ӘЛ-ФАРАБИ АТЫНДАҒЫ ҚАЗАҚ ҰЛТТЫҚ УНИВЕРСИТЕТІ
КАЗАХСКИЙ НАЦИОНАЛЬНЫЙ УНИВЕРСИТЕТ
ИМЕНИ АЛЬ-ФАРАБИ

ҚАЗАҚСТАН КРИМИНОЛОГИЯЛЫҚ АССОЦИАЦИЯСЫ
КАЗАХСТАНСКАЯ КРИМИНОЛОГИЧЕСКАЯ АССОЦИАЦИЯ

ӘЛ-ФАРАБИ АТЫНДАҒЫ ҚАЗАҚ ҰЛТТЫҚ УНИВЕРСИТЕТІНІҢ
ЗАҢ ФАКУЛЬТЕТІ
ЮРИДИЧЕСКИЙ ФАКУЛЬТЕТ
КАЗАХСКОГО НАЦИОНАЛЬНОГО УНИВЕРСИТЕТА ИМЕНИ АЛЬ-ФАРАБИ

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Scientific foundation of forensic examination s computerization

Abstract. The article deals with the problems of determining the content of forensic examination, the issues of training expert personnel, the organization of research work and forensic activities in the Republic of Kazakhstan. Through the analysis of scientific and practical achievements in this field, the scientific foundations of the formation and development of forensic research of computer systems were studied, which allows us to draw the conclusions in this aricle.
Keywords: forensic examination, expert, special scientific knowledge, professional knowledge, methods of expert research, methodological disciplines, fundamental science, forensic science, expert tasks, expert practice.

To date, the issue of the use of special scientific knowledge of forensic experts in legal proceedings continues to attract the attention of scientists and practitioners. The nature of the knowledge of forensic experts and their relationship with legal knowledge is currently being discussed in detail in science.

All the positions reflected in the scientific literature allow us to highlight the following aspects of the special knowledge of forensic experts:

- Expertise refers to any set of knowledge, minus well-known knowledge and knowledge in the legal field;

- Special knowledge is the professional knowledge of a person in a certain profession;

- Special knowledge is situational in nature, since their assignment to this category is associated with the adoption of procedural decisions;

- Special knowledge is scientific knowledge;

The mathematization and computerization of criminology is a natural process due to the current stage of its development and the need to solve the problems facing forensic examinations.

The development of mathematical models and computer technologies for solving forensic problems follows from urgent practical needs. Experts have identified the most important numerical models that can be used to create mathematical models not only for specific forensic tasks, but also for all types of tasks. This is the deep meaning of mathematizing their solutions and automating some expert tasks. Another reason for the entry of mathematics into expert science and practice is a high degree of abstraction and a special breadth of principles. Mathematics has a set of concepts that are close in breadth and universality to philosophical concepts and allow reflecting qualitatively different phenomena and general quantitative characteristics of objects. In addition, mathematics is characterized by a very rigid internal logic that ensures the absolute reliability of expert opinions.

The development of methods for solving any expert problem is based on the principles of computer science and cybernetics, namely: the principle of the systematic organization of cognitive objects, quantitative determination, the use of mathematical devices and the algorithmic method of the cognitive process of objects (Mozyakov, 2012, p. 4).

One of the requirements for the scientific validity of expert opinions is the use of objective criteria for evaluating the results of the study. In addition, the need for mathematical methods is due to the fact that expert methods are usually of a nature. The percentage of methods

involving mathematical modeling is very low. Therefore, many expert tasks require mathematical solutions and the use of computers to solve them. These are mathematical methods and tools that expand the scope of knowledge and make them diverse.

Science is a field of human activity, "its function is the development of objective knowledge about reality and the systematization of theory; one of the forms of social consciousness; including the acquisition of new knowledge, activity and its results – the sum of basic knowledge about the scientific picture of the world."

In my opinion, in one of the first works directly devoted to the problem of forensic research of computer systems, it is necessary to note the work of A.N.Yakovlev "Theoretical and methodological foundations of expert research of machine media files", proposed in 2000, which marked the beginning of a detailed scientific development in the field of forensic examination.

