

ABSTRACT of

the dissertation for the degree of Doctor of Philosophy (PhD) in
the specialty «6D030100-Jurisprudence»

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on the topic «Problematic issues of the methodology of pre-trial investigation of
technogenic criminal offenses (based on materials of the Republic of Kazakhstan
and abroad)»

The relevance of the dissertation research. At the present stage of development of independent Kazakhstan, the great importance of ensuring stability is manifested in the positive changes achieved by the country. In this issue, an important role is assigned to the creation of fair economic relations as the basis for building a modern state with a developed market economy and gradual but steady integration into the international community as an equal member.

The improvement of the market model of economic development and the ongoing reform of the public administration system are associated with the emergence of new threats in the form of criminal offenses. Challenges from international terrorism, the possibility of using nuclear, chemical and bacteriological weapons of mass destruction, environmental criminal offenses require a rethinking of the role and place of the criminal law system to combat criminal acts that pose a threat to public and national security in general.

In this regard, there was an urgent need to create and implement a new concept of countering socially dangerous acts as a perspective and the formation of an updated civil defense.

The Constitution of the Republic of Kazakhstan creates the necessary legal foundations for the system of Kazakhstan-wide security. It states that «... the State aims to protect the environment favorable for human life and health».

Head of State Tokayev K.K. in his Message to the People of Kazakhstan dated September 2, 2019, it was stated «... Kazakhstan should become a brand as an open jurisdiction for technological partnership, construction ...».

The President of the country, K.K. Tokayev, in his Message to the People of Kazakhstan dated September 1, 2020, describing the state and dynamics of the identified criminal offenses, defines: «There are also problems in the work on crime prevention. «Also in the message, the President pointed out: «Given that we have entered the era of natural and man-made disasters, I believe it is necessary to recreate the Ministry of Emergency Situations».

Today, the Republic of Kazakhstan maintains a fairly high level of man-made emergencies with significant human casualties and significant material losses.

As of 2020, man-made accidents accounted for 91.2% of the total number of emergencies in Kazakhstan and amounted to 5.6 thousand cases. In this regard, among the most important provisions formed by the national interests of the

Republic of Kazakhstan is the protection of individuals, societies and states from emergency situations and terrorist acts at technogenically dangerous facilities. The significance of this statement is fixed in the Development Strategy of Kazakhstan until 2050. Man-made disasters and accidents form a threat in many spheres of society's life, therefore, these sources suggest the creation of a forensic methodology for pre-trial investigation of man-made emergencies and the implementation of criminal liability for the commission of criminal man-made disasters. The effectiveness of forensic tactical operations during the pre-trial investigation of man-made accidents suppresses criminal activity in the field of man-made security, contributes to the prevention of criminal offenses and the establishment of objective truth. In the context of the increasing negative impact of man-made accidents on the socio-economic situation in the Republic of Kazakhstan, the aggravation of the consequences and the scale of their impact, the issue of the effectiveness of forensic tactical operations of pre-trial investigation of man-made accidents as a factor of a fair and effective justice system and strengthening public trust is being actualized.

According to statistics for 6 months of 2020, the number of man-made emergencies decreased by 10.2%. However, the main share of such accidents is industrial and household fires - 94.3% of all man-made cases, which also decreased significantly by 11.7% compared to the previous year. The number of deaths is 169 people and compared to the previous year, this indicator increased by 5.6 percent. Material damage is estimated at 933.2 million tenge.

MAEK, the nuclear reactor of the Academy of Sciences of the Republic of Kazakhstan and the Institute of Atomic Energy of the National Nuclear Center of the Republic of Kazakhstan are operated on the territory of the Republic. In the event of major industrial accidents, radioactive contamination zones may form at these facilities. So, in the event of an accident at the MAEK, the zone of contamination with radioactive substances will be 480 km². There may be 174.4 thousand people in the zone of contamination with radioactive substances. Population losses may amount to: during the first 4 days - 871 people, within 30 days - 1500 people. In case of an accident at the nuclear reactor of the Academy of Sciences of the Republic of Kazakhstan, located in the village of Alatau in the immediate vicinity of Almaty, the zone of contamination with radioactive substances will be 22.4 km². In the zone of possible infection fall: in the daytime - 29.5 thousand people, at night - 18 thousand people.

Thus, violations in the activities of these strategic facilities can lead to irreversible consequences: loss of control, destruction of infrastructure, national economy or administrative-territorial unit, deterioration of life safety of the population for a long time.

