



# REVISTA INCLUSIONES

INVESTIGANDO EN TIEMPOS DE CAMBIOS

Revista de Humanidades y Ciencias Sociales

Volumen 7 . Número Especial

Julio / Septiembre

2020

ISSN 0719-4706

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**FORMING AN INTEGRATED INVESTIGATION METHOD FOR CRIMINAL TRANSACTIONS  
IN PRECIOUS METALS AND PRECIOUS STONES**

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**Fecha de Recepción:** 03 de marzo de 2020 – **Fecha Revisión:** 11 de abril de 2020

**Fecha de Aceptación:** 17 de junio de 2020 – **Fecha de Publicación:** 01 de julio de 2020

**Abstract**

The Russian Federation ranks high in top 10 countries producing precious metals and precious stones. Since January 2010, Russia has been the leader of the global diamond mining industry. The Russian diamond complex makes marketable products for more than \$2.3 billion each year. The regions that are the richest in precious metals and precious stones are located in the Russian Far East. For example, the Republic of Sakha (Yakutia) mines about 30% of all gold and 99.7% of all diamonds produced in the country annually. The gold produced in Magadan Oblast accounts for 30% of the total amount. Amur Oblast mines 12-13 tons of gold on an annual basis. In addition to gold, Khabarovsk Krai and Krasnoyarsk Krai produce silver, platinum and other platinum group metals. The Urals are rich in diamonds (0.3% of diamonds are mined in Perm Oblast), emeralds and chrysoberyl (alexandrite), whose reserves consist of 11.5 million tons. Arkhangelsk Oblast holds 18.7% of the country's diamond reserves and started their industrial mining in 2015. In 2011, the scope of precious metals production reached the pre-reform level for the first time. Today Russia exports 75% of its gold and diamonds. The country has also the most explored reserves of precious minerals. Currently, its central regions conduct an economic assessment of newly discovered deposits of precious minerals.

**Keywords**

Precious metals – Precious stones – Placer deposit – Extractable resources – Economic crime

**Para Citar este Artículo:**

Nikonovich, Sergey Leonidovich. Forming an integrated investigation method for criminal transactions in precious metals and precious stones. Revista Inclusiones Vol: 7 num Especial (2020): 593-602.

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DR. SERGEY LEONIDOVICH NIKONOVICH

## Introduction

Since the early 1990s, there has been a transition from command-administrative economy to market relations. As a result, the system managing gold and diamond production has changed significantly. In the course of reforming, Roskomdragmet (a unified state management and control body of the industry) was liquidated and its functions were transferred to the Ministry of Finance of the Russian Federation represented by Gokhran and the Ministry of Economic Development of the Russian Federation, which conditioned the need for legislative measures liberalizing the market of precious metals and precious stones.

Newly adopted regulatory legal acts were as follows: Federal Law of the Russian Federation "On Precious Metals and Precious Stones" of March 26, 1998 No. 41-FZ and Federal Law of the Russian Federation "On Currency Regulation and Currency Control" of December 10, 2003 No. 173-FZ. First, these documents eliminated the status of precious metals and precious stones as currencies. Second, they expanded the range of operations with precious metals performed by the Central Bank and commercial banks. Third, they allowed physical persons to the market of precious metals and precious stones.

In the post-reform period, the Russian state control over the precious metal mining industry weakened, which led to a surge in crime and the formation of a shadow market of precious metals and precious stones. This sector is controlled by organized criminal groups, criminal authorities, businessmen and entrepreneurs.

## Methods

The disclosure and investigation of crimes connected with the illicit trafficking of precious metals and precious stones have always been the subject of close scientific consideration.

This article is based on modern theoretical provisions of the scientific worldview and a system of philosophical knowledge as a universal dialectical method of cognition.

While working on this article, we used the historical, system-structural, comparative-legal, logical-theoretical, sociological and statistical methods. We applied the above-mentioned methods comprehensively to ensure the objectivity and reliability of the study results.

## Results and Discussion

The Russian reforms of the 1990s caused a global systemic crisis in all spheres of public life: economy, politics, the social sphere, etc. The country experienced a paradox when it created a power vacuum in one of the most important spheres of public life, i.e. social and legal. During this period, the number of profit-motivated crimes sharply increased in Russia. In the 1960s, such crimes amounted to 40-45% of total crimes; in 1986, this indicator reached 79.2%; in 1993, there was already 88.9% of such crimes. The 1990s were characterized by a sharp surge in crime (in 1993, 3 million crimes were committed in the country for the first time). Back then, organized crime merged with the state apparatus, mafia started to interfere in its political and economic life and corruption seized government and administration.