The next work I read, where one of the main tasks of using the experience of experts to obtain information about evidence in a criminal case related to the use of computer tools and technologies, is the work of A.I. "Conceptual foundations of forensic examination of computer technologies", proposed by Usov in 2002. In it, the author not only tries to systematize the accumulated knowledge in this field, but also puts forward his own concept of further scientific development in the theoretical and methodological basic areas of forensic research of computer systems.

There are three main ways of direct application of PC in forensic examination:

1) mathematization of individual links of expert research;
2) full automation of the investigation of physical evidence;
3) creation of dialog systems.

Expert handwriting experts were the first to actively use computers: to differentiate the studied objects that are similar in characteristics of movements; to formalize the description of handwriting objects; to determine the variability of handwriting and to study its quantitative characteristics in order to establish authorship, as well as in other directions.

Then computers began to be used for image analysis in portrait-identification studies (identification and evaluation of quantitative features in the examination of photo portraits, improvement of facial reconstruction on the skull, etc.).

Computer-aided methods of modeling and analyzing the mechanism of an accident, determining the place of a car collision, assessing road situations, etc. have appeared in the forensic automotive expertise.

Based on the above, I can say that there is a direct link between professional knowledge, expressed scientific knowledge and a complex of comprehensive knowledge. Moreover, they are manifestations (forms) of the same entity. Consequently, the characteristics of the study given by the author in these three aspects do not contain differences between them, but are simply various additional signs of special knowledge. If we turn to the question of the boundaries of special knowledge, then we can say that in the most general sense, legal knowledge is also special knowledge, and in accordance with this knowledge, the profession has a specialization. Legal knowledge in this area is also legal knowledge in the framework of criminal proceedings, which are consistent with each other (Vasiliev, 2013, p. 24). Therefore, there is no need to talk about them as special, because in this case we are talking about the same form-the law. All other illegal knowledge can be called special. The latter means the availability of legal knowledge, that is, methods of collecting and reviewing evidence provided for by law, as well as knowledge of non-legal, non-procedural methods of obtaining evidence.

I noted for myself the opinion in forensic examinations, A.I.Rakitov noted about the use of computers in forensic examinations: "... Modern techniques and manuals allow you to study objects in detail at macro and micro levels... At the same time, taking into account the transience of the analysis process... It is impossible to extract the information of interest without using a computer, and the amount of general information obtained as a result of the analysis can be so huge that experts will not be able to process it in a short time... In the course of his activity, a specialist must face a task for which it is necessary not only to pre-process a large amount of information, but also to perform complex calculations, the execution of which by conventional means takes a lot of time or is simply impossible... Create a software package... Allows you to proceed to the solution of the main task - the preparation of the automated workplace of the expert (APM). This is one of the modern development trends in the field of automation of scientific research" (Aubakirov, 2021, p. 222).

I think computerization can be considered the most important feature of scientific and technological progress of mankind in the second half of the twentieth century. In the scientific literature, instead of

"mathematization", the term "computerization" is increasingly used. Gott (K.N.Gott) and other leading scientists in the field of scientific cognitive methods noted: "Modern science and computerization of production and management are determined by the internal logic of the development of mathematical processes, which is one of its new specific varieties. The complex process of mathematization is characterized by another broad trend in the development of modern science - the gradual saturation of scientific research with all possible technical means ...".

All of the above is fully applicable to forensic examinations and reflects the natural process of computerization. I.A.Aliyev and Yu.G.Korukhov correctly noted: "The next logical step in the development of forensic examination will be its computerization..."Computerization is usually understood as technology, mathematical methods and special software.. It is used to collect, store and process information used in various management processes, as well as to obtain various information and computing services. This is a collective concept. It combines the process of using logic, mathematical tools, information theory and information systems, as well as computers as technical means for automating information processes into a single whole. Assessing computer breakthroughs in the early 1980s, the American sociologist O. Toffler wrote: "...What is happening now is similar to this... This is not just an industrial revolution... This moment is nothing but the second great watershed in the history of mankind, and its significance can be compared only with the first major breakthrough in historical continuity - the transition from barbarism to civilization... In fact, the emergence of new machines (computers) not only gives ideas for changing other machines, but also provides new solutions to social, philosophical and even personal problems ..." (Vasiliev, 2013, p. 123).

According to my observations, the impact of computer technology on science is currently global. Practice has shown that in science, when using quantitative methods, it is necessary to process large amounts of data and apply rather complex logical and computational operations. This is the need to determine the computerization of forensic examinations. The value of many mathematical algorithms lies in their implementation on computers. Without this, the implementation of the proposed method may not be possible.

