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Amanay Tursunbaevna Akmatova

Osh State Law Institute
Candidate of Historical Sciences,
Associate Professor of the Department of Theory of State and Law
Kyrgyz Republic, Osh

FORENSIC EXPERTISE IN THE INVESTIGATION OF ACCIDENTS

Abstract: At the present stage of development of the Kyrgyz state, the successful performance of the functions of criminal justice is largely associated with the level of use of evidence in the investigation of crimes.

One of the most effective means of obtaining and collecting information relevant to the case is forensic examination. The quality of the preliminary and judicial investigation is largely determined by the effectiveness of the use of special knowledge in criminal proceedings.

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Introduction

Investigation of the causes of accidents and collapses on the roads of our country is relevant, almost every day we witness transport accidents of various kinds. We are witnessing tragic accidents: the death of children, inattention of vehicle drivers; road users sometimes do not know the rules of the road. The invention of the automobile marked a new era in the technical development of mankind, which had a significant role in its development and lifestyle. Reliability, high technical characteristics, mass scale and availability of vehicles have led to the fact that the car has become an integral part of our daily life. However, along with all the advantages provided by this technical means, the car remains a source of potential threats to human life and health, the cause of irreversible tragic consequences and damage. In terms of the severity of the consequences, injuries and deaths from improper and careless operation of road transport are natural, as a result, the death rate of people and injuries received in road accidents in their consequences are comparable to the consequences of hostilities [1. p. 47].

Prevention reports, statistical data, investigative and judicial practice indicate that in the Kyrgyz Republic, during the period from 2009 to 20019, the number of accidents increased by 1.5 times. The

number of victims in road accidents averaged 1,037 people per year. Traumatism on the roads has almost doubled. In general, over 10 years in Kyrgyzstan 11,553 people died as a result of road accidents, of which 958 were children [2].

The Main Traffic Safety Directorate of the Ministry of Internal Affairs of the Kyrgyz Republic has developed a concept for the future development and optimization of the practical activities of its department for 2020 -2025. It reflects the facts that "The operational situation to ensure the safety of road traffic and the operation of road transport on the roads of the republic is not stable and remains difficult.

The use of high-tech technologies in an investigation is often associated with the possibility of ordering forensic examinations before initiating a criminal case [3].

Expertise is a word of Latin origin from "expertus", experienced, knowledgeable. The production of an expert examination in criminal proceedings is an important procedural action provided for by the criminal procedure law, and the expert's opinion is one of the types (means) of proof. An expert examination is appointed in cases when special knowledge in science, technology, art or craft is required during the production of an inquiry, preliminary investigation and during court



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proceedings. The examination is carried out by experts of the relevant expert institutions or other specialists appointed by the person conducting the inquiry, the investigator, the prosecutor and the court.

Forensic examination is a procedural action consisting in conducting research and giving an opinion by an expert on issues that require special knowledge in the field of science, technology, art or craft and which are put before an expert in order to establish the circumstances to be proved in a criminal, civil and administrative case [4].

Forensic examination in criminal proceedings is quite widespread, since when establishing the truth in a specific case, it is often necessary to resolve issues that require special knowledge. It is the forensic examination that is the procedural form for special knowledge in the criminal process.

Forensic science is one of the unique ways to obtain valuable evidentiary information that helps to establish the truth in a case. It significantly expands the cognitive capabilities of the investigator, making it possible to use the entire arsenal of modern scientific capabilities during the investigation. At the same time, the examination is regulated in the most detail by the current Criminal Procedure Code, which is an important guarantee of the observance of the rights of participants in criminal proceedings. According to statistics, an examination is now carried out on almost every second criminal case. At the same time, forensic medical examination in quantitative terms ranks first among all other examinations.

In addition, the study of 6 criminal cases on road traffic crimes showed that in the overwhelming majority of cases the conclusions of forensic medical examinations, together with other evidence, were used to put forward investigative versions, to determine the general direction of the preliminary investigation (to carry out additional investigative actions, refute the arguments of the accused and others), and also formed the basis of the investigative conclusions [5].

Criminal violation of the rules for driving or operating a motor vehicle belong to the category of crimes against traffic safety and operation of transport [6].

