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Olha Sharova-Aidaieva,
Kharkiv National University of Internal Affairs (postgraduate student),
Kharkiv, Ukraine
ORCID: <https://orcid.org/0009-0002-1026-2330>
e-mail: olha.sharova@ukr.net

The Expert Conclusion In The System Of Criminal Procedural Means Of Proof For Crimes Against Law Enforcement Officers



Olha Sharova-Aidaieva

The expert conclusion, which contains definite answers to the questions of the investigator or prosecutor, plays an important role in clarifying those circumstances, the establishment of which requires the use of specific expertise. The Article aims to clarify the peculiarities of involving a forensic expert in investigating crimes committed against law enforcement officers and to determine the place and role of expert conclusions in the system of criminal procedural means of proof for crimes in this category. Through the synthesis of theoretical materials, we identify the typical expert studies during investigations of crimes within the researched group. We also establish the conditions that must be observed to recognize obtained expert conclusions as admissible sources of evidence.

Keywords: criminal proceeding, pre-trial investigation, forensic examination, expert conclusion, proof, crime, law enforcement officer.

Research Problem Formulation. Law enforcement officers, being the embodiment of the state and law, are subject to special criminal-law protection. However, this does not completely address the issue of providing adequate protection for them from unlawful encroachments. Thus, criminal offenses against the authority of state agencies in the field of law enforcement have persistently prevailed for a considerable period, remaining widespread in the overall number of recorded crimes and criminal offenses. According to statistics from the Office of the Prosecutor General, the total number of crimes in 2013 was 939, accounting for 0.17% of the overall number recorded that year. In 2014, this number increased to 3,106 (0.59%); in 2015: 2,794 (0.49%); in 2016: 1,920 (0.32%); in 2017: 1,578 (0.34%); in 2018: 1,536 (0.31%); in 2019: 1,392 (0.31%); in 2020: 1,438 (this is 0.4% of the overall number of recorded criminal offenses). In 2021, this number rose again to 1,174 (0.38%); in 2022, it decreased to 796 (0.22%); and for the 11 calendar months of 2023, it remained at 800 (0.18%)¹. And although there has been a decrease in the number of crimes in this category over the past few years, their percentage remains high, indicating the need for both intensifying activities related to efficient investigation and proving during trial.

Crimes committed against law enforcement officers include the following: resistance to a law enforcement officer during the performance of his/her official duties (Part 2 of Article 342 of the Criminal Code of Ukraine); threats or violence against a law enforcement officer (Article 345 of the Criminal Code of Ukraine); intended destruction or damage to the property of a law enforcement officer (Article 347 of the Criminal Code of Ukraine); trespass

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Declaration of Competing Interest

The author declare that they have no conflict of interest.

¹ Про зареєстровані кримінальні правопорушення та результати їх досудового розслідування (2013–2022 рр.) // Офіс Генерального прокурора: сайт. URL: <https://gp.gov.ua/ua/posts/pro-zarejestrovani-kriminalni-pravoporushennya-ta-rezultati-yih-dosudovogo-rozsliduvannya-2>



Ольга Шарова-Айдаєва

ВИСНОВОК ЕКСПЕРТА В СИСТЕМІ КРИМІНАЛЬНИХ ПРОЦЕСУАЛЬНИХ ЗАСОБІВ ДОКАЗУВАННЯ У ЗЛОЧИНАХ ПРОТИ ПРАЦІВНИКІВ ПРАВООХОРОННИХ ОРГАНІВ

Висновок експерта, який містить категоричні відповіді на запитання слідчого або прокурора, відіграє вагомую роль у з'ясуванні тих обставин, установлення яких потребує застосування спеціальних знань. Метою статті є з'ясування особливостей залучення експерта до розслідування злочинів, учинених щодо працівників правоохоронних органів, визначення місця та ролі отриманих висновків експертів у системі кримінальних процесуальних засобів доказування у злочинах цієї категорії. На підставі узагальнення теоретичного матеріалу визначено, які експертні дослідження є типовими під час розслідування злочинів досліджуваної групи. Визначено умови, яких слід дотримуватися задля визнання отриманих висновків експерта допустимими джерелами доказів.

Ключові слова: кримінальне провадження, досудове розслідування, судово експертиза, висновок експерта, доказування, злочин, працівник правоохоронного органу.

