

Theoretical and Applied Elements of Forensic Prevention

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Abstract

Author analyzes conceptual principles, views and ideas on understanding the essence of expert prevention, examines the relation between the concepts of Crime Hindering and Crime Averting, since one of the main problems that cannot be overcome in forensic research of the phenomenon of expert prevention is the ambiguity of both scientific understanding and elaboration, as well as practical application of the corresponding conceptual and categorical apparatus. It is emphasized that essence of forensic prevention lies in the influence of relevant subjects on crime through the use of specialized professional knowledge. Thus, the subject of forensic examination of every kind and type should be attributed to the research on circumstances on the basis of which scientific, organizational and technical measures of preventive nature can and should be developed. The author also analyzes the principles of expert prevention, which we refer to: legality; ensuring the rights, human and citizen freedoms; analysis and generalization of forensic practice. In our opinion, legitimacy in preventive activity of forensic institutions is a complex socio-legal phenomenon, the main criterion of which is the category of legitimacy consisting of a set of subjective rights, reflected and enshrined in the current legislation, formed as a result of objective public development.

Keywords: forensic prevention, prevention, forensic science, forensic institutions, main activity tasks.

Introduction

The development of law theory in particular of criminalistics and forensic science, is linked to the provision of scientifically sound and effective means and recommendations. It is known that the theory determines the path of practice development and provides the scientific basis for activity optimization. In the field of forensic research, theoretical understanding of ways to improve practice is particularly important because the possibilities for experimentation, as a form of theoretical forecasting verification are very limited. This is especially true of crime hindering.

Crime hindering relates to activities of various bodies. Preventive activity is an important state-political task. It is carried out by political, ideological, economic and legal measures. Therefore, the development of tools and methods for crime prevention can be relevant to the subject of various jurisprudence, including legal. In turn, measures of a legal nature can be criminal, criminal, administrative and criminalistics.

Criminalistics and forensic science in the field of crime prevention solves the following tasks:

- Improvement of scientific and technical means, tactical techniques and methods contributing to improvement of the level and quality of crime investigations;
- Developing methods and techniques for detecting crimes and circumstances contributing to their commission;
- Identification of the limits of preventive research and impact;
- Identifying and investigating the features of typical investigative situations of a preventive nature and identifying appropriate complexes of the most effective preventive means;

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- Development of preventive measures for a crime that has begun or is being prepared;
- Development of special preventive protection means of various kinds of objects from criminal attacks (*Misdemeanor prevention: a training manual*, 1989)³.

Methods

Set of general scientific and special scientific methods of cognition was used for achieving goal and objectives. The starting point was the dialectical method, according to which all the problematic issues that will be addressed in this article are presented in the form of unity of their content and legal form. The logical and semantic method was used for defining and deepening the conceptual apparatus; sociological (study of official, scientific and bibliographic sources) while collecting and accumulating scientific information about the object and subject of research; logical and legal while developing scientifically substantiated proposals for improvement of current legislation, etc.

Results and Discussion

Problems of crime prevention were subjected to scientific analysis in the theory of criminalistics, criminology and other related field of law. This was devoted to the work of Soviet-era scientists, contemporary domestic scientists and specialists from foreign schools. Among them: I. A. Aliiev, M. I. Bazhanov, V. S. Batyrharieieva, R. S. Belkin, Yu. I. Bytko, V. V. Holina, D. P. Hurina, I. M. Danshyn, O. M. Dzhuzha, A. F. Zelinskyi, V. Iu. Kvashys, V. P. Kolmakov, H. M. Minkovskyi, O. H. Mikhailiants, P. P. Mykhailenko, V. V. Sabadash, F. P. Fursova, F. P. Fursova, E. Shtelts and others. The results of the works of these scientists have undoubted theoretical and practical significance. At the same time, despite the considerable contribution of their works to the knowledge and study of the nature and content of crime prevention, the scientific works of these specialists did not exhaust the specified problem, but on the contrary raised a number of new issues that need to be solved. However legal and regulatory framework regulating the defined activity and experience of work of forensic science institutions of Ukraine has changed and visions has received new approaches. In addition, in the specialized literature so far there is no clear distinction between crime prevention measures pertaining to subjects of different branches of law. Therefore, in the professional literature, there are statements about the subject of the theory of criminology or all of the issues of crime prevention, or the development of special technical means of this activity.