One of the main threats to technogenic safety on the territory of the country is non-compliance with the technogenic order caused by violation of legal regulations on: organization and conduct of work at hazardous technogenic

facilities, prevention of accidents and catastrophes, compliance with requirements at work, at home and in other technogenic-hazardous areas. As practice shows, man-made accidents and catastrophes occur due to non-compliance with the requirements of building codes and regulations at high-risk facilities.

The Republic of Kazakhstan, according to the analysis of well-known and recognized criminologists by the world community, belongs to countries with a moderate crime rate.

Thus, according to the International Rating, the values of CrimeIndex for 2015-2020 ranged from 46.68 to 66.51 points. As of 2020, its value was 62.02, which is 4.49 points lower than the maximum index value in 2019. But, despite the underestimation of the indicator level, the status of Kazakhstan has worsened its position relative to other countries and in 2020 ranks 20th in terms of crime, whereas in 2015 the country was positioned at 72nd place in the world. In addition, despite the improvement of the country's international position regarding national security since 2013, the values of the security index as of 2020 amounted to 37.98, which is 19.34 points lower than in 2015. Since 2020, Kazakhstan has worsened its position to the 20th place among the countries of the world in terms of security, which was also facilitated by the growing trend of man-made disasters and accidents in the state.

Questions of the methodology of pre-trial investigation of technogenic criminal offenses provided for in Articles 276-281 of the Criminal Code of the Republic of Kazakhstan by its theoretical and practical significance is a key direction in the development of modern legal science - criminalistics, which has direct access to practice, because it allows you to check the vital applicability of the basic theoretical concepts, categories and recommendations of criminalistics. All this confirms that one of the main tasks facing Kazakh jurisprudence is the problems of theoretical generalization of criminalistic methods of crime investigation, the application of a new scientific approach to key issues of the methodology of pre-trial investigation of technogenic criminal offenses provided for in Articles 276-281 of the Criminal Code of the Republic of Kazakhstan.

The above indicates the relevance of the study. The analysis of official statistical data, the generalization of best practices of the work of police units create opportunities for in-depth research of this problem and the development of scientifically sound recommendations for improving the pre-trial disclosure and investigation of such criminal offenses.

The degree of scientific elaboration of the problem In the forensic literature considered the issues of tactics of individual investigative actions, the organization of the investigation of criminal offenses and the value of criminally significant information about the type of criminal, such scientists – B.A. Abdrakhmanov, V.N. Androsenko, E.N. Begalieva, A.G. Bronnikov, N.G. Vedernikov, L.D. Gaukhman, L.G. Gorshenin, Yu.V. Ivanov, A.G. Kan, N.N. Kipman, V.E. Kolomeits, M.G.

Korshik, A.I. Lantukh, E.S.Lipka, M.A. Petukhovskiy, M.K. Samaldykov, V.I. Sokolovskiy, S.S. Stepichev, N.G. Shurukhnov and many others.

The problems of improving the forensic investigation methodology have been the object of attention of many scientists. Thus, in the works of A.F. Aubakirov, A.A. Aubakirova, O.Ya. Baeva, K.A. Begaliev, R.S. Belkin, A.N. Vasiliev, I.A. Vozgrin, A.F. Volynskiy, I.F. Gerasimov, A.Ya. Ginzburg, V.I. Gromov, E.G. Dzhakishev, L.Ya. Drapkin, A.A. Isaev, M.Ch. Kogamov, A.N. Kolesnichenko, V.E. Kornoukhov, I.M. Luzgin, E.I. Makarenko, G.A. Matusovskiy, B.M. Nurgaliev, V.A. Obraztsova, B.H. Toleubekova, E.K. Utebaeva, A.G. Filippova, N.P. Yablokova, I.N. Yakimov and other authors formulated the main directions, nature and content of the methodology for the most effective pre-trial investigation and prevention of certain types of criminal offenses.

Separate issues of investigation of technogenic incidents at different times were considered in the works of A.A. Boldaryan, S.T. Junisbekov, V.I. Elinsky, S.M. Kolotushkin, P.N. Kotkin, V.D. Korma, A.P. Onuchin, B.Ya. Petelin, A.A. Safonov, Yu.V. Solodun, D.Y. Yakovlev and other scientists.

These works, which are of great theoretical and practical value, nevertheless, do not cover the entire range of organizational and legal issues related to the pre-trial investigation of criminal offenses of a technogenic nature.

