

Impact Of Forensic Science On Criminal Justice System

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Introduction

The issue of forensic examination has long attracted the attention of representatives of procedural science, criminology, and practical experts. The essence and significance of forensic examination in the process of proving both from the point of view of criminal and civil, and at the present time, both administrative and arbitration proceedings, criminalities, forensic medicine, forensic psychiatry, and forensic psychology, were considered by scientists and practitioners of many countries, including prerevolutionary, American lawyers (Jordaan, 2012).

Despite the enormous scientific and practical potential, the very nature of the forensic examination remains unclear. Given the trends in the development of criminal procedural legislation and the science of criminal processes, the thesis considers the multi-stage structure of forensic expertise as a phenomenon that has several aspects (parties). The most significant factor in the development of the science of criminal procedural law is the study of forensic examination as an institution. The study of forensic examination from the point of view of institutional properties leads to the need to analyze the influence of factors such as the structure and content of expert knowledge and the internal beliefs of the expert on the expert's conclusion. The personality of the expert, his inner conviction, and his sense of justice play an important role in the formation of such a source (proof) as evidence of an expert.

In light of the concept of human and citizen rights and freedoms, it is necessary to consider the nature and content of legal relations that arise and develop in the process of appointing and conducting an examination. The Institute of Forensic Expertise calls for the formulation of common guiding principles (principles) for forensic examination. This approach allows us to identify new problems in the legislative regulation of the appointment and conduct of the forensic examination. Improving the system of criminal procedural rules governing the appointment and conduct of forensic examination, as well as evaluating the expert's conclusion, contributes to the creation of an effective and rational procedure for judicial proceedings in general (Julian et al., 2011).

The issue of assessing the expert's conclusion constantly arises in investigative and judicial practice. The solution of practical questions about the grounds and criteria for assessing the expert's conclusion lies in the solution of general theoretical and philosophical questions of the theory of knowledge. Appeal to the epistemological nature of the expert's conclusion is caused by the lack of uniform investigative and judicial practice in assessing the expert's conclusion.

The regulation of the procedural status of the expert should be in accordance with the nature of procedural legal relations, which are the central link in the definition of forensic examination as an institution of criminal procedural law, as well as the mechanism of legal regulation that defines the concept of the legal regime of forensic examination. Analysis of theoretical and empirical material allows conclusions about the need to improve both the theoretical approaches to the issue of forensic examination and the regulation of the appointment and conduct of forensic examination in the criminal procedure law (Jordaan, 2012).

Degree Of The Development Of The Topic

Since the XIX century and up to the present time, many significant and interesting works have been devoted to the investigation of forensic expertise in the criminal process, criminology, forensic medicine, and forensic psychiatry. The essence, the nature of the forensic examination, and the importance of the expert's conclusion in the system of evidence continue to attract the attention of scientists and practitioners. Problems of forensic examination are devoted to different work. However, despite a large number of works on forensic examination, it was most often considered from the standpoint of the nature of special knowledge, methods, and methods of expert research. There are few works devoted to the procedural institute of forensic examination, and there is little analysis of the procedural form of appointment and examination. In other words, the problem of forensic examination in terms of procedural legal relations and procedural form is considered a separate particular issue (Julian et al., 2011).

Analysis

The Institute of Forensic Expertise in Criminal Procedure Law is a set of relatively separate rules regulating procedural actions and relations in the appointment and conduct of judicial expertise in criminal proceedings, having their own legal structure and common principles, ideas, and principles that determine the mechanism and methods of legal influence.

The following are grounds for the forensic examination as an institution of criminal procedural law: a) the grounds for the appointment and the grounds for the examinations) the distinctiveness and relative isolation of legal relations emerging in the process of appointment and examination; c) procedural form of appointment and examination; d) common principles (principles); e) own legal design; e) a peculiar mechanism of legal regulation. All these signs characterize a special legal regime as the defining category for distinguishing individual institutions (Carole, 2013).