This article purpose is to analyze the conceptual principles, views and ideas on understanding the essence of expert crime prevention, to define the concept, objectives and fundamental principles of activity.

An exceptional place in the system of subjects of preventive activity is held by judicial and expert institutions of Ukraine playing the role of guarantor of personal legal rights and freedoms, steadfast observance of the rule of law. Describing the role of forensic institutions in the process of preventive activity, it should be noted that this process requires further regulation in order to increase efficiency. The analysis of the application of preventive activity of forensic science institutions of Ukraine shows a close contact of concepts and principles of legality, observance of human and citizen rights and freedoms, professional activity and professional ethics of experts that seems relevant.

As we have already emphasized, one of the main problems that cannot be overcome in the forensic study of the phenomenon of forensic prevention is the ambiguity of both scientific understanding and elaboration and practical application of the corresponding conceptual and categorical apparatus. This thesis is confirmed by research of experts. In particular, A. I. Dolhova⁴ (2007) notes that organization of the conceptual apparatus and theoretical provisions is an integral part of the development of combating crime concept is not only scientific but also of practical importance.

We believe that this problem is not so much conceptual, but rather a terminological character that is explained by the conceptual closeness of the concepts used by experts, albeit described by different terms.

In general theoretical sense, crime prevention is a collection of various activities and government activities aimed at improving public relations in order to eliminate the negative phenomena and processes generating or promoting crime, as well as preventing crime at different stages.

³*Профилактика правонарушений: учебно-методическое пособие*. Казан. ун-т, 1989. С. 37.

⁴*Криминология* (под общ. ред. А. И. Долговой). НОРМА, 2007. 912 с.

Studying preventive activities carried out by state law enforcement and law enforcement agencies, V. M. Burlakov and M. M. Kropachov (2002) define crime prevention as activities of state and public bodies and organizations aimed at keeping it at a socially acceptable level by eliminating and neutralizing the causes generating⁵. Analyzing these issues, Yu. F. Ivanov and O. M. Dzhuzha (2006) point out that crime prevention is a multilevel system of state and public purposeful measures to identify, eliminate, neutralize the causes and conditions of crime⁶. O. M. Bandurka and L. M. Davydenko⁷ (2003), are of the same opinion, who understand the activity of state bodies, public organizations, officials and citizens in identifying, eliminating, weakening and neutralizing the factors determining crime.

V. V. Holina means crime suppression as a set of various activities and means in the country aimed at improving public relations in order to eliminate the negative phenomena and processes generating or contributing to crime, as well as to prevent crime at different stages of criminal behavior (p. 53)⁸. Yu. M. Antonian (2004) studying prevention activities of public authorities, considers that this is, first of all, an impact on its causes, detection of criminals and preventive measures aimed at their correcting⁹ (p. 141).

According to the definition of *Crime Prevention* in the theory of legal sciences. It can be noted that H. Aleksandrov (1948), the first among representatives of the forensic community raised the issue of developing a methodology for *Crime Hindering*. He believed that her subject matter included all methods of crime averting¹⁰ (p. 7-8). In contrast to this view M. V. Terziiev refers to the subject of criminalistics exclusively *special measures of Crime Prevention*¹¹ (p. 6-7). O. I. Vinberh attributes to the subject of criminalistics development of preventive measures "in the form of protective means that prevent the commission of crimes or complicate their implementation." ¹²(p. 77 - 79).

Well-known Ukrainian scientist, forensic experts and forensic scientist V. P. Kolmakov (1961) believed that only scientific and technical and operative methods and means based on the data of this science, aimed at identifying, researching and eliminating the causes and conditions conducive to crime, as well as the prevention of prepared crimes and the crime suppression that have already begun.¹³ (p. 107).

Common features of all these concepts are an indication of the subjective composition of such activities and their purpose. Accordingly, it is possible to distinguish, first, such a general sign of preventive activity, as the implementation of appropriate measures not only by the state in the person of its bodies and officials, but also by other institutions as well as by individual citizens. At the same time, some scientists¹⁴ are expanding the range of preventive activities, including in general, all individuals and legal entities. At the same time, S. O. Shotkin¹⁵ (2008) believes that the range of subjects of preventive activities should be significantly expanded, up to the employees of labor collectives (p. 233-236).