The core of expert knowledge is a kind of knowledge of specific facts. It is based on the same principles as any other type of cognition. At the same time, it differs not only in the form of procedures, but also in means and methods.

Computer technologies occupy a special place in it. The result of this is that, on the one hand, expert research as a certain transformation of cognitive processes, on the other hand, a significant expansion of its capabilities, increasing the scientific validity of the results obtained. Both have their own objective prerequisites, determined by a computerized model of forensic medical research and developed in theory and practice to solve specific expert tasks.

I think by tasks in a broad sense it is customary to understand problems that are subject to analysis or solution. Academician V.M.Glushkov gave a definition of the problem when the solver of the problem is not a person, but a system of solutions, the task simply takes into account these situations. He wrote: "The task in the broadest sense is to determine the situation of certain systematic actions."From the point of view of system methods and cybernetic thinking, the problem and its solutions should be considered as a functioning information system in which two subsystems can be distinguished: the formulating (definition) and the decisive. Until recently, the function of defining subtasks was performed by only one person. Since computers are capable of performing not only counting operations, but also logical operations, a human-machine solution system has appeared in which the machine performs part of the problem solving function (Vasiliev, 2013, p. 203).

In terms of the complexity and scope of the study, there are three levels of tasks that need to be solved:

- Automation of counting operations;
- Automation of existing expert technology;
- Automation of new original technologies.

The development of the methodology of any expert task is based on the principles of legal informatics and cybernetics, namely: the principle of the system organization of cognitive objects, quantitative determination, the use of mathematical devices and the algorithmic method of the cognitive process of objects. A methodological prerequisite before using computers to form any particular research method is mathematical modeling of the cognitive process of the object (Averyanova, 2016, p. 480).

In the search for the necessary information, I found that the most promising direction of automation of forensic activities is the creation of an automated workplace (APM) for experts. This is due to the following circumstances:

1) APMs allows you to reduce the cost of working time and conduct an examination without compromising its quality;

2) experts can transfer the technical part of the work to the machine, leaving behind the elements of creativity (setting tasks, evaluating results, etc.).);

3) the automated control system will ensure the unity of the solution of expert tasks, its technology and software, which will ensure that the investigation and the court fully understand the expert opinions.

Currently, dozens of automated software systems have been developed and tested.

N.Z. Polevoy noted: "In the future, expert APMs will be created in accordance with specific specialties and types of tasks to be solved."

In my opinion, the creation of an expert unit means the transition to a new and more efficient technology of expert production, which can be called the computerization of forensic examinations.

This should be clearly defined:

1) The scope of research and operations that can only be performed by experts;

2) The amount of research in which experts can use computers as a means of promoting their work;

3) What tasks can experts solve using a machine to form a unified dialog system?;

4) What tasks can the machine solve by itself?

In other words, we are talking about the level of automation in the process of solving expert tasks.

Since in the process of research it is always necessary to evaluate intermediate results and on this basis make decisions about further actions, a natural question arises: how does the Machine perform this function and combine it with management functions in general legal activity? In order to solve these problems correctly, it is necessary to determine the content of the initial concepts associated with solving the tasks of a human-computer system. These include the concept of legal issues, their expression, as well as the concept of algorithms and methods for solving problems. At the same time, the production of intermediate data and concepts must comply with the mathematical and automated conditions of the information process, which form the basis for solving any kind of problems (Mozyakov, 2012, p. 56).

I believe that any solution system can work successfully only if it has the necessary knowledge base about future tasks; about tasks solved in the past; about problem solving methods and other information. The actual process of solving problems using such a system will never lead to the correction of any blocks. As already noted, in most cases,

improvement begins with a change in the formulation of the task, since the initial information for the task is usually insufficient (Criminal Code of the Republic of Kazakhstan, 2017, p. 304).

What are the problems and possible solutions of computerization of forensic examinations? As we have already pointed out above, instead of the "man or machine" problem that was discussed earlier, some problems have arisen. This situation is most successful in the field of automation of the collection and processing of experimental data, that is, the creation and use of measurement and calculation complexes and databases of forensic objects. If earlier it was necessary to connect measuring equipment and PCs in expert institutions and develop software, since the necessary measuring and calculation complexes were not carried out, now the situation is changing. Most of the instruments and laboratory facilities are equipped with personal computers and the necessary computer systems, even in factories. Common database management systems (DBMS), such as "Clipper", "Paradox", "FoxPro", etc., or systems based on them, are used to form databases.

