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**DEVELOPMENT OF CRIMINOLOGICAL LAW IN THE**  
**CONTEXT OF DIGITALIZATION**

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**Abstract**

The digital transformation of public life has not spared crime. Today, we can talk about a qualitative transformation of most of the "traditional" crime into a digital one. Meanwhile, in criminological science today there is a process of registration of criminological law as a complex institution. According to the authors, digital criminology, being a multidimensional and multicomponent phenomenon, should undoubtedly take shape in an independent sub-branch of criminological law. Within the framework of the study, the authors justify the need for a systematic approach to criminological law and the recognition of its independent branch of law, science and academic discipline. In support of their position, the authors present a detailed analysis of the subject, methodology and system of criminological law. Criminological law, according to the authors, is a complex branch of law, which is a set of diverse legal norms, both already formed branches and transforming into an independent branch. Thus, the authors distinguish crimino-juvenile law, drug-criminological law, criminopenological law, digital criminological law, etc. The authors consider the features of regulated legal relations, the causes and conditions that arise during the prevention of criminal acts, criminal-victim behavior, as well as their types and other measures to combat crime to be the rationale for this vision.

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*Keywords:* Criminology, criminological law, methodology of criminological law



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## 1. Introduction

The term "criminology" comes from the Latin word "crimen" - crime, and the Greek "logos" - teaching. Literally, it means the doctrine of crime, and in a broad sense – of criminality. In modern Russian textbooks, as a rule, criminology is considered only as a science and academic discipline. At the same time, taking into account the formation, development and current state of criminological legislation, criminology should also be considered as a complex branch of law. At the same time, several independent areas are developing in Western criminological science within the framework of a single system of criminological science (Winegard & Winegard, 2018; Stubbs, 2008). In the criminology theory, at different times criminological law was called differently: preventive law, Russian criminal-preventive law, etc. In 1980, Avanesov (1980) considered "preventive law" in a broad and narrow sense. He believed that the law in the field of prevention, taken in a broad sense, covers a very wide and diverse range of relations that develop in this particular area. In this regard, "preventive law" does not represent any special branch in the system of socialist law in general, but a certain set of established legal norms (criminal law, criminal procedure, correctional labor, financial, economic, civil, etc.) that regulate certain complexes of relations in the field of prevention, including with the participation of individual citizens.

Such law can be called multidimensional. Although, various branches of law (criminal, criminal procedure, correctional labor, etc.) regulate preventive activities in a broad sense, they retain the importance of independent legal branches. Law in the field of prevention, taken in a narrow sense, is specifically aimed at regulating "preventive relations". Here it is already possible to talk about a special branch of law – "preventive". This right is a set of rules that regulate preventive activities. It includes such issues as rights and obligations (and responsibilities) of subjects and objects of prevention, determines the legal status of participants in preventive activities (Avanesov, 1980). An interesting conclusion is made by Avanesov (1980): "in any sense, law in the prevention field is necessary, because we cannot work without mandatory rules, without complying with their requirements, assessing behavior in comparison with requirements, provided by the law choices of such behavior, with rights and obligations" (pp. 477-478). A similar position was taken by Welsh and Farrington (2013).

Later, Truntsevsky (2010) proposed the term "criminal-preventive law", which is an interconnected and interdependent set of legal institutions, legal subinstitutions and norms, which provides an integral independent regulation of public relations in the field of combating crime, related to the implementation of measures for the prevention of crimes, in particular the organization of activities of prevention subjects. The considered set of institutions, subinstitutions and norms embodies in its content a special legal structure, specific general provisions and principles, which should find its expression in the isolation of these norms within the branch of legislation in the form of a separate federal law (Truntsevsky, 2010). Currently, the term "criminological law" is firmly established in scientific circulation. It is worth noting that the term "criminological law" was introduced by one of the authors of this article in 2003 (Orlov, 2003). In our opinion, currently the definition of criminological law can have several semantic meanings: as a complex branch of law, as a science and as an academic discipline. This understanding of criminological law allows it to act as an essential component for improving university education in the context of the digital transformation of the state. According to some authors, digital criminology "de jure" has existed for a long time, however, the emergence of qualitatively new criminal

challenges has become decisive in its demand both in practical and theoretical terms. These circumstances together make it necessary to address the problem of studying criminological law as an independent branch of law, science and academic discipline.