An accident includes events that occurred as a result of the movement of a vehicle that resulted in the death or injury of people, damage to vehicles, cargo, road and other structures, causing other material damage [7].

Studies of the psychological factors of road accidents conducted by D. Klebelsberg are of great interest. These include: distraction, underestimation of danger, incorrect assessment of the situation, fear in behavior patterns and dangerous habits, erroneous prediction of the behavior of other traffic participants, underestimation of one's own erroneous behavior, one's own behavior unpredictable for others, deliberate illegal behavior in traffic conditions, and the like [8].

Side factors causing accidents are: haste, driver's mood, insufficient knowledge of traffic rules, insufficient driving skills, inaction, ignorance of the area, etc [9].

An objective factor that increases the possibility of an accident is the transience of this phenomenon, which in its development includes three stages: initially there is a danger or a pre-accident road situation, then an emergency follows, and then a post-accident situation occurs [10, p. 56-60].

The emergence of a dangerous situation is characterized by the appearance of a moving or stationary obstacle. If no measures were taken to eliminate the dangerous situation, an emergency situation arises in which it is technically impossible to prevent the accident. The post-accident situation is the carrier of the material traces of the accident [11].

The main elements of the forensic characteristics of an accident are: the circumstances of the crime; mechanism of trace formation; characteristics of the personality of the perpetrator of the crime; information about the identity of the victim [12, p. 99-104].

As a result of an accident, both material and ideal traces are formed. Material traces: corpse of the deceased; bodily injuries of road accident participants; traces of blood on the carriageway and on the vehicle; traces of protectors, vehicle parts or debris at the scene; damage to a vehicle or road structure [13. p 78].

A vehicle after an accident retains many marks. By means of photographing, drawing a plan, diagram, protocol description, the position of the vehicle at the scene of the accident is fixed in relation to permanent landmarks and other vehicles. First, the type, make and number plate of the car is recorded; damage resulting from an accident; a search for traces and material evidence is carried out [14.p. 44].

Inspection of a corpse is carried out at the scene of an accident or in a morgue and is carried out according to general rules. Particular attention should be paid to the detection of traces and damage characteristic of a motor vehicle injury. They can be on the clothing and body of the victim. Comparison of injuries on the victim and the vehicle makes it possible to reliably solve the problem of the possibility or exclude contact between the vehicle and the victim's body, and sometimes to identify the vehicle. Inspection of a corpse at the scene of the event provides information on the mechanism of the incident as a whole, on the mechanism of contact interaction. By the location of the corpse in relation to other elements of the road situation, one can conclude about a disguised murder staged under an accident [15. p. 23].

In addition to examining the corpse itself, it is necessary to inspect clothes, shoes and other related items. When examining clothes, their condition, existing damage and contamination are noted. All necessary marks on the body and clothing are



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measured and photographed. If the corpse has not been identified, then during its examination, signs of appearance, the presence of special signs, should be recorded, and an identification survey should be carried out. The clothes are preserved exactly as they were found [16. p. 99].

If the situation allows, the corpse is examined at the scene with the participation of attesting witnesses, a forensic expert or a doctor [17. p. 76].

A forensic medical examination is appointed in all cases where an accident has led to the death of people or causing bodily harm. In addition to general questions about the cause of death, time, nature, location and severity of bodily injury, the state of health of the victim before the incident, the forensic physician decides on the presence of specific traces of road traffic injuries on the victim's body and clothing. They occur as a result of the impact of specific parts of the body against the car and road surface; squeezing the body between the wheels and the road or two cars; friction when dragging the body on the road surface [18. p. 66].

The forensic examination of material evidence examines objects of biological origin, most often blood, hair, particles of bones, tissues and organs of the human body, found during examination of the accident site. The following questions are posed to the expert: does the detected blood originate from a person, if so, does it coincide in group and type with the group and type of the victim's blood; whether the hair found during the inspection of the car belongs to a person and whether it is similar to the victim's hair, and so on [19. p. 60-64].

