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WORK WITH FORENSIC VERSIONS AS A METHOD OF LEGAL KNOWLEDGE

Каріна Калюга. РОБОТА З КРИМІНАЛІСТИЧНИМИ ВЕРСІЯМИ ЯК МЕТОД ЮРИДИЧНОГО ПІЗНАННЯ. Дослідження аспектів криміналістичної версії як методу юридичного пізнання є актуальним питанням удосконалення типової методики роботи з криміналістичними версіями щодо особи злочинця, обставин вчинення злочину та планування слідчих дій. Також більш глибокого аналізу потребує методологічна функція та прикладна роль версії у висвітленні й обґрунтуванні необхідності логіко-методологічного підходу до дослідження особи злочинця та обставин вчинення злочину.

Одним із перспективних напрямів удосконалення та оптимізації процесу розкриття, розслідування та попередження окремих видів злочинів є дослідження і подальше розроблення концепції типових версій. Завдяки їх формуванню та застосуванню в кримінальному процесуальному пізнанні активізується вирішення завдань щодо пошуку доказів у типових слідчих ситуаціях, виникає можливість у побудові логічних програм дій для осіб, які здійснюють процес розслідування. Саме завдяки побудові різних слідчих версій та їхньої подальшої перевірки, відбувається встановлення фактичних даних.

Досліджено витoki поняття версії, сучасне значення цього терміну, види та класифікації версій, функції версій, значення її для встановлення обставин провадження тощо. У висновках підкреслено, що методологічний стрижень дослідження криміналістичної версії має проходити через аналіз у єдності її гносеологічного, логічного й психологічного аспектів. Вказано, що подальшу розробку теоретичних основ криміналістичної версії доцільно побудувати на послідовному опрацюванні двох взаємозалежних проблем, дискусію з яких ще не можна вважати завершеною. До першої з них відносяться питання гносеологічного статусу (пізнавальної природи) версії та її співвідношення з гіпотезою. Друга проблема пов'язана з визначенням місця вчення про версії в структурі науки криміналістики та її функціональної ролі в розслідуванні злочинів.

Сучасний стан і тенденції розвитку науки криміналістики вимагає відособленого вивчення версії як самостійного елемента її загальної теорії. Зрозуміло, що версія тісним чином пов'язана із плануванням розслідування, передує йому та слугує його основою. Але це зовсім не означає, що версія є елементом планування. Відверто слабкою ланкою в практиці висунення й перевірки версій називається застосування імовірно-математичних методів, які дозволили б дістати якісно нові можливості для швидшого й ефективнішого вирішення складних розумових завдань, що виникають під час розкриття і розслідування злочинів. На думку автора, подальше дослідження вчення про криміналістичну версію повинне носити комплексний міждисциплінарний характер і будуватися на стику і з урахуванням даних різних наук – природничих, технічних і суспільних – та, перш за все, філософії, логіки, психології, інформатики і криміналістами.

Ключові слова: гіпотеза, версія, доведення версії, криміналістична версія, наукове пізнання, слідча версія, слідча ситуація, юридичне пізнання.

Relevance of the study. The theoretical foundations of the formation of the general provisions of the doctrine of the forensic (investigative) version received a certain development in the theory of forensics [1, p. 54; 2, p. 25-27]. However, being one of the complex subjects of research in science, today it has not yet exhausted the possibilities of its further improvement. Some of its provisions have not been fully resolved – they remain debatable and continue to be discussed in the legal scientific community.

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In particular, in the forensic literature, the scientific foundations of this doctrine are not sufficiently deeply researched, which, in turn, negatively affects the adequate perception of its essence, the definition of individual categories, concepts and classifications, as well as the practical application of certain types of forensic versions (investigative, judicial, expert, operational-investigative, protective) and the grounds for their nomination.

The question of the place of teaching in the system of forensics and its connections with theories remains controversial: probability, information, modeling, forecasting and some others.

The methodological function and applied role of the version in elucidating and justifying the need for a logical-methodological approach to the investigation of the identity of the criminal and the circumstances of the crime requires a deeper analysis. Let's dwell on the last thesis in more detail.

Recent publications review. Today, a solid methodological and theoretical foundation has been created for modern and future scientific development of the problems of using the obtained information about the identity of the criminal when putting forward forensic versions and planning the initial stage of crime investigation.

