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Representation of the victim of a road traffic accident at the subsequent stage of the pre-trial investigation

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■ **Abstract.** Due to the lack of professional staff and the high workload of investigators, investigations into crimes against road safety and transport operation are often conducted ineffectively. As a result, the rights of victims of car accidents stay unprotected. This makes the issue of providing them with legal aid especially important. The purpose of this study was to develop the principles of victim representation at the subsequent stage of pre-trial investigation of crimes against road safety. The methods used in this study include general scientific methods (inductive, deductive, analysis, synthesis, analogy, modelling) and special methods (systemic and structural analysis, logical-legal, comparative legal, sociological). The activities of a road traffic accident victim's representative during the subsequent stage of pre-trial investigation are considered with a division into separate components (procedural, control and advisory, and search) which are interrelated and interdependent. The features of these components in their interconnection were systematically outlined. The procedural and control-advisory components were studied inseparably from each other at the general level and at the level of concrete investigative (detective) actions. The search component was studied separately with the definition of its specific components, methods and means of their implementation. The study defined the principles of organisation and some tactical methods of representation of a road traffic accident victim at the subsequent stage of pre-trial investigation of crimes against road traffic safety. The author proposes a methodology for initiating the necessary investigative actions by the victim's representative in different types of interaction (constructive, official business, conflict) that develop at a later stage between them and representatives of the prosecution. Based on the analysis of Ukrainian legislation and its application practice, the study identified the range of problems arising in the practical activities of a representative of a road traffic accident victim at the subsequent stage of pre-trial investigation and suggested ways to resolve them. The use of the provisions of this study will contribute to the improvement of the activities of trial lawyers, increase the effectiveness of legal aid to victims of road accidents, and to further research in this area

■ **Keywords:** trial lawyer; investigative (detective) actions; criminal proceedings; criminal offence; protection of rights; traffic safety

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■ Introduction

The problem of injuries and deaths due to criminal violations of traffic rules and vehicle operation in Ukraine and around the world is becoming increasingly relevant due to the steady increase in the number of cars and drivers and the intensification of traffic. Therewith, victims of road accidents often do not receive adequate compensation, and the perpetrators avoid deserved punishment. This is mainly due to mistakes and shortcomings of the investigators conducting the pre-trial investigation of the accident. There is often ineffective or complete absence of professional legal aid to the victim at the initial and subsequent stages of the pre-trial investigation. This necessitates scientific development of ways to remedy this situation.

V.M. Tertyshnyk (2020) has recently investigated the general issues of exercising the rights of the victim in criminal proceedings. The author suggests ways to improve the status of the victim, expand their statutory rights, establish a procedure for their implementation, eliminate legal conflicts and harmonise legislation in this area. N.Z. Rohatynska & K.I. Skliaruk (2022) presented to the scientific community their vision of the complex of existing problems regarding the procedural status of the victim in criminal proceedings and ways to solve them. In general, Ukrainian scholars have described the specific features and problems of the procedural status of the victim in criminal proceedings in sufficient detail for almost a decade since the adoption of the current Criminal Procedural Code of Ukraine. As for the range of these problems, their impact on the realisation of the victim's natural rights and ways to solve them, the conclusions of scholars are mostly consistent with each other. The only competing proposals are those concerning the wording of certain provisions of legislative acts. These discussions are taking place in the area of legal regulation of criminal proceedings.

At the same time, the issues of providing qualified legal aid to a victim in criminal proceedings have not received much attention from Ukrainian scholars in recent years. Two Ukrainian researchers conducted special research on these issues. I. Raki-pova *et al.* (2023) in 2017-2022 investigated certain issues of protection of victims' rights under the Criminal Procedural Code of Ukraine, specifically, in terms of regulating and ensuring their right to representation in criminal proceedings, cases of mandatory participation of the victim's representative in procedural actions. In 2023, the researchers gave a detailed description of the current state of protection and defence of victims' rights, provision of professional legal aid, and identified prospects for reforming legislation in this area.

R.O. Yemelianov (2020; 2023) published several studies on criminal procedural activities of a

victim's trial lawyers during 2020-2023. The real contribution of the researcher to solving problems in the field of providing professional legal aid to a victim in criminal proceedings is combined with several rather controversial provisions. All of them relate to the general problems of legal regulation of criminal procedural activities of a victim's representative.

Foreign researchers, including N. Elbers *et al.* (2020), K. Matthews (2021), J.S. Schulz *et al.* (2022), have also investigated this issue, but in the context of law enforcement practice in the Netherlands, the United States of America, and Australia. However, neither Ukrainian scholars nor representatives of the scientific community of other countries have considered the issue of victim representation in criminal proceedings for road traffic crimes. Accordingly, there has been a lack of attention to research on the provision of legal aid to road accident victims at different stages of criminal proceedings and at certain stages of pre-trial investigation.

Representation of a road traffic accident victim has several forensic features related to the specifics of pre-trial investigation of crimes against road safety. The activities of a lawyer-representative of a road accident victim, apart from the procedural aspect, also include the extra-procedural aspect related to their search and control and advisory work. The need to consider the specifics of investigating criminal road accidents is emphasised by scholars who study the issues of investigative, prosecutorial, and expert activity in criminal proceedings on crimes against road safety. At the same time, they contribute to research in this area. Thus, P.V. Bernaz (2020) provided a description of the individual elements of the system of circumstances to be proved during the pre-trial investigation of road traffic accidents. A.D. Koshkarov (2020) proposed a methodology for determining the causal relationship between vehicle malfunctions and road accidents. A.V. Pid-dubna (2021) made practical suggestions on how to organise the interaction of the investigator with other participants in criminal proceedings. Therewith, similar issues regarding the activities of a road accident victim's representative have not yet been addressed. That is why the purpose of this study was to formulate the conceptual framework for ensuring the effectiveness of the work of a lawyer representing the interests of a road accident victim at the subsequent stage of pre-trial investigation.