A prerequisite for the purposeful fight against crime is effective investigation. Its effectiveness largely depends on the competent application of approved methods based on the scientific provisions and techniques of law enforcement agencies.

Many forensic scientists dwelled on the methods of crime investigation: R.S. Belkin, A.N. Vasiliev, I.A. Vozgrin, V.K. Gavlo, Yu.P. Garmayev, V.I. Gromov, S.A. Golunskii, I.F. Gerasimov, D.E. Grebelskii, V.E. Zharskii, M.V. Kardashevskaya, I.M. Luzgin, A.F. Lubin, V.A. Obraztsov, A.P. Rezvan, S.S. Stepichev, V.G. Tanasevich, B.M. Shaver, N.P. Yablokov, etc.

Thus, I.F. Panteleev believed that specific investigation techniques should determine patterns and features typical of some criminal activity, as well as serve as the basis of scientific recommendations for their disclosure, investigation and prevention.

S.A. Golunskii was the first to propose different investigative techniques for certain types of crimes, which he understood as the sequence of investigative actions used in the process and the list of issues to be clarified. He also developed the following classification of three crime groups: 1) leaving material traces (investigation begins with the examination of these traces); 2) non-leaving material traces (investigation consists of analyzing the individual's actions based on the testimonies of witnesses, written information, etc.); 3) intermediate types of crimes, whose investigation involves the examination of both the place or object of the crime and available written evidence.

This classification was preliminary but it determined the initial investigative actions. S.A. Golunskii justified general recommendations for crime investigation. Therefore, the guidance booklets developed by S.A. Golunskii and G.K. Roginskii were quite popular among practitioners of that time.

Later V.I. Gromov combined all available recommendations into an independent branch of science – criminalistics or forensic science.

During the early development of criminalistical methods, most of them were based on the criminal-legal classification by gender and type of crime. Many modern scholars adhere to this viewpoint, including R.S. Belkin, I.A. Vozgrin, I.F. Gerasimov, L.Ya. Drapkin<sup>1</sup>, S.Yu. Kosarev, V.A. Obraztsov, A.P. Rezvan, V.G. Tanasevich, V.I. Terebilov, I.N. Yakimov, etc.

At the same time, the relevant scientific literature on criminalistics recognizes that criminal and legal criteria cannot take into account the specifics of criminal acts that is crucial for their detection and disclosure.

Based on criminal-legal and then criminalistical classifications, scholars developed an array of specific investigation methods which gradually formed an independent system characterized by complex internal relations.

In 1976, I.M. Luzgin defined the main growth directions for criminalistical techniques and indicated their further development: a) through improving specific methods with due regard to the existing general provisions; b) through revealing common features in the

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<sup>1</sup> L. Ya. Drapkin y V. N. Karagodin, *Kriminalistika: textbook for higher education* (Moscow: Yurlitinform, 2011)

investigation of several crime types and forming situational patterns; c) through developing recommendations for the investigation of crimes typical of a particular region, microenvironment, national economy, age group and other categories; d) through creating new methods in relation to the improvement of the current legislation.

The above-mentioned directions subsequently laid the basis for forming and developing a system of criminalistical methods used for investigating crimes in the 20<sup>th</sup> and early 21<sup>st</sup> centuries.

Numerous criminalistical studies carried out in the last quarter of the 20<sup>th</sup> century and the consequent formation of specific methods conditioned the objective need for their integration through the development of comprehensive techniques for crime investigation.

In contrast to specific methods, investigative techniques developed for a certain group of crimes are characterized by greater abstractness and a lower degree of specificity since they comprise a certain number of crimes or crimes of a particular nature. Their necessity is both theoretically and methodologically justified as they determine the further research and development of specific investigation methods included in the group under consideration.

In 1984, V.I. Rokhlin justified the need to develop a group of methods for investigating economic crimes and noted that "the constant complication of the existing economic structure, the growing number of regulations governing the national economy, the expansion of relations and interdependence in the field of business and production, the variety of modi operandi of criminals enrich the range of specific methods for all types of economic crimes".

While developing the basic methodology for investigating the theft of one's property, M.V. Subbotina identified the following three factors: 1) any of these crimes in the process of their commission can transform into another (modify) but only within the designated group; 2) it is often difficult to determine the type of theft and, consequently, select a specific investigation technique upon the initiation of a criminal case (a group of methods will solve this problem); 3) methods for investigating the theft of one's property will serve as the theoretical basis for developing investigative techniques in relation to specific and sub-specific crimes within this group.