It should be noted that a number of important forensic aspects of the pre-trial investigation of technogenic criminal offenses provided for in Articles 276-281 of the Criminal Code of the Republic of Kazakhstan remained insufficiently investigated, such as: criminalistic characteristics of technogenic criminal offenses, features of the initial and other stages of the investigation, typical investigative situations, and so on.

Goals and objectives of the study. The purpose of the dissertation research is to develop a private methodology for pre-trial investigation of technogenic criminal offenses, to determine its structural elements, their content, theoretical and practical significance, and to formulate recommendations for resolving typical investigative tasks arising in the process of disclosure, investigation and prevention of criminal offenses.

To achieve this goal, the following tasks were set before the study:

- study of theoretical material devoted to the problems of pre-trial investigation of technogenic criminal offenses;
- to study the concept of a technogenic incident available in the legal literature and formulate the optimal definition of a technogenic emergency from a forensic point of view;
- development of criminalistic characteristics of criminal violations of the rules in the field of technogenic safety and criminalistic classification of objects of increased danger of technogenic nature;

- determination of the circumstances to be established and proved for criminal offenses of a technogenic nature;
- identification and analysis of typical investigative situations arising during the investigation of this group of criminal offenses, determination of the most rational investigative decisions;
- consideration of issues related to the organization of pre-trial investigation of technogenic criminal offenses at the initial and subsequent stages;
- determination of the main investigative actions that have the greatest informational and cognitive value at the initial and subsequent stage;
- development of a structural and logical model and methods to improve the efficiency of forensic tactical operations of pre-trial investigation of man-made accidents;
- study of a set of preventive measures aimed at preventing criminal offenses of a technogenic nature.

The object of the study is the theory and practice of the activities of investigative apparatuses and operational search units for pre-trial disclosure, investigation and prevention of criminal offenses of a technogenic nature.

The subject of the study is the peculiarities of the methodology of pre-trial investigation of technogenic criminal offenses.

Methodology and methodology of the study. The methodological basis and methodology of the research is a dialectical-materialistic approach to the processes of cognition of socio-legal phenomena, mutual conditionality of phenomena of social significance and their legal consequences, as well as dialectical understanding of the impact of scientific and technological progress and economic reforms on the processes of formation of branches of law: criminal, criminal procedural. The research is based on a philosophical understanding of the social essence of the process of criminalization of relations in the country and the resulting negative consequences for the individual, society and the state. In addition, in the course of the dissertation research, the provisions of system-structural, activity-based approaches, comparative legal analysis, as well as the theory of criminal law, criminal procedure law, criminology, criminology, theory of operational investigative activity, legal psychology and other legal sciences were applied. Private scientific methods were used: logical-semantic, historical-legal, system-structural, comparative-legal, statistical and concrete-sociological, as well as the method of forensic modeling.

The theoretical basis of the dissertation research was the work of scientists and specialists in the field of criminal procedure, criminology, criminal law and criminology, in particular, such as A.F. Aubakirova, A.A. Aubakirova, O.Ya. Baeva, A.O. Balgintaev, R.S. Belkin, S.F. Bychkova, B.V. Volzhenkin, A.Ya. Ginzburg, E.G. Dzhakishev, U.S. Dzhekebaev, S.T. Junisbekov L.Ya. Drapkin, S.E. Erkenova, A.A. Isaeva, E.I. Kairzhanova, A.N. Kolesnichenko, V.E. Kornoukhova, P.N. Kotkina, V.D. Kormy, G.A. Mozgovykh, B.M. Nurgalieva,

R.T. Nurtayeva, V.A. Obraztsova, N.A. Selivanova, B.H. Toleubekova, E.K. Utebaeva, B.M. Shavera, N.P. Yablokov and others.

The empirical basis of the study was the statistical data of the Committee of Legal Statistics and Special Accounting under the Prosecutor General's Office of the Republic of Kazakhstan, the Ministry of Internal Affairs of the Republic of Kazakhstan, the Committee on Emergency Situations, the Supreme Court of the Republic of Kazakhstan, operational and investigative practice, analytical materials and reviews of territorial police bodies in the period from 2015 to 2020. The dissertation examined: 33 criminal cases. More than 80 investigators, prosecutorial and operational staff were interviewed by questionnaire

The normative base of the study was the provisions of the Constitution of the Republic of Kazakhstan, criminal, criminal procedure legislation of the Republic of Kazakhstan, other laws of the Republic of Kazakhstan, as well as the legislation of the countries of the far and near abroad.