The problems that arise are mainly related not to science and methods, but to organizational difficulties, such as the lack of a clear computerized plan for all types of forensic examinations, the obvious lack of funds, the lack of well-trained personnel, and so on. It cannot be said that the organizational problem has not been solved. The ECC of the Ministry of Internal Affairs of the Russian Federation of the Ministry of Justice of the Russian Federation have laboratories responsible for the automation of forensic medical activities, but with the widespread introduction of computer technologies, their efforts are clearly insufficient. In addition, the main funding for these studies is carried out not only at the center, but also on the ground. Therefore, regional expert institutions often start developing computer systems independently and pay for this work from their own funds. Hence, differences in existing computer systems, duplication and inconsistency between them.

Rapid changes in computer technology and the improvement of programming languages have also made a certain "disorganized contribution" here, since the emergence of powerful computers, new and more advanced programming languages has led to rewriting. Therefore, it is usually necessary to redesign the entire system or create a new computer software for the measuring and computing complex. Just like L.G. As Edzhubov noted that this instability creates a dangerous illusion of the progress of scientific research. Programmers regularly release new products every year and basically rewrite the solution to the same

problem. However, it is difficult to reverse this bias in programming, because the rapid development of information technology has had a strong impact on the psychology of programmers, and through them has had a strong impact on many users. Usually, the improvement of the software itself becomes an end in itself, and improvement for the sake of improvement is attributed to the change of PS, And PS has perfectly fulfilled its task without it.

Therefore, working in a computerized workplace of experts, which includes a system for collecting and processing experimental data, a comprehensive database of specialized knowledge objects and a calculation program based on well-known formulas and algorithms, does not require the participation of computer operators or expert programmers. This is just a specific situation in a given workplace. When using a computer program based on quantification to solve an identification problem, if the expert has a detailed understanding of the mathematical device to solve the problem and agrees with the standards used for quantitative features (even if they did not propose these standards), he may be solely responsible for the expert's conclusions. In this case, the programmer acts as one of the developers of the method.

If the expert believes that the computer system is a "black box", he is actually excluded from the assessment of the results of the test conducted using a computer, so he has the right to give conditional conclusions or limit himself to answering questions that he personally solves without the help of a computer. We believe that even if a computer program is designed specifically for this exam, such an exam cannot be comprehensive, because there is only one expert here, and the programmer creates a program based on the algorithm proposed to him by the expert. However, if the algorithm for solving a specific problem is compiled by experts and mathematicians (not to be confused with programmers), then this kind of verification has all the characteristics of a complex problem.

The solution to these problems lies in the creation of a unified interdepartmental program for the computerization of forensic medical examination, which not only coordinates the work of federal expert bodies in this area, but also coordinates the activities of all developers of computer systems of forensic medical examination. The implementation of the program should ensure the compatibility of these systems and the ability to work at a computerized workplace of experts operating in a single network of expert institutions, and taking into account the further

improvement of computer technologies, programming languages and database management systems.

It should be recognized that in the general structure of setting and solving expert tasks, there are many operations that machines can perform more accurately, faster and more diverse than people. But there are also operations that only one person can perform. These operations are related to the formulation of the task, its transformation and evaluation of the results obtained, although in some cases these operations are performed by machines.

Through the analysis of scientific and practical achievements in this field, the scientific foundations of the formation and development of forensic research of computer systems were studied, which allows us to draw the following conclusions:

1. A prerequisite for the emergence of a new type of forensic examination is the need to obtain evidence and information in connection with the commission of computer crimes. The concept of computer crime includes any crime related to the use of computer tools and technologies.

2. Based on the analysis of modern terms in the field of forensic examination and computer technology, it is necessary to distinguish between the concepts of "forensic medical examination of computer systems" and "forensic computer technological examination". This is just such a type of expertise.