Depending on their connection with the main criminal-legal classification of crimes, all methods and recommendations can be divided into typical (generic), specific (special) and complex. This classification proposed by Yu.P. Garmaev and L.F. Lubin was subject-related. However, scientific literature also provides other classifications.

Typical (generic) and specific (special) methods represent well-established scientific phenomena confirmed by numerous studies and recognized by such leading scholars as O.Ya. Baev<sup>2</sup>, R.S. Belkin, I.A. Vozgrin, V.K. Gavlo, I.F. Gerasimov, A.A. Zakatov, A.P. Rezvan, etc.

Typical methods include those based on the types of crimes enshrined in criminal law (methods for investigating fraud – Article 159 of the Criminal Code of the Russian Federation, methods for investigating theft – Article 158 of the Criminal Code of the Russian

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<sup>2</sup> O.Ya. Baev, *Taktika ugovnogo presledovaniya i professionalnoi zashchity ot nego* (Moscow: "Ekzamen", 2003)

Federation). Specific (special) methods should comprise all investigative techniques based not on the above-mentioned criminal-legal classification but on other grounds (for example, a technique for investigating diamond thefts in the mining industry). The formation of such techniques embraces various groups of grounds: criminological, criminal-procedural and criminalistical.

An important criminalistical foundation is the sphere of human activity or the "area" of social reality where a person performs their activity. The recent studies demonstrate that this foundation is crucial for developing investigative techniques aimed at combating modern organized, economic and corporate crime.

One of the most important areas of human activity is also subject to methods of crime investigation concerned with illegal transactions in precious metals and precious stones.

However, such a technique is based on the criminal and legal similarity of crimes (Article 191, Article 192, Article 171 of the Criminal Code of the Russian Federation) and the constituent elements of crimes against property (Article 158 of the Criminal Code of the Russian Federation) if such offenses are committed in relation to precious metals and precious stones.

It is high time to unite the efforts of all scholars and practitioners in order to develop secondary techniques, namely, a group of investigative methods. Such innovations will fill the theory of criminalistics with new ideas and significantly improve the disclosure and investigation of modern crimes that are characterized by a high degree of organization, serial nature, significant material and other damage to victims, legal and law enforcement cover for criminals, the merge between business and crime, international character, etc.

In turn, the foregoing leads to the fact that many crimes remain unsolved, including for the indicated reason (in 2014, the crime detection rate decreased by 3.5%; in 2015, these indicators fell by 6.1%; in 2016, they further dropped by 5.8% – 19.8% in total). Thus, a significant number of persons who committed even grave crimes remained unpunished and continued their criminal activity. First, a group of methods for investigating crimes comprises techniques from the Special Part of the Criminal Code of the Russian Federation. There are 19 general methods for investigating sexual and environmental crimes committed in the field of high technology, economic activity and other spheres. Second, there are crimes stipulated by several interconnected articles of the Special Part of the Criminal Code of the Russian Federation and, consequently, methods for investigating illegal transactions in precious metals and precious stones, drug trafficking and illegal arms trafficking. Third, we can identify special techniques for investigating large groups of crimes in accordance with one or more criminalistical grounds. While studying methods for investigating theft, illegal trafficking, violations of the rules for handing over precious metals and precious stones to the state and other forms of illegal business in this sphere, we concluded that crimes of this group can be solved using effective and integrated investigative techniques. A prerequisite for the development of such methods is the introduction of specific (special) investigative techniques: the theft, purchase and resale of industrial gold; the theft of industrial gold; diamond thefts in the mining industry<sup>3</sup>; crimes related to the illicit trafficking of precious metals and stones, etc.

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<sup>3</sup> S. L. Nikonovich, "Nekotorye aspekty formirovaniya kompleksnoi metodiki rassledovaniya prestuplenii v sfere oborota dragotsennykh metallov i dragotsennykh kamnei. Istoricheskie,

These methods are usually based on one or more criminalistical features (modus operandi, certain predicates, etc.). For instance, methods for investigating diamond thefts are limited to the area of their extraction and enrichment (i.e. the mining industry) and the special subject of theft (industrial diamonds and the way they were stolen.) For similar reasons, the following methods were formed: methods for investigating the theft of ferrous metal and/or components in the iron and steel industry<sup>4</sup> and methods for investigating the theft of non-ferrous metals.

Yu.P. Garmaev and A.F. Lubin highlighted the following features of complex methods: "The basis for forming complex methods is a group of offenses according to their criminal and legal classification. However, complex methods should consider groups of crimes united by different specific and generic objects (i.e. diverse and heterogeneous crimes). If they are analyzed apart from the second (criminalistical) criterion, then they do not usually have common patterns".

