and judicial bodies, which use a variety of knowledge, tools, methods and recommendations, including forensic, to perform this activity. Secondly, as noted by R.S. Belkin, “it is customary to distinguish between forms of activity in the fight against crime only by the nature of their legal regulation. From this point of view, there are operational and investigative, procedural forms of activity, but not forensic ... Ambiguous understanding of the term “criminalistics” – as a science and as a practice – is not appropriate as well as the use of the terms “forensic relations”, “forensic activities”. Thirdly, criminalistics reflects the most significant patterns inherent in the objects of its study, sets out general recommendations for typical investigative, investigative, expert situations. Therefore, forensic scientists are primarily faced with the task of developing the scientific basis for the introduction into criminalistics and expert practice of technical means, tactics and appropriate methods of detection and investigation of crimes. For similar reasons, the proposals on the introduction of such integration

constructions as “forensic odorology”, “forensic psychology” and “forensic information” into the conceptual apparatus are not sustainable. In this case, the addition of the term “forensic” to the usual general scientific concepts not only does not enhance their meaning and does not expand the scope, but on the contrary creates a situation where they become the object of critical remarks.

Regarding forensic odorology and the attempt of some scientists to elevate it to the rank of a separate forensic theory or even science [36; 37], in this regard, it seems appropriate in the context of this issue to make some comments. First, integration processes can take place only in such areas of knowledge that have a relevant theoretical basis and are generally accepted. Especially when it comes to criminal proceedings and the procedure of proof. Secondly, it should be clearly understood that the integration of knowledge takes place as an objective natural process, and not at the request of individual researchers. Moreover, if there are no corresponding objective synthesising bases, then all attempts to unite certain knowledge are in vain, and the results of such a scientific search cannot be called anything other than forensic phantoms. Third, the integration of knowledge in criminalistics and new theoretical constructions should be formed taking into account its official, pragmatic function and based on the principles of criminal justice. Ignoring these principles can lead to significant methodological errors and inconsistencies with current legislation.

In this regard, as can be seen, position of V.D. Basay on the formation of a separate forensic doctrine – “forensic odorology” is quite vulnerable. At the same time, V.D. Basay for some reason calls “criminalistics odorology” *partial* (author’s italics – V. Zh.) doctrine, while in criminalistics the term “separate doctrine (theory)” is accepted. Moreover, the author in his judgments on this issue is not consistent, because along with the term “partial criminalistics doctrine” uses the term “partial odorological doctrine”, which is not the same thing. The fact is that odorology itself as a field of knowledge is currently making only the first steps and is only in the process of formation. It lacks the proper tools to carry out appropriate odorological research with a high degree of representativeness of the results, and therefore efforts to combine odorological and criminalistics knowledge should be considered premature. V.D. Basay's thesis about the fundamental impossibility of instrumental study of odour traces is not convincing, because the author ignores the dialectic of scientific and technological progress. At the same time, proposals for laboratory examination of traces and samples of a human odour using a specially prepared dog detector and any other bioanalyser (as the author proposes to use rats’ sense of smell) and issued in accordance with the conclusion of the commission odorological examination [37], that is by procedure document, contrary to applicable law and may not be considered appropriate.

Another debatable integration construction is “forensic psychology”. The founders of this concept V.O. Obratsov and S.M. Bogomolova believe that “investigative psychology” inaccurately reflects the content of the relevant section of legal psychology, and therefore it is more correct to speak of “criminalistics psychology” as an integrative, generalising category, covering as investigative, so other types of psychology of forensic investigation in pre-trial criminal proceedings [38]. In author’s opinion, in this case, these scientists make an epistemological error. Of course, certain branches of general psychology, including law, study the laws of the human psyche, which are manifested in

the relevant sphere of social relations. As for jurisprudence, these relations are regulated by law and are implemented in such forms of activity as judicial, investigative, operational-search, criminal-executive, expert, etc.