3. Software and file systems can be distinguished as an element of the virtual trace generation mechanism. It is also necessary to introduce such an element as a person, through the interaction of hardware and software, in order to influence changes in the file system. The interaction between a person and the software through his command system leads to changes in the file system, that is, to the appearance of virtual traces. Without this intermediate element, the display will remain unchanged. Based on this, a virtual footprint is, in fact, a change in the file system, which carries a certain information load caused by the interaction between the hardware (its command system) and the software displayed on a computer data carrier. In this case, reflection is understood not as a reflection of the external structure of the tracing object on the tracing perceptron, but as a reflection of the process of human influence (or program - during the formation of secondary routes) on the file system.

4. Analysis of the existing system of classification of virtual traces, taking into account that the classification criteria should be based on an understanding of the mechanism of formation of traces, virtual traces can be distinguished as primary and secondary, as well as the trace file and

changes in the trace file (Criminal Procedure Code of the Republic of Kazakhstan, 2020, p. 608).

5. According to the law of formation and development of the scientific foundations of forensic examination, forensic examination is the subject of the science of forensic experts and one of the most important tasks of the general theory of forensic examination. It can be said that the formation of forensic examination of computer technologies is carried out on the basis of the formation of a methodological discipline that does not change scientific data, selects and systematizes the information necessary for the development of the examination method under consideration. In this regard, the formation of forensic studies of computer systems is carried out within the framework of technical knowledge, and they act as forensic computer technical expertise.

6. In its further development, in relation to E.F., the scientific basis of forensic research, based on the Burinsky principle, acquires forensic characteristics, and the type of examination itself should eventually receive the quality of forensic research in computer systems.

7. The content of general (specific) objects of forensic computer examination includes "material" objects, but not events and phenomena. In this regard, the computer technical expertise itself consists only in establishing the facts. However, since the forensic study of computer systems requires further development, taking into account the potential of this forensic examination, it should be noted that in the end, the object of forensic research of computer systems, along with material and virtual objects, will be processes and phenomena. The subject of these examinations will be aimed not only at establishing facts, but also at understanding situations that are important for criminal or civil cases (Criminal Code of the Republic of Kazakhstan, 2001, p. 446).

8. Based on the aspect of traceability, taking into account the criminal nature of such examinations, we can say that the object of these studies will be virtual traces, and the topic is the establishment of facts and phenomena reflected in virtual traces related to the case.

9. According to the systematic hierarchical method of expert tasks, it can be concluded that the solution of the tasks of checking forensic computer technologies is algorithmic and can only access the levels of diagnosis and classification.

10. As with the development of any open system, the development of forensic examinations is nonlinear, which means several options for the process of increasing the degree of criminalization of these examinations (The Constitution of the Republic of Kazakhstan, 1998, p. 160). So, the

transition from the forensic study of computer systems to the identification and situational level, therefore, the transition from the verification of computer technology to the forensic study of computer systems can have two ways - "External" (for computer technology) the first option is to combine the expertise of computer technology with other types of expert research. The version of the "internal" development is within the framework of a forensic study of computer systems and should be based on the principles of E.F. Burinsky, who transform knowledge in the field of computer technology.

11. At present, a general methodology for the examination of computer technologies has been formed, but it is only part of the general methodology for the forensic study of computer systems, and its development is only in the formation stage. The formation of this method depends on the extent to which this type of forensic examination passes to the quality of forensic research in computer systems. Tools for solving diagnostic and classification level problems have also been developed, and recommendations for solving identification and situational problems are being developed.

12. It is necessary to introduce official documents "expert opinions" into the Criminal Procedure Legislation of the Republic of Kazakhstan, as well as supervision of expert initiatives, which will improve the use of special knowledge in the investigation and disclosure of computer and other crimes (Regulatory and legislative acts, 2020, p. 403

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Проблемные вопросы расследования уголовных правонарушений в сфере экономической деятельности

Аннотация. Динамичное экономическое развитие, появление новых форм и способов взаимодействия субъектов рыночной экономики и предпринимательства требуют обеспечения гарантий добросовестной конкуренции и эффективной защиты от неправомерных действий.

Ключевые слова: судебно-экономическая экспертиза, уголовные правонарушения, экономика, проблемы, экономическое развитие.

В настоящее время борьба с теневой экономикой стоит из одним из приоритетных задач нашей республики. Основная роль в этом должна отводиться качественному законодательному урегулированию общественных отношений в области экономики, а также правильному применению закона, в том числе при расследовании и разбирательстве дел об уголовных правонару-

СОДЕРЖАНИЕ