■ Materials and Methods

The study used general scientific and special methods of legal science. General scientific research methods include abstraction, generalisation, analysis, synthesis, induction, deduction, analogy, and modelling. The special legal methods used in this study included

a systematic analysis of legal norms and the practice of their application. The study comprehensively analysed certain provisions of the Criminal Procedural Code of Ukraine (CPCU) and the specific features of their implementation based on the materials of 200 criminal proceedings on crimes under Articles 286-288 of the Criminal Code of Ukraine¹ (the study examined materials in the proceedings of the investigative units of the Main Departments of the National Police in Vinnytsia Oblast and in Kyiv; Khmilnytskyi Municipal and District and Vinnytsia City Courts of Vinnytsia Oblast; Prymorskyi District Court of Odesa; Boryspil City Court of Kyiv Oblast). The formal legal (normative and dogmatic) and legal modelling methods were used to formulate proposals for amendments to the current legislation. The comparative legal method is used to determine the differences in the scope of rights granted by the legislator to the victim, the defence, and the investigator and prosecutor during the pre-trial investigation.

The study used the method of expert assessments. 200 investigators with experience in investigating

crimes against road safety and 200 lawyers with experience in representing road accident victims were interviewed. In preparing for the survey, the purpose was to interview the number of investigators that would ensure a prominent level of representativeness of the results (as for investigators, the survey was conducted among both current police officers and those who had changed their career in the last three years). All survey participants were provided with the opportunity to stay anonymous, and the ways and guarantees of doing so were explained. They were informed about the purpose and objectives of the survey, how the data they provided would be used, and the risks that might be involved. The survey was conducted in compliance with ethical standards when working with people. The research was conducted following the rules of the Helsinki Declaration (1975).² The survey was conducted using the author's questionnaire presented in Table 1. For each of the questions, several answers were offered. Nevertheless, the questions were left open, asking the respondents to provide their own answer.

Table 1. List of questions contained in the author's questionnaire

| No. | Question |
|-----|--|
| 1 | What are the specific features of criminal proceedings in relation to criminal road accidents in terms of the time of serving a notice of suspicion to a person? |
| 2 | What should be the basis for the organisation and tactics of the victim's representative at the next stage of the pre-trial investigation? |
| 3 | Whether the victim's representative should use certain tactics when working with the client |
| 4 | Under what conditions will the investigator, on their own initiative, inform the victim's representative of all important news in the case? |
| 5 | Do investigators provide representatives of the road accident victim with access to the proceedings based on their oral statements? |
| 6 | Under what conditions, at the oral request of the victim's representative, does the investigator provide them with the opportunity to read the case file? |
| 7 | What does a victim's representative need to determine the scope and sequence of procedural actions to be taken to achieve the purpose of representation? |
| 8 | What does a victim's representative need to determine the scope and sequence of procedural actions to be taken to achieve the purpose of representation? |
| 9 | Is it always necessary to interrogate the victim, witnesses, and suspect in a road accident investigation? |
| 10 | Is it appropriate to use road traffic accident diagrams when interrogating a suspect? |
| 11 | Is it advisable to record interrogation by video; what is the significance of an investigative experiment for obtaining evidence? |
| 12 | What are the requirements for the work of a road traffic accident victim's representative during an investigative experiment? |
| 13 | Is it always necessary to involve an expert automotive technician in an investigative experiment? |
| 14 | Should a representative of a road accident victim control the involvement of an expert car technician in an investigative experiment? |
| 15 | What requirements should be met to conduct an investigative experiment in the proceedings of the category under study? |
| 16 | What are the consequences of making inaccuracies, errors, misprints, and non-compliance with the procedural form when conducting an investigative experiment? |

Source: developed by the author

¹ Criminal Code of Ukraine. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

² The Declaration of Helsinki. (1975). Retrieved from <https://www.wma.net/what-we-do/medical-ethics/declaration-of-helsinki/>.

The survey was launched in September 2022 and continued throughout the year. The interviewed police officers and lawyers live and work in Kyiv, Vinnytsia, Volyn, Zhytomyr, Kyiv, Odesa, Khmelnytskyi, Kharkiv, and Cherkasy oblasts. The survey of police officers was conducted in writing in a mixed format (in-person and offline). Police officers who had taken advanced training courses at the National Academy of Internal Affairs and Kharkiv University of Internal Affairs were interviewed in person (112 people). An additional 88 police officers (current and former) were interviewed by sending them questionnaires via the Internet (by prior agreement). All lawyers were interviewed in this way.

■ Results and Discussion

Limits and content of the further stage of pre-trial investigation of crimes against road safety. The active work of a road accident victim's representative during procedural actions at the beginning of the pre-trial investigation should find its logical continuation at other stages of the investigation. To fulfil the purpose of the representative office, such activities must be not only active but also effective. For this, such activities must be well organised and have scientifically sound tactics. However, the modern scientific community does not have a single approach to dividing pre-trial investigations into certain stages. Due to the lack of scientific research in this area, there is a need for theoretical development of forensic methodology and tactics for representing the interests of a road traffic accident victim not only at the initial but also at the subsequent stages of pre-trial investigation.