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against life of a law enforcement officer (Article 348 of the Criminal Code of Ukraine); hostage taking of a law enforcement officer (Article 349 of the Criminal Code of Ukraine); unauthorised assuming of an office or official title related to the use of uniforms or an identity card of a law enforcement officer (Part 2 of Article 353 of the Criminal Code of Ukraine). These crimes require immediate attention because they are the most numerous within the category of crimes against the authority of state bodies involved in law enforcement activities. What is more, considering peculiarities in the mechanism of their commission, it is not without reason to note that elucidation of a criminal offense event, the qualification of which falls under the specified articles of the Criminal Code of Ukraine, is a complex undertaking. Resolving it requires specific expertise application, overcoming external counteraction to investigation, and addressing many other tactical tasks.

Analysis of Essential Research and Publications.

Monographies by V. I. Halahan, V. H. Honcharenko, I. V. Hora, F. E. Davudov, A. V. Ishchenko, N. I. Klymenko, M. V. Kostytskiy, O. I. Motliakh, H. M. Nadhorniy, V. L. Ortynskiy, I. A. Petrova, I. V. Pyrih, V. M. Revaka, B. V. Romaniuk, M. Ya. Sehai, V. V. Semenov, Z.M.Sokolovskiy, E.B.Simakova-Yefremian, A.M.Tymchyshyn, V.M.Sherstiuk, M. H. Shcherbakovskiy, and others, are dedicated to multidisciplinary study of problematics related to the use of specific expertise in a criminal proceeding. Peculiarities of their use in the investigation of a certain category of criminal cases are analyzed in research papers by H. S. Bidniak, V. S. Bondar, A. H. Vuima, I. H. Haldetska, Ye. V. Kovalevska, Yu. Yu. Kovalov, N. M. Kosmina, P. Yu. Kravchuk, I. R. Kurylin, A. M. Lazebnyi, Ye. D. Luk'ianchykov, A. V. Myrovska, Ya. V. Novak, A. M. Taranova, N. V. Tymofieieva, S. O. Toropov, D. O. Khomych, O. V. Shevchenko, O. M. Shramko, A. V. Shulzhenko, V. O. Yashchuk, etc.

Various aspects of involving a forensic expert in conducting forensic examinations and utilizing obtained conclusions in criminal offenses where the victims are law enforcement officers are discussed in papers by V. O. Husieva ², S. V. Kobts ³, A. P. Chyzyh ⁴, and others. At the same time, the place and role of expert conclusions in the system of criminal procedural means of proof in this category of criminal offenses have not yet been clarified by Ukrainian scientists.

The Article Purpose is to study peculiarities of involving a forensic expert in investigation of crimes committed against law enforcement officers and to determine the place and role of obtained expert conclusion in the system of criminal procedural means of proof for crimes of this category.

Main Content Presentation. The current Criminal Procedure Code defines the expert conclusion as a comprehensive outline of studies conducted by forensic experts and conclusions drawn based on their findings. These findings provide reasoned answers to questions posed by a person who engaged the forensic expert,

² Гусєва В. О. Методика розслідування злочинів проти авторитету органів державної влади у сфері правоохоронної діяльності : монографія. Харків : У справі, 2020. 452 с.

³ Кобець С. В. Розслідування погрози або насильства щодо працівника правоохоронного органу : дис. ... д-ра філософії : 081 Право. Київ, 2023. 267 с.

⁴ Чиж А. П. Методика розслідування умисного знищення або пошкодження майна працівника правоохоронного органу : дис. ... д-ра філософії : 081 Право. Вінниця, 2023. 229 с.





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investigating judge, or court that commissioned a forensic examination⁵. Based on the adversarial principle, it is important to emphasize that forensic examination, as a qualified study preceding the development of a specific conclusion, can be carried out both at the initiative of the investigator or prosecutor, upon the motion of the defense counsel, during pre-trial investigation, as well as at the stage of court proceedings, i.e., in court. At the same time, providing an objective evaluation of collected evidence, including an expert conclusion, is crucial, even at the stage of pre-trial investigation, as it may serve as grounds for making relevant procedural decisions.

