

THE INTERACTION BETWEEN THE INVESTIGATOR AND THE EXPERT IN THE PROCESS OF THE FORENSIC STUDY

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Взаимодействие следователя с экспертом в процессе экспертного исследования

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The interaction begins at the stage of scene inspection, where the expert, acting as a forensic specialist, should provide expert assistance to the investigator not only in identifying, fixing, seizing evidence, but also in determining ways to use them further in the detection and investigation of crimes.

Having recognized as useful the expert examinations, the investigator draws up a reasoned decision about it with a set of the questions to the expert, which should not go beyond his competence. It is necessary that the questions were clear, excluding their ambiguous interpretation. The investigator may recourse to an expert (specialist) while formulate the questions.

According to the Code of Criminal Procedure, the expert must give an objective opinion to the questions. If the question goes beyond the expert's special knowledge or the submitted materials are not sufficient to give an opinion, he will inform the investigator in writing about the impossibility of giving an opinion.

The expert has the right to:

- to get to know with the materials of the case relating to the expertise;
- to ask for additional materials required for giving opinions;
- with the permission of the investigator expert can present during the investigative actions related to the expert examination.

The following materials should be considered as materials for the expertise:

- Forensic evidence to be investigated;
- Protocols of investigative actions confirming the circumstances of their discovery, fixation, removal, storage, as well as containing other necessary factual data;
- Samples for comparative studies.

The investigator can also use the expert's advice when resolving the petitions of the accused, the victim, declared upon familiarizing with the decree on the appointment of the forensic examination, find out whether there is a real possibility to resolve the issues raised in the stated petition using one or another examination and what materials will be needed for this. He may present during the examination.

During the research, the expert can establish the facts and circumstances that are relevant to the case, in respect of which no questions were raised. For example, textile fibers were found while examining an object for detecting hand marks. The expert notifies the investigator about this fact, who can fix and remove the fibers by performing an investigative action such as an inspection of the object, procedurally fixing the progress and results of the examination in the protocol.

An expert can also produce their fixation and seizure, reflecting the circumstances of detection, fixation, seizure and research in the descriptive part of the conclusion. Upon completion of the investigation, all material evidence is packed and sealed by an expert.

The greatest difficulty in organizing the interaction between the investigator and forensic units is the preparation, appointment and conduct complex and commission examinations, especially when competent persons from expert institutions of various departmental affiliations are involved to solve the set expert task.

Some additional tasks appear that require joint decision and coordination of the actions of the investigator and the experts. According to the perspectives of the work of the experts' commission who are not connected by administrative uniform management and subordination, it is important for the investigator to decide on the appointment of an examination, firstly, to select the expert institutions that can be entrusted with the study and agree with them about the appointment of the examination, and secondly, to determine which of the expert institutions will be the leading one, that is, having a profile, staffing that is appropriate for the planned examination, and able to take on coordinating functions on integrated (commission) examination.

Further, it is important to hold consultations with the leading expert institution (the leading expert appointed by the head of the leading expert institution) on the current research possibilities of the examination object available to the investigation and formulate the questions to be resolved in an optimal way based on them.

The leading expert institution, having received a decree on the appointment of the examination and the materials necessary for it, should further coordinate with the investigator on the sequence of the direction of the object under study to various forensic institutions whose employees are members of the experts commission. It is especially important when at a certain stage of the study, expert methods will be needed that can make changes to the investigated object. In these situations the use of destructive research methods is possible only at the final stage of carrying out a comprehensive (commission) examination and only upon agreement with the investigator.

Further interaction between the investigator and the commission of experts is usually associated with the direction to the investigator of requests for additional materials necessary for conducting expert research, for conducting additional investigative actions (for example, for obtaining new comparative samples), organizing the forwarding of the studied objects from one expert institution to another. etc.

The initial interaction between the investigator and an expert, aimed at obtaining new evidence in a criminal case such as expert opinion, is carried out even in the process preceding the examination of investigative actions (inspecting the scene of an incident, sampling for a comparative study, etc.). At this stage, when the objects of research are already known, it is necessary to clearly define its subject, that is, questions that need to be solved and facts that will be confirmed or refuted in the research process.

The expert, acting as a medical specialist, should know the investigator's questions for the resolution of the examinations and in the case of difficulty or personal request of the investigators will make or correct them. Employees of forensic units can develop a list of the most typical questions so that every investigator can use it at any time. A very important issue is the storage of

evidence. If a specialist, after taking care of the packing of specific objects, does not warn the investigators about the storage conditions that preclude their damage or destruction, then his colleagues will have nothing to investigate.

While assisting in appointing the expertise, an expert should know what the investigator wants to establish (of course, not in the sense that the investigator wishes to receive a conclusion). He can give advice on the possibilities of expertise and the availability of various technical means in the forensic unit, as well as in higher divisions up to the forensic center of the Ministry of Internal Affairs of the Russian Federation. When appointing an expertise, the best option is when the investigator entrusts the head of the forensic unit to appoint the person who will conduct the investigation.

It is necessary to note the fact that the specialist, having finished with the investigator, an inspection of the scene of the incident, should not be excluded from further participation in the case. He must first of all trace the movement of material evidence (traces) seized from the scene. To do this, there is a graph in the magazine for inspection of the scene of the appointment and production of expertise on the inspection's materials. The specialist should pay attention to the facts of the absence of expert opinions on the materials of inspections of the incidents' scene, carried out before the inspections and notify the investigator about it. It frequently happens that an expert has an initiative to appoint an examination.

According to the law an investigator may present during the production of expert research. It can be useful for both the investigator and the expert. The investigator can monitor the course of research, ask questions, give explanations regarding the circumstances of the case. The expert can give explanations concerning the research, clarify questions, etc. In general, it is the most optimal form of interaction because all questions are solved immediately, that makes it possible to conduct this investigative action effectively. However, the expert does not have the right to use non-procedural information to substantiate his findings, even if it was received from the investigator. If this form of interaction is not possible, the investigator has the right to ask an expert about unclear questions. Often, in the conclusion, the expert uses special terminology, so if the investigator does not have enough knowledge in this area and does not have special literature he will ask the expert.

The expert is sometimes required to a certain degree of authority that he does not possess, and that is why he can't interrogate the witness and others, even if he does not receive new facts and circumstances, and the goal will be only their clarification and explanation. In this regard, when an expert examines objects outside the laboratory, the presence of an investigator is advisable that does not turn the investigations into a separate investigative action and is reflected in the expert opinion.

Reference list:

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