Among the various subsystems of forensic prevention and the diversity of subjects implementing certain areas of preventive activity, there is forensic prevention, which is understood as a complex systemic formation, the basis of which is the activity of experts on the basis of their specific knowledge, which will identify the circumstances that contributed to the crime. Identification of such circumstances can be carried out as the main expert task for which the examination was intended, or it may be an attendant *product* of expert activity that *appears* when solving other expert tasks that did not aim to identify criminogenic factors.

⁵Кримінологія (під ред. В. Н. Бурлакова, Н. М. Кропачева). Пітер, 2002. 432 с.

⁶Іванов Ю. Ф., О. М. ДжужаКримінологія. ПАЛІВОДА А. В. , 2006. 264 с.

⁷Бандурка А. М. Преступність в Україні: причини і протиповодити. Основа, 2003. 368 с.

⁸Даньшин І. М., Голіна В. В., Валуйська М. Ю. Кримінологія. Загальна та Особливачастини, 2009. 288 с.

⁹Антонян Ю. М. Кримінологія. ПЗбранные лекції, 2004. 448 с.

¹⁰Александров Г. Совершенствование методов расследования – в центре внимания советской криминалистики. Соц. Законность, 1948. № 2. С 7-8.

¹¹Терзиив Н. В. К вопросу о системе науки советской криминалистики.Правоведение, 1950. С. 6-8.

¹²Винберг А. И. Введение в криминалистику. Предмет, метод, система курса и история советской криминалистики, 1950. С 77 – 79.

¹³Колмаков В. П. Некоторые вопросы криминалистической профилактики преступлений. Советское государство и право, 1961. 12. С. 106-109.

¹⁴Кримінологія (під общ. ред. А. И. Долговой), 2007. 912 с.

¹⁵Гуріна Д. П. Завданняекспертноїпрофілактики /Актуальніпроблемидержави і права, 2008. Вип. 44. С. 233-236.

It is also permissible to identify criminogenic factors and circumstances contributing to the commission of a crime, in the course of generalization of expert practice in a particular forensic institution during its accumulation, or in the preparation of relevant reviews, reports and analytical reports. Similar information can also be obtained in the case of generalizations of forensic activities throughout the Ministry. In all such cases, the detection of criminogenic factors is the basis for development of preventive recommendations aimed at their eliminating or minimizing. The peculiarity of these recommendations is their specificity, because they are obtained when using expert knowledge and skills that make up the content of this particular forensic examination (type of forensic examination).

In this connection, under expert forensic prevention V. P. Kolmakov, understood totality of circumstances contributing to the commission of crimes that were identified and investigated in a particular case by an expert using the techniques and methods of criminalistics. Having analyzed this definition, we would like to point out that in our opinion forensic prevention, first of all, cannot be a combination of circumstances (author's underlining – N. F. and O. Sh.)¹⁶ (p. 108). After all, this is solely the activity of an expert in identifying these circumstances! Secondly, in this definition, in our opinion, the forensic expert's capabilities are much narrowed because there is a reference to one specific case that forensic expert is engaged in. As noted earlier, forensic experts have the ability, and sometimes should, to analyze more than one case, but to make generalizations based on specialized knowledge across a range of expertise that make up the content of this kind or sort of research.

Studying this issue, F. E. Davudov (1974) identifies expert and prophylactic activity as an integral part of the activity of the bodies of justice and prosecutor's office on crime prevention (p. 3)¹⁷. According to R. S. Bielkin (2000) forensic prevention is the activity of an expert who identifies during forensic researches the circumstances that facilitated could have contributed to the crime commission (p. 178)¹⁸. We fully agree with the conclusions of I. A. Aliyev (1987) that expert prevention is carried out in specific examinations, as well as in the generalization of expert practice, development of research topics, conducting thematic work and legal propaganda that means related to all areas of activity of expert institutions (p. 294-295)¹⁹.

Thus, **forensic prevention** is the forensic expert activity based on the laws and regulations aimed at identifying the circumstances that contributed to the commission of a crime and developing measures for their elimination with the use of specific expertise.

Immediate objects of forensic are circumstances or phenomena (errors, violations, defects, etc.) contributing to the commission or concealment of crimes or other unlawful acts. While carrying out forensic research, expert considers the object of research as the only informative and material complex of phenomena related to the event of a crime or other offense, and information about which is fixed in different features of the object. In such circumstances the main task of expert research can be defined as establishing the differences between the characteristics of the object under study with the standard, which is an analogue of the object and does not change due to various influences.