For the most part, this division is based on procedural criteria, relying on the provisions of Articles 214, 219, 276, 283, 290, 291, of the CPCU¹. Specifically, the initial, subsequent (further), and final stages of the pre-trial investigation are distinguished. Therewith, the initial stage is considered to be the entry of information into the Unified Register of Pre-Trial Investigations (URPTI) and issuing the person a notice of suspicion. This notice starts the next (further) stage of the pre-trial investigation, which ends with the provision of access to the pre-trial investigation materials (Blahuta *et al.*, 2019). However, it is not always procedural criteria that should be used as a basis for determining the stages of pre-trial investigation. For example, in proceedings involving criminal road traffic accidents, it can take a long time from entering information into the URPTI to notifying a person of suspicion (this statement was supported by 95% of the surveyed investigators and 92% of lawyers). Sometimes this is explained by the complexity and duration of examinations, without which

it is impossible to notify a person of suspicion (although it is already clear from the proceedings who caused the accident). Sometimes, it is the inability to quickly identify and detain the culprit who fled the scene of the accident. Therefore, all this time, the investigator is either waiting for the results of the examinations or is engaged in routine systematic work to establish the identity of the perpetrator, their location and the circumstances of the criminal offence.

As the analysis of criminal proceedings on crimes against road safety suggests, the initial stage of the pre-trial investigation should be considered the period that begins with the inspection of the scene (often before entering information into the URPTI) and ends with the completion of all urgent procedural actions (i.e., those whose slightest delay jeopardises the receipt of factual data on the circumstances of the criminal offence and may further serve as grounds for doubting the admissibility of such data).

Such actions may include inspection of the accident scene, medical examination of vehicle drivers, obtaining samples for examination at the accident scene during the initial inspection of the accident scene, temporary seizure of property and seizure of property, interrogation of the victim and witnesses, appointment of necessary examinations, sending necessary requests, temporary access to things and documents (carriers of video recordings of the accident), conducting investigative actions, including covert actions, to identify and detain the culprit of the accident who fled the scene. Notably, this stage is distinguished based on forensic factors. It is conditional and the specific list of actions included in it must be determined individually in each proceeding.

The author believes that the main criterion for distinguishing between the initial and the next (further) stage of pre-trial investigation is that the prosecution should perform all urgent procedural actions necessary to fulfil the tasks of criminal proceedings (or lose the possibility of their performance). In this case, the victim's representative must assess, based on the available materials, whether all these actions have been completed (or whether the possibility of their completion has been completely lost). This assessment becomes particularly relevant if the representative of the road traffic accident victim entered the case some time after it began. The organisation and tactics of further actions by the victim's representative should be based on the results of such an assessment. This approach was agreed by 67.5% of the surveyed lawyers.

The analysis of materials of criminal proceedings on crimes against road safety suggests that the investigative (detective) actions of the subsequent stage in

¹ Criminal Procedural Code of Ukraine. (2013, April). Retrieved from <https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text>.

this category of cases should include re-examination of the scene; additional interrogation of witnesses and the victim; interrogation of the suspect; interrogation of two or more previously interrogated persons, investigative experiment. If the driver of the vehicle has fled the scene of an accident (with or without the vehicle) and has not been identified and detained at the initial stage of the pre-trial investigation, it may be necessary to conduct separate law enforcement intelligence activities and covert investigative (detective) actions at a later stage. This includes conducting radio reconnaissance, visual surveillance (Article 269 of the CPCU¹); establishing the location of radio equipment (radio electronic means) (Article 268 of the CPCU²); covertly obtaining samples necessary for comparative research (Article 274 of the CPCU³). The same can be said for situations where there are grounds to believe that the accident is being used to conceal the commission of another crime.

These actions should be applied in a thoughtful and systematic manner, which is ensured by the use of appropriate forensic techniques and tactics by the prosecution. At the same time, the victim's representative should have their own methodology and tactics. When developing such a methodology and tactics, it is necessary to proceed not only from the provisions established in criminalistics regarding the investigation of these crimes (this is mainly necessary for active monitoring of the investigator's actions and their objective assessment), but also from the areas of procedural and extra-procedural interaction of the road accident victim's representative with other participants in the proceedings. This approach was agreed by 88% of the surveyed lawyers.

General principles of representation of a road accident victim at the subsequent stage of pre-trial investigation. A representative of a road traffic accident victim must interact with several entities, including the investigator, prosecutor, head of the pre-trial investigation body (prosecution); the suspect and their defence counsel (defence); experts and specialists. Furthermore, in collecting evidence, the representative of the road traffic accident victim communicates with witnesses and persons who have things and documents important for solving the tasks of the representation. By agreement with the client, the representative of the accident victim also interacts with representatives of insurance companies. For each of these areas of communication, one can outline their own tactics.

The victim's representative inevitably interacts with their client in their work. In this case, this can

only refer to certain methods (algorithms) of work. The presence of tactics in this type of interaction would indicate possible resistance on the part of the partner, which is unacceptable in the relationship between an attorney and a client. This opinion is shared by 63.5% of the lawyers surveyed. At the same time, this type of interaction is the starting point for other communications of the road accident victim's representative. It is thanks to this type of interaction that the purpose of the activity and specific tasks of the representative of the road accident victim in a particular criminal proceeding are determined.

Interaction with the prosecution should be based on the principles previously proposed for communication between the victim's representative and the investigator for use at the beginning of the pre-trial investigation. As it was defined, "such interaction can be constructive, official, formal, or conflictual. For a representative of a road traffic accident victim, the most beneficial choice is constructive interaction, which involves mutual consultation, coordination of action plans, and simplified (informal) exchange of information. Therewith, the actions of the road traffic accident victim's representative should organically complement the investigator's activities, fill in the gaps in their work (if any), and serve as a safeguard against procedural and tactical errors" (Chervinskyi, 2023).