Undoubtedly, S. Golunsky, V. Dontsov, I. Luzgin, V. Obratsov, B. Shaver, A. Sheremet, M. Yablokov and others provided significant assistance to the investigators practice, brought a lot of new things to the theory and practice of recording and processing forensically significant information, the doctrine of the forensic (investigative) version, etc. G. Aleksandrov, V. Antipov, G. Artsyshevskiy, I. Bykhovskiy, L. Drapkin, O. Kolesnichenko, V. Konovalova directly investigated the problems of forensic versions in their works. O. Laryn, V. Levkov, V. Lukashevich, O. Nikrents, O. Rehovskii, M. Saibarakov, M. Selivanov, O. Synchuk, L. Soya-Serko, S. Yalyshev and others.

At the same time, the new conditions of fighting crime, its prevention, research of science and technology in solving crimes and the development of the criminal justice system require further research in the fight against crime. Undoubtedly, S. Golunsky, V. Dontsov, I. Luzgin, V. Obratsov, B. Shaver, A. Sheremet, M. Yablokov and others provided significant assistance to the investigators practice, brought a lot of new things to the theory and practice of recording and processing forensically significant information, the doctrine of the forensic (investigative) version, etc. G. Aleksandrov, V. Antipov, G. Artsyshevskiy, I. Bykhovskiy, L. Drapkin, O. Kolesnichenko, V. Konovalova directly investigated the problems of forensic versions in their works. O. Laryn, V. Levkov, V. Lukashevich, O. Nikrents, O. Rehovskii, M. Saibarakov, M. Selivanov, O. Synchuk, L. Soya-Serko, S. Yalyshev and others. At the same time, the new conditions of fighting crime, its prevention, research of science and technology in solving crimes and the development of the criminal justice system require further research in the fight against crime.

The article's objective. In the presence of initial information about the crime (the person of the criminal), the quick and effective establishment of factual data in criminal proceedings depends on the timely implementation of measures for the organization and planning of investigative (search) actions at the initial stage of the investigation and the success of the disclosure and investigation of the crime as a whole. In this regard, the goal of our article is the further development of a typical method of working with forensic versions as a key method of legal knowledge of the crime event as a whole.

Discussion. At the initial stage, the person conducting the investigation (conditionally the investigator) must act very quickly, have time to identify, collect, save and analyze (including digital) the maximum amount of evidentiary material that may otherwise disappear or be destroyed, direct efforts to uncovering crimes on "hot tracks", establishing, finding, suspecting or detaining guilty persons, ensuring the possibility of compensation for damages caused by the crime [3, p. 689].

In general, the actions of the investigator at the initial stage of the investigation of crimes (any crime under the Criminal Code of Ukraine) are not limited to researching existing information about the crime, deciding whether to open criminal proceedings, and searching for traces. Important are the proposed versions, on the basis of which, firstly, future activities to expose the subject are planned, secondly, the interaction of law enforcement officers is organized, thirdly, the help of the public is involved, and fourthly, measures are organized to overcome resistance investigation by interested parties and some other methods and means aimed at preventing crimes [4, 5].

One of the promising areas of improvement and optimization of the process of disclosure, investigation and prevention of certain types of crimes is research and further development of

the concept of standard versions. Thanks to their formation and application in criminal procedural knowledge, the solution of tasks related to the search for evidence in typical investigative situations becomes more active, the possibility arises in the construction of logical action programs for persons who carry out the investigation process.

Establishing factual data occurs by constructing various investigative versions and their subsequent verification. In order to put forward a forensic version, the investigator must have a certain amount of them (that is, the data of the investigative situation). On the basis of these data, the version should contain not only an attempt to explain the information that is available at a specific stage of the investigation, but also to identify relationships and interdependencies between them [6, p. thirteen].

The scientific work, which was the first study of the philosophical sources of the version as a type of hypothesis that performs a cognitive role in the judicial process, which considered the role of the version in criminal procedural cognition, the relationship between the concept of "version" and the concept of "hypothesis", was the candidate's thesis of 1954 by O. Nikrents "Court version as a type of hypothesis" [7]. In general, the following definitions of the version are found in legal sources: it is called the method of cognition [8, p. 141; 9, p. 166], a tactical technique [10, p. 59; 11, p. 45; 12, p. 53], an integral idea [13, p. 29], an ideal mental model [14, p. 92-108], an ideal information-logical model [15, p. 128-133], a type of hypothesis [16, p. 106-107; 17, p. 117-124], "investigative compass" [18, p. 22], even a guiding thread in the process of collecting, researching and evaluating evidence [19, p. 115] or a means of achieving the goal [20], etc. A version is a model, a logical technique, a hypothesis, and the reason for the appearance of facts [21, p. 16].