As emphasized in the scientific literature⁶, one of the criteria for evaluating evidence is its admissibility. As a rule, legal experts recommend focusing on specific aspects of an expert conclusion, particularly those that describe the procedure of its development⁷. However, M. H. Shcherbakovskiy, M. V. Dementiev, A. M. Protsenko, relying on a systemic analysis of judicial practice, has clarified that the most common shortcomings in law enforcement, leading to the loss of expert conclusion probative value from the perspective of admissibility, are:

1) depending on the stages of conducting a forensic examination: preparation and appointment of a forensic examination; conducting a forensic examination; using the expert conclusion in proving;

2) depending on the severity of consequences, such as: a) obvious violations, including substantial violations that cannot be rectified and lead to the unequivocal inadmissibility of the expert conclusion; b) conditional violations that can be rectified through procedural actions and allow recognizing the expert conclusion as an admissible source of evidence; c) minor violations that do not require rectification and allow recognizing the expert conclusion as admissible, despite certain of its components not being formally consistent with procedural requirements⁸.

Based on the synthesis of theoretical developments by Ukrainian scholars, we can note that a common practice during investigation of crimes against law enforcement officers is the appointment of forensic examinations, including forensic medical examinations, forensic psychiatric examinations, criminalistics examinations, etc. Therefore, relying on the study of forensic investigative practices, it is important to identify factors hindering recognition of the expert conclusion as proper and admissible evidence in criminal proceedings of the category under consideration.

The prevalence of appointing forensic medical examinations during investigation of criminal offenses in the category under consideration is determined by the need to clarify the severity and nature of bodily injuries inflicted in cases of violence against law enforcement officers, trespass against life of a law enforcement officer, hostage taking of a law enforcement officer, or resistance accompanied by violence, etc. Moreover, this is one of the grounds for mandatory appointment of a forensic medical examination (clause 2 of Part 2 of Article 242 of the Criminal Procedure Code of Ukraine). In the legal literature, it is summarized that typical objects of study for medical examiners encompass corpses, their parts, specimens from the human body,

The expert's opinion, which contains definite answers to the questions of the investigator or prosecutor, plays an important role in clarifying those circumstances, the establishment of which requires the use of special knowledge. The article aims to clarify the specifics of involving an expert in investigating crimes committed against law enforcement officers and to determine the place and role of expert opinions in the system of criminal procedural means of proof in crimes of this category. Based on the generalization of the theoretical material, it is determined which expert studies are typical during the investigation of the crimes of the researched group. The conditions that must be observed to recognize the received expert's conclusions as admissible sources of evidence are defined.

Key words: criminal proceedings, pre-trial investigation, forensic examination, expert opinion, evidence, crime, law enforcement officer.

⁵ Кримінальний процесуальний кодекс України : Закон України від 13.04.2012 № 4651-VI // База даних (БД) «Законодавство України» / Верховна Рада (ВР) України. URL: <http://zakon.rada.gov.ua/laws/show/-4651-17>

⁶ Тютюнник В. В. Інститут допустимості доказів як гарантія ухвалення законного та обґрунтованого вироків суду : дис. ... канд. юрид. наук: 12.00.09. Харків, 2015. С. 48.

⁷ Воробчак А. Р. Висновок експерта як джерело доказів у кримінальному провадженні : дис. ... канд. юри наук: 12.00.09. Одеса, 2019. С. 147-150; Кайло І. Ю. Допустимість доказів у кримінальному процесі України : дис. ... канд. юрид. наук: 12.00.09. Харків, 2016. С. 122-136; Абрамова В. М. Експертні помилки: сутність, генезис, шляхи подолання : автореф. дис. ... канд. юрид. наук. 12.00.09. Київ, 2004. С. 9.

⁸ Щербаковський М. Г., Дементьев М. В., Проценко А. М. Критерії та види процесуальних порушень як підстави недопустимості висновку експерта. Вісник Луганського державного університету внутрішніх справ ім. Е. О. Дідоренка. 2022. № 3 (99). С. 182.