Representation of a road traffic accident victim throughout the pre-trial investigation (as well as at its beginning) should be conditionally divided into procedural, advisory and controlling, and search (detective) components. The saturation of the procedural component of the subsequent stage of the pre-trial investigation depends on the moment when the attorney-representative entered the case and what procedural measures, which are mandatory for achieving the purpose of representation, they have already taken at the previous stage. This also applies to the submission of relevant applications and motions to the investigator.

If a lawyer is involved in the case after the pre-trial investigation is completed, the first motion should be a motion to get acquainted with the pre-trial investigation materials following Article 221 of the CPCU⁴. It is impossible to file such a motion if the client does not have the status of a victim, which is often the case in proceedings of the category under study due to the failure of relatives of the injured or deceased to file the relevant statements and engage a lawyer. In such a case, the primary issue to be resolved by the lawyer concerns the organisation of the filing of the relevant applications by their clients. This approach is supported by 95% of the lawyers surveyed.

¹ Criminal Procedure Code of Ukraine. (2012, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

² Ibidem, 2012.

³ Ibidem, 2012.

⁴ Criminal Procedural Code of Ukraine. (2013, April). Retrieved from <https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text>.

In the future, it is advisable for the victim's representative to systematically review the pre-trial investigation materials to properly organise their activities. However, it is advisable to file a motion following Article 221 of the CPCU¹ only if the investigator insists on it. Thus, 81.5% of the surveyed lawyers said that in case of constructive interaction with the investigator, the latter informs them of all important new data received by them, and personal acquaintance with the case file takes place by oral agreement. 69% of the interviewed investigators stated that they always promptly provide access to the case file to the representatives of the road accident victim upon their oral requests. Furthermore, if necessary, at the request of the trial lawyers, investigators themselves send them scanned copies of the necessary documents via messengers (this saves time for both the investigator and the victim's representative).

A special type of petition filed with the investigator or prosecutor by a representative of a road accident victim during the pre-trial investigation is a petition for investigative (detective) actions following Article 220 of the CPCU². Such motions should be filed when the investigator fails to conduct investigative (detective) actions necessary in the opinion of the victim's representative in a timely manner (or at all). The filing of such motions should be preceded by communication with the investigator (and, if necessary, with the prosecutor), the purpose of which is to find out the reasons for the failure to conduct investigative (detective) actions. Such reasons may include both objective (military operations; considerable workload of the investigator; lack of natural or technical conditions for a certain action; inability of specialists, witnesses, etc., to take part in the action) and subjective (disinterest in performing the tasks of criminal proceedings, negligence in the investigation). Sometimes investigators and prosecutors can disguise subjective reasons with objective ones. However, based on the results of communication, the victim's representative may well draw conclusions about the real reasons and choose a particular type of action tactic, which may include cooperation, accommodation, and confrontation. The latter option involves a conflict type of interaction, the mandatory filing of a motion to conduct the necessary investigative (detective) actions following Article 220 of the CPCU³, appealing to the investigating judge against the refusal to satisfy these motions (Item 7, Part 1,

Article 303 of the CPCU⁴) or delaying their consideration (Item 1, Part 1, Article 303 of the CPCU⁵).

The same can be said for other procedural actions, namely measures to ensure criminal proceedings, among which special attention should be paid to temporary access to things and documents. Thanks to this measure, in a manner clearly regulated by the CPCU⁶, primary medical documentation necessary for forensic examination, video recordings from stationary surveillance cameras belonging to enterprises, institutions, organisations, and individuals, etc. are obtained and attached to the criminal proceedings.

When determining the scope and sequence of procedural actions necessary to obtain the desired result, the representative of the road traffic accident victim should keep in mind the issues of factual data that are missing for proof: the event of the criminal violation of traffic rules (time, place, method, mechanism, and other circumstances); the guilt of the person in committing it; the type and amount of damage caused by the accident, as well as other elements that, following Article 91 of the CPCU⁷, are included in the subject of proof. This approach factually combines the search and control and advisory functions of a road accident victim's representative. It was supported by 95.5% of the lawyers surveyed.

To fulfil the purpose of representing a road traffic accident victim, a lawyer must file a motion not only to conduct the necessary investigative (detective) actions, but also to take part in them (specifically those initiated by the prosecution or defence). This procedural step ensures that it can apply the advisory, control, and search components of its activities. By taking part in these actions, the representative of the accident victim can actively observe the work of the investigator, correct it if necessary, and obtain the information necessary to perform their own tasks.

Interrogation as a means of obtaining factual data in a road traffic accident investigation. Interrogations of victims, witnesses, and suspects are an essential means of obtaining factual data in criminal proceedings for road safety offences. This statement was agreed with by 91% of investigators and 87% of lawyers surveyed.

It is natural that the victim's representative is entitled to be present during the interrogation of their client. This follows from a comprehensive analysis of the provisions of Item 8, Part 1 of Article 56; Article 58; Item 2, Part 1 of Article 66; Article 95 of

¹ Criminal Procedural Code of Ukraine. (2013, April). Retrieved from <https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text>.

² Ibidem, 2013.

³ Ibidem, 2013.

⁴ Ibidem, 2013.

⁵ Ibidem, 2013.

⁶ Ibidem, 2013.