Another important feature of expert prevention is the definition of its essence as a certain "system of measures", "activities" or, as defined by I. M. Danshyn, V. V. Holina, M. Yu. Valuisky and others is combination of "different types of activities and events in the state"²⁰ (Danshyn I. M., Holina V. V., Valuiska M. Yu., 2009, p. 56). Forensic prevention creates conditions that complicate the crime commission facilitates the timely preclusion of criminal offenses that is a deterrent and provides favorable conditions for the emergence of probative information²¹ (Khan H. A., 2006. p. 69). This raises an important question: what is the content of this category – theoretical experience, regulations or their practical implementation? The answer to this question can be found while analyzing of such term as *influence on crime* because in fact it is the content of any forensic crime prevention.

¹⁶Колмаков В. П. *Некоторые вопросы криминалистической профилактики преступлений*. Советское государство и право, 1961. № 12. С. 106-109.

¹⁷ Давудов Ф. Э. *Научные основы, методика экспертной профилактики и опыт профилактической работы Азербайджанского НИИЭС*: Вопросы судебной экспертизы, 1974. № 17. С. 3-6.

¹⁸ Белкин Р. С. *Криминалистическая энциклопедия*. Мегатрон, 2000. 333 с.

¹⁹ Алиев И. А. *Методические проблемы экспертной профилактики*. : МЮ Азерб. ССР, 1987. 70.

²⁰ Данышин И. М., Голіна В. В., Валуйська М. Ю. *Кримінологія. Загальна та Особливачастини*. Право, 2009. 288 с.

²¹ Хань Г. А. *Профілактика злочинів: криміналістичний аспект* / Криміналістичний вісник: наук.-практ. зб., 2006. № 2(6). 182 с.

At the present stage of state formation, any practical preventive activity, and especially preventive work of forensic experts or forensic science institutions cannot be considered separately from its scientific, theoretical and legal support, elaboration of basic principles of activity. The unity of the scientific and legal basis of forensic prevention with its practical implementation is noted by many experts²² (Kudriavtsev V. N., Emynov V. E. 1997).

The subject of forensic prevention should include regularities that have contributed to the commission of a crime or other socially dangerous act, which are being investigated, complicating the commission of crime and, of course, will complicate the commission of other similar crimes, if taken into account in preventive, preventive patterns of crime prevention or other socially dangerous activities using specific expertise. Summarizing the opinions of scientists, we can argue that the essence of forensic prevention lies in the influence of relevant subjects on crime using specific professional expertise. Thus, the topic of forensic examination of every kind and sort should be attributed to the research on circumstances on the basis of which scientific, organizational and technical measures of preventive nature can and should be developed (Hurina D. P., 2008, p. 235).

In the framework of our article, it is necessary to study the question of the prognostic functions of forensic prevention, because in order to effectively counter crimes they need to be studied in the forensic aspect, taking into account the methods of forecasting new types of crimes²³ (Zhuravel V. A., 2006, s. 168-169).

The main tasks of forensic prevention are:

1. Development of methods for identifying the causes and conditions of crimes and minimizing their negative impact, taking into account their peculiarities.
2. Identification and investigation of the features of typical results of expert research, providing on their basis recommendations on crime prevention.
3. Determination of the complex of preventive measures for protection of various types of objects from criminal encroachment, the most effective in each of the selected situations.
4. Development of measures for prevention of certain specific types of crimes.

It is the complex of these tasks that can be solved by specific expert methods and means that determines the subject matter of the crime prevention expert activity.

Among the tasks of preventive nature that can be solved by the staff of forensic institutions, the development of criminological and forensic forecasting circumstances that contributing to the crime commission, taking into account the possibilities of particular types of expert researches, as well as their means and methods, should play an important role. (Ia., Ia., 1991, p. 51). Forensic forecasting of possible offenses that should be a continuation of criminological forecasts is inherent in the activity of forensic expert units its specificity. Predictions are based on expert practice data, information on new tools, and the results of experiments that provide opportunities to identify natural relationships between established circumstances and possible criminal assault. These data suggest that when circumstances remain unchanged, in the future, crimes may be committed using an analogous or otherwise method of committing them.

The introduction into production and in other areas of human activity new devices, means of accounting, ways of obtaining copies, places of storage of tangible assets compels them and criminals who use defects, imperfection of technological processes, working methods, separate organizational measures and means of accounting²⁴ (Frydman Ia., Ia., 1974, p. 26).