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**DER GERICHTLICHE
SACHVERSTÄNDIGENGUTACHTEN
IM SYSTEM DER
KRIMINALPROZESSUALEN
BEWEISMITTEL BEI STRAFTATEN
GEGEN MITARBEITER DER
STRAFVERFOLGUNGSBEHÖRDEN**

Das Gutachten des Sachverständigen, das eindeutige Antworten auf die Fragen des Ermittlers oder Staatsanwalts enthält, spielt eine wichtige Rolle bei der Klärung solcher Umstände, deren Feststellung der Anwendung besonderer Kenntnisse bedarf. Ziel dieses Artikels ist es, die Besonderheiten der Hinzuziehung eines Sachverständigen bei der Untersuchung von Straftaten gegen Mitarbeiter der Strafverfolgungsbehörden zu klären, den Platz und die Rolle der erhaltenen Sachverständigengutachten im System der kriminalprozessualen Beweismittel bei Straftaten dieser Kategorie zu bestimmen. Auf der Grundlage der Zusammenfassung des theoretischen Materials wurde bestimmt, welche Sachverständigenuntersuchungen typisch für die Untersuchung von Straftaten der untersuchten Gruppe sind. Die Bedingungen wurden bestimmt, die eingehalten werden müssen, damit die erhaltenen Sachverständigengutachten als zulässige Beweisquellen anerkannt werden.

Schlüsselwörter:
Strafverfahren, Voruntersuchung,
gerichtliche Sachverständige,
Sachverständigengutachten,
Beweisführung, Straftat, Mitarbeiter der
Strafverfolgungsbehörde.

traces of biological origin (blood, saliva, hair, epidermis), and living persons (suspects, victims). In case of murdering a law enforcement officer, the objects of study are the corpse, parts of the corpse of identified individuals who died violently, suddenly, or under unexplained circumstances, as well as corpses of unidentified persons that need to be thoroughly examined both at the scene and during a forensic examination⁹.

At the same time, a forensic medical examination is frequently ordered on the basis of medical records received by the investigator when the victim, law enforcement officer, is undergoing outpatient or inpatient treatment. They become the object of a forensic medical examination subject to qualified expert study. Given the importance of these medical records, particularly in proving specific circumstances of a criminal offense, it is essential to emphasize that all records examined by the medical examiner should be stored in case materials and subsequently made available to the defense counsel in accordance with Article 290 of the Criminal Procedure Code of Ukraine. We believe that such an approach aligns with the provisions of the current legislation. This is despite the fact that the Criminal Cassation Court within the Supreme Court, when recognizing evidence as inadmissible (for the period from 2018 to June 2021), during the review of judicial practices stated, "the lack of medical records in criminal proceeding materials, on the basis of which the expert conclusion has been developed, and the non-disclosure of these documents to the defense counsel at the stage of enforcing Article 290 of the Criminal Procedure Code does not automatically result in the recognition of expert research as inadmissible evidence if these records have been obtained in accordance with the specified Criminal Procedure Code procedure, and the defense did not request access to them during pre-trial investigation or was provided with the opportunity to exercise the right to familiarize himself/herself with such records during a proceeding"¹⁰. Our approach can be justified by several circumstances. Firstly, it will prevent their loss or damage (if they were kept by the victim). Secondly, if the defense party submits a motion for the appointment of a repeated or additional examination, there will be no need, based on a court ruling, for additional seizure of evidence from the rightful owner, which may affect the prolongation of the trial period. Thirdly, if the defense alleges signs of forgery, they can promptly be subjected to expert research based on a court ruling, aiming to refute any expressed suspicions, etc.

It is worth emphasizing the need for procedural seizure of objects for subsequent expert research. Because if the expert conclusion is based on objects obtained with a gross violation of the Criminal Procedure Code provisions or obtained in a non-procedural manner, this is a reason to recognize them as inadmissible evidence¹¹. This applies to both medical records that may be directed for examination by a medical examiner,



⁹ Гусева В. О. Теоретичні основи методики розслідування злочинів проти авторитету органів державної влади у сфері правоохоронної діяльності : дис. ... д-ра юрид. наук: 12.00.09. Харків, 2021. С. 291-292.

¹⁰ Огляд судової практики Касаційного кримінального суду у складі Верховного Суду щодо визнання доказів недопустимими. Рішення, внесені до ЄДРСР, за період з 2018 року по червень 2021 року / упоряд. заступник голови Касаційного кримінального суду у складі Верховного Суду, канд. юрид. наук В. В. Щепоткіна, правове управління (ІІІ) департаменту аналітичної та правової роботи апарату Верховного Суду. Київ, 2021. С. 43-44.