⁷ Ibidem, 2013.

the CPCU¹. But this is not explicitly stated in the Law. Therefore, it is advisable to establish the relevant right of the victim by setting out Item 8, Part 1 of Article 56 of the CPCU in the following wording: “to have a representative, to use their legal aid in all procedural actions and to refuse their services at any time during criminal proceedings”. At the same time, it is necessary to establish the relevant powers of the victim’s representative, specifically by supplementing Article 56 of the CPCU with Part 5², which should be set out in the following wording: “The representative is entitled to be present during procedural actions that are carried out with the involvement of the victim”.

The interrogation of a victim in proceedings of this category is most often conducted after emergency aid has been provided, transportation to a hospital, necessary medical operations and manipulations have been performed, and the victim has recovered to a state that allows for conscious communication (i.e., a certain time after the incident). In such a situation, the task of the road accident victim’s representative is to ensure that the interrogation is carried out with the permission of the doctor and that the physical and mental condition of the victim is considered during this investigative (detective) action. Therewith, it is important to strike a balance between performing the tasks of representing the victim in criminal proceedings and ensuring the conditions necessary for their recovery.

During the interrogation, the victim’s representative should keep in mind that certain details of the accident may be forgotten or changed under the influence of external and internal factors (the development of retrograde amnesia in the case of a traumatic brain injury is not excluded). The following tactics can be used to restore the victim’s forgotten memory: asking a series of questions that activate associative connections; using criminal proceedings materials (crime scene inspection report, diagrams, photographs) during interrogation; showing a video obtained during the inspection of the crime scene; presenting various objects during interrogation.

The involvement of a representative of a road accident victim in the interrogation of a suspect is possible only if the latter has acquired this status. As already noted, in criminal proceedings of the investigated category, a person is usually notified of suspicion a long time after the start of the pre-trial investigation, which is due to the need for the investigator to obtain the results of examinations that contain the grounds for suspicion. The interrogation of a suspect is usually carried out immediately after the notifica-

tion of suspicion and without the involvement of the accident victim and their representative. However, the trial lawyer may always review the results of such interrogation and, if necessary, file a motion for re-interrogation. Having granted such a request, the investigator, following Part 6 of Article 223 of the CPCU³, shall be obliged to invite the victim’s representative to take part in the interrogation. Such actions of the road accident victim’s representative are aimed not only at clarifying certain factual data, but also at eliminating contradictions and discrepancies between the suspect’s testimony and other materials of the criminal proceedings, and at exposing them for providing knowingly false information. These contradictions, among other things, should be sought between the suspect’s explanations given immediately after the accident and the testimony given earlier as a witness.

One of the key tactical methods of interrogating a suspect is the use of an accident scheme (88.5% of the surveyed investigators and 91% of lawyers agreed with this). It can be used to formulate concise and understandable questions about the location and direction of movement of the participants in the accident, the sequence of actions of the interrogator at various stages of the event. In this case, it is advisable to use a video recording of the investigative action, since both questions and answers will not be fully understood due to their linkage to the scheme, and their usual presentation in the protocol will not fully reflect the factual data provided (83% of the interviewed investigators and 90% of the lawyers agreed with this).

The above techniques should also be used when questioning witnesses to an accident. In case of considerable discrepancies in their testimony, interrogation (including of two or more previously interrogated persons) may be conducted at the scene of the accident. However, this is the competence of the investigator, who is not obliged by the criminal procedural law to involve the victim’s representative or to notify them of the time and place of the investigative action. The latter may join it by submitting relevant requests in the same manner as for the interrogation of the suspect. This applies to both witnesses identified by the prosecution and witnesses identified by the victim’s representative in their detective activities.

During interrogation, it should be borne in mind that the suddenness and short duration of the accident results in the eyewitness’s incomplete awareness of its details and their inability to recall the details of the accident exhaustively. Furthermore, there is a possibility of distortion of the picture of the accident in the mind of the witness over time under the influence

¹ Criminal Procedural Code of Ukraine. (2013, April). Retrieved from <https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text>.

² Ibidem, 2013.

³ Ibidem, 2013.

of objective and subjective reasons. Therefore, it is advisable to identify all eyewitnesses to the accident, since only the totality of their testimony will help to most fully recreate the entire picture of the development of the event and the role of its participants.

Obtaining evidence in a road traffic accident investigation through an investigative experiment. An important means of obtaining evidence in criminal proceedings for road safety offences is to conduct an investigative experiment. This was unanimously supported by 100% of the investigators and lawyers surveyed. An analysis of the provisions of Article 240 of the CPCU¹ suggests that the purpose of an investigative experiment is to verify and clarify information relevant to establishing the circumstances of a criminal offence by reproducing actions, environment, circumstances of a particular event, conducting necessary experiments or tests.

In criminal proceedings concerning crimes against road safety, this investigative (detective) action is used to perform several important tasks. Firstly, it is the identification of individual characteristics of particular individuals, namely: the ability to perceive (see, hear) a certain obstacle, action, event, or phenomenon (approaching car, pedestrian movement, car collision, hit-and-run, etc.) in given conditions; the ability to take certain actions (emergency braking, change of direction) on a particular section of the road; availability of manoeuvring skills (reversing into a garage, turning with a small radius, parallel parking, etc.). Secondly, it is the determination of the duration (speed) of certain processes or the time required for certain actions, namely: for a person to walk a certain section of the roadway; for a car to drive a certain section of the road, for a certain manoeuvre; for determining the speed of a car, etc. Finally, it is to establish the mechanism of the entire accident, as well as its individual elements.