The principles of forensic examination as an institution of criminal procedural law are the principle of ensuring the rights of the individual when appointing and conducting an examination; availability of the expert's conclusion, publicity of forensic examination; independence and autonomy of the expert in conducting the examination; "Competitiveness" of forensic examination; validity and timeliness of

appointment and examination.

The legal personality of an expert in a criminal trial is a potential opportunity for a person who has special knowledge to be a participant in criminal procedural relations (Jordaan, 2012).

The expert's right to an initiative is the right to establish based on special knowledge, the factual circumstances of the case, as well as the reasons and conditions for the commission of a crime if questions about them have not been raised before the expert. The expert's right to the initiative can be realized if 1) factual data about which questions are not put to him are included in the subject matter of this kind (kind); 2) the establishment of such factual data follows from the studies carried out and does not require separate independent research; 3) the factual data are established by the expert within the objects and materials of the case, which are submitted to him by the investigator and the court (Howes, 2015).

When determining the competence of an expert in resolving issues that are of a legal nature in their own form, one must proceed from the following: 1) factual data should be deduced by the expert from the study on the basis of special knowledge; 2) experts can establish factual data that relate to the establishment of objective features of the offence. The exception is the subject of judicial psychological and psychiatric examination, as well as forensic psycho-psychiatric examination.

The expert's legal conscience consists of his special knowledge, knowledge of the procedural bases of the expert examination, the expert's attitude to special knowledge, the law, legal principles (legal ideology), the psychological qualities of the expert himself, his feelings, values, moods, desires, predetermined his professional aspirations (legal psychology). The legal conscience of an expert working in an expert institution refers to a professional (legal) sense of justice.

In order to ensure the independence and autonomy of the expert, judicial expertise in criminal matters should be entrusted only to experts working in a state expert institution independent of the bodies conducting criminal prosecution and from the departments. Persons who do not work in expert institutions should be invited to conduct expert examinations only when specialists of the relevant branch of special knowledge are absent from the state expert institution and only if there is a state license for engaging in expert activities. (Howes, 2015)

The complexity of the gnoseological structure of expert research should predetermine the special attention of the legislator to regulating not only the procedural order of appointment and examination but also the use of such a source of evidence in the process of proof as the expert's conclusion (Carole, 2013).

In assessing the expert's conclusion, general and special grounds should be guided. As general grounds, the evaluation rules set forth in the Code of Criminal Procedure are: 1) the expert's opinion is evaluated along with other evidence in the case; 2) on the basis of inner conviction; 3) sense of justice; 4) of the law. Special reasons are 1) the psychological grounds by which it is necessary to understand the internal belief of the subject of evaluating evidence in need for a critical and

comprehensive approach to the conclusion of an expert; 2) epistemological grounds, under which it is necessary to understand the subject's assessment of the expert's conclusion of the basics of special knowledge; 3) legal grounds, which include an understanding of the provisions of the law on the appointment and conduct of forensic examination and evaluation of the expert's conclusion (Peterson, 2013).

The only auxiliary branch of jurisprudence – forensic medicine- has existed for a long time; one can say from its origins that it has resorted to precise, scientific methods of research. This circumstance undoubtedly explains the fact that until recently, only forensic medical examinations made by medical scientists stood at the proper height, and their conclusions were of scientific importance. In the same formulation of forensic medicine lies the reason for the curious phenomenon that many questions put forward by judicial practice and having a very remote relation to forensic medicine (in the strict sense of the term) were found scientifically and developed in the manuals on forensic medicine. There was no other scientific discipline to which these questions could be applied (Kloosterman et al., 2015).

In the same areas of a variety of technical knowledge, which was not affected by forensic medicine, the expertise was not carried out by scholars before the end of the last century, for there were none but bold dilettantes who, at best, had scanty baggage of fragmentary knowledge, and often dispensed with it altogether.