## **2. Problem Statement**

The transformation of "traditional" crime into digital crime necessitates the development of more effective methods for obtaining accurate and reliable quantitative estimates of various properties of crime for the purpose of its prediction (Maksimov et al., 2018; Smith et al., 2017). A special role is given to the development of effective preventive measures to prevent criminal phenomena that have a sufficiently high public danger, but extremely low effectiveness of criminal law measures because of their novelty. Meanwhile, the study of methods of preventing digital criminal threats is impossible without understanding the content elements of criminological law. Criminological law is a complex branch of law, which is a set of multi-branch legal norms, both already formed branches, and aspiring to branch independence in the future. For example, it is possible to distinguish criminal-juvenile law, drug criminological law, criminal and penological law, digital criminological law, etc. Such a division is possible due to the specifics of regulated social relations that are determined by causes, conditions and measures to combat crime arising in the process of preventing criminal, criminal-victim behavior, crime, criminal victimization, as well as their types and others. Meanwhile, to date, the study of criminological law as a complex branch of law, as well as a branch of the legal science, has not received enough attention. This determines the necessity and scientific value of this research.

## **3. Research Questions**

As part of the study, the authors attempted to answer a number of questions. Is there a consensus in the Russian legal science regarding understanding of criminological law as a complex branch of law? What is the reason for the author's vision of criminological law as a complex science? What are the principal features of criminological law as an independent science, branch of law and academic discipline? What is the subject of the science of criminological law and academic discipline? What is the methodology of criminological law as a complex branch of law and academic discipline? What are specific features of the system of criminological law as a complex branch of law?

## **4. Purpose of the Study**

The formation of criminological law into an independent branch of law is already a given. However, to date, criminological law has not been sufficiently studied. In particular, there are no comprehensive studies devoted to the study of criminological law as a science, branch of law and academic discipline. The purpose of this study is to characterize the main elements of criminological law as an independent complex science, branch of law and legal discipline. The authors also aim to substantiate the system of criminological law. Special attention is focused on the justification of the need to allocate a general and special part in criminological law, in particular, the allocation of digital criminology as a sub-branch of criminological law.

## 5. Research Methods

To achieve this goal, the authors used a combination of general scientific and private scientific methods. The key aspect is the dialectical method of cognition, which made it possible to comprehensively and objectively consider the main issues of criminological law as a science, branch of law and academic discipline. In addition, the study includes such methods as the method of thought experiment, historical-legal, hypothetical-deductive, axiomatic, formal-legal, concrete-sociological, the study of documents. The use of a combination of the above mentioned scientific methods made it possible to provide an integrated approach to the study.

The authors also analyzed the existing literature on criminological law and, directly, criminology. This provided a proper theoretical part of the study, and allowed to justify a number of author's positions. A comprehensive study of sub-sectors within the emerging criminological law allowed us to justify the need to separate digital criminology into an independent sub-sector.

## 6. Findings

The science of criminal law is a set of ideas, beliefs, theories about regularities of formation and development of criminological policy of the state, criminological legislation, practice of its application, the legal regulation of prevention of anti-social, illegal, criminal-victim behaviors, crime and criminal victimization, as well as international cooperation in the fight against crime, crime victimization, criminology and the criminal-victim legislation of foreign countries. Criminological law as an independent academic discipline is a course that is taught at educational institutions. A distinctive feature of criminological law, like any other branch of law, is the presence of its own subject and method. The subject of criminological law should be considered in three aspects: as a complex branch of law, as a science and as an academic discipline. The subject of criminological law as a complex branch of law covers social relations that are regulated by this complex branch.