Forensic medical examination resolves three groups of important issues for the investigation of the case. Questions concerning the corpse of the victim or the driver boil down to establishing:

- 1) the category, kind of death and the circumstances of its occurrence, such as: violent or not violent, when it occurred, whether it was caused at the place of discovery of the corpse or in another place;
- 2) the severity of the injuries and the causes of death, for example: why did the death of the deceased follow, whether death followed from the injuries received:
- 3) characteristics of the injuries found on the corpse of the victim or the driver, namely: what are the injuries on the corpse, are the fatal injuries on the corpse typical for an automobile injury;
- 4) determining the mechanism and sequence of the formation of various groups or individual injuries on the corpse and the position of the body at various stages of the traumatic effect, such as: are the wounds on the corpse caused by the impact of certain parts of the car, which part of the car or what tool caused the damage, whether data was formed damage from the initial impact, or it is caused by subsequent impacts. The most difficult question is what was the posture of the deceased at the time of the collision, judging by

the localization of the damage present on it, whether it is possible to determine the position of the victim in relation to the car at the time of the collision by the localization and nature of the damage. The solution to this issue in some cases is possible only through a comprehensive forensic and forensic examination or a forensic and autotechnical examination [20, p 66].

Questions concerning living persons are mainly reduced to the severity of the injuries received, namely: what the injured person has, the severity of the injuries, whether the injuries caused the injuries to the injured person, the mechanism of the injuries, their duration [21].

Ouestions concerning characteristics of individual objects: 1) whether the blood found on the car or the scene of the accident belongs to a person; 2) whether the detected blood belongs to an animal and to which animal; 3) what are the type and blood group; 4) whether the blood type and group matches the victim's blood; 5) regional origin of blood; 6) human or animal hair was found during an examination in a car; 7) hair color; 8) from what part of the body this hair is and whether it has been pulled out; 9) are they not similar in their characteristics to the victim's hair; 10) whether a substance found on a car, similar to a substance of the brain, belongs to a person: 11) whether these traces are medulla, as well as other questions [22. p. 55].

Sometimes, in cases of this category, a forensic medical examination is carried out based on the case materials, for example, in cases where the death of the victim did not follow directly at the scene of the accident, collision, but after a long time after treatment in the hospital, or when it is necessary to establish the severity of the injuries received by the victim, which for one reason or another it was not possible to do it. In the latter case, the expert is provided with the materials of the criminal case and the medical history [23. p. 88].

The importance of a forensic medical examination is also determined by the fact that an expert's opinion in a number of cases is necessary to establish the circumstances on the basis of which the criminal-legal characterization of the crime event is made. So, when deciding on the qualification of severity and harm to health, one cannot do without the data of forensic medicine and the conclusion of a forensic medical expert, whose role is expanding to assist in establishing the corpus delicti in the actions of a person and the correct qualification of the offense [24. p. 59].

Despite the fact that forensic medical examination occupies a leading place among all appointed examinations and affects the most important interests of a person (life, health, etc.), it has not received sufficient theoretical and legal development. Currently, among the available literary sources, there are only a few works devoted to the essential legal problems of the appointment and production of forensic medical examination in criminal proceedings [25].



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Investigation and trial of criminal cases on the fact of road accidents require the use of special technical knowledge, covering the entire set of interacting elements "driver - car - road - environment", from which the process of road traffic is formed as a whole. In most cases, the corpus delicti or traffic violations can be established only after the production of a forensic auto-technical examination.

Traditionally, the concept of "auto-technical or road transport expertise" means a complex of scientific and technical studies of all stages of a specific road traffic accident carried out by a specialist with special knowledge in this area:

- examination of vehicles (establishing the technical condition of vehicles, determining a specific malfunction affecting the occurrence of an accident.
- investigation of the circumstances characterizing the mechanism of road accidents, i.e. establishment of the speed and trajectory of vehicles, the time for vehicles to overcome certain sections of the trajectory, the locations of vehicles at certain points in time, etc.
- analysis of the actions of vehicle drivers involved in an accident, namely, establishing the technical ability of drivers to prevent accidents, in accordance with the requirements of the Road Traffic Rules for a driver in a specific road transport situation, etc.)

