



CRIMINALISTICS - SOURCE OF CRIME PREVENTION

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Abstract

The article addresses the role that the science of Forensics (Criminalistics) has in the prevention of crime, through the specific analysis of the elements that give it the character of a source of prevention, with reference to its object of study, and in the end, brief conclusions are expressed regarding the impact they have had and have the data obtained from forensic investigations in preventing and combating the phenomenon of criminality, as well as proposals for law ferenda to increase the contribution of information acquired in criminal investigations among the means of prevention.

Key words: *criminal offence, crime prevention, forensic investigations.*

INTRODUCTION

The entire world map is affected these days by the permanent and not necessarily beneficial changes in the economic, social, political and cultural life, changes that have inevitable consequences also on the legal relations of criminal law, to such an extent that the dynamics of human actions against the legal norms of incrimination sees the extent of the criminal offense at the level of a social phenomenon with qualitative and quantitative limits that are difficult to determine.

Contemporaneity knows a worrying evolution of criminality, both nationally and transnationally, by the constant increase in the number of criminal acts, their diversification, the decrease in the age of the participants in the criminal act, but also by increasing the elements of extraneousness and the complexity of the means and methods of committing crimes.

The human community has understood, at least at the level of nations that base their existence and functionality on the principled rules of democracy and the rule of law, that its fundamental social values cannot be preserved if the criminal legal relations of compliance are permanently diminished, and the effects of human conduct that come into conflict with the criminal law are increasingly serious. That is precisely why at the level of states and international bodies more

and more plans, projects and programs have appeared to contribute to the prevention, control, combat or even eradication of certain categories of manifestations of criminal offences.

Prevention, as a phrase in the criminological literature, was defined as a set of non-coercive actions on the causes of crimes with the specific aim of reducing their probability or severity (*M. Cusson, 2006, p. 7*).

The doctrine addresses the complementarity of two forms of prevention, the general and the special (*M. Basarab, 2002, p. 238-239; F.O. Muşiu*). General prevention is achieved by the provision of the punishment in the criminal law, by the knowledge and adherence of society members to the provision of the respective law and by the fear of punishment or other sanction, context in which the punishment has a pre-criminal preventive role. General deterrence also occurs as a result of the application of concrete punishment to those who have committed crimes, because some people who would have thought of committing a crime refrain because they know how some criminals have been punished. The purpose of special prevention is to prevent the commission of new crimes by those convicted and constitutes the direct purpose of the applied punishment, thus having a post-criminal preventive role.

The new paradigm of the fight against crime, which was imposed, both domestically and internationally, by the need to ensure legal security at the highest level for the recipients of the criminal law, but also by the rigorous observance of fundamental human rights and freedoms in the procedures judicial, highlighted the increasingly important role of scientific instruments, means and methods for the prevention of criminal acts, and among them are, of course, also the means and methods of forensic investigation.

From an epistemological perspective, the relevant legal literature evoked the connection of Criminalistics (Forensics) with other criminal sciences, such as Criminology, Criminal Law, Criminal Procedural Law, Penology or Criminal Policy, as sciences that have a common mediated goal, namely the prevention and combating of the criminal phenomenon (*E. Stancu, 2015, p. 33; A. Dincu, 1988, p. 16; C-tin Mitrache, Cr. Mitrache, 2016, pp. 34-35*).

The most important of the disciplines that research the phenomenon of crime is Criminology, defined as the relatively autonomous social science, auxiliary to the criminal sciences, with a multidisciplinary character, which studies the state, dynamics, legalities, causes and socio-human conditions of crime, as well as the defining features, the mechanism and the functionality of the system of measures to prevent and combat crime and criminality, including the treatment of delinquents (*A. Dincu, 1993, p. 4*).

For its part, Criminalistics (Forensics) was defined by the renowned professor Emilian STANCU as a judicial science, with an autonomous and unitary character, which sums up a set of knowledge about the methods, technical means and tactical procedures, intended for the discovery and investigation of crimes, the

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identification of the persons involved in the commission them and the prevention of antisocial acts (*E. Stancu, 2015, p. 28*).

It is already well-known that, just as Criminology answers the question of why a certain crime was committed, the science of Forensics (Criminalistics) answers the question of how the crime was committed, and regarding the scope of intervention measures, Forensics acts preventively by perfecting technical-scientific means and of tactical or methodological rules aimed at establishing the circumstances in which a criminal act was committed, determining the identity of the offender and proving his guilt.

Both from the content of the definition and its object of study, Forensics (Criminalistics) can be considered an important source for the panoply of scientific means to prevent crime, as a negative social phenomenon, so as to effectively contribute to the effort to combat and reduce the level of this scourge.

From the perspective of the main directions of action of the science of Forensics (Criminalistics), which highlights its object and which were highlighted in the doctrine (*E. Stancu, 2015, p. 29*), it can be concluded that this discipline of criminal sciences has an obvious connection with the prevention of the phenomenon of criminality.

First of all, the component regarding the initiation of technical methods intended to investigate the traces of crimes is oriented towards the goal of the criminal process, immediate and mediated, the first being the timely and complete ascertainment of the facts that constitute crimes, so that any person who has committed a the crime should be punished according to its guilt and no innocent person should be held criminally liable, and the second in its contribution to the defense of the legal order, the person, his rights and freedoms, the prevention of crimes, as well as the education of citizens in the spirit of law-abiding.

Secondly, the adaptation of methods from the natural sciences, such as physics, chemistry, mathematics, biology or geography, to the own needs of Forensic Science (Criminalistics), aims precisely at the activities of preventing and combating crimes, by using advanced techniques and technology from other fields in the laborious process identifying the perpetrators of crimes and establishing the circumstances in which the investigated facts were committed.

Thirdly, ensuring a scientific foundation for criminal investigation, by developing tactical rules for carrying out effective criminal prosecution or court acts, is likely to give Criminalitics (Forensics) a major role in inculcating the general idea in society that there is no crime perfect, a major argument that contributes to general and special prevention.

Fourthly, the study of the judicial practice to capitalize on the positive experience, in order to generalize and unify the solutions of the criminal investigation bodies and the courts on the line of criminal justice, can influence the prevention of criminality, by ensuring a high quality of the judicial act, based on a scientific basis, and, as a consequence, of the predictability of the solutions

adopted in similar situations. In this way, the recipients of the criminal law will benefit from the decision-making transparency of the judicial bodies and will be able to analyze with knowledge the advantages and disadvantages of moving to the criminal act, by exercising their free will, the immediate effect being that of inhibiting the people who are in the stage preceding the commission of the crime and who will renounce the execution of the intention to commit a criminal act.

Fifthly, the analysis of the evolution of the way criminal acts are committed can provide answers to the questions regarding the most appropriate measures or procedures to prevent, combat and sanction the perpetrators. The conclusions of such analyzes can constitute starting bases for the realization of situational prevention: security inspections in hot areas or exposed to the risks of committing crimes, marking of goods periodically targeted by criminals, use of electronic surveillance systems, informing vulnerable people or those in risk areas in order to increase spontaneous surveillance, etc. (*M. Cusson, 2006, pp. 109-129*).

Sixthly, improving the methodology for investigating various types of crimes, especially serious ones, such as those against life, patrimony, national security, public safety or related to corruption and organized crime, envisages the desire of the judicial authorities of a prevention oriented towards its maximum optimization. In a society based on the rule of law and in which criminal justice is constantly scientific, developed until the formation of a true routine of the actors involved in the relevant procedures, the level of legal security will tend to restrict the possibilities of the manifestation of antisocial behaviors, and such legal reality will be like a cornerstone for the prevention of crime and criminality.

Corroborating the highlighted aspects, it can be concluded that all the directions of action deriving from the object of Forensics (Criminalistics) compete to ensure both the prevention and combating of the criminal phenomenon, by ensuring a scientific-applicative nature of this frontier science.

Each of the components of the unitary science of Criminalistics (Forensics) - technique, tactics and methodology - is tributary to the mediated goal of criminal sciences, regarding the prevention and combating of crimes.

1. PREVENTION THROUGH TECHNICAL-SCIENTIFIC MEANS

The technical-scientific investigation of the crime scene or the on-site investigation is one of the evidentiary procedures with a significant role in gathering evidence in the criminal process. The development of technical means and the adaptation of tools used in other fields of knowledge serve to obtain advanced technologies with the help of which the identification of persons and objects that are causally related to the commission of an antisocial act becomes much easier.

Even if the desired goal of eradicating crime cannot be achieved in today's heterogeneous society, the evolution of forensic technical and scientific means is

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an important factor for the prevention of criminality, precisely by ensuring the scientific, objective and certain possibilities to discover crimes and prove above all reasonable doubt the guilt of those who committed them. If during the pioneering period of Forensics, the technologies available to criminals were often one step ahead of those available to law enforcement authorities, today this advantage has faded, sometimes to the point of annihilation or even shifted the balance at the expense of criminals. We can mention here the modern means and methods of discovery, recovery and forensic exploitation of traces and material means of evidence, such as traceology, dactyloscopy, forensic genetics, forensic ballistics, biometric identification methods, special means of technical surveillance.

The contribution of Forensics (Criminalistics) in preventing the falsification of identity documents, banknotes and other payment instruments or works of art can be appreciated as salutary, by discovering and analyzing the methods of falsification, followed by the dissemination of the results of forensic expertise to the decision-makers related to the issuance or the management of these documents or values, so that any attempts at counterfeiting or fraud can be discovered without delay.

It is already an indisputable reality to prevent the commission of crimes against patrimony by using tools from forensic kits, such as making forensic traps, by impregnating them with fluorescent substances in places where the probability of theft or embezzlement is high (storage rooms, safes, means for the transport of values, etc.).

2. PREVENTION THROUGH TACTICAL MEANS

The tactical rules for planning and organizing the criminal investigation can contribute both to the general prevention of crimes, and especially to special prevention, by creating conditions that lead to a decrease in the possibilities of recidivism among convicts.

In order to prevent and combat criminality, in the evolution of Criminalistics, scientific methods of criminal registration were launched and successfully used, starting from the bertillonage-type records from the end of the 19th century and continuing with the judicial photographs, the files of the police units relating to fingerprints, spoken portraits, stolen and unfound objects, currency counterfeits, different types of footwear drawing profiles, then with Automated Fingerprint Identification System (AFIS databases), missing persons registration and corpses with unknown identity, the registration of serious cases with unidentified perpetrators, the records of criminals from the criminal record and currently reaching the records in forensic genetic databases or the mode of operation.

Capitalizing on the positive experience of the judicial bodies involved in the execution of criminal justice, the prevention and combating of crime were

enshrined in legislation, the legal norms enacted having a strong forensic-applicative character, through the creation of national and interconnectable databases at the regional or global level.

In this regard, Law no. 290/2004 regarding the criminal record (M. Of. no. 586 of June 30, 2004), in the content of which it is expressly stipulated that the record of the criminal record is made for the purpose of preventing and combating the acts provided for and punished by the criminal law, as a means of operative knowledge and identification of persons who have committed crimes against the person and his freedom, patrimony and, in general, the rule of law. The criminal records keep records of individuals and legal entities convicted or against whom other criminal or administrative measures have been taken according to the Criminal Code, as well as those against whom procedural-criminal measures have been ordered. The registration of natural persons is also done dactyloscopically, by taking digital and palm impressions, necessary for the fingerprint identification of the registered persons and the exact knowledge of their legal situation.

Another pertinent example is Law no. 76/2008 (M. Of. no. 289 of April 14, 2008) regarding the establishment of the National System of Judicial Genetic Data, for the prevention and combating of certain categories of crimes that seriously affect the fundamental rights and freedoms of the person, especially the right to life and to physical and mental integrity, as well as for the identification of bodies with unknown identity, missing persons or persons who have died as a result of natural disasters, mass accidents, murder or acts of terrorism. This normative act establishes the conditions under which biological samples can be taken from certain natural persons or from traces left at the scene of the commission of crimes, in order to determine the genetic profile, as well as the conditions under which the data can be processed, the manner in which it is verified and compares genetic profiles and personal data, with the aim of excluding people from the circle of suspects and identifying the perpetrators of crimes of high gravity, establishing the identity of people - victims of natural disasters, mass accidents and acts of terrorism, carrying out the exchange of information with the other states and combating cross-border crime, identifying participants in the commission of crimes, preventing and combating acts of a sexual nature, exploiting some people or minors.

Also, Law no. 118/2019 regarding the automated national register regarding persons who have committed sexual crimes, exploitation of certain persons or against minors (M. Of. no. 522 of June 26, 2019), was developed precisely for the purpose of preventing and combating acts of a sexual nature, exploiting some people or minors, provided for and punished by the criminal law, as well as to avoid the risk of recidivism in this category of criminals known by the phrase "sexual predators".

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3. PREVENTION THROUGH METHODOLOGICAL MEANS

Considering its unitary character, Forensics (Criminalistics) works together in its three dimensions, technique, tactics and methodology, to achieve its object. Incorporating the rules and particularities of research specific to the typology of crimes, forensic methodology in turn contributes to the achievement of the mediated goal of criminal sciences.

The purpose of crime prevention can be discerned from the way in which the principles underlying the criminal investigation are structured according to the category of criminal facts or events with criminal relevance, principles that evoke the scientific nature of criminal investigation. Thus, in the case of investigating a suspicious death, the intervention of the judicial bodies in the process of establishing the legal diagnosis of the person's death, as a non-violent or violent death (homicide, suicide or accident), imprints a deep preventive character of such an investigation, since finding out the truth by concretely establishing the circumstances in which the victim's death occurred and the possible identification of the perpetrator has the nature of ensuring both general prevention, through the speed and certainty of bringing the possible perpetrator to criminal responsibility and the warning of other potential criminals, as well as the special one, by tempering people who have been involved in crimes against bodily integrity and preventing them from moving to a much more serious level of crime against the person, such as murder.

The existence of police databases, which are used by investigative teams to verify traces from the criminal field, such as those with papillary impressions, genetic profiles, modus operandi or ballistics, as well as performing comparative analyzes necessary for identification, as methodological rules in research serious crimes, are sure benchmarks of crime prevention actions.

CONCLUSIONS AND PROPOSALS OF LEGE FERENDA

Although it is, indisputably, an open topic for endless debates, it can be stated that between Criminalistics (Forensics) and the prevention of the phenomenon of crime there is an indissoluble link, since in its historical evolution, this science of factual situations in the criminal process, as defined by its founder, Hans Gross, has more than sufficiently proven his ontological contribution to the understanding of how antisocial acts are committed, so that their authors can be identified through methods established and verified in judicial practice.

The conclusion that can be drawn from this analysis can only be that, both by definition and by the directions indicated by its object, Forensics (Criminalistics) contributes fully to the prevention and combating of crime and criminality, constituting a source of general and special prevention.

Each of the three unitary components of this autonomous forensic science has multiple valences in the complex crime prevention action, both from a technical, tactical and forensic methodological perspective.

By lege ferenda, it would be required that the legislator, in a broad sense, at national, regional or even global level, achieve a unitary approach to the crime prevention system, so that the operational databases can become interoperable, both horizontally, as well as vertically, by ensuring the least limited cooperation between law enforcement bodies. Such a perspective requires, perhaps, a much higher level of international cohesion than the one currently existing, but the first step could be the uncensored internal cooperation between the decision-makers of each level of social life, and all the energies of the actors involved in preserving social harmony should be focused towards the common goal of legal security of the community.

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