Thus, if there is no criminalistics activity, i.e. the area where certain patterns of the human psyche are manifested, then it is not possible to identify the relevant field of knowledge that examines them, namely “forensic psychology”. This does not in any way deny the existence of integration links between criminalistics and legal psychology. These connections really exist and are manifested primarily in the aspect of the tactics development and their combinations of individual investigative actions. The remarks made concern only the fundamental impossibility of forming “forensic psychology” as an independent direction of branch knowledge. The use of the term “forensic information” should also be considered a linguistic innovation that needs separate consideration. Indeed, the information approach since the formation and development of computer science, cybernetics has been widely used, including in criminalistics. Increasingly, the terms “information” or “data” have been replaced by the term “information”, in the literature there is a conversation about information processes and structures in criminalistics [39], for example, about the interrogation as an information process [40]. Fascinated by the new scientific direction, some forensics have forgotten that the term “information” should be used only in a clearly defined subject area. In this regard, it can hardly be considered impeccable to introduce into the scientific apparatus of such a category as “forensic information” and, moreover, attempts to differentiate it into evidence and tactical [41]. Such attempts provoked critical remarks from some scientists, among whom the most categorical was R.S. Belkin. “Like forensic activity,” he noted, “the term “forensic information” is meaningless and pointless. It does not carry any semantic load, as it is impossible to determine which information is forensic and not procedural or operational, which are its only sources. In nature, there is no such information, but only information meaningful for forensic, which means any information that is used to solve forensic problems, regardless of its type and sources. And in terms of means, tasks and purpose of proof, information can only be evidential or indicative” [42]. And, as a summary, R.S. Belkin attributed this term to the category of so-called forensic phantoms.

The proposal of G.A. Matusowskiy to review the category “methods of crime investigation” in two aspects should also be considered debatable. First, as a process of investigation of crimes, as a specific activity of bodies and persons authorised by law, carried out on the basis of the use of forensic techniques, methods of investigative tactics, methods of investigation of certain types. Secondly, as a section of criminalistics, which contains a system of comprehensive forensic recommendations for the detection, investigation and prevention of certain types of crimes. “It is in the relationship of these two areas – practical and theoretical,” said G.A. Matusowskiy, “the method of investigating crimes reveals its purpose” [33]. As for the theoretical direction, there are no objections, because “methodology of crime investigation” is traditionally considered as a purely scientific category. At the same time, the desire to consider the category “methodology of crime investigation” as a synonym for “investigation process” or “investigation activity” contradicts the provisions of semantics and etymology, where the method is considered as a set of methods, techniques, operations of reality cognition. In other words, “methodology” is a set of scientific advice on the most effective ways to carry

out activities to detect, investigate and prevent crimes, and not the activity itself. In addition, the proposal to introduce the term “automated crime investigation methodology” into the conceptual apparatus of forensic science should also be considered insufficiently substantiated [43]. Indeed, in the scientific and reference literature, guidelines for the optimal organisation of pre-trial investigation can be set out in a descriptive (most traditional) and formalised form, in the form of specific programs or algorithms. But programs and algorithms cannot fully reflect the content and structure of the descriptive method, and therefore the addition of the term “methodology” to the term “automated” does not seem correct. As it can be seen, the desire of individual authors to unjustified unification, simplification of certain terms, which leads to the emergence of such innovations, which cannot be called anything other than scientific jargon, should be recognised as another negative trend. It is worth proposing to replace the traditionally used term “theory of operational and investigative activities” with the term “ordology”, and “the process of implementing operational and investigative measures” – with the term “orthological regulations” [41]. Frankly, it is highly doubtful that the theory of criminalistics is in dire need of such unifications, as the latter lead to terminological looseness and cluttering of the science language.

CONCLUSIONS

The criminalistics’ language as a system of concepts, terms, signs, symbols is developing dynamically. There is a constant enrichment of the scientific arsenal of this field of knowledge. At the same time, this process should take into account the general trends in the development of the science of criminalistics, its conceptual and terminological apparatus. The rejection of traditional approaches to the definition of certain forensic concepts, the desire for innovation and unification always require special care and comprehensive justification. Some of the terms and means used may seem unsatisfactory. Criminalistics, unlike most other areas of research, makes an attempt to apply a scientific method in the field, which is why there are certain problems of interpretation that can be avoided. The conceptual and terminological aspect of criminalistics deserves close attention in all different legal actions: law-making, law enforcement, law interpretation and law implementation. Criminalistics terminology deserves special attention, as it should not be interpreted randomly or by analogy. Its use should be orderly, clearly regulated, as its use is often associated with the most significant restrictions on individual rights. To denote the conceptual, doctrinal content of criminal science, it is necessary first of all to involve categories and terms that reflect the essence of domestic criminalistics policy.