In general, the tasks that are solved by an investigative experiment do not exist in isolation from each other in practice, but are used in various combinations, which should result in obtaining new evidence. But the same investigative experiment can be aimed both at verifying evidence and establishing the conditions that contributed to the commission of a criminal offence, etc. (Antoniuk *et al.*, 2021). Thus, an important organisational and tactical issue

is to determine the place of the investigative experiment among other procedural actions aimed at investigating a road traffic accident. Given that the investigative experiment often pursues the purpose of verifying testimony at the scene, interrogations of witnesses, suspects, and victims should precede it.

Theoretically, in criminal proceedings concerning crimes against road safety, the investigative experiment should also be preceded by examinations, namely transport and traceability examinations, and determination of the technical condition of vehicles, the results of which are the initial data to be considered during the said investigative (detective) action. At the same time, the study of criminal proceedings of the category under investigation strongly suggests that the sequence may be different: the results of the investigative experiment may be the initial data for certain types of automotive expertise. As noted by A.O. Chychyrkin (2020), there are often cases when an investigative experiment is appointed and conducted by the investigator on the initiative of an expert who has been notified of their involvement in the conduct of an automotive technical examination.

Furthermore, the perpetrators of road accidents often take part in the investigative experiment in the status of witnesses due to the lack of examination results that should form the basis of a notice of suspicion (e.g., the Supreme Court's rulings of 30 May 2019 in cases No. 164/1457/16-k² and 522/17642/17³; of 2 March 2021 in case No. 137/265/19⁴; of 28 January 2020 in case No. 359/7742/17⁵, etc.). Thus, if the victim's representative concludes that it is necessary to conduct an investigative experiment before conducting certain examinations, they may initiate the said investigative (detective) action by exercising the right prescribed in Article 220 of the CPCU⁶. Moreover, there are no legal prohibitions on repeating the investigative experiment, which can be carried out both before and after certain examinations.

Important parameters that ensure the completeness, comprehensiveness, and effectiveness of the investigative experiment include the circle of persons taking part in it; time and place of conduct; compliance of the surrounding conditions and situation with those that existed at the time of the event being recreated. The circle of persons taking part in the

¹ Criminal Procedural Code of Ukraine. (2013, April). Retrieved from <https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text>.

² Resolution of the Supreme Court of Ukraine in case No. 164/1457/16-k. (2019, May). Retrieved from <https://reyestr.court.gov.ua/Review/82261840>.

³ Resolution of the Supreme Court of Ukraine in case No. 522/17642/17. (2019, May). Retrieved from <https://reyestr.court.gov.ua/Review/82065567>.

⁴ Resolution of the Supreme Court of Ukraine in case No. 137/265/19. (2021, March). Retrieved from <https://reyestr.court.gov.ua/Review/95345032>.

⁵ Resolution of the Supreme Court of Ukraine in case No. 164/1457/16-k. (2019, May). Retrieved from <https://reyestr.court.gov.ua/Review/82261840>.

⁶ Criminal Procedural Code of Ukraine. (2013, April). Retrieved from <https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text>.

investigative experiment is determined by the investigator and is regulated by the procedural criterion. Specifically, Part 3 of Article 240 of the CPCU¹ states that a suspect, victim, witness, defence counsel, and representative may be involved in the investigative experiment. This wording suggests that the involvement of the victim and/or their representative in the investigative experiment is the investigator's right, not their duty. If the investigator considers it possible to conduct an investigative experiment in the absence of a representative of the road accident victim, the latter is effectively deprived of the right to perform control, advisory, and search functions during this important investigative (detective) action.

Therefore, it is advisable for the representative of the road accident victim to submit a request to the investigator at the beginning of the pre-trial investigation to conduct all investigative (detective) actions with their involvement (with appropriate motions filed in advance). The criminal procedural law does not make provision for such motions (but does not restrict the lawyer's ability to file them) and the investigator's obligation to satisfy them. Therefore, this requirement can be included in other motions, e.g., in a motion to review the pre-trial investigation materials. Furthermore, Part 6 of Article 223 of the CPCU² prescribes that an investigative (detective) action carried out at the request of the defence, the victim, a representative of the legal entity in respect of which the proceedings are being conducted, shall be carried out with the involvement of the person who initiated it and/or their defence counsel or representative, unless this is impossible due to the specifics of the investigative (detective) action or such person has submitted a written refusal to take part in it. Therefore, to oblige the investigator to involve a representative of the road accident victim in the investigative experiment, it is necessary to file a request for its conduct in advance (to initiate it oneself).

Involvement of the road accident victim's representative in the investigative experiment allows them to make sure that the investigator follows all methodological requirements for its conduct, and, accordingly, that its results are reliable. The analysis of scientific and educational literature helps to identify the main requirements in proceedings for road traffic offences, specifically conducting the investigation in the place where the accident occurred and at the time when it took place; completeness of the reproduction of the situation and events; phased conduct of experiments (tests) with the location of participants, objects, items in the way they were located at certain stages of the accident; matching the natural

(wind, precipitation, cloud cover, lighting, ice, etc.) and artificial (lighting, smoke, noise, traffic lights, traffic density, road surface condition, etc.) conditions to those that existed at the time of the accident; the use of the same (or similar, homogeneous) things (objects, tools, means) that were involved (affected, influenced) in the accident; compliance of the pace of experiments (tests) with the pace at which the real accident occurred; multiple repetition of homogeneous experiments, including (if necessary) in changed conditions; consideration of the conditions and circumstances of the accident that could not be reproduced at the time of the investigative experiment.