¹¹ Там само. С. 45.



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**L'AVIS D'UN EXPERT DU
SYSTEME DES MOYENS DE
PREUVE PROCEDURAUX
PENNAUX DANS LES DELITS
CONTRE LES FORCES DE
L'ORDRE**

Avis d'un expert, qui contient des réponses catégoriques aux questions de l'enquêteur ou du procureur, joue un rôle important dans la clarification des circonstances dont l'établissement nécessite l'utilisation de connaissances particulières. Le but de l'article est de clarifier les spécificités de l'implication d'un expert dans l'enquête sur les délits commis contre les forces de l'ordre, de déterminer la place et le rôle des expertises dans le système des moyens de preuve procéduraux pénaux dans les délits de cette catégorie. Sur la base de la généralisation du matériel théorique, il est déterminé quelles études d'experts sont typiques lors de l'enquête sur les crimes du groupe étudié. Les conditions qui doivent être respectées pour reconnaître les conclusions de l'expert reçu comme sources de preuve recevables sont définies.

Mots-clés : procédure pénale, enquête préliminaire, analyse scientifique, expertise, preuve, crime, agent des forces de l'ordre.

forensic psychiatrist, as well as physical objects submitted for a forensic examination, including photographic images and audio-visual materials. Therefore, it is worth mentioning that physical evidence should only be seized during investigative (search) actions, covert investigative (search) activities, measures to secure a criminal proceeding. Such actions must be authorized and directly implemented in compliance with all legislative principles and requirements. This is particularly true of inspections and searches that have led to the seizure of firearms, ammunition, explosives and explosive substances, which are often instruments used in commission of crimes of the category under consideration.

Regarding obtaining medical records from the victim, its seizure based on the ruling of the investigating judge on granting temporary access to records is not a mandatory requirement. As noted by the Supreme Court in its ruling, "the victim is entitled to directly provide the investigator with medical records to confirm facts related to the harm caused to his/her health resulted from a crime, and the investigator is obliged to accept these documents to clarify all circumstances that, according to Article 91 of the Criminal Procedure Code, belong to the subject of proof, including by appointing a forensic medical examination relying on the medical record. If the victim refuses to submit necessary records at his/her disposal, the investigator shall apply to the court for permission to temporarily access them in accordance with the provisions of Chapter 15 of Section II of the Criminal Procedure Code"¹². Thus, according to the procedure set out in Articles 55, 56, 220 of the Criminal Procedure Code of Ukraine, in the presence of a request from the investigator, the victim may voluntarily provide them, even without filing a motion for this purpose.

It is worth paying attention to the procedure for collecting samples for expert research, especially biological ones, as they are more frequently sent for qualified expert analysis compared to others. To prevent the expert conclusion based on the analysis of collected biological samples from being deemed inadmissible, it is essential to adhere to a set of requirements. Among them, in particular, there are the following: collecting them by a relevant entity; obtaining them from a person with the procedural status required to provide samples in a case; adhering to the conditions established by the criminal procedural legislation of Ukraine¹³. Emphasis should be made on a person's status, as, as envisaged in Part 3 of Article 245 of the Criminal Procedure Code of Ukraine, biological samples shall be taken from a person in accordance with rules prescribed by Article 241 Examination of an individual. Moreover, according to Part 1 of the same article, representatives of the prosecution shall have the right to examine the suspect, witness, or victim¹⁴. However, relying on clarifications from the Cassation Criminal Court within the Supreme Court regarding the recognition of evidence as inadmissible, the absence of witnesses during collection of biological samples from a person is not a basis for deeming the expert conclusion as inadmissible evidence. This

¹² Постанова Верховного Суду від 18 червня 2020 р., у справі № 740/2536/17 (провадження № 51-634км19) // Єдиний державний реєстр судових рішень: офіц. сайт. URL: <https://reyestr.court.gov.ua/Review/89929185>; Огляд судової практики Касаційного кримінального суду у складі Верховного Суду щодо визнання доказів недопустимими. Рішення, внесені до ЄДРСР, за період з 2018 року по червень 2021 року / упоряд. заступник голови Касаційного кримінального суду у складі Верховного Суду, канд. юрид. наук В. В. Щепоткіна, правове управління (ІІІ) департаменту аналітичної та правової роботи апарату Верховного Суду. Київ, 2021. С. 48.