As the study shows, there is still a need to develop uniform and unambiguous concepts in legal terminology in general and in the criminalistics’ apparatus in particular, because the language of scientific theory is not yet unambiguous and is to some extent debatable.

REFERENCES

- [1] Yeomans, H. (2019). Historical context and the criminological imagination: Towards a three-dimensional criminology. *Criminology and Criminal Justice*, 19(4), 456-474.
-

- [2] Panteleev, I.F. (1985). On the conceptual apparatus and criminalistics' language. *Soviet State and Law*, 1985, 4, 106.
- [3] Belkin, R.S. (1997). *Forensic Encyclopedia*. Moscow: Publishing House BEK.
- [4] Selivanov, N.A. (1982). *Soviet criminalistics: a system of concepts*. Moscow: Yuridicheskay literatura.
- [5] Belkin, R.S. (1993). *Criminalistics: a brief encyclopedia*. Moscow: Bolshaya Russkaya Entsiklopediya.
- [6] Belkin, R.S. (2000). *Forensic Encyclopedia. 2nd ed.* Moscow: Megatron XXI.
- [7] Golovin, Yu.V., Golovin, A.Yu., & Tishutin, I.V. (2006). *Criminalistics in concepts and terms*. Moscow: Eksmo.
- [8] Karlov, V.Ya. (2011). *Criminalistics: thesaurus dictionary and schemes*. Moscow: Alfa-Press.
- [9] Shepitko, V.Yu. (2001). *Criminalistics. Encyclopedic dictionary (Ukrainian-Russian and Russian-Ukrainian)*. Kharkiv: Pravo.
- [10] Radetskaya, V.Ya. (2002). The criminalistics' language. (Candidate's dissertation, National Academy of Internal Affairs of Ukraine, Kyiv, Ukraine).
- [11] Shepitko, V.Yu. (Ed.). (2014). *Encyclopedia of criminalistics in faces*. Kharkov: Apostil`.
- [12] Shepitko, V.Yu. (Ed.). (2018). *Great Ukrainian legal encyclopaedia. Vol. 20: Criminalistics, forensic science, legal psychology*. Kharkiv: Pravo.
- [13] Lawrence, P. (2019). Historical criminology and the explanatory power of the past. *Criminology and Criminal Justice*, 19(4), 493-511.
- [14] Churchill, D. (2019). History, periodization and the character of contemporary crime control. *Criminology and Criminal Justice*, 19(4), 475-492.
- [15] Dooley, B.D. (2019). Undisciplined: Tracing criminology's growing divergence from sociology. *Sociological Inquiry*, 89(1), 94-122.
- [16] Magnus, A.M., West, J.S., Scott, D.W., Maxson, C., & Miller, J. (2019). Quantifying qualitative scholarship: A Fool's errand or a methodological necessity? *Journal of Criminal Justice Education*, 30(2), 223-249.
- [17] Vázquez, Y., & Del Árbol, E. (2017). Linguistic difficulties for translators and interpreters: The case of forensic law and science documents. *Journal of Integrated OMICS*, 7(2 Special Issue), Article number 28.
- [18] Mikhailin, I.L. (2017). Verbal language of science and attributive science. *Ringling*, 2, 212-215.
- [19] Agius, A., Jones, K., Epple, R., Morelato, M., Moret, S., Chadwick, S., & Roux, C. (2017). The use of handwriting examinations beyond the traditional court purpose. *Science and Justice*, 57(5), 394-400.
- [20] Neal, T.M.S. (2018). Forensic psychology and correctional psychology: Distinct but related subfields of psychological science and practice. *American Psychologist*, 73(5), 651-662.
- [21] Vázquez, Y., & Del Árbol, E. (2017). Linguistic difficulties for translators and interpreters: The case of forensic law and science documents. *Journal of Integrated OMICS*, 7(2 Special Issue), Article number 218.
- [22] Pashchenko, V.M. (2011). *Methodology and methods of scientific research*. Nizhyn: Aspekt – Polygraf.

