CRIME DETECTION — RUSSIAN AND FOREIGN EXPERIENCE
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ABSTRACT
The article discusses the issues of crime detection as one of the criteria for the effectiveness of the law enforcement agencies. Every year the number of undetected crimes remains at a consistently high level. This confirms the relevance of the problem under consideration and indicates the need for further developments in this direction. The authors managed to conclude that the full definition of the term “crime detection” is not presented in any legislative act, i.e. this scientific category has actually always been outside the legal field, which led to its arbitrary interpretation by individual scientists and practitioners. Also, the authors concluded that there is a close relationship between the concepts of “crime detection” and “countering detection”, which was the basis of this article. The article was prepared considering foreign experience. In general, this approach allows using the effective means and methods in the fight against crime, as well as modern technologies in crime detection.

Keywords: Criminalist. Operational activism. Theory. “Investment”. Investigator.

DETECÇÃO DE CRIME – EXPERIÊNCIA RUSSA E ESTRANGEIRA

DETECÇÃO DE DELITOS – EXPERIÊNCIA RUSA Y EXTRANJERA

RESUMO
O artigo discute as questões da detecção do crime como um dos critérios para a eficácia das agências de aplicação da lei. Todos os anos, o número de crimes não detectados permanece em um nível consistentemente alto. Isso confirma a relevância do problema em consideração e indica a necessidade de novos desenvolvimentos nesta direção. Os autores conseguiram concluir que a definição completa do termo “detecção de crime” não é apresentada em nenhum ato legislativo, ou seja, esta categoria científica sempre esteve realmente fora do campo jurídico, o que levou à sua interpretação arbitrária por cientistas e profissionais individuais. Além disso, os autores concluíram que existe uma estreita relação entre os conceitos de “detecção de crime” e “contra-detecção”, que serviu de base para este artigo. O artigo foi elaborado levando em consideração a experiência estrangeira. Em geral, esta abordagem permite utilizar meios e métodos eficazes na luta contra o crime, bem como tecnologias modernas na detecção do crime.


RESUMEN
El artículo analiza las cuestiones de la detección de delitos como uno de los criterios para la eficacia de los organismos encargados de hacer cumplir la ley. Cada año, el número de delitos no detectados se mantiene en un nivel constantemente alto. Esto confirma la relevancia del problema en consideración e indica la necesidad de nuevos desarrollos en esta dirección. Los autores llegaron a la conclusión de que la definición completa del término “detección de delitos” no se presenta en ningún acto legislativo, es decir, esta categoría científica siempre ha estado fuera del campo legal, lo que llevó a su interpretación arbitraria por parte de científicos y profesionales individuales. Asimismo, los autores llegaron a la conclusión de que existe una estrecha relación entre los conceptos de “detección de delitos” y “contrarrestar la detección”, que fue la base de este artículo. El artículo se preparó teniendo en cuenta la experiencia extranjera. En general, este enfoque permite utilizar los medios y métodos efectivos en la lucha contra la delincuencia, así como las tecnologías modernas en la detección de delitos.

INTRODUCTION

One of the criteria for the effectiveness of the law enforcement agencies is crime detection. According to the Main Information and Analytical Center of the Ministry of Internal Affairs of Russia, 1,991,532 crimes were committed in the Russian Federation in 2018, of which 1,087,983 or 54.6% were detected. In 2019, 2,024,337 crimes were committed, of which 1,052,441 or 52% were detected. In January-May 2020, 832,377 crimes were committed, of which 433,246 or 52% were detected [http://10.5.0.16/csi/modules.php].

A significant factor influencing the detection of the so-called "non-obvious" crimes is the counteraction to it by criminals and persons associated with them. Investigators meet with the counteraction almost at all stages of criminal proceedings. The acceleration of the forensically significant information flows in the context of the general digitalization of the entire society leads not only to a rapid change in the investigative situations but, is another factor in strengthening the counteraction to crime detection. The task of the law enforcement agencies in these conditions should be a systematic (comprehensive) implementation of measures to detect unobvious crimes in terms of counteraction to their identification and investigation.

Materials and methods. The methodological basis of our research was, first of all, the fundamental dialectical method of cognition of such socio-legal phenomena as "crime detection" and "counteraction to detection", as well as methods of analysis, questionnaires and the comparative legal method. Also, the statistical method was widely used during the study, which made it possible to identify the dynamics and prevalence of the use of these categories. One of the important tools for studying legal phenomena is the comparative legal method. Extensive foreign experience has predetermined interest in a wide range of foreign studies in this area. They include the works of such scientists as: Bennett, G. Crimtwaps (BENNETT, 1989), David Garland (David Garland the culture of control, 2001), Malik M. S., Islam U. (MALIK & ISLAM, 2019), Bouling K. E. (MALIK & ISLAM, 2019) et al.

