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OAJI (USA) = 0.350

SOI: [1.1/TAS](#) DOI: [10.15863/TAS](#)

International Scientific Journal Theoretical & Applied Science

p-ISSN: 2308-4944 (print) e-ISSN: 2409-0085 (online)

Year: 2020 Issue: 07 Volume: 87

Published: 30.07.2020 <http://T-Science.org>

QR – Issue



QR – Article



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DISCUSSION WARNING ON ROAD TRANSPORTATION ACCIDENTS

Abstract: The author is analyzed the existing opinions of academic theorists on the content of the characteristics and essence of the definition of «counteraction to the investigation of crimes», using the empirical experience of employees of the investigative departments, made an attempt to formulate a definition of this phenomenon that would reflect all forms and content of their manifestation in the context of countering crimes of this category.

Key words: counteraction to the investigation of crimes, counteraction to the investigation of an accident, road traffic accidents, countering the investigation, investigative practice.

Language: English

Citation: Akmatova, A. T. (2020). Discussion warning on road transportation accidents. *ISJ Theoretical & Applied Science*, 07 (87), 378-383.

Soi: <http://s-o-i.org/1.1/TAS-07-87-73> **Doi:**  <https://dx.doi.org/10.15863/TAS.2020.07.87.73>

Scopus ASCC: 3308.

Introduction

We analyzed the existing opinions of academic theorists [8]. [13] [17] [16] on the content of the characteristics and essence of the definition of «counteraction to the investigation of crimes», using the empirical experience of employees of the investigative departments, made an attempt to formulate a definition of this phenomenon that would reflect all forms and content of their manifestation in the context of countering crimes of this category.

Based on the research conducted, the following definition was formulated: «Counteraction to the investigation of an accident is a set of intentional actions aimed at obstructing the investigation of crimes related to the event of an accident, criminal prosecution and justice by interested parties, carried out both in the form of direct action and intentional inaction» ... Based on the presented definition, the author believes that planned, that is, intentional opposition is not a feature of a certain category of crimes, namely, crimes committed by negligence, since there is no preparation stage among the stages of this crime. [15]

At the same time, in the analysis of road traffic accidents, we observe the manifestation of one of the forms of «organization» in countering the investigation. The analysis of 57 studied criminal

cases from the archives of the Osh and Jalal-Abad GUVDS clearly shows that in 28 cases, i.e. 50% of resistance to the investigation in various forms was manifested by two or more people. In other words, it was organized and coordinated in purpose and method of manifestation. Following the logic of scientific research, the author analyzes the opposition to the investigation of road accidents based on its components, namely the subjects involved in the opposition to their criminological portrait, motives, and methods used [19].

At the same time, the author identifies a certain category of persons, which can be attributed by the degree of participation or personal interest of the following participants:

- 1) The driver who drives the vehicle or a certain subject (since it is not the direct driver who may be driving the vehicle during the accident event);
- 2) The owner of the vehicle;
- 3) Circle of acquaintances, relatives (indirect interest);
- 4) Victims or persons who consider themselves as such;
- 5) Witnesses;
- 6) Participants in investigative actions.

The author gives possible motivating reasons and features of the subjects of counteraction, based on

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the achievement of the goal of the desired result, and notes that they are individual for each subject. For some, it is criminal prosecution and punishment, for others, financial responsibility, fear, remorse or nihilism. [20]

When the author analyzed the investigative practice of investigators specializing in the investigation of road accidents and related crimes, the following were preferred as the main motivating condition determining the choice of methods and methods of counteraction:

1) 57% of the interviewed investigators of the Dzhahal-Abad Internal Affairs Directorate indicated the place and circumstances of the crime;

2) 54% indicated as the reason, the individual characteristics of the behavior of the suspected subject after the commission of the crime event;

3) 72% referred to existing personal relationships with employees of other structural divisions of the Ministry of Internal Affairs;

4) 59% indicated as a natural subjective counteraction the skills of professional criminality, the previously acquired experience of counteracting the investigation;

5) 24% of investigators referred to the peculiarities of the personal behavior of the subject of a crime after its commission;

6) 34% stated about the individual characteristics of the subject of the crime, intelligence, ingenuity, character, health, a tendency to fiction and fantasy.