Sometimes it is necessary to carry out identification researches to solve preventive tasks, for example, to establish the fact that signatures are executed on behalf of different payees by one person. In most cases, researches based on forensic diagnostics are required. The general preventive task can be divided into a number of tasks, in the process of solving which it is necessary to identify the features of the investigated object testifying to its insufficient protection against criminal attacks, to find and recommend ways to increase the security of similar objects, if possible, to check them and select the most rational²⁵ (Frydman Ia., Ia., 1991, p. 52).

²²Кудрявцев В. Н., Эминов В. Е. *Криминология*. Юрист, 1997. 512 с.

А. Харків юридичний, 2006. 236 с.

²⁴Фридман И. Я. *Судебная экспертиза и вопросы предупреждения преступлений*. Автореф. дис...д-ра юрид. наук, 1974. 40 с.

²⁵Фридман И. Я. *О круге профилактических задач, решаемых в судебно-экспертных учреждениях*. Криминалистика и судебная экспертиза, 1991. Вып. 43. С. 50-54.

In order to increase the effectiveness of forensic prevention and address urgent issues of forensic institutions, it is necessary to carry out measures aimed at specialized knowledge promoting. These measures are quite versatile. They can be as together with law enforcement agencies as independently. The main forms of preventive activity of a forensic expert include the following:

– promotion of special knowledge among detectives of the National Anti-Corruption Bureau, investigators of the Ministry of Internal Affairs, prosecutor's office, military prosecutor's office, Security Service of Ukraine, customs authorities, state executive service in order to assist them in the implementation of crime prevention tasks, in particular, while detecting criminal offenses using specific expertise. For example, in order to deepen the applied orientation of the educational process of investigating relevant units of the Security Service of Ukraine, dated on February 19, 2019, a seminar was held on the basis of Hon. Prof. M. S. BokariusKharkiv Research Institute of Forensic Examinations on the topic: Issues of Assigning and Performing Forensics examinations while Criminal Proceedings. The best experts namely: scientists and forensic experts from KhRIFE were involved as lecturers²⁶.

– lecturing or conducting seminars among representatives of the judiciary, law enforcement and law enforcement agencies. For example, on April 12, 2019, representatives of KhRIFE participated in a seminar on *Features of handling crimes related to violations of traffic code*. The event was conducted in accordance with the program of periodic training of judges of district general courts. The seminar was held jointly with the Kharkiv Court of Appeal by the Kharkiv Regional Branch of the National School of Judges of Ukraine. The purpose of the seminar was to improve the qualification level of representatives of Judicial Corps, law enforcement agencies, state forensic science institutions on the peculiarities of handling cases related violations of traffic code. The event was held in the form of interactive lectures using presentation material and mini-lectures.²⁷

Another integral part of expert prevention is its implementation based on certain principles.

In the general form, the principles of preventive action are the main provisions (general principles) that determine the content, nature, orientation and forms of preventive activity of employees of judicial and expert institutions, which create a system of guarantees of truth, justice, protection of human rights and freedoms.

According to forensic scientists, expert prevention is carried out on the basis of observance of the following main principles: legality; ensuring the rights, human and citizen freedoms; analysis and generalization of forensic practice.

Let's consider them in more detail.

Legality is a basic principle that is universal and manifests itself in all the rules of law and characterizes all sides of forensic science. The rule of law applies in Ukraine. The Constitution of Ukraine has the highest legal force. Laws, regulations and regulations are adopted on its basis and comply with. The norms of the Constitution of Ukraine are norms of direct action. Appeal to the court for the protection of the constitutional rights and freedoms of the individual and the citizen is guaranteed on the basis of the Constitution of Ukraine ... The principle of legality consists in the uniform procedure of the proceedings in the respective jurisdiction, the execution of the procedural form and the envisaged procedure of application of the law²⁸ (Chernyshova N. V., 2011, p. 8.)

Legality can be considered in terms of the need (requirements, obligations) to comply with the rules of law. This demonstrates its organic, inextricable link with law as a system of rules and principles. The society, as well as the state, which recognizes and protects legal norms, require their strict and strict observance and observance by all subjects of public relations. These requirements of the rule of law were formed thousands of years ago, and only today in legal science have the name of law as a manifestation of the general obligation of law. However, the requirements of law to characterize the legality are not sufficient. The real impact of the right on human behavior should be ensured. In this aspect, legality is the observance and enforcement of the norms of law (laws) by state bodies, officials, citizens and their social organizations, that is, their legitimate actions.