As a rule, the subject of illegal trafficking (precious metals and/or precious stones) is stolen or illegally developed (mined without a license) or stored for some time in illegal storage (Article 158, Article 171, Article 191, Article 192 of the Criminal Code of the Russian Federation). In other words, it refers to complex criminal activity. It mainly manifests itself in the fact that criminals commit several acts in the field of theft, illegal trafficking, violations of the rules for handing over precious metals and precious stones to the state and other forms of illegal business in this sphere, which forms inextricably linked real and ideal crimes in accordance with the criminal and legal classification. Methods for investigating this group of crimes should be just as comprehensive.

Complex methods are in demand since many recommendations that were developed as typical or specific and used in practice are seriously outdated at the present stage of development of crime and preventive means. Thus, they need to be improved, enlarged and made into integrated methods.

Indeed, the development of comprehensive methods should be based on both criminalistical and criminal-legal classifications. The criminal-legal classification comprises the offenses mentioned in Chapter 21 and Chapter 22 of the Special Part of the Criminal Code of the Russian Federation. The criminalistical classification combines such an important area of economic activity as the turnover of precious metals and precious stones.

Let us consider the criminal-legal classification of the illegal turnover of precious metals, natural precious stones or pearls (Article 191 of the Criminal Code of the Russian Federation); violations of the rules for handing over precious metals and precious stones to the state (Article 192 of the Criminal Code of the Russian Federation); illegal enterprise (Article 171 of the Criminal Code of the Russian Federation) of precious metals and stones to determine their similarities and develop new comprehensive criminalistical techniques. The above-mentioned offenses are described in Chapter 22 of the Criminal Code of the Russian Federation "Crimes in the Sphere of Economic Activity". Thus, most criminal acts have a common object, i.e. public relations in the sphere of economic activity that are protected by the current law.

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filosofskie, politicheskie i yuridicheskie nauki, kulturologiya i iskusstvovedenie". Voprosy teorii i praktiki Vol: 1 num 27 (2013): 154-156.

<sup>4</sup> V. A. Abramov y S. L. Nikonovich, Ugolovno-protsessualnye i kriminalisticheskie problemy rassledovaniya khishchenii metalla v chernoi metallurgii: monograph (Lipetsk: LGTU, 2006).

The objective aspect of such crimes is actions that violate the special rules for the turnover of precious metals and stones established by the legislation of the Russian Federation, as well as the special regime for their movement across the state border.

In this regard, the subjective aspect is guilt expressed in the form of a direct intention.

The subject of crimes is a real and sane person who has reached the age of 16 years.

The only exception is the theft of these items provided for by Article 158 of the Criminal Code of the Russian Federation. It is included into Chapter 21 of the Criminal Code of the Russian Federation "Crimes Against property" that governs public relations arising from the one's ownership of property.

The objective aspect of theft is the covert embezzlement of the other person's property.

The subjective aspect is the same, i.e. a direct intention.

Criminal liability for committing theft is provided for persons who have reached the age of 14 years.

The following qualifying features coincide: the commission or organization of a large-scale crime by a group of persons upon a preliminary collusion.

Along with generic (for groups of crimes included into one chapter of the Criminal Code of the Russian Federation) and specific criminal-legal classification of crimes, I.F. Gerasimov<sup>5</sup> also mentioned other types of classifications.

There are the following classifications: 1) by the method of committing a crime; 2) by the degree of disclosure and concealment of the crime; 3) by the criminal experience of the person who committed the crime; 4) by the place of its commission.

From this perspective, we formed several groups of crimes related to theft, violations of the rules for handing over precious metals and precious stones to the state, illegal enterprise, the illegal turnover of precious stones (diamonds, emeralds, rubies, sapphires, alexandrites) and precious metals (gold, silver, platinum group metals).

Such classifications can be further supplemented with the following features: 1) by the field of activity (the mining industry, metallurgy, manufacturing, jewelry, trade, foreign trade); 2) by the place of committing a crime or the location of its target (areas where precious metals and stones are mined: mineral separation plants, floating mines, open-pit mines, washing sites, mines, geological-prospecting sites and other locations in central regions of the country and in the territory of customs terminals when crossing the borders, etc.); 3) by methods of protecting the target of a crime (the electronic security of objects and no security at all, the traditional security provided by militarized and police units, as well as unprotected territory).