The author in his research is convinced that the manifestation of various forms of counteraction begins to form and be embodied in the form of real actions even at the stage of the formation of the intent to commit a crime and takes on an increasingly harsh form on the part of the subject of the crime by the time of judicial proceedings.

1) 54% of investigators noted different manifestations of forms of opposition even before the start of the trial;

2) 76%, with the beginning of pre-trial proceedings, note the manifestations of various forms of both internal and external manifestations of opposition;

3) 43% point to the stage of the investigation outside the investigation;

4) 83% when organizing and carrying out activities related to solving a crime;

5) 12% of investigators point to the stage of transferring a criminal case to court proceedings;

6) 72% of the subjects of the investigation pointed to the provision of counteraction, both at the scene of the criminal event and beyond.

As a rule, the main role in the organization of counteraction to the investigation in cases of road traffic crimes is played by the driver of the vehicle that committed the road accident. This subject takes actions aimed at providing all forms of possible

influence, both on the material traces of the crime, and on all participants in the investigation process. [22]

In the investigation of road traffic crimes, very specific forms and methods of counteraction inherent only to this crime are clearly visible, to which the author refers:

1) 17% of cases, leaving the scene of the crime;

2) 9% concealment of traces of a crime at the scene until the arrival of a public security inspector or an investigative and operational group.

Most often, this form of counteraction occurs at night and in the evening, with poor lighting and limited visibility conditions, in such a situation the driver guilty of the accident tries to hide the traces of the crime as much as possible, by making changes made by him at the scene or by changing the position of his car and other transport involved in accident.

3) an attempt to make changes to the damage received by the vehicle during the accident, excavation or complete replacement of parts of the supporting body of the car, indicating the presence of damage and the reasons for their receipt, deliberate destruction of the vehicle itself, creating conditions for staging a version of the event that occurred, presented by the driver himself;

4) an attempt to influence the experts and specialists involved in the investigation. This is due to the fact that in most cases the final result of the pre-trial proceedings largely depends on the conclusions and conclusions of an expert, a specialist;

5) maximum obstruction of the investigation by means of a large number of stated demands, petitions, protests, failure to appear for carrying out the investigative actions necessary for the investigation with a vague formulation of the reason for failure to appear. According to the results of the analysis of the investigative practice, it was revealed that 12% of the analyzed materials of criminal cases were completed with the maximum allowable terms for the investigation, 3% of criminal cases exceeded the terms from 3 to 4 months, 7% for more than 7 months, and 2% for more than a year;

6) traditionally, public opinion has developed a feeling of certain pity and sympathy for the perpetrators of the incident, which the perpetrators themselves actively use and try to maintain and, if possible, develop this feeling not only among the investigator, but paradoxically also among the injured party. Quite often there are cases when victims and victims make efforts to mitigate the punishment for the person guilty of an accident, search for reasons that mitigate or justify the consequences of his action, or even to terminate criminal prosecution.

7) in 16% of cases they try to put pressure on the investigation through acquaintances who are law enforcement officers, while 7% influenced the investigation through the traffic police officers (relatives, children, husband, wife), 28% of cases through representatives of expert institutions

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(colleagues, relatives, acquaintances of acquaintances), 6% through the courts, the prosecutor's office «telephone law».

All of the above types of counteraction provided during the investigation of an accident ultimately lead to the following consequences affecting the investigation:

1) in 43% of cases from the total number of studied materials of criminal cases,

unreasonable labor intensity and decrease in the efficiency of the investigation;

2) in 37% of cases, unreasonable delay and increase in the time frame for the investigation;

3) 8% multiple suspension of the course of the investigation;

4) 5% termination of criminal prosecution in connection with the reconciliation of the parties.