The objects of investigation of the auto-technical examination are vehicles, parts and parts of vehicles that separated during an accident, the place of the accident, as well as the case materials collected during the investigation (protocol of inspection of the accident scene, diagram of the accident scene, explanations of participants and eyewitnesses of the accident, etc..). Therefore, the categorical nature of the conclusions of the forensic auto-technical examination directly depends on the completeness and quality of the materials provided to the expert by the authorities of the court, investigation or the applicant. Opportunities for auto-technical expertise (research):

Research of vehicle collisions, research of collision with an obstacle: determination of the relative position of the vehicle at the moment of impact; establishing the place of collision, impact; establishing the technical feasibility of collision avoidance.

Investigation of the circumstances of the accident: determination of the location of the vehicle at specified times; determination of the vehicle speed at specified times; determination of the braking and stopping distances, the distance traveled by the vehicle at specified intervals; determination of the actions of the driver and pedestrian in accordance with the requirements of the Traffic Rules of the Kyrgyz Republic and other states.

Research of the technical condition of the vehicle: determination of malfunctions of individual units, mechanisms, parts of the vehicle establishing

the causes and timing of malfunctions; identification of the influence of malfunctions on the occurrence and development of road accidents.

To solve specific issues, the expert needs initial data, which are formed from the materials of the inspection of the scene of the incident and during the investigation.

A significant part of the problems in the appointment of an auto-technical examination is associated with the definition of its subject.

The question of the subject of forensic examination received an ambiguous solution in the legal literature. The most common definition proposed by A.R. Shlyakhov, according to which the subject of the examination is the factual data established on the basis of special knowledge (facts, circumstances of the case) [26].

The same opinion is shared by R.S. Belkin, V.M. Galkin, Yu.K. Orlov and other scientists.

When investigating the causal relationship between a vehicle malfunction, the driver's actions and an incident , hypothetical situations are also considered on the subject of how the event would develop if the vehicle was in good working order, the driver complied with the Traffic Rules, etc.

The word "fact" means "an actual, quite real event, phenomenon; what really happened" [27].

"a fragment of reality established by a person, cognized by him, recorded through observation or experiment [28].

Consequently, the phrase "factual data" should be used only to designate information about an event that actually took place and its meaning does not correspond to the essence of the information obtained as a result of the above studies.

In the forensic literature, an event, phenomenon, fact, the study of which the activity of an expert is directed, is most often considered not as a subject, but as the main or general object of expertise. Various material carriers of information act as a means of reproducing events that have fallen into the sphere of judicial knowledge; objects, documents, material furnishings, etc., called auxiliary or specific objects of expertise.

At present, in the theory of forensic examination, the task is considered as a complex formation and two elements are distinguished in its structure: the goal is to establish certain information on the instructions of the investigator, and the conditions in which the goal is set. In this case, conditions are understood as an object of expert research (initial data), carrying certain information through a system of properties, and methods, and used to solve the problem [29, p. 57].

In the process of activity, the goal turns into a present object or state. However, talking about the result is legitimate only in relation to the completed act of activity. The subject of the examination is formed by the investigator and exists from the moment of its appointment, and as an object of



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activity - from the moment of the beginning of the investigation. At the initial stage of the research, there is still no result, but there must already be a subject for examination, since objectivity is an attributive mode of existence, a necessary form of activity. Only the purpose of the examination can act as a subject here, which in most cases is determined already at the preparatory stage of research. This idea is also confirmed by the fact that the criminal procedure law mentions the existence of the subject of the examination at the stage of its conduct when the expert's opinion (result, data) has not yet been received. Thus, the expert has the right to get acquainted with the case materials related to the subject of the examination, to be present during interrogations and other investigative and judicial actions and to ask the interrogated questions related to the subject of the examination.

A common element of the forensic characteristics of crimes related to the management of technology is a socially dangerous mismatch in the functioning of the system "technology-operator-environment". Consequently, an expert study of a road traffic accident can be viewed as an analysis of the abnormal state of the system " driver-car-road environment " (V AD S), including in this form ulu and assessment of the driver's actions [30, p. 161].

From this point of view, the subject of forensic auto-technical expertise is the VADS system, the state of its elements, their interaction and the identification of the reasons for the violation of the relationship between them: resulting in a road traffic accident.