The questionnaire method was a key in our research. The authors of this article, using a specially developed questionnaire, studied 300 criminal cases considered by courts in various regions, interviewed more than 100 investigators and operational officers. To search for court decisions, we used the database of court acts, court decisions and regulatory documents - the Internet resource "Judicial and Regulatory Acts of the Russian Federation" (https://sudact.ru/), - being largest in the Russian segment of the Internet.

RESULTS AND DISCUSSION

In the forensic aspect, crime detection shall mean the activity of competent persons carried out in terms of information uncertainty (non-obviousness) to establish evidentiary and other information about the crime event, and the guilty person. In the Russian scientific literature, the issues of crime detection are covered in sufficient detail (BELKIN A.R., VASILIEV A.N., GERASIMOV I.F., LAVROV V.P., LUZHIN I.M., MITRICHIEV S.P.). However, today the criminal procedural theory and legislation do not provide any clarification of the concept and essence of the term "detection", which, of course, leads to broad discussions on this issue.

It should be noted that it began to be used in the norms of the Criminal Procedure Code of the Russian Federation in recent years. It is found several times in Chapter 401 "Special procedure for making a judicial decision when entering into a pre-trial cooperation agreement", where the suspect or the accused undertakes to assist the investigation in detecting and investigating crimes. It is noteworthy that if the suspect or the accused undertakes to assist the investigation in the detecting and investigating crimes according to the specified special procedure, then the investigator still does not have the obligation to detect (Article 38 of the CPC RF).

In these terms, some scholars propose to follow the path of legislative consolidation of this term in the criminal proceedings (SEMENTSOV, 2013). It seems that no matter how sharp the discussions about the legal nature of detection are, one cannot ignore the fact that each of the well-known terms used in science and practice - "detection", "investigation", "identification" - reflect certain specific processes. There are modern functional developments in the fight against crime, the existing structure of the law enforcement agencies, the directions of their activities behind each of them. In particular, the term "disclosure" is deeply rooted in the minds of practicing law enforcement officials.

We believe that referring to foreign experience will improve the crime detection methods, for example, will allow developing contactless technologies to detect lies through various physiological manifestations of a person (The accuracy and utility of polygraph testing, 2002). The predictions of the American criminologist D. Bennett, who identified information as a key to crime control, justified (BENNETT, 1989). Today cybercrime significantly affects the nature of crimes and their investigation (David Garland the culture of control, 2001). Other recommendations of foreign scientists of social and legal control over crime are also widely used in crime detection (MALIK & ISLAM,
A very important role in the formation of the forensic situation as a scientific doctrine was played by the works of K. Boulding, who defined conflict as a situation of competition in which the parties understand the potential incompatibility of positions and in which each party seeks to take a position incompatible with the desire of the other (Boulding, K., 1962).

The adversarial principle emphasizes the legislator's assumption of a conflict situation in an investigation. Often, the investigator's activity during the investigation is a struggle (sometimes irreconcilable) between the investigator and, as a rule, an unscrupulous participant in the process. As a rule, the conflict entails opposition to the crime detection. In the last three decades, the concept of "counteraction to the detection and investigation of crimes" has become key and at the same time controversial in science and in the theory of forensic science, criminal procedure, criminal law and the theory of operational-search activity (Counteraction to Crime Detection and Measures to Overcome It, 2010).

All of the above allows the authors offering the scientific community and practitioners new approaches to crime detection activities. This approach is based on a theoretical rethinking of the scientific category "counteraction to crime detection" along with the term "crime detection". Their certain closeness in terms of interdependence is determined, in our opinion, by the following circumstances:

Crime detection as a continuous activity of special subjects to establish the crime event and the person, who committed it, is accompanied, as a rule, by counteraction to it. In turn, counteraction is identified and most successfully overcome in the course of crime detection. Active crime detection actions lead to increased resistance to the establishment of the truth. In turn, the counteraction, noticed and identified by the investigator, leads to more intensive and systematic actions of crime detection. Therefore, the crime detection problem is reasonably associated with the need to ensure the identification and neutralization of counteraction to crime detection by the accused and persons associated with them.

Modern approaches in criminalistics are of great practical importance for crime detection - to describe the structural elements of criminal activity not in statics (crime subject, crime method, crime traces, etc.), but in dynamics (by the criminal activity development phases). It will allow tracing the development of counteraction to crime detection from the very beginning of the inception of the criminal intention (Criminalistics: Crime Detection in the Economic Field: Textbook). This situational approach (situational paradigm) is especially effective in dynamic, uncertain and probabilistic processes, which fully include crime detection. The first phase (observation) is aimed primarily at finding information about commission of a crime and includes various actions to conceal criminal intentions: a covert surveillance of the object of encroachment was encountered in 12.5% of the criminal cases studied; the legendary study of encroachment objects, contacts with the intended victims - in 5.8% of cases.