It can be argued that the majority of criminologists define a version as a reasonable assumption, a probable explanation by the subjects of the cognitive process of the essence of the crime event as a whole or of the individual circumstances of its commission, which are to be established in criminal proceedings. If we analyze the definitions of individual scientists, then the version is "a reasonable assumption of the investigator about the presence and circumstances of the event under investigation, about the actions (inaction) of certain persons and about the presence (absence) of the composition of a certain crime in these actions" [22, p. 8]. Also, a version is a complex mental process, when, based on collected factual data, an assumption is made about a crime or some of its circumstances, and then from this assumption, consequences are derived that are subject to further verification [7, p. 5]. Or, a version is a fact-based assumption of the investigator about the essence and reasons of the events investigated in the investigation process [23, p. 13]. A version is one of the possible assumptions that explain the origin or properties of certain circumstances of a crime, or the event of a crime as a whole [24, p. 15; 25, p. 17], or the investigator's assumption about the nature and circumstances of the crime [26, p. 152]. According to G. Artsyshevskiy, for example, a version is an assumption aimed at solving a crime regarding the not yet established essence of the investigated event or not yet established features of the composition of the crime, which represent one of the possible conclusions arising from the analysis of the entire set of factual data obtained on moment of this assumption [2, p. 7; 27, p. 20]. According to O. Eisman, a version is a plausible description of a specific event, the actions of a certain person [28], according to O. Vasiliev, it is an inductive inference of the investigator in the form of an assumption, based on factual data about the crime event and its individual circumstances, which is subject to checks according to the logical rules of deduction [12, p. 55] etc.

Scientists classify versions by: the subject of the nomination: investigative, operational-investigative, expert, judicial, (these versions, as a rule, are interdependent and can arise from one another. So, an investigative version can arise from an expert version, an operational-investigative one – from an investigative version and vice versa.); by scope of establishing the circumstances of the event under investigation: general, designed to explain the essence of the event as a whole, its nature, the causal relationship between the facts; individual – a probable judgment about the place, time, instrument of the crime, the origin of individual traces, etc.; by the degree of specificity: typical – explanation of the event as a whole based on the data of generalized experience of judicial, expert, operational and investigative practice, specific – working versions, on which the investigator is working at one moment or another [29].

Versions, as ideal mental models in the process of learning a specific crime, have several functions: analytical, cognitive, prognostic, organizational, etc. Which fulfill their goals, which are achieved by implementing the mental activity of the investigator, working with evidentiary material. Initially, these can only be separate hypotheses or assumptions that are formed into

reasonable assumptions (versions), versions that form the basis of establishing factual data that are important for the correct disclosure and investigation of crimes.

Timely, correct presentation and operative verification of versions allow to establish the circumstances of the proceedings in the most complete and objective manner and in the shortest possible time. Meanwhile, separate versions (not the main ones) also often have a certain meaning and play the role of methods for detecting certain signs of a crime. R. Belkin also emphasized the significant role of individual versions: "the totality of the initial data has no absolute value, regardless of which hypothesis they are used as a starting point for building. The boundaries of the population are determined by the level of the assumption built on these initial data. If the totality of all data known up to the time of putting forward the version is called the general population, then within the framework of the latter it is possible to put forward totalities that combine a smaller number of data. The versions built on their basis will belong to the version that encompasses the general population, as parts of the whole", he noted [30, p. 358].

As for the prognostic function of versions (the essence of which consists in predicting not only a complex of investigative actions that can contribute to the discovery of evidence, but also their possible evidentiary value [31, p. 28]), then we are talking about those signs that correspond to the nature of the crime committed or should or may be appropriate. In general, this function helps to determine the possible existence of certain traces, objects, documents related to the crime event. Such a forecast, based on a preliminary analysis of evidentiary information (in essence, a subjective assessment by the investigator of the available original trace material when putting forward both separate and general versions), allows to determine the possible whereabouts of persons, certain objects, documents, and traces and to use them for the detection and investigation of crimes.