In the course of his research, the author identified ways of countering the investigation of transport accidents:

1. 24% of cases from the total number of criminal cases analyzed by the author, manifestation of open influence (in the form of threats, blackmail, offers of material reward, patronage) on the participants in the investigation;

2. In 27% of cases from the analyzed criminal cases, the concealment of data relevant to the investigation of the crime event, their sources, as well as the attempt of the subject of the crime to escape from the accident scene, failure to appear for investigative actions, concealment of new data on the crime event;

3. In 1.5% of cases, there are actions associated with the complete or partial destruction of investigative information, or information significant for the investigation. Such actions are carried out by destroying or completely disassembling the transport involved in the accident, replacing parts and mechanisms of the car, destroying traces of blood and brake traces;

4. In 13% of cases, there is a concealment or deliberate distortion of information about a crime event, by changing the situation at the scene, replacing parts and mechanisms of the vehicle for the whole, changing the trajectory of traces of braking or skidding;

5. In 73% of cases, information about the event of an incident is substituted by giving distorted or false data about a crime, falsifying an alibi, rejecting previously given testimony;

6. In 5% of cases, there are attempts of various types of staging, under an accident, an accidental event, in order to conceal another more serious crime, to partially change the constituent elements of a criminal event;

7. In 9% of cases there are cases of simulation of mental and physical disorder, reduction of biological age in order to avoid criminal prosecution by the subject of a criminal event.

The determination of the most effective methods of overcoming opposition to the investigation depends on the professional training and practical experience of the investigator, including on the individual characteristics of the character of the subject of the crime, his typical portrait. [32]

As a rule, the type of the subject of counteraction to the investigation is determined by the detailed forensic characteristic of the event of a road traffic accident and consists of the following characteristic features:

1) 74% men from 19 to 35 years old, 12% women from 20 to 50 years old, all categories of residents Bishkek 34%, Osh region 29%, Jalal-Abad region 18%, 19% other regions of Kyrgyzstan;

2) 58% living in the area of the incident;

3) 4% have no education;

5) 91% with higher or specialized education;

6) 94% have fines or administrative punishment for violation of traffic rules;

7) 86% is the owner of the vehicle.

Analysis of criminal cases of road traffic accidents made it possible to establish a number of typical investigative situations in which most often there is opposition to the investigation in various forms of its manifestation:

1) 47% of the analyzed materials of criminal cases, all the subjects of the road accident did not leave the scene of the accident, the car at the scene of the collision, or one of the subjects of the event of the incident, for whatever reason, is absent, but there is its setting data.

2) 14% of the analyzed materials of criminal cases, the victim, the victim, at the scene, the driver disappeared, there is no setting data about him;

3) 7% of the materials of criminal cases, there is no subject of the road accident, the victim or the victim is the same.

In the course of the analysis of the investigative practice by the author, the following signs of counteraction to the investigation of an accident are highlighted and proposed:

1) a clear discrepancy between the readings and the recorded picture of the incident event:

2) a radical change in the previously given indications by the participants in the event of the incident in the direction of softening the qualifications, actions of the vehicle driver;

3) quick change of registration, sudden internal or external migration;

4) refusal to fix the testimony on audio, video recording;

5) constant change of readings under the pretext of the consequences of an accident;

6) reluctance to be examined, face-to-face, or undergo a forensic medical examination;

7) reference to an unconfirmed alibi (cannot be confirmed or refuted);

8) maximum delay in pre-trial proceedings;

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9) requirements for additional investigative actions and repeated examinations; 10) simulation of insanity, illness, mental disorder;

11) reference to the state of passion;

12) an attempt to establish personal relations with an investigator, expert, specialist;

13) an attempt to influence by threats, persuasion, bribery, a witness, an injured party, an injured party;

14) reference to the constitutional provision on refusal to testify;

15) persistent desire to get acquainted with the available base of evidence of his guilt, and the prospects for the investigation;

16) constant unsubstantiated statements on violations of procedural norms of the investigation;

17) a statement on the change or refusal from the testimony previously given during the investigation.