¹³ Копецька С. О. Відібрання зразків біологічного походження під час досудового розслідування: автореф. дис. ... канд. юрид. наук: 12.00.09. Київ, 2017. С. 11; Вуйма А. Г. Використання спеціальних знань під час розслідування вбивства: дис. ... докт. філософії: 081 Право. Харків, 2023. С. 144.

¹⁴ Кримінальний процесуальний кодекс України : Закон України від 13.04.2012 № 4651-VI // База даних (БД) «Законодавство України» / Верховна Рада (ВР) України. URL: <http://zakon.rada.gov.ua/laws/show/-4651-17>



Opinia biegłego, zawierająca kategoriyczne odpowiedzi na pytania śledczego lub prokuratora, odgrywa ważną rolę w wyjaśnieniu tych okoliczności, których ustalenie wymaga wykorzystania szczególnej wiedzy. Celem artykułu jest wyjaśnienie specyfiki angażowania biegłego w dochodzenie w sprawie przestępstw popełnionych przeciwko funkcjonariuszom organów ścigania, określenie miejsca i roli opinii biegłych w systemie karnoprocesowych środków dowodowych w przestępstwach tej kategorii. Na podstawie uogólnienia materiału teoretycznego określa się, jakie badania eksperckie są typowe podczas śledztwa w sprawie przestępstw badanej grupy. Określono warunki, jakie należy spełnić, aby otrzymane wnioski biegłego uznać za dopuszczalne źródła dowodów.

Słowa kluczowe: postępowanie karne, postępowanie przygotowawcze, ekspertyza sądowa, opinia biegłego, materiał dowodowy, przestępstwo, funkcjonariusz organów ścigania.

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is because such a requirement is not stipulated¹⁵ in the criminal procedural legislation of Ukraine. There is no requirement for the presence of defense counsel during such a proceeding. Consequently, this does not render the expert conclusion inadmissible, as affirmed by the Supreme Court in its ruling: “Blood samples contain information which content is independent of the will of a person from whom they are taken”¹⁶.

To ensure the use of the expert conclusion in the proving procedure during trial, it is crucial to disclose it to the parties during the familiarization stage and provide access to materials of a criminal proceeding. At the same time, this applies to cases where such a conclusion is obtained by one of the parties. In practice, there are often situations when the prosecutor, recognizing that the evidence collected during pre-trial investigation is sufficient, decides to grant access to the pre-trial investigation materials before obtaining certain expert conclusions. This includes the results of forensic examinations initiated during the pre-trial investigation. As a rule, they are attached during trial. This is fully consistent with the legal conclusions of the Supreme Court of Ukraine, as outlined in rulings No. 5-364кц16 dated March 16, 2017, and No. 5-237кц(15) dated October 12, 2017. As set out in these rulings, parties to a criminal proceeding have the right to submit materials in court that were not disclosed earlier because the current criminal procedural legislation does not contain such prohibitions¹⁷. According to Part 12 of Article 290 of the Criminal Procedure Code of Ukraine, where either party to criminal proceedings does not disclose materials under this Article, the court shall have no right to accept information contained therein as evidence¹⁸.

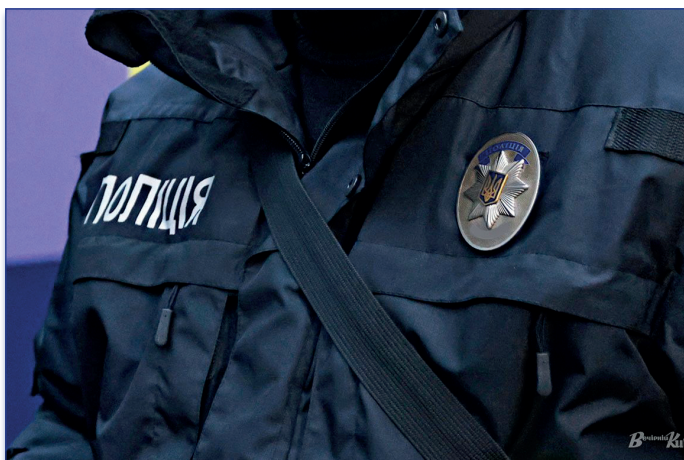
Another important condition for the recognition of expert conclusions as admissible evidence is that it is drawn up by a competent, authorized body. Regarding forensic examinations commonly appointed during investigation of crimes involving law enforcement officials, it is crucial to note that forensic medical examinations, forensic psychiatric examinations, as well as criminalistics examinations, in accordance with Article 7 of the Law of Ukraine On Judicial Examination, shall be appointed exclusively by