Investigative versions perform the organizational function of determining the direction of the investigation and planning further activities related to the investigation. The formation of versions is based on the results of the analytical activity of the investigator while working with the source trace material. So, for example, L. Dubrovyska notes that the organizational function of planning consists in setting a task, determining the ways and means of solving it, the sequence of the necessary actions, the deployment of available forces and means. This mental activity is aimed at building a model of the entire act of investigation, the material expression of which is its written or graphic plan [32, p. 8].

Recognizing the investigation of crimes as a specific cognitive activity that has a creative beginning, it is also necessary to recognize that an important condition for successfully solving the tasks that arise during its implementation is a certain unity of knowledge of the psychological and intellectual properties of the individual. Materialistic epistemology distinguishes two main levels of knowledge: spontaneous-empirical (everyday-life) and scientific. The spontaneous process of cognition is characteristic of all people in their everyday practical activities. Unfortunately, he got some distribution in the field of forensic and investigative knowledge.

Scientific knowledge takes place where it is carried out by specially trained people – professionals. It has a strictly defined object, a research task, methods of knowledge that are consciously used. Hence, one of the tasks of the theory of the forensic version is to provide methodical assistance to the investigator in mastering the techniques of scientific knowledge, mastering the ways of practical application of logic in forensic thinking, in its most significant link – the version. It is known that the development of human knowledge in general and judicial and investigative knowledge, in particular, overcomes a number of stages.

The initial stage is the formulation (in criminal proceedings – the emergence) of a problem (a certain investigative situation), which is a perceived contradiction that requires its solution. Next, in order to solve it, a version is put forward, which, in the first approximation, is considered as a reasonable assumption containing the sought solution to the problem. This version acquires a reliable character only if the version is verified by investigative practice (with a positive result), that is, when it can be proven by means of evidence.

The methodological basis of the described activity is the system of dialectical logic, the laws and categories of which characterize the process of cognition from the content side. But the logical, which takes place at different levels of knowledge, is not limited only to the requirements of dialectical logic. The logical method of obtaining new knowledge also assumes a formal-logical aspect [33, p. 52]. Logic has always occupied a special place in the training of lawyers. The experience of the mental activity of mankind, worked out by science with logic and recorded in its principles, basic principles, and rules, allows obtaining new knowledge.

For a long time, the main attention in forensic and investigative cognition was paid to

formal logic – this is observed even now. At the same time, considering the logical aspect of the version, it is necessary to note the exceptionally important importance for legal thinking of the laws of dialectical logic [34, p. 8]. Therefore, the further development and enrichment of the theoretical foundations of the forensic version should be connected with the strengthening of its dialectical and logical base. It is the laws and categories of formal logic and dialectics that constitute the only logical method, a necessary link in the movement towards new results in the detection and investigation of crimes [35, p. 3].

The methodological function of this approach is that the system of logical categories, laws, and forms the main link in cognition, without which no science can do. Cognition that is devoid of logic is unable to reveal the essence, and where there is no knowledge of the essence, there is no knowledge of the truth.

Knowledge is a reflection of reality not only in its content (essence), but also in its form. Therefore, in the final analysis, the structure and methods of mental activity are conditioned by the structure of the known object itself. The logical method makes it possible to form new knowledge from thoughts that are true in content and correct in form, connected in turn by logical connections, corresponding in content to the objects and phenomena under study [36, p. 7-27].

Knowledge of logic techniques for obtaining new knowledge from individual facts discovered during the investigation of a crime, for the transition from direct perception to indirect knowledge of the circumstances of the investigated event, is considered in the science of criminology primarily within the framework of the doctrine of the forensic version. Unfortunately, the authors of most works on this issue are traditionally limited to only a superficial (cursory) description (and more often a simple indication) of the logical side of the version. It is clear that the mental activity of the investigator can be imagined as a system of logically developed considerations, in which the course of thought originates from known premises (collected facts) to the sought, which is already planned in advance, formed hypothetically. But here we must not forget that the proposal and development of the version, the collection of factual data and the verification of the assumption take place on the basis of a broader and meaningful process than the one presented in the hypothetico-deductive method and reflected in logical thinking.