Taking into account the above arguments by the author, the most characteristic signs of opposition at the pre-trial stage of the investigation were highlighted:

1) emotional tension, nervousness, a state of passion among the participants in the accident event at the scene of the accident;

2) attempts to destroy or change the traces of the accident, signs of manipulation of obvious traces of the accident, various types of staging;

3) concealment or misinformation of the circumstances of the incident that are significant for the investigation;

4) influence on the course of the preliminary investigation. By way of unsubstantiated comments, suggestions, recommendations;

5) unjustified transfer of the investigation materials to another unit;

6) unfounded doubts about the conclusions and conclusions of an expert, specialist, appointment of unfounded forensic examinations.

The author proceeds from the assumption that activities to identify, overcome and prevent opposition are carried out at the stage of preliminary investigation in criminal cases, both by the investigator and by operational workers. [28] Accordingly, the methods of detecting, overcoming and preventing counteraction to the investigation of road traffic crimes are investigative actions, organizational and operational-search measures. Of particular importance is the proper staffing of the investigation process and, above all, the high-quality level of preparedness of persons carrying out preliminary investigation of road traffic crimes. [19] More than half of the investigators have less than five years of experience in investigating road traffic crimes. There is a need to provide specialized training for investigators involved in the investigation of road traffic crimes.

The activity to identify counteraction is associated with the presence of a large number of

objective and subjective factors that determine both the formation of the counteraction plan and the very process of disclosing and investigating road traffic crimes, and was aimed at establishing its signs and effective use of information about them in further activities to investigate crimes. [14]

The author proposes the developed forensic methods of detecting opposition to the investigation. An important and effective method of identifying and suppressing various forms of counteraction to the investigation of road accidents is the use of the capabilities of the operational investigation team. The practice of the investigation shows that in 12% of cases, opposition to the investigation was identified and suppressed by preventive operational measures.

The author considers the following forensic and at the same time procedural methods of identifying opposition:

1) 54% of criminal cases and 82% of interviewed employees consider the appointment and conduct of examinations;

2) 59% of criminal cases and 87% of interviewed employees include interrogation of witnesses;

3) 49% of criminal cases and 37% of interviewed employees indicate interrogations of drivers - subjects of opposition;

4) 41% of criminal cases and 77% of interviewed employees include interrogation of victims;

5) 18% of criminal cases and 47% of interviewed employees consider examinations of traces of objects and other material evidence;

6) 12% of criminal cases and 69% of interviewed employees, inspection of the scene;

7) 9% of criminal cases and 76% of interviewed employees indicate an investigative experiment;

8) 7% of criminal cases and 23% of interviewed employees mention confrontation.

Based on the results of his research, the author proposed the methods formulated by him to overcome the counteraction to the investigation of road traffic crimes, based on the principles of prevention and prevention of various forms of counteraction:

1) Using the possibilities of «special investigative actions» provided by the norms of the Criminal Procedure Code to suppress manifestations of opposition to the investigation carried out by interested parties to the participants in the investigation of the crime;

2) the use of the forces, means and methods of the independent reconnaissance patrol in the daily official activities of the employees of operational units not burdened by procedural norms for, prevention and prevention of opposition to the investigation;

3) obstruction of the manifestations of the activities of the participants in the counteraction, undertaken by them to conceal or seize evidence that is significant for the investigation;

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4) fixing the manifestations of opposition to the investigation for criminal assessment and qualification, with possible criminal prosecution;

5) rehabilitation activities of law enforcement agencies to eliminate the consequences of counteracting the investigation, manifested in the application of pressure or coercion against the investigator, victims, injured persons, eyewitnesses, witnesses.

In conclusion of the topic under study, the author draws attention to the following that the meaningful concept of the definition of «overcoming opposition to the investigation» implies, first of all, overcoming the opposition itself as an objective event, and eliminating the consequences arising from the manifestation of opposition, both on the part of interested parties and parties of subjects interested in a specific result of the outcome of a criminal case.

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