²⁶Офіційний сайт Харківського НДІ судових експертизм. Засл. проф. М. С. Бокаріуса. Отримано з [http:// www.hniise.gov.ua/6-news.html](http://www.hniise.gov.ua/6-news.html).

²⁷Офіційний сайт Харківського НДІ судових експертизм. Засл. проф. М. С. Бокаріуса. Отримано з [http:// www.hniise.gov.ua/6-news.html](http://www.hniise.gov.ua/6-news.html).

²⁸Чернишова Н.В. *Судова влада в Україні*: Навч. посіб., 2011, 104 с.

If the rule of law (law) prescribes to participants in public relations to take certain actions, the lawfulness will be manifested in the exact fulfillment of the rules of law (laws); if a rule of law (law) forbids certain actions, legality will mean abstaining from such actions; if the law (the rule of law) gives the public relations entities the right to exercise certain discretion, the legality will dictate the impossibility of going beyond. Legality always means the conformity of the behavior (activity) of the subjects of social relations with the law²⁹(Ivin M. V., Tkachenko V. D., Petryshyn O. V., 2002, p. 385).

Professor Skakun O. F. (2000) interprets the term *legality* as a complex concept that encompasses all aspects of the existence of law from its role in the creation of the law to the implementation of its rules in legal practice. Legality reflects the legal nature of the organization of political and political life, the organization of relations between law and power, law and state, law and society. Requirements of legality apply equally to the higher bodies of state power, to other state bodies that adopt by-laws (the sphere of law-making) within their competence, to the direct executors of laws officials, as well as public organizations, commercial corporations, citizens (field of law). Legality is characterized by the unity of two features: external (formal) - the obligation to comply with the requirements of laws and regulations by government bodies, officials, citizens and other associations; internal (essential) - the presence of scientifically substantiated and law-conforming laws, the quality of laws ³⁰(p.483).

Studying essence of mentioned principle in his writings, O. M. Bandurka³¹ (2002) emphasized that principle of legality is that officials... are obliged to comply with the requirements of the legislation in strict accordance with their content. Being the principle and method of social relations, the mode of social life, legitimacy ... is an integral part of the mechanism of regulation of social relations, is a prerequisite for law and order, state and public discipline, an important element of democracy and culture (p. 88).

Ensuring legality in the activity of judicial and expert bodies is a means of achieving the purpose of their functioning. That is, the analysis of preventive activity of judicial and expert institutions of Ukraine gives an opportunity to consider the legitimacy from the point of view of their activity in organizational and official forms. In the theory of law, the concept of organizational and official forms, and therefore the content of law, is considered ambiguous. However, the very concept of *organizational and service forms* of preventive activity suggests that these forms integrate organizational, methodological and service aspects of the functioning of institutions, are a link between the scientific management organization and the practical use of available forces, means and methods in combating crime.

These general provisions serve as grounds for legitimacy in preventive activities and allow, first of all, to define a strategy of expert prevention for ensuring the constitutional rights and freedoms of the individual and the citizen; secondly, to develop a uniform methodological basis for adhering to the rule of law in preventive activities of judicial and expert institutions; third, to cover the whole complex of its components; fourth, to outline a single comprehensive program of practical measures in the prevention activities of forensic institutions that would meet current requirements.

Providing the principle of legality in the implementation of preventive activities by judicial and expert institutions becomes possible in the implementation of many requirements. The main forms of preventive activity of a forensic expert include the following:

- 1) strict observance of the requirements of the Constitution of Ukraine, laws and by-laws;
- 2) high level of general and professional justice of the staff of forensic institutions;
- 3) continuous improvement of the legal and moral and ethical foundations of the activity of judicial expert institutions and the corresponding relations between its subjects;
- 4) ensuring the confidentiality of information concerning the personal life, honor and dignity of persons contained in the materials submitted for examination; 6) strengthening the prestige of the profession of forensic expert.

Thus, ***legitimacy in preventive activity of forensic institutions*** is a complex socio-legal phenomenon, the main criterion of which is the category of legitimacy consisting of a set of subjective rights, reflected and enshrined in the current legislation, formed as a result of objective public development.

²⁹Загальна теорія держави і права (за ред. М.В. Івіна, В.Д. Ткаченка, О.В. Петришина), 2002., 432 с.

³⁰Скакун О.Ф. *Теорія державства и права* :учебник, 2000, 704 с.