The subject of criminological law, along with general provisions, also includes certain provisions of private criminological doctrines, norms regulating the entire system of preventing anti-social, illegal and criminal-victim behavior, crime and criminal victimization, their individual types, types, as well as other measures in the field of combating anti-social, illegal, criminal-victim behavior, crime and criminal victimization, etc. The subject of criminological law, along with general provisions, also includes certain provisions of private criminological doctrines, norms regulating the entire system of preventing anti-social, illegal and criminal-victim behavior, crime and criminal victimization, their individual types, as well as other measures in the field of combating anti-social, illegal, criminal-victim behavior, crime and criminal victimization, etc.

It's worth noting that some scientists do not consider criminological law as a complex branch of law. Thus, in particular in a separate criminological criminological dictionaries, (prevention) law is defined as a developed branch of law that covers a system of norms regulating public relations in the field of investigation and prevention of crime, for instance, determining rights and duties of subjects, status of prevention, types and the procedure to use legal means, etc. (Bazhenov et al., 2009). It is rather difficult to agree with this opinion. The subject of the science of criminological law is that it learns and explores in

the sphere of application (appointment, execution, preventive measures against persons with illegal behavior). The subject of the science of criminal law should include criminal policy, the development history of Russian criminal law, the content and structure of rules of this complex branch of law, system of law and its sources, legal, crime, criminal victimization, causes, conditions and prevention of anti-social, illegal, criminal and victim behavior, criminal responsibility, system and types of preventive impact on persons with illegal behavior, the compositions of the application (purpose, fulfillment), practices, production on cases of antisocial behaviour and preventive effects, certain provisions of private criminological doctrines, as well as international criminal acts, the fight against crime in foreign countries, etc.

The subject of the science of criminological law is knowledge in the field of pre-revolutionary, Soviet and post-Soviet (Russian) criminological law. The subject of the science of criminological law is broader in terms of the content of the subject of criminological law as a complex branch of law. The subject of the course of criminological law is the corresponding branch of the science. The subjects of criminological law as a science and academic discipline are similar. It should be noted that the subject of the science of criminal law is broader than the subject of the course (academic discipline) "Criminal law", since the latter is limited to certain content on specific topics and the amount of academic hours. Undoubtedly, the amount of material largely depends on the institution where the discipline is taught, the qualifications and specialization of the teaching person, etc. Another position is expressed by Petrovsky (2019). According to this scientist, criminological legislation should become an industry regulating activities of officials of state federal and regional authorities, local self-government, various commercial and non-profit organizations, international organizations, and individuals (Petrovsky, 2019).

The method of legal regulation in the theory of law is traditionally understood as a system of legal means and methods to influence public relations. Methods of criminological law, as well as its subject, should be considered in three aspects: as a complex branch of law, as a science, and as an academic discipline. In our opinion, the legal regulation of public relations in the field of criminological law as a complex branch of law is carried out using four main methods:

- imperative (the method of powerful order);
- dispositive method;
- method of encouragement;
- the method of recovery (punishment).

The content of the imperative method includes the use of orders, demands, and regulations provided with the possibility of applying legal coercion. The essence of the dispositive method is to provide subjects, to a certain extent, with the right to choose the option of their actions in cases provided for by law. The use of this method ensures the satisfaction of the legitimate interests of subjects, creates favorable conditions for the realization of the rights granted to them. The method of encouragement is to create the most favorable conditions for the preservation and development of positive qualities and properties of the subject. The method of recovery (punishment) consists in creating the most unfavorable conditions in connection with the violation of the order by the subject, conditions of serving a preventive measure on persons with illegal behavior in order to preserve and develop the positive qualities and properties of the subject's personality.