Only recently in Western Europe has the attention of scientists been turned to the study of questions on the improvement of the investigative process by applying scientific and technical methods to investigating crimes and on the setting of all branches of judicial expertise on strictly scientific grounds.

Conclusion

A forensic examination is a complex phenomenon that must be considered in three aspects. First, the forensic examination is a study based on special knowledge, conducted by special subjects, having their subject and object. This aspect of forensic examination is important for establishing the reliability of the results of forensic examination and the development of special professional bases for forensic examination. When studying this side of the forensic examination, attention is paid to such characteristics (properties) of the expertise as the content, object, subject, special purpose, and research methods.

Secondly, the judicial examination is a procedural action during which circumstances that are of significant importance to the case are established. Judicial examination in this aspect is considered from the point of view of the grounds, subjects of their procedural position, procedural relations, and procedural form of appointment and examination.

Thirdly, considering the examination as an institution of evidence in the criminal process, it is possible

to distinguish such characteristics (properties) of the expertise: expertise as a way of collecting and researching evidence, the expert's conclusion as a source of evidence, on the one hand subjectively objective reflection of expert research, and with the other party – a written document containing the actual data, (information) to establish circumstances relevant to the case.

Analysis of the signs of forensic examination as a procedural action and the institution of evidence of law leads to the conclusion that there is a sufficiently separate institution of criminal procedural law – forensic examination. The Institute of Forensic Expertise in the criminal procedure law is a set of relatively separate rules regulating procedural actions and relations in the appointment and conduct of expertise in criminal proceedings, having their own legal structure and common principles, principles that determine the mechanism and methods of legal influence (Peterson, 2013).

The study of the attributes of forensic examination as an institution of criminal procedural law makes it possible to conclude that forensic examination is not an interdisciplinary institute but an institute of criminal procedural law and an institution of civil procedural law in isolation. In particular, this is evidenced by the specifics of the grounds for the appointment and conduct of the examination, the legal nature of the procedural relations that arise in the process of conducting and appointing the examination, the procedural form as a sequence of actions of the subjects of destination and conducting the examination.

The study of these concepts of the marginal community (the basis of procedural actions and decisions, procedural relations, procedural status of subjects, procedural form) in relation to forensic examination highlighted its characteristic features and properties in the criminal process, which allow us to talk about the need to improve the criminal procedural law regulating the appointment and conduct of forensic examination and the creation of new rules for the regulation of use and evaluation as evidence contained in the expert opinion.

Analysis of the organizational structure of expert institutions from the standpoint of the principles of criminal procedure law and the principles of judicial examination as an institution of criminal procedural law made it possible to come to the conclusion that it is necessary to reorganize expert institutions to ensure the publicity of the criminal process, independence, and autonomy of experts, ensuring individual rights in appointing and examination.

Considering the procedural aspect of the appointment, the conduct of judicial expertise in criminal proceedings and the use of its results in the process of proof, special ex-petrological questions, for example, the expert's internal conviction, ethical and psychological requirements to the expert, and their influence on the formation of such source of evidence as an expert opinion. Investigating the question of the expert's inner conviction, one can come to the conclusion that this is primarily a psychological category, which, however, has both a procedural and a logical side. The expert's legal conscience, as a prerequisite for the formation of the expert's inner conviction, is very close in its content to the legal professional's legal awareness and differs from him only in such a component as the expert's special knowledge (Peterson, 2013).

The complexity of the gnosiological structure of the expert study and how it reflects the expert's conclusions, as well as the multistage nature and versatility of the procedural relations arising in the process of appointing and conducting expert examinations, should predetermine the special attention of the legislator to regulating not only the procedural order of appointment and carrying out the examination but also the use in the process of proof of such a source of evidence as an expert opinion. If the expertise in the criminal trial is considered not only as a procedural action but also as a procedural institution, the result of the examination, which is reflected in the expert's conclusion, we must consider as such a source and means of proof, the rules of use of which must be specifically regulated.

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