The second phase includes creation of conditions favorable for the implementation of a criminal intention, namely: choice of place, time and other optimal conditions for the commission of a crime and counteracting to the investigation took place in 53% of cases studied; finding a vehicle used to quickly leave the crime scene - 15.5%; searching for or adapting crime commission means and instruments - 15.3%; early search for a place to conceal any objects, instruments of crime, the criminal himself/herself, the place of sale of the stolen property - 9.6%. In a number of cases, the criminals used other methods, namely: making hiding places, conducting preliminary experiments on the possibility of committing certain criminal acts; preparation for staging; formation of a system of corruption ties.

The third phase includes counteraction to detection during the implementation of a criminal intention: rapid sale of stolen property as a method of concealing the traces of crimes took place in 28.5% of cases studied; quick departure of the criminal from the area where the crime was committed - 17.4%; measures to hide the traces of a crime and a criminal at the crime commission stage - 7.8%; use of observers, "militants", sales specialists (stolen property, false documents, etc.), for the manufacture of instruments of crime, false documents - 5.3%; masking the appearance by using a wig (mask), dyeing hair, changing clothes - 5.4%; elimination of traces of a crime - 5.1%; masking the identity of the offender by changing his/her voice, handwriting, putting on gloves - 3.4%; impact on witnesses and victims in the commission of crimes (murder, threat of murder, intimidation) - 2.8%. The criminals increasingly resort to the distribution of roles in the commission of crimes for the successful implementation of their plans. This ensures the safety and duration of the existence of a criminal group.

The fourth phase includes the actions of criminals related to “consolidation” of the criminal activity results and their personal safety in the course of criminal prosecution: false testimony, denunciations, evasion of testimony.
(67% of all cases studied); concealment: failure to report the requested information, failure to provide the items sought - 23%; influence through appealing to relatives, fellow countrymen and other feelings of victims and witnesses (11.2%); impact on them and other persons by direct threats, blackmail - 7.5%; creation of a false alibi (5.6%).

After the introduction of the institution of "transaction" with justice, the criminals increasingly use such a method as "staging the assistance to justice in order to expand tactical opportunities for counteraction". For example, a criminal who has entered into a cooperation agreement often seeks to establish a relationship of trust with an investigator and place the main blame on another person, thereby trying to "outplay" the investigator. Thus, the actions taken to overcome counteraction are the first serious step towards crime detection. For detection, it is important to provide legal, operational-search, organizational support. Forensic science, being essentially an integrative, interdisciplinary science, allows you "reviving" the existing structures - legal, organizational, criminological, etc. This is achieved through the categories of criminalistics - the investigative situation; tactical task, solution, reception, combination; versions and planning, etc.

The most important structural elements of the detection process are investigative actions. According to the respondents interviewed, in order to overcome the counteraction to crime detection, the following investigative actions were most often carried out: interrogations - 43% of respondents; appointment and conduct of examinations - 28%; presentation for identification - 16%; control and recording of telephone conversations, obtaining information about connections between subscribers and subscriber devices - 18%; on-site verification of readings with video recording - 14%. Inspection allows detecting some traces of impact on the human body. An examination, an investigative experiment, as well as a confrontation also have an important evidentiary value.

An important role in crime detection is played by information support, which is achieved through the use of Internet resources by checking social networks, email addresses, as well as other web pages for incriminating materials in relation to persons of interest to the investigation (defendants), and, above all, those who actively counteract to investigation and crime detection. The Internet resources are checked by such an operational-search measure as taking information from the technical communication channels. The level and quality of counteraction to investigation and crime detection largely depend on the possession of information by criminals, which constitutes an investigative secret. Therefore, in the light of the development of informatization of the law enforcement agencies, the problem of information protection is becoming increasingly important.

CONCLUSIONS

The crime detection is an essential tool for the establishment of the most important circumstances during the crime report verification, and a successful and effective investigation. The analysis of the counteraction mechanism will make it possible to ensure the systematic (comprehensive) implementation of measures to detect unobvious crimes in terms of counteraction to their detection and investigation.

It should be noted that within the framework of this work it is impossible to analyze the entire volume of investigative practice in crime detection in terms of counteraction to their detection and investigation. A detailed analysis of the counteraction mechanism and the investigator's activities aimed at overcoming counteraction may be carried out in subsequent studies.

SUMMARY

Recognition of "crime detection" as a category of criminalistics will serve as an impetus for its more active research and reaching a higher quality level. The history of the anti-criminal cycle sciences testifies as follows: a particular category was subjected to a comprehensive forensic study before it became legal. The integration and differentiation processes inherent in forensic research will expand the scope of crime detection.

In the future, it could be legally enshrined in clause 33-1 of Article 5 of the Criminal Procedure Code of the Russian Federation and stated in the following edition: "Crime detection is a cognitive process from the moment of receipt of a report about a crime to full proof of the crime event and the guilt of a person who committed a crime. The crime detection ends with a court verdict on the case that has entered into legal force".

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