The norms of criminological law provide a number of specific forms of incentives and penalties. For example, in accordance with Part 1 of Article 4 of Federal Law "On Administrative Supervision of Persons Released from Places of Deprivation of Liberty" dated 06.04.2011 N 64-FZ, the following administrative restrictions may be imposed on a supervised person:

- prohibition of staying in certain places;
- prohibition of visiting places of mass and other events and participation in these events;
- prohibition of staying outside the residential or other premises that are the place of residence or stay of the supervised person at a certain time of day;
- prohibition of travel outside the territory established by the court;
- mandatory appearance from one to four times a month in the internal affairs body at the place of residence or stay for registration.

According to Part 2 of this Article, the establishment by the court of an administrative restriction in the form of a mandatory appearance from one to four times a month in the internal affairs body at the place of residence or stay for registration is mandatory.

Part 3 of the Article states that the court may partially cancel administrative restrictions during the period of administrative supervision on the basis of the statement of internal affairs body, the supervised person or his representative, taking into account the information about the lifestyle and the behavior of the supervised person, as well as compliance with administrative constraints. On the basis of the statement of internal affairs body, the court also may complement the previously installed administrative restrictions.

Methods of criminological law as a science should be classified in two grounds: 1) depending on the method of study (cognition and research) and 2) depending on their affiliation. Depending on the method of cognition and research, the methods of criminological law as a science are classified into two groups: methods of cognition (historical, philosophical, comparative analysis, etc.) and research methods (observation, experiment, etc.). Depending on the affiliation, the methods of criminological law as a science are classified into four groups: philosophical laws, general scientific methods, private scientific methods, special methods.

The main philosophical laws used in criminological law include the laws of the unity and struggle of opposites, the mutual transition of quantitative and qualitative changes, the negation of negation, etc. The general scientific methods include analysis, synthesis, induction, deduction, hypothesis, system-structural analysis, historical, comparative, dynamic and statistical method.

Criminological law as an academic discipline uses three groups of methods: teaching methods, methods of cognition, research methods. Methods of teaching and studying the course of criminological law can be lecturing, conducting practical and seminar classes, writing term papers, final qualification (diploma) works, master's theses, independent study of educational and monographic literature by students, testing, etc.

The system of criminological law, as well as its subject and method, should be considered in three aspects: as a complex branch of law, as a science and as an academic discipline. As an independence sign of the branch of law in the theory of law, it is indicated that there is a special system of legal norms created to regulate a certain type of public relations. The system of criminological law as a complex branch of law is a classification of legal norms, which implies their division into general and special parts,

as well as into legal institutions on the subject of regulation. The classification into general and special parts corresponds to the general trend of systematization of legal norms.

The general part includes the main provisions of criminological law: general provisions (goals, objectives, principles, grounds for combating crime, preventive process); criminological legislation; crime, criminal victimization, their causes, conditions and prevention; the concept and types of antisocial, illegal, criminal-victim behavior, their causes and conditions, criminological responsibility; the system and types of preventive measures for persons with illegal behavior; the composition of the application (appointing and executing) and preventive measures against persons with illegal behavior; proceedings in cases of anti-social behavior and preventive impact; features of preventive impact in certain areas, etc. The special part consists of an list of specific elements of anti-social behavior; the appointment, execution and serving of specific preventive measures against persons with illegal behavior in various spheres and areas, etc.

The system of criminological law as a science is understood as the classification of ideas, views, theories, which presupposes their association into certain groups (parts), as well as the division into schools according to the subject of regulation. The content of parts of the criminological law system as a science is the most voluminous, which, first of all, differs it from the content of parts of criminological law systems as a branch of law and an academic discipline (course). The expressed ideas, views and theories in the field of criminological law can be classified into two parts (general and special) and systematized by schools.

The general part includes the following sections: 1) criminological policy; 2) the concept of criminological law: the subject, objectives and system of the course; 3) the development history of criminological science and law; 4) criminological legislation; 5) goals, objectives, principles, grounds for combating crime, preventive process; 6) crime, criminal victimization, their causes, conditions and prevention; 7) the concept and types of antisocial, illegal, criminal-victim behavior, their causes and conditions; 8) criminological responsibility; 9) the system and types of preventive impact on persons with illegal behavior; 10) the compositions of the application (purpose, fulfillment) and preventive impact on those with criminal conduct in their practice; 11) production on cases on antisocial behaviour and warning impact; 12) features of preventing impact in some areas, fields, etc.