These conditions are tremendously important, but not every one of them should be applied in any investigative experiment. Therefore, a representative of an accident victim should not insist on fulfilling each of them: those requirements that in a particular situation cannot in any way affect the results of the experiment can be excluded. Therefore, when representing a road traffic accident victim, it is necessary to carefully analyse the investigative situation every time and, when communicating with representatives of the prosecution, focus on compliance with only those requirements, the failure to comply with which may lead to erroneous conclusions and false results. This statement was supported by 85.5% of the lawyers surveyed.

Furthermore, the procedural criteria for conducting an investigative experiment include the requirement of Part 4 of Article 240 of the CPCU³ – ensuring safety for the life and health of participants and other persons, prohibition of humiliation of their honour and dignity. This is fully consistent with the provisions of Article 3 of the Constitution of Ukraine, which classifies these values as the highest social values. Since a road traffic accident is a dangerous and harmful event in itself, this requirement of the legislator is extremely relevant in criminal proceedings for crimes against road safety. Therefore, a representative of a road traffic accident victim should insist on an accurate reproduction of certain actions, elements (events) that may result in a threat to these social values and cause damage.

Notably, active monitoring by a representative of the road accident victim of compliance with the above organisational and tactical requirements for conducting an investigative experiment implies their involvement in the organisation of this investigative (detective) action. Furthermore, the location of the road traffic accident victim's representative during the investigative experiment is important: it should ensure the exercise of their rights to directly examine

¹ Criminal Procedural Code of Ukraine. (2013, April). Retrieved from <https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text>.

² Ibidem, 2013.

³ Ibidem, 2013.

evidence, monitor the actions of other participants and the course of the experiment. This statement was supported by 85% of the lawyers surveyed.

It is important for the victim's representative to be present during the investigative experiment with the persons whose testimony is being verified, especially the suspect and witnesses. These testimonies are often contradictory. If present during the investigative experiment, the victim's representative will have the opportunity to ask questions that will help eliminate these contradictions and further deprive the defence of the use of statements regarding the existence of reasonable doubt about the existence of certain circumstances. This statement was agreed by 87% of the surveyed lawyers.

Part 2 of Article 240 of the CPCU¹ states that, if necessary, an investigative experiment may be conducted with the involvement of an expert. In criminal proceedings for crimes against road safety, this is always necessary. According to the research conducted by A.O. Chychyrkin (2020), typical situations of involving a specialist car technician at the working stage of an investigative experiment during the investigation of road traffic crimes are as follows: "1) establishing visibility during an accident (determining the ability of the driver, pedestrians to see each other, cars, road signs, other objects; determining the possibility of blinding); 2) establishing visibility in an accident; 3) determining the speed of the vehicle; 4) determining the time required for the victim to cover the distance to the place of collision; 5) determining the ability of the driver to avoid an accident".

The involvement of an expert car technician in conducting an investigative experiment in proceedings of this category is prescribed by the current forensic methods. Its absence results not only in mistakes and inaccuracies in the conduct of this investigative (detective) action, but also casts doubt on the results of the future automotive technical examination. This was agreed by 64.5% of investigators and 89% of lawyers surveyed. For these reasons, the involvement of an automotive specialist in the investigative experiment by the investigator should be an element of the subject matter of the victim's representative's control and advisory function. If the investigator has not engaged one, it is advisable for the representative of the road traffic accident victim to insist either on the immediate engagement of such a specialist or on postponing the time of the investigative experiment. Exceptions may include cases of the simplest experiments with basic measurements that can be conducted by the investigator and verified by the victim's representative.

The legislator has included at least two disinterested persons (witnesses) to the list of mandatory participants in the investigative experiment, whom the investigator, following Part 7 of Article 223 of the CPCU², shall be obliged to invite. There is an exception to this rule – the use of continuous video recording of the course of the investigative (detective) actions. Investigators have different approaches to implementing this rule, but for the most part (73.5% of respondents), they apply both the rule (invite witnesses) and the exception (organise continuous video recording). At the same time, there are no legal prohibitions on the representative of the accident victim conducting their own video recording of the investigative experiment. Such a tool helps the trial lawyer to record the elements necessary to fulfil the purpose of representation, and subsequently analyse in detail the course and results of this investigative (detective) action. This was agreed by 92.5% of the lawyers surveyed.

An important procedural criterion for conducting an investigative experiment is the requirement of Part 6 of Article 240 of the CPCU³ to draft a protocol of this investigative (detective) action with the obligatory indication of the conditions and results. Compliance with all the requirements for drafting such a protocol is a mandatory element of the control and advisory work of the representative of the road accident victim. Inaccuracies, mistakes, errors, and non-compliance with the procedural form in their entirety may later become the basis for the defence to declare the evidence inadmissible. This statement was supported by 90.5% of the lawyers surveyed.

The analysis of criminal proceedings for road safety offences shows that other shortcomings in the design of the investigative experiment protocol are also widespread, including the following: unclear indication of the purpose, inconsistency of the experiments conducted and the results obtained; the description of only the first experiment (indicating the total number of experiments and the identity of the results obtained); the investigator's own assessment of the results of the experiments (Chychyrkin, 2020).

Appointment and conduct of expert examinations during the investigation of a road traffic accident. Proof in the category of criminal proceedings under study is based mainly on the conclusions of various examinations. However, representatives of road accident victims have much narrower opportunities than the prosecution and defence in terms of engaging specialists, appointing, and conducting examinations. Their procedural powers to use the institute of special knowledge in criminal proceedings

¹ Criminal Procedural Code of Ukraine. (2013, April). Retrieved from <https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text>.