¹⁵ Огляд судової практики Касаційного кримінального суду у складі Верховного Суду щодо визнання доказів недопустимими. Рішення, внесені до ЄДРСР, за період з 2018 року по червень 2021 року / упоряд. заступник голови Касаційного кримінального суду у складі Верховного Суду, канд. юрид. наук В. В. Щепоткіна, правове управління (ІІІ) департаменту аналітичної та правової роботи апарату Верховного Суду. Київ, 2021. С. 49.

¹⁶ Постанова Верховного Суду від 25 червня 2019 р. у справі № 423/1766/16 (провадження № 51-1105км19) // Єдиний державний реєстр судових рішень: офіц. сайт. URL: <http://reyestr.court.gov.ua/Review/82769623>; Огляд судової практики Касаційного кримінального суду у складі Верховного Суду щодо недопустимості доказів, отриманих внаслідок істотного

¹⁷ Постанова Верховного Суду України від 16 березня 2017 р., у справі № 5-364к/16 // Єдиний державний реєстр судових рішень: офіц. сайт. URL: [\(https://sudpraktika.wordpress.com/%D0%BA%D1%80%\)](https://sudpraktika.wordpress.com/%D0%BA%D1%80%) (дата звернення: 11.11.2023); Постанова Верховного Суду України від 12 жовтня 2017 р., у справі № 5-237к/15)17 // Єдиний державний реєстр судових рішень: офіц. сайт. URL: <https://sudpraktika.wordpress.com/%D0%BA/>

¹⁸ Кримінальний процесуальний кодекс України : Закон України від 13.04.2012 № 4651-VI // База даних (БД) «Законодавство України» / Верховна Рада (ВР) України. URL: <http://zakon.rada.gov.ua/laws/show/4651-17>





specialized state institutions. Thus, the prosecution parties should take this into account when making relevant rulings and initiating appropriate motions.

Conclusions. Using the expert conclusion obtained during investigation of crimes against law enforcement officials, both the prosecution and defense counsel establish circumstances that required application of specific expertise. Appointment of forensic medical, forensic psychiatric, and criminalistics examinations is common during pre-trial investigation of crimes committed against law enforcement officers, such as: resistance to a law enforcement officer during the performance of his/her official duties; threats or violence against a law enforcement officer; intended destruction or damage to the property of a law enforcement officer; trespass against life of a law enforcement officer; hostage taking of a law enforcement officer; unauthorized assuming of an office or official title related to the use of uniforms or an identity card of a law enforcement officer. The entities authorized to conduct these types of expert research are exclusively state specialized forensic science institutions. This circumstance is crucial for the subsequent recognition of the expert conclusion as admissible evidence by the court. Additionally, these conditions should include: submitting for forensic examination only those samples and objects seized during authorized investigative (search) actions, covert investigative (search) actions, measures to secure a criminal proceeding, while complying with all legal principles and requirements; timely consideration of the expert conclusion by the parties during the familiarization stage and providing access to materials of a criminal proceeding (if obtained by the parties at this stage); and inclusion in the expert conclusion of a warning about criminal liability under Articles 383, 384 of the Criminal Procedure Code of Ukraine, etc.

All samples, including biological ones, that are to be submitted for a forensic examination must be properly obtained (collected, seized), as this affects the subsequent admissibility of obtained evidence.

A crucial step after receiving the expert conclusion is its correlation with other factual data established during pre-trial investigation, as any inconsistencies between them may be considered sufficient grounds for conducting additional forensic examinations, further investigative (search) actions, etc. At the same time, none of the pieces of evidence has a predetermined weight and, therefore, cannot be considered more important than others.

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