The special part includes the following sections: 1) a list of specific formulations of antisocial behavior; 2) the appointment, execution and serving of specific preventive measures against persons with illegal behavior in various fields and areas; 3) the appointment, execution and serving of specific preventive measures against persons with illegal behavior in foreign countries, etc.

Currently, certain criminological and legal ideas are actively developed within the framework of relevant schools, private criminological concepts, which themselves include their general and Special parts. One such particular criminological concept is criminopenology, which is defined as a science, academic discipline, and emerging branch of law (Orlov, 2014). Criminopenology as a science is a set of ideas, views, theories about the formation and development of penal crimes and crime, causes, conditions of penal crimes and crime, persons committing penal crimes and their victims, the prevention of penal crimes and crime, as well as other measures to combat crime and victimization during the appointment, execution and serving of criminal procedural preventive measures, criminal penalties, other measures of a

criminal legal nature, as well as in the process of correctional labor, resocial and preventive impact on convicts. Criminopenology as an academic discipline is a subject taught in law schools or at law faculties of educational institutions. Criminopenology as an emerging branch of law is a set of legal norms regulating social relations in the field of causality, prevention of penalized criminal and victim behavior, penalized crime and victimization, as well as other measures to combat penalized criminal behavior and penalized crime.

Shestakov suggests that in the general part of criminology, it is also advisable to consider its branches that highlight the relationship of crime with any other functional system of public life (Shestakov, 2001). Kudryavtseva and Eminova (2009) include in the general part of criminology as a science such branches as victimology, criminology of latent crime, criminofamilistics, criminopenology, criminological prognostics, criminological programming, crime prevention, criminal statistics, criminal juvenology, criminal-legal (legal) conflictology. We believe that it is also appropriate to highlight digital criminology. Digital ("computational") criminology has long been a theoretical reality, but only today, mainly as a result of the emergence of qualitatively new criminal challenges, it has every chance to be in demand in the practice of combating crime, primarily with its organized forms (Maksimov et al., 2018). According to some authors, for criminology, the problem of dividing into general and special parts is very conditional, since a lot of issues that seem to be fairly attributed to the problems of the special part, for example, recidivism, are themselves a big theoretical problem (Kudryavtseva & Eminova, 2009).

## 7. Conclusion

The complex nature of criminological law is determined not only by the special complex social relations regulated by this branch of law, but also by the complex criminological legislation itself. Given the general trend in the development of law and the emergence of procedural branches in it, it can be assumed that in the future it is possible to separate criminological procedural norms into a separate system and create criminal-executive procedural law. Currently, in a number of recent works, the authors do not distinguish the general and special parts of criminology (Kudryavtseva & Eminova, 2009). At the same time, even if we abandon the system of criminology presented in the form of two parts (general and special), and allow a different structure of the system, in any case it will be necessary to allocate some general provisions for this system.

In our opinion, at present, the undoubted need for the existence of a special part of criminological law can, first of all, be determined by the specifics of those relations that are traditionally regulated within the framework of special parts of independent branches of law. In this case, the regulation in a special part of a list of specific compositions of anti-social behavior, the specifics of the application (appointment and execution) and serving of specific preventive measures against persons with illegal behavior in various spheres and areas, as well as other procedural issues, is unlikely to cause anyone doubts. The system of criminological law as an academic discipline (course) is a classification of topics that involves combining them into certain groups (parts). The system of academic discipline (course) can be divided into: general, specific and special parts. It should be noted that the number of parts of a training course in a particular university may depend not only on the volume of hours and a list of topics and scientific focus of a particular school, specific college, academic specialization, etc.



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