³¹Бандурка О.М. *Оперативно-розшукова діяльність*: підручник, Ч.1, 2002, 336 с.

The principle of legality is directly related to the constitutional principles of the protection of the rights and freedoms of man and citizen. The protection of human rights and freedoms in the system of criminal proceedings in Ukraine is recognized as a separate scientific basis (principle), which is the obligation of state bodies that prosecute and the court to recognize, maintain, protect and restore (in case of their violation) human rights and freedoms. At the same time, the effect of this principle is manifested in the fact that the legislator, when regulating criminal-procedural relations, should prevent the possibility of violation of human rights and freedoms by the bodies of pre-trial investigation and court in rulemaking³² (Koriniak O. M., 2012, p. 6). Article 21 of the Constitution of Ukraine (1996) states that all persons are free and equal in their dignity and rights. Human rights and freedoms are inviolable and inalienable. Every citizen of Ukraine may enjoy on an equal basis with other citizens the full scope of constitutional rights and freedoms without infringement and oppression by the state or other persons for any reason. Foreigners and stateless persons who are legally in Ukraine enjoy the same rights and freedoms, and carry the same responsibilities as citizens of Ukraine - with the exceptions established by the Constitution, laws or international treaties of Ukraine³³. Thus, the protection of human rights and freedoms in the preventive activity of judicial expert institutions is an important component of the activity of judicial experts and consists in the protection of the inherent human rights at all levels of the functioning of judicial expert institutions.

Another important principle of preventive activity of forensic institutions is the analysis and synthesis of forensic practices.

Analyzing and summarizing means to draw certain conclusions, to concentrate the main results of activity in a general position. There are two types of generalization full and partial are used in the practice of forensic institutions.

A complete generalization is obtained by analyzing all available data. Selective information selected by a certain criterion (for example, the status of adherence to the legislation on judicial expertise in the aspect of constitutional provisions on the priority of human rights protection, etc.) is subjected to partial generalization.

Of great importance for the preventive activity of judicial and expert institutions of Ukraine are non-procedural forms of identifying the causes and conditions of crime and the development and implementation of effective measures to eliminate them, according to the materials of generalization of forensic practice.

Generalizations of forensic practice can be conducted at the objects of expert research that were in the institutions. Unifying is the nature of the objects, regardless of the crime scene (violation) and the criminal qualification of the committed. Generalizations of expert practice on particular types of expertise are possible. However, such a direction of generalizations of expert practice, without taking into account the objects of research, is unlikely to be highly effective. In order to identify the circumstances contributing to the commission of the offenses and to develop recommendations for their elimination, the materials of a particular type of examination should be analyzed not only as a whole, but only those related to the investigation of a specific object.

An important area is the generalization of expert practice on production characteristics or taking into account zonal (territorial) factors. Generalizations of this category are made on the basis of expert materials belonging to organizations (institutions or enterprises) of one industry or located in a specific zone (territorial region). Also, generalizations of expert practice can be made in certain categories of criminal, civil and administrative cases. In carrying out such activity, forensic experts use not only the materials of specific expertise, but also have to interact with representatives of law enforcement agencies. As a result of the summarized measures, materials are prepared for law enforcement agencies and officials, on whom the adoption of measures to remedy the identified circumstances depends. But this area of expertise has a somewhat dualistic nature. First, as we have already discussed above, the generalization of expert practice is used in the practice of law enforcement and other interested bodies.

Secondly, summaries of expert practice can be used in writing articles, preparing methodological materials, speeches and reports at scientific conferences, during activities related to the promotion of forensic prevention.

³²Коріняк О.М. *Захист прав і свобод людини при застосуванні запобіжних заходів у кримінальному судочинстві України*: автореф. дис. ... канд. юрид. наук., 2012. 21.

³³*Конституція України* (із змінами і доповненнями станом на 21.02.2019) : закон України від 28.06.1996 Відомості Верховної Ради України (ВВР), 1996, № 30, ст. 141. URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вр>.

We agree with the opinion of researchers ³⁴(Aliiev, 1988. p.8-9) that in order to improve the forms and methods of expert prevention and the use of specialized knowledge, it is advisable to carry out joint preventive measures on specific types of crimes, in cooperation with the prosecuting authorities, National Police and representatives of forensic institutions. This form of coordination will not only improve the quality and effectiveness of preventive work, but also facilitate the rapid implementation of scientific and technical and methodological development of preventive nature in the practical activity of judicial and expert institutions, more efficient use of expert prevention data in the work of investigative and judicial bodies.