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<sup>5</sup> I. F. Gerasimov, *Nekotorye problemy raskrytiya prestuplenii* (Sverdlovsk, 1975)

In this case, group methods are built over the criminal-legal classification that combines several types of similar crimes (Article 191, Article 192, Article 171 of the Criminal Code of the Russian Federation) and the constituent elements of such crimes (Article 158 of the Criminal Code of the Russian Federation) if such offenses are committed in relation to precious metals and precious stones.

However, criminal and legal grounds are insufficient for unifying such different phenomena since theft, illegal trafficking and violations of the rules for handing over precious metals and precious stones to the state do not have common criteria for their classification. They belong not to various subtypes but rather various types (Chapter 21, Article 158 of the Criminal Code of the Russian Federation "Crimes Against Property"; Chapter 22, Article 191, Article 192 and Article 171 of the Criminal Code of the Russian Federation "Crimes in the Sphere of Economic Activity").

A significant criminalistic basis for combining all these crimes into one group is the sphere of human activity.

The subject of comprehensive methods for investigating criminal transactions in precious metals and precious stones is one of the most important spheres of human activity, namely the turnover of precious metals and precious stones.

One part of these methods (i.e. the theft of precious metals and precious stones (Article 158 of the Criminal Code of the Russian Federation) is included into basic techniques for investigating the theft of other people's property. The other part (illegal turnover, violations of the rules for handing over precious metals and precious stones to the state and illegal enterprise (Article 191, Article 192 and Article 171 of the Criminal Code of the Russian Federation) falls into basic methods for investigating economic crimes.

At the same time, the proposed methods are characterized by a certain degree of generalization since they serve as a generic group for specific techniques used to investigate theft, illegal turnover, violations of the rules for handing over precious metals and precious stones to the state and illegal enterprise. Another unifying factor is the generic nature of a particular crime target, i.e. precious metals and precious stones in relation to their subtypes (gold, silver, diamonds, etc.).

We believe that *the system of criminalistic techniques* for investigating criminal transactions in precious metals and precious stones includes general investigative techniques that have the greatest degree of abstraction (*the first level*); basic techniques for investigating crimes in the field of economic activity and the embezzlement of other people's property, including comprehensive methods for investigating theft, violations of the rules for handing over precious metals and precious stones to the state, their illegal trafficking and illegal enterprise (*the second level*); specific techniques for investigating theft, illegal trafficking, violations of the rules for handing over precious metals and precious stones to the state and illegal enterprise (*the third level*); special methods for investigating theft, illegal trafficking, violations of the rules for handing over precious metals and precious stones to the state and their illegal enterprise (*the fourth level*) *in accordance with a certain location*: various industries (the mining industry, non-ferrous metallurgy, jewelry); *in accordance with a particular crime target*: methods for investigating theft, illegal trafficking, illegal enterprise and violations of the rules for handing over industrial diamonds, emeralds, alexandrites, sapphires, rubies, industrial gold, silver and platinum group metals with the highest degree of structural order.



Thus, we can evaluate the role of such complex investigative techniques in the overall system of criminalistical methods.

While forming a group of methods, we should consider not only various classifications but also different principles. According to M.V. Subbotina, such principles are as follows: 1) general provisions that underlie some group association; 2) objective laws common to all types of crimes within this group; 3) investigative leads that are general (universal) for all types of crimes within the group under consideration; 4) the general approach to disclosing and investigating the analyzed group of crimes. In the following scientific articles, we will demonstrate the application of these principles within integrated methods of crime investigation.

## **Conclusion**

To sum up, we should note that group classification should be based on common grounds. The grounds (general provisions) mentioned above are defined in the criminal characterization of this crime group. In further studies, we will prove that such grounds are typical of both the criminalistical characterization and the investigation of this group of crimes at different stages.

The determination of regularities serves as the basis for forming a comprehensive methodology of theft, illegal trafficking, violations of the rules for handing over precious metals and precious stones to the state and other forms of illegal business in this sphere. Most criminals manage to commit numerous offenses before their detention. Furthermore, the theft of precious metals or precious stones can grow into illegal trafficking.

Based on the foregoing, we have developed the following comprehensive methodology for investigating theft, illegal trafficking, violations of the rules for handing over precious metals and precious stones to the state and other forms of illegal business in this sphere: 1) comprehensive criminalistical characterization of a certain group of crimes that summarizes the accumulated knowledge about such criminal activities; 2) disclosure and investigation of this group of crimes at different stages (initial, subsequent and final) through the situational approach.

In modern conditions, criminal transactions in precious metals and precious stones are quite common. Therefore, it is relevant to develop a special technique of preliminary investigation that authorities can utilize. Before dwelling on such a technique, it is necessary to analyze criminalistical features of certain crimes included in the group under consideration.

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