The scientific novelty and practical value of the dissertation lies in the fact that, from a criminal-legal and criminalistic point of view, a definition of a technogenic emergency is given, while the work is a comprehensive scientific study devoted to the consideration of theoretical, organizational, methodological, tactical provisions for pre-trial disclosure, investigation and prevention of extraordinary technogenic criminal offenses. The author proposes a new type of private methodology for pre-trial investigation of technogenic criminal offenses. Also of scientific novelty are the provisions developed by the author, which define the circumstances to be proved during the pre-trial investigation of technogenic criminal offenses, typical investigative situations arising at the initial stage of the pre-trial investigation of this category of cases, the recommended action plan of the investigation team. Approaches to improving the effectiveness of forensic tactical operations carried out during the pre-trial investigation of man-made emergencies in the Republic of Kazakhstan.

The practical significance of the dissertation research is determined by the fact that the author, within the framework of a private forensic methodology, has developed practical recommendations for determining the main directions of the initial and subsequent stages of pre-trial investigation of criminal offenses; recommendations on tactics for solving emerging typical investigative tasks and the content of tactical operations; recommendations on the adoption of tactical and organizational decisions that contribute to the effective, optimal collection, research, evaluation, fixation, seizure and use of evidence in order to establish objective truth in this category of criminal cases.

The main provisions and conclusions submitted for defense. The following most significant theoretical propositions are submitted for defense, obtained and formulated during the dissertation research, which constitute the methodology of pre-trial investigation of criminal offenses of a technogenic nature.

1. The definition of the concept of a technogenic emergency is proposed as a legal category, which should be understood as a criminally relevant event that entailed the onset of socially dangerous consequences or the threat of their occurrence of human life as a result of the influence of technogenic factors entailing responsibility.

2. The following structure of a private methodology of pre-trial investigation of these technogenic criminal offenses is proposed, which consists of the following elements: a theoretical basis consisting of criminal-legal and criminological characteristics of technogenic criminal offenses; the main sources of criminalistic information about criminalistically significant objects of the group of criminal offenses in the field of technogenic security; criminalistic characteristics of these types of criminal offenses; a range of issues to be established; typical investigative situations; organization of pre-trial investigation at its various stages; tactics of conducting separate investigative and covert investigative actions; prevention of criminal offenses in the field of technogenic security.

3. A number of technogenic criminal offenses have been combined into one classification group according to criminalistically significant features and the criminalistic characteristics of these criminal offenses have been formulated. There is an objective relationship between the individual elements of the forensic characteristics, which allows you to use the results of the analysis of each element of the forensic characteristics to search for initial and evidentiary information about the criminal offense, the method of its commission, the subject of the criminal offense, the place and time of its commission, data on the person committing the offense, and the traces formed in this case.

4. Typical investigative situations that develop at the initial stage of the investigation of technogenic criminal offenses have been systematized. Recommendations have been developed on the optimal combination of investigative and covert investigative actions, depending on the current investigative situation. The initial stage of the pre-trial investigation is characterized by such typical investigative situations: the suspect is known and the emergency is obvious in the form of a man-made accident or catastrophe, as a dangerous act that entailed the onset of socially dangerous consequences or the threat of their occurrence. The suspect remained alive after the technogenic incident, was subsequently detained or he may be hiding from the criminal prosecution authorities; the suspect is unknown and the emergency as an event occurred in the form of a man-made accident or catastrophe that caused a threat to national security or the onset of consequences that disrupt vital activity in a given area, region or locality, however, the technical criminal causes of such an incident are not obvious; the emergency as an event is obvious that caused a threat to national security or the onset of consequences that disrupt vital activity, however, the technical criminal causes of such an incident are not obvious and are due to non-criminal factors.

5. On the basis of a scientific generalization of the causes and conditions contributing to the commission of a criminal offense of a technogenic nature, measures to eliminate them are considered. Tactical and methodological recommendations are proposed for conducting an inspection of the site of a man-made accident, objects and documents, interrogations, identification, search, conducting forensic examinations and secret investigative actions. Methodological recommendations on the use of scientific and technical means for the prevention of technogenic criminal offenses are given.