² Ibidem, 2013.

³ Ibidem, 2013.

are extremely limited. This opinion was shared by 89.5% of the surveyed lawyers. This leads to adverse consequences for the protection of the rights and legitimate interests of road accident victims.

Under current conditions, at the subsequent stage of pre-trial investigation, representatives of road accident victims are unable to properly influence the use of special knowledge (including these scientific achievements) in criminal proceedings to perform their tasks, due to the shortcomings of the criminal procedural law. To remedy this situation, it is necessary to amend Articles 71 (Parts 2 and 3), 242 (Part 1), 243 (Part 1), 244 (Parts 1 and 2) of the CPCU¹, making provision for the rights of the victim (equal in scope and content to the rights of the defence) to engage specialists and conduct examinations.

Prior to such amendments, the representative of the road traffic accident victim should: firstly, establish and maintain constructive interaction with the investigator; secondly, have a suitable level of training in the relevant fields of knowledge (motor vehicle engineering, trace evidence, forensic medicine, etc.); thirdly, establish personal contacts with specialists (preferably experts) in these fields of knowledge. All this allows: correctly assessing the forensic situation and concluding on the need to involve specialists and/or experts; providing the investigator with recommendations in this regard that will be accepted by them (with the possibility to recommend a particular specialist, with ensuring their appearance when the investigator cannot ensure it themselves); including in the list of questions posed to the expert those the answers to which are important for protecting the rights and interests of the road accident victim; effectively using the conclusions provided by specialists and experts to perform their own tasks within criminal proceedings; preventing procedural errors of the investigator in terms of organising the process of using specialised knowledge.

In the absence of constructive interaction with the investigator and unsatisfactory organisation of the process of using specialised knowledge in criminal proceedings, the representative of the road traffic accident victim may use procedural tools (request for an expert examination as an investigative action, followed by an appeal against the investigator's refusal or inaction) and non-procedural (formal and informal notifying of the head of the pre-trial investigation body, procedural supervisor, head of the National Police).

Detective activities of the road accident victim's representative at the subsequent stage of the pre-trial investigation. The involvement of a road traffic accident victim's representative in investigative (detective) actions and the initiation of their

conduct are mostly covered by the control and advisory and procedural components of their activities. In this part, the search component is present only in the form of an analysis of the investigative situation and the trial lawyer's search for new factual data important for the performance of the tasks of representation during investigative (detective) actions.

At the same time, the search component of representing a road traffic accident victim at the subsequent stage of the pre-trial investigation is expressed in unassisted activities independent of the investigator. Thus, if a lawyer-representative enters the case some time after the start of the pre-trial investigation, it is advisable for them to personally visit the accident scene and examine it. This is necessary to form a clear picture of the accident mechanism. Furthermore, based on the results of the examination of the accident scene, the victim's representative may identify important circumstances that were not reflected in the criminal proceedings and verify the data obtained by the investigation. In some cases, it is worth not only examining the scene of an accident, but also observing it for some time, which helps the trial lawyer to understand the specific features of road traffic organisation, their connection with the terrain, vegetation, architecture, as well as the impact of these factors on the actions of drivers and pedestrians. Based on the data obtained in this way, the lawyer-representative may conclude that certain investigative actions are necessary. This includes a repeat inspection of the scene of the incident if the initial inspection did not include factual data on circumstances that are important for the purpose of the representation.

The search component of representing a road traffic accident victim at the subsequent stage of the pre-trial investigation includes identifying and interviewing still unknown witnesses to the accident. It should be practiced when the representative of the road traffic accident victim lacks factual data to perform their tasks and there is a possibility of finding witnesses to the accident and its consequences (this statement was supported by 87.5% of the surveyed lawyers). Such a search is carried out in the same way as at the initial stage of the investigation, namely through announcements in the press, reports on local television channels, appeals to local residents through social media groups created on a territorial basis, interviews with residents of nearby buildings and employees of local businesses. Such a search should be focused not only on identifying eyewitnesses to the accident, but also those who did not perceive it directly but witnessed the subsequent events. Testimony about the post-criminal behaviour of the perpetrator of the accident is important for establishing the circumstances that mitigate and

¹ Criminal Procedural Code of Ukraine. (2013, April). Retrieved from <https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text>.

aggravate the punishment and characterise their personality. Having found the witnesses to the accident, the lawyer-representative should first interview them following Part 3 of Article 93 of the CPCU¹ and Item 7, Part 1 of Article 20 of the Law of Ukraine “On the Bar and Practice of Law”². This was agreed by 61.5% of the surveyed lawyers.

The search component of representing a road traffic accident victim at the subsequent stage of the pre-trial investigation also includes the search and analysis of criminal proceedings related to road traffic accidents that occurred in analogous circumstances, possibly in the same place. This helps the victim’s representative determine their legal position. Naturally, there are no two identical road accidents, but there are so-called typical situations, and, accordingly, the legal positions of courts of various instances on their resolution. The level of support for this approach among the surveyed lawyers is 77%.

We consider consultations with experts to be a separate element of the search component of representing a road traffic accident victim at the subsequent stage of the pre-trial investigation, which help to correctly formulate the questions in the petition for an expert examination, assess the technical capacity of the testimony of witnesses and the suspect, timely warn about the lack of initial data for the examination, etc. 94.5% of the surveyed lawyers agreed with the expediency of such a step.

The search activities of a road traffic accident victim’s representative also include the collection of various information about the identity of the suspect, which must be considered by the court when passing a verdict. Such information includes, among other things, criminal records, facts of administrative liability, specifically for violation of traffic rules. