

ETHICS OF EXPERT ACTIVITY

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S u m m a r y

The report studies problems of the expert ethics. The urgency of the mentioned problems is caused by the fact that complicated and serious questions of the ethic nature can be raised in practice. There are mainly problems of the ethics of legal proceedings studied in the special literature. A little attention has been paid to problems of the expert ethics.

By studying principles of ethics from philosophy's point of view, a system of moral standards and professional moral rules, which are used in specific conditions of legal proceedings and investigative activity, has been worked out. The professional morality in the sphere of forensic expertise has certain specificity.

The author has expounded the moral rules that should be followed by a forensic expert. The strict fulfillment of professional ethic standards is a guarantor for the expert findings' objectivity and trustworthiness.

Introduction

It's common knowledge that ethics is a philosophy science about morality. Its object is any social-practical activity that has a moral essence.

The integral nature of modern criminalistics causes its indissoluble connections with many spheres of the scientific knowledge. Their data is used by criminalistics for performing its auxiliary duty – developing means, methods and recommendations on the detection, investigation and prevention of crimes. A sphere of criminalistics' connection with one of such closely related sciences, ethics, the theory of ethics, is mainly a question of the possibility to use criminalistic recommendations, conditions and forms of their fulfillment for prevention of crime. The problems, which have arisen in the sphere, can be quite conditionally called the ethic problems of criminalistics. Though, in some conditions, they are not only ethic problems of criminalistics but also problems of the criminal procedure that is a special kind of human activity.

Ethics is one of philosophy sciences, a science about moral and morality that conveys and mediates certain social relationships. Being a social institution that plays a role in regulating human's behaviour, a form of social consciousness, and a totality of principles, rules, norms used by people in their behaviour, the moral serves as a necessary criterion for the possibility of practical use of criminalistic recommendations. The requirement of preliminary investigation's means and methods lawfulness is supplemented with the requirements of its morality and has to satisfy requirements of the public moral. The requirements haven't to contradict each other in a society, as well as principles of law and expediency also shouldn't contradict each other.

By proceeding from ethic principles, a system of moral norms, from the philosophic point of view, or a complex of professional moral rules have been found that are called the legal ethics.

The Main Part

The legal ethics is a use of general moral norms in specific conditions of legal and investigative activities. The moral norms are being reflected in the criminal process, criminal procedure legislation, determination of the process participant's statute, and relationship between them. The professional, legal moral consists of many elements, because representatives of many legal occupations: judges, prosecutors, detectives, experts, advocates and others – act within the sphere of legal proceedings. Every legal occupation has its specific character, which fixes the corresponding moral rules. But all the above-mentioned occupations have one trait in common – the general professional moral consisted of a complex of committal, more severe moral rules than a complex of general principles of morality.

The general problems of modern stage of forensic examinations' development correspond not only with problems of theory and practice but also with complicated ethic problems that reflect the professional moral.

Achievements of natural and technical sciences are being applied into legal proceedings owing to the forensic examinations. It's common knowledge that opportunities of forensic examinations have been widened especially for the last decade owing to the scientific technical progress and introduction of computing techniques.

Being a participant of the procedure an expert has to follow certain moral norms stipulated by his/her occupation. The norms are different from the same norms of other legal occupations because of their specific nature.

The expert ethics consists of the whole complex of moral norms, rules of behaviour in all spheres of forensic expert's activity.

The moral norms express the following forensic expert's moral principles: adherence to principles, objectivity, impartiality, self-dependence and self-criticism. Just those very principles, first of all, have to be fulfilled in expert's activity.

The main and most important moral rules are forensic expert's objectivity, impartiality and adherence to principles.

The objectivity means the establishment of the truth when fulfilling a task set by an investigator (a court). If there are enough collected materials of indictment, an expert has to arrive at the truth independently from investigator's (court's) version without being guided by the information from the materials or provided by crime's witnesses, etc. If there aren't enough materials of indictment, an expert has either to abandon the settlement the problem or to prepare a report about the impossibility of making a conclusion.

The impartiality is a result of an objective point of view. An expert hasn't to be interested in the result of a case. Therefore, it's not accidentally, than Article 57 of the Criminal Procedure Code of the Russian Federation obliges an expert to follow a number of moral norms. They are in particular the following: "<...> to prepare a reasonable report about the impossibility of making conclusions; to give up making conclusions on the problems out of bounds of special knowledge <...>; not to disclose the information he/she has known in connection with forensic examinations, including the information that can limit the Constitutional rights of citizens and the information being State, Commercial and other kind of legally protected secrets", etc.

The adherence to principles of a forensic expert is closely connected with his/her objectivity and impartiality. It means expert's independence on his/her judgments. If an expert makes or changes conclusions under the influence of an investigator, a judge, an advocate or a prosecutor, he/she should be dismissed from performing crucial procedure duties of a forensic expert.

The self-dependency in giving reasons and judgments is evidence of expert's competence and high professional skills, ability to persist in his/her opinion during the estimate of received results and formulated conclusions.

Besides that, the moral norms mean: to realize the public and social significance of this activity; to conduct self-training of feeling for law and order as well as to study foundations of law; constantly perfect his/her professional skills and to widen erudition; to become proficient in methods and means of forensic examinations. They are also honesty, blamelessness and professional readiness to fulfil his/her duties, as well as a high level of responsibility, initiative and a creative approach to any difficult examinations.

The scientific conscientiousness has a great significance in expert activity. Expert's scientific conscientiousness starts at the preliminary stage of expert activity. During the preliminary examinations of studied objects and the study of undertaken tasks, the expert determines their sufficiency. And if there is no sufficiency, he/she solicits for additional materials. The method of approach shows not only professionalism and thoroughness but also the absence of superficial or hasty fulfilment of the given task. Then the expert works out algorithms on task decisions, frames expert hypotheses to arrive at the truth on the case. The expert has to make full and comprehensive examinations on the analytical stage. That stands for a deep study of given objects with the use of modern scientific and technical means, methods and different expert methods.

A main and important stage is also an estimate of received results and formulating conclusions. At that final stage of examinations, the scientific conscientiousness serves as a guarantee for finding out the truth.

The rule of correct behaviour should be one of expert's features in his/her relationship with an investigator and a court, as well as with colleagues. The rule takes on special significance during commission examinations, including also complex and repeated ones. Expert's individual features, that are expressed in psychological process: emotions, apprehension, thinking, memory, sensations, senses, actions according to one's convictions, become apparent there. Distrust and incompatibility on the estimate of examination's results and formulating conclusions can come into existence during such examinations. In one case, an expert pays a great attention to his/her examinations and doesn't estimate their results with self-criticism. In another case, he/she can depreciate the results and underestimate their significance. During joint results' estimate, the authority of a commission member can accidentally put psychological pressure upon another expert that has a little length of expert work. For example, during complex examinations, a leading expert plays a main role. He/she doesn't have the authority of "chief" in the expert commission, but nevertheless, the person has to meet certain psychological requirements. If there is a conflict between members of commission, the leading expert has to use his/her professional knowledge and skilfully explain, convince, "make a peace" and direct experts' work to meet the joint given task. The leading expert's ethics in that case lies in the fact that the actions shouldn't depreciate commission members' merits and the received results should be used as much as possible.

The expert ethics includes also such definitions as expert examination's plenitude and trustworthiness, forming intrinsic convictions of an expert, confidence in trustworthiness of conclusions.

The plenitude and trustworthiness of expert examinations are determined by use of different methods of objects' examinations in specific spheres of methods, a maximum reveal of features, an argumentation of their sufficiency, importance and stability to take a correct decision on given problems.

The intrinsic conviction of an expert is a psychological condition that is caused by a free estimate of examinations' results, that hasn't followed any external tenets by taking into account a specific character of a concrete expert task. The psychological condition during forming the intrinsic conviction is notable for the strict confidence in the truth of received results that objectively reflect the proof of facts. The intrinsic conviction of an expert has been formed for the entire process of study. An expert has to be confident by using different methods that they objectively reflect detected object's features and characteristics. Many

psychological factors (for example, perception, imagination, memory, intuition, heuristics, etc.) play important role in an expert examination. The heuristic thinking is very important for the process of cognition, as an expert is constantly forming working hypotheses, checking them, suggesting new ones until the expert eliminates all contradictions and makes sure of the truth in his/her judgments and conclusions.

As it was mentioned before, expert's estimate of examinations' results is quite a complicate thinking process where the previous stages of expert's cognitive activity are realized. Expert's conclusion, which reflects his/her convictions, is formed as an appraisal about received information. Confidence in the truth of his/her conclusions based on the objective information of examinations and its estimate can be called in question as a result of any facts, including ones that are not directly connected with the studied objects. As a result of that, the expert begins doubting his/her conclusions and can take a wrong decision.

Thus, expert's conviction is formed by many factors, but the main one is the legal procedure independence. Expert's independence is an important guarantee of his/her freedom of intrinsic conviction, and accordingly, is a guarantee of conclusions' objectiveness.

Conclusions

The principles of democratic law and order depend on many factors. The professional ethics has a particular significance in disclosing and investigating crimes. A special sphere of scientific knowledge, the legal ethics, has been formed within fighting crimes activity. The ethics of expert activity is one of its main directions.

An expert following moral rules makes a guarantee for the objectiveness of conclusions. Owing to the forensic examinations, achievements of natural and technical sciences have been applying in legal proceedings. That is an important way of scientific and technical fitting legal proceedings on Civil and Criminal laws that favor the achievement of the objective truth.



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Ekspertų veiklos etika

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SANTRAUKA

Straipsnyje nagrinėjami probleminiai ekspertų etikos klausimai. Temos aktualumą lemia praktikoje atsirandantys sudėtingi ir rimti su etika susiję klausimai. Specialiojoje literatūroje daugiausia nagrinėjamos teismo etikos problemos. Ekspertų etikos klausimams skiriama mažai dėmesio.

Etikos principus nagrinėjant iš filosofijos nuostatų, nustatyta moralės normų ir profesinių etinių taisyklių, taikomų specifinėmis teismo ir tardymo veiklos sąlygomis, sistema. Tam tikra specifika pasižymi ir teismo ekspertizijų srities profesinė moralė.

Autorė detaliai išdėsto moralės taisykles, kurių privalo laikytis teismo ekspertas. Griežtas profesinės etikos normų taikymas yra ekspertinės išvados objektyvumo ir patikimumo garantas.