- [23] Sigfusdottir, I. D., Kristjansson, A. L., Thorlindsson, T., & Allegrante, J. P. (2017). Stress and adolescent well-being: The need for an interdisciplinary framework. *Health Promotion International*, 32(6), 1081-1090.
 - [24] Malyutina, O.A. (2009). *The criminalistics' language in the protocols of investigative actions*. (PhD thesis, Nizhny Novgorod Academy of the Ministry of Internal Affairs of Russia, Nizhny Novgorod, Russian Federation).
 - [25] Polevoy, N.S. (1982). *Forensic cybernetic*. Moscow: Moscow State University Publishing House.
 - [26] Kramer, B., Seda, M., & Bobashev, G. (2017). Current opinions on forensic accounting education. *Accounting Research Journal*, 30(3), 249-264.
 - [27] Maschi, T., Rees, J., Leibowitz, G., & Bryan, M. (2019). Educating for rights and justice: A content analysis of forensic social work syllabi. *Social Work Education*, 38(2), 177-197.
 - [28] Nabais, J.M.V., & Costa, S.D. (2017). A forensic experiment: The case of the crime at the cinema. *Journal of Chemical Education*, 94(8), 1111-1117.
 - [29] Zhuravel V.A. (2002). Forensic categories: traditions and innovations (some debatable issues). *Law Journal of Donetsk University*, 2(9), 56-59.
 - [30] Montasari, R., Carpenter, V., & Hill, R. (2019). A road map for digital forensics research: A novel approach for establishing the design science research process in digital forensics. *International Journal of Electronic Security and Digital Forensics*, 11(2), 194-224.
 - [31] Linden, J., Marquis, R., Bozza, S., & Taroni, F. (2018). Dynamic signatures: A review of dynamic feature variation and forensic methodology. *Forensic Science International*, 291, 216-229.
 - [32] Nandar, O., M., Parvin, S., & Thein, T. (2018). Forensic investigation through data remnants on hadoop big data storage system. *Computer Systems Science and Engineering*, 33(3), 203-217.
 - [33] Bell, S., Sah, S., Albright, T. D., James Gates, S., Bonner Denton, M., & Casadevall, A. (2018). A call for more science in forensic science. *Proceedings of the National Academy of Sciences of the United States of America*, 115(18), 4541-4544.
 - [34] Koldin, V.Ya. (Ed.). (1986). *Criminalistics of the socialist countries*. Moscow: Yuridicheskay literatura.
 - [35] Yablokov, N.P. (Ed.). (1995). *Criminalistics*. Moscow: Publishing House BEK.
 - [36] Belkin, R.S. (1986). *The general theory of Soviet criminalistics*. Saratov: Saratov University Press.
 - [37] Kuemzhieva, S.A. (2017). The notion and content of the methodology for investigating groups of crimes. *Russian Journal of Criminology*, 11(2), 398-407.
 - [38] Obraztsov, V.A., & Bogomolova, S.N. (2002). *Forensic Psychology*. Moscow: UNITY-DANA.
 - [39] Montasari, R. (2017). A standardised data acquisition process model for digital forensic investigations. *International Journal of Information and Computer Security*, 9(3), 229-249.
 - [40] Umar, R., Riadi, I., & Zamroni, G.M. (2018). Mobile forensic tools evaluation for digital crime investigation. *International Journal on Advanced Science, Engineering and Information Technology*, 8(3), 949-955.
-

- [41] Shashidhar, T.M., & Ramesh, K.B. (2017). Reviewing the effectivity factor in existing techniques of image forensics. *International Journal of Electrical and Computer Engineering*, 7(6), 3558-3569.
- [42] Belkin, R.S. (2001). *Criminalistics: the problems of today. Topical issues of Russian criminalistics*. Moscow: NORMA.
- [43] Peltier-Rivest, D., & Pacini, C. (2019). Detecting counterfeit pharmaceutical drugs: A multi-stakeholder forensic accounting strategy. *Journal of Financial Crime*, 26(4), 1027-1047.

Volodymyr A. Zhuravel

Doctor of Juridical Science, Professor
Full Member (Academician) of NALS of Ukraine
Chief Scientific Secretary
National Academy of Legal Sciences of Ukraine
61024, 70 Pushkinskaya Str., Kharkiv, Ukraine

Suggested Citation: Zhuravel, V.A. (2020). Criminalistics' language: concept-terminological apparatus formation. *Journal of the National Academy of Legal Sciences of Ukraine*, 27(2), 162-176.

Submitted: 18/09/2019

Revised: 15/01/2020

Accepted: 10/03/2020