In the thinking process of the investigator, in addition to professional knowledge (experience), he uses established attitudes, the "trial and error" method, intuition, insight (enlightenment, guesswork), etc. In this way, analyzing the initial theoretical positions of forensic versions, it is necessary to rely on a certain unity of thinking (logical and psychological aspects). Here, logic is inextricably linked with psychology. The latter studies thinking, primarily as a process, as a real flow of thought – from ignorance to knowledge. There is an accepted idea, with which it is difficult to disagree, that psychology is the only science that, based on an epistemological and logical basis, studies the process of thinking of an individual [37, p. 156]. Here, the semantic analysis of the version cannot but become a psychological analysis. On the other hand, E. Shorokhova's remark is apt here that any problem that society solves, one of its aspects, facets, dependencies, is a permanent and psychological problem, since in the system of all social relations, man acts as the "central constituent" [38, p. 5].

Conclusions. Thus, the methodological core of the research of the forensic version should be through the analysis in unity of its epistemological, logical and psychological aspects. In this regard, it is advisable, in our opinion, to build the further development of the theoretical foundations of the forensic version on the sequential treatment of two interdependent problems, the discussion of which cannot be considered completed yet. The first of them includes issues of the epistemological status (cognitive nature) of the version and its relationship with the hypothesis. The second problem is related to determining the place of the doctrine of versions in the structure of the science of criminology and its functional role in the investigation of crimes. In addition, from the very beginning, in order to avoid further confusion related to the substitution of concepts, it should be borne in mind that the term "version" is used in two meanings: to indicate the result of mental activity – a possible judgment (assumption) and the process itself proposal and research of the method of cognition.

Traditionally, version theory has been explored and developed in forensics in conjunction with planning theory. In our opinion, the current state and trends in the development of the science of criminology requires a separate study of the version as an independent element of its general theory. It is clear that the version is closely related to the planning of the investigation, precedes it and serves as its basis. But this does not mean that the version is an element of planning. A frankly weak link in the practice of proposing and checking versions is the use of

probabilistic and mathematical methods, which would allow obtaining qualitatively new opportunities for faster and more effective solving of complex mental tasks that arise during the detection and investigation of crimes.

Based on the above, further study of the doctrine of the forensic version, in our opinion, should have a complex interdisciplinary nature and be built on the junctions and taking into account the data of various sciences – natural, technical and social – and, above all, philosophy, logic, psychology, computer science and criminologists.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

Researching the aspects of the forensic version as a method of legal knowledge is an urgent issue of improving the typical method of working with forensic versions regarding the identity of the criminal, the circumstances of the crime and the planning of investigative actions. Also, the methodological function and applied role of the version in highlighting and justifying the need for a logical-methodological approach to the investigation of the identity of the criminal and the circumstances of the crime need a deeper analysis.

One of the promising areas of improvement and optimization of the process of disclosure, investigation and prevention of certain types of crimes is research and further development of the concept of standard versions. Thanks to their formation and application in criminal procedural knowledge, the solution of tasks related to the search for evidence in typical investigative situations becomes more active, the possibility arises in the construction of logical action programs for persons who carry out the investigation process. It is thanks to the construction of various investigative versions and their subsequent verification that factual data is established.

The origins of the concept of version, the modern meaning of this term, types and classifications of versions, functions of versions, its importance for establishing the circumstances of the proceedings, etc. have been studied. The conclusions emphasize that the methodological core of the research of the forensic version should be through the analysis of its epistemological, logical and psychological aspects in unity. It is indicated that the further development of the theoretical foundations of the forensic version should be based on the sequential treatment of two interdependent problems, the discussion of which cannot be considered completed yet. The first of them includes issues of the epistemological status (cognitive nature) of the version and its relationship with the hypothesis. The second problem is related to determining the place of the doctrine of versions in the structure of the science of criminology and its functional role in the investigation of crimes.

The current state and trends in the development of the science of criminology requires a separate study of the version as an independent element of its general theory. It is clear that the version is closely related to the planning of the investigation, precedes it and serves as its basis. But this does not mean that the version is an element of planning. A frankly weak link in the practice of proposing and verifying versions is the use of probabilistic mathematical methods, which would allow us to get qualitatively new opportunities for faster and more effective solving of complex mental tasks that arise during the detection and investigation of crimes. In the opinion of the author, the further study of the doctrine of the forensic version should have a complex interdisciplinary nature and be built on the interfaces and taking into account the data of various sciences – natural, technical and social – and, above all, philosophy, logic, psychology, informatics and criminologists.

Keywords: *hypothesis, version, version proof, forensic version, scientific knowledge, investigative version, investigative situation, legal knowledge.*