6. To improve the effectiveness of tactical operations during the pre-trial investigation of man-made emergencies, an algorithm for modifying T. Buzen's Mindmap has been developed. Using this heuristic research method, it is possible to form a holistic picture of the information field on the offense, manage the thought processes of participants in the pre-trial investigation and free up space for freedom of thought.

The reliability of the research results is ensured by its methodology and methodology, as well as the empirical basis on which the scientific provisions and conclusions of the dissertation are based.

Theoretical significance of the dissertation research. The theoretical significance of the work lies in the fact that a number of messages can be perceived in the process of further development of the theory of criminal procedure law, sections of criminology as forensic tactics and methods of pre-trial investigation of certain types of criminal offenses. A number of its provisions will enrich the subject of the theory of evidence related to the proof of technogenic criminal offenses.

The practical significance is determined by the fact that its conclusions and main provisions can be used in the process of pre-trial investigation of technogenic criminal offenses by the special apparatus of the Republic of Kazakhstan. The results of the study can also be used in the educational process.

Approbation and implementation of research results. The main conclusions, suggestions and recommendations are set forth by the author: 2 articles in journals included in the Case 1) «Approaches to Improving the Effectiveness of Forensic Tactical Operations Implemented During Pre-Trial Investigation of Man-Made Accidents in The Republic of Kazakhstan» Journal of Advanced Research in Law and Economics, [S.L.], v. 9, n. 3(33), p. 1131-1143, dec. 2018. ISSN 2068-696X. Available at: <https://journals.aserspubli shing.eu/jarle/article/view/ 2567>; Date accessed: 29 dec. 2018. doi: [https://doi.org/10.14505//jarle.v9 3\(33\).42](https://doi.org/10.14505//jarle.v9 3(33).42). 2) «Methods of Pre-Trial Investigation of Criminal Offenses and Content of Its Structural Elements: Case of Kazakhstan» International Journal of Criminology and Sociology, 2020, 9, 325-334 DOI: <https://doi.org/10.6000/1929-4409.2020.09.31> ; in 3 journals recommended by the following: 1) «The fight against criminal violations of the Technogenic character» Bulletin of the Eurasian National University named after N. Gumilyov No. 1(126)/2019, Astana 2019, pp.

98-105. 2) «Circumstances to be proved during the pre-trial investigation of criminal offenses related to technogenic sources of increased danger» International Scientific Journal «Science and Life of Kazakhstan» No. 7/2 2019, Almaty 2019. pp. 82-89. 3) «Forensic tactical operations carried out during the pre-trial investigation of criminal offenses of a technogenic nature» International Scientific Journal «Science and Life of Kazakhstan» No. 4/4 2020, Almaty 2020. pp. 106-112. 3 reports have been published at international scientific and practical conferences: 1) «The legal significance of technogenic sources of increased danger» Modern criminalistics: problems of theory, practice, training: a collection of articles based on the materials of the international scientific and practical conference / team of authors; edited by M.Y. Pavlik, S.A. Polyakov, E.A. Anufrieva. - Novosibirsk: NSTU Publishing House, 2017. p. 130-136 2) «Foreign experience in the prevention of criminal offenses related to man-made accidents and catastrophes» International Scientific and Practical Conference of Students, XI conference dedicated to the 175th anniversary of Abai Kunanbayev. [Text]: materials of the international student scientific practice. conf., March 19, 2020 / under the scientific editorship of Sh. A. Kurmanbaeva - Semey, 2020. - I volume. pp. 131-133; 3) «Criminal and legal characteristics of criminal offenses of a technogenic nature» International Scientific and Practical Conference of Students, XI conference dedicated to the 175th anniversary of Abai Kunanbayev. [Text]: materials of the international stud. nauch.-prak. conf., March 19, 2020 / under the scientific editorship of Sh. A. Kurmanbaeva - Semey, 2020. - I vol. pp. 134-136. Approbation of the research results was carried out in the form of lectures and classroom sessions with students (students) of KazGUIU Semey in the amount of 6 hours.

A number of theoretical proposals and practical recommendations on the problem under study have been introduced into the practice of the investigative department of the Semey Police Department of the East Kazakhstan Region Police Department of the Republic of Kazakhstan.

The scope and structure of the dissertation research correspond to the main purpose and subject of the work. The structure of the dissertation is determined by the nature of the work and the logic of the research. The dissertation consists of an introduction, three sections, including seven subsections, conclusions, a list of references, appendices. The total volume of work is 143 m.l. of computer text.