The classification of auto-technical expertise is of great theoretical and practical importance. It promotes a clear delineation of the types and types of forensic examinations and the competence of experts of different specialties, creates conditions for the optimal organization of scientific research, training and retraining of expert personnel.

The most complete classification of forensic autotechnical examinations was developed by A.R. Shlyakhov, who divided this type of research into five types:

-examination of the technical condition of vehicles (technical and diagnostic);

-examination of the mechanism of various types of road traffic accidents;

-examination of transport and traceability (examination of traces and damage to vehicles, road accident participants);

-engineering and psychological examination of the condition and actions of the vehicle driver and other participants in the accident;

-examination of road conditions, road conditions and surrounding food.

In this classification, each type of examination corresponds to an object of research and tasks solved on a single methodological basis. N.M. Christi divided all the studies encountered in the production of forensic auto-technical examinations into four main groups:

-investigations related to the establishment of circumstances at the scene of a traffic accident (examination of the scene);

-examination (examination) of the technical condition of vehicles;

-investigations related to the identification of the circumstances of the accident mechanism (examination of the accident mechanism);

-examination (examination) of the actions of the participants in the incident.

It is customary to subdivide forensic (non-forensic) examinations (or expert tasks) into classification, diagnostic, situational, operational and causal [31, p.160].

Research in forensic autotechnical examination by the nature of goals at the first level (the most common division) is proposed to be differentiated into:

1. Classification studies, which include studies aimed at establishing the belonging of an object to a certain category (class) [32].

An important clarification is made by Yu.G. Korukhov, who emphasizes that classification is possible only in relation to an object studied in nature (the study of the display of an object is inherent in identification studies), when there are grounds for attributing it to a predetermined (standardized) class [33. p. 14-15].

By their nature, the classification studies are close to the establishment of mechanism by its separated part. However, the classification does not have and cannot have as its purpose the identification of a vehicle by its assembly or part, since the signs used in the classification autotechnical studies are common for a certain category of vehicles and can act as identification signs only when a unique, issued in one copy is identified. a car or a motorcycle, which practically does not occur as an examination task.

Taking into account the above, the classification in the forensic autotechnical examination should be considered studies aimed at determining the type, class, brand, model, modification of vehicles on which they are installed by structural and functional characteristics of units, assemblies, parts or parts thereof.

2. Diagnostic studies include: establishing the time of the event, the mechanism and mode of action of a given person, individual properties related to a person, things, animals; determination of the state of an object, the reasons and time of occurrence of private events, the mechanism of interaction of objects; analysis of phenomena, physical processes, properties of interacting objects and connections between them, subject to their material fixation, containing a certain information potential about the object under study; identified s causality we



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investigate proxy objects, facts, events; establishing the belonging of an object to some previously defined class [34. p. 46].

In the process of diagnosing, the place in any system is determined not of the objects themselves, which is characteristic of classification studies, but of one of the possible states of the recognized object, its inherent qualities and characteristics. Making a diagnosis involves determining the output parameters of the state of objects (symptoms), comparing them with the appropriate standard and assigning the state to a certain class (the actual diagnosis) [35. p. 35].

Thus, diagnostic studies in forensic autotechnical expertise are the recognition of the states of vehicles involved in road accidents and their compliance with the requirements of regulatory and technical documentation.

3. Situational research is a comprehensive study of the scene by experts to determine the circumstances of the event being investigated, the development of

which is modeled by experts in the form of a series of sequential situations, and in the process of research, the entire complex of traces is used in interconnection.

Thus, the distinguishing features of situational expertise are the object - the situation of the scene as a whole, as well as the need for comprehensive research.

Expertise justifiably acts as an effective means of establishing the circumstances of the case. It allows you to use the entire arsenal of modern scientific tools in the process of investigation and trial of criminal cases. It is the main channel for introducing new scientific advances into investigative and judicial practice in the course of investigation and consideration of cases by courts.

Being a source of increased danger, a car imposes certain duties on its owners, drivers and other users, failure to comply with which may entail civil, administrative and criminal liability.

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