Generalization of expert practice also reveals typical circumstances that facilitate the commission and disguise of certain crimes or offenses, and develop preventive recommendations based on large factual material.

*While carrying out the **information-analytical work and generalization of forensic practice**, there are several stages of such activity: planning of **analytical work**; implementation of preparatory measures; direct process of generalization of forensic practice; use of generalization materials.*

Let's consider these steps in more detail. *As noted earlier, the first necessary stage of information and analytical work and the generalization of forensic practice is its planning.*

Planning is a necessary part of a successful organization of any work. Preventive activities of the forensic institution include such an organization that would enable:

- A) To determine at the initial stage of studying the materials the possibility of using special knowledge for the prevention of offenses;
- b) To obtain maximum preventive information through the expertise of a forensic expert;
- c) Methodologically correct and complete record of the received information;
- d) To organize effective accounting of preventive work;
- e) coordinate preventive work with other expert institutions;
- g) to perform scientific development regarding crime prevention, etc. ³⁵(Preventive activity of expert institutions of the system of the Ministry of Justice of the USSR, p.17-18).

Organizing forensic practice is carried out on the basis of current and prospective planning. Planning forms may vary by several criteria, for example, the stages of analytical work, the extent of planned activities, and other circumstances (situations). Practice and experience demonstrates that planning a synthesis of forensic practices provides: creation of conditions for rational use of available resources; choice of optimal ways of solving problems; timely receipt of information, etc. Preventive work should be carried out systematically and purposefully, it is necessary to provide specific preventive measures in the plans of the institutes. Results of the work should be reflected in the annual reports (Preventive activity of expert institutions of the system of the Ministry of Justice of the USSR, p.23).

Plans for generalizing forensic practices should include: evaluation of the results of previously planned and implemented activities; defining new tasks; definition of specific organizational, preventive and other measures; coordination with measures planned by other Ministry of Justice and forensic centers of MIA of Ukraine, coordination with the latest issues requiring joint or concerted action; making adjustments to work plans in connection with new preventative tasks and changing circumstances, etc. Planning is based on the analysis of statistics on basic indicators of the activity of forensic institutions, including indicators of preventive work.

The work on crime and offenses prevention has been extensive and varied, and the indicators achieved are not yet a limit to the use of specialized knowledge for expert prevention.

Conclusions

Summarizing the results of this article, we consider:

1. Forensic prevention is the activity of a forensic expert, based on the laws and regulations, aimed at identifying the circumstances that contributed to the commission of the crime and developing measures for their elimination using specific expertise.

³⁴Алиев И.А. Особенности профилактической деятельности специалистов судебно-экспертных учреждений на современном этапе. Вопросы судебной экспертизы. Вып. 28, 1988. С. -24.

³⁵Профилактическая деятельность экспертных учреждений системы Министерства юстиции СССР : методическое пособие для судей, следователей и судебных экспертов, 1980. 186.

2. Preventive activities of forensic institutions of Ukraine should be carried out:
 - while performing forensic examinations regarding specific criminal, administrative or civil cases;
 - by generalizing forensic practice;
 - while scientific research on issues regarding forensic prevention;
 - by providing, on the basis of special knowledge, scientific and practical assistance to state bodies and public organizations in identifying circumstances that contribute to the commission of crimes, etc.
3. Legitimacy in preventive activity of forensic institutions is a complex socio-legal phenomenon, the main criterion of which is the category of legitimacy consisting of a set of subjective rights, reflected and enshrined in the current legislation, formed as a result of objective public development.
4. The implementation of preventive activities by forensic experts depends *on the use of case law summaries*. The statistical and factual material collected in the process of generalizations, as well as the conclusions drawn from the analysis of the data studied, can be summarized in some summary document: reference, overview, etc. Generalization materials should be discussed with the participation of judges, prosecutors and the National Police, whose work has been examined. Only in this way will it be possible to avoid errors in the work in the future. **Generalization of case law provides a unique opportunity to disseminate a uniform experience of preventive activity and to introduce it into the work of other courts.**
5. In order to improve the quality of expert and preventive measures, the staff of judicial and expert institutions of Ukraine should pay the utmost attention to the promotion of preventive activities among representatives of law enforcement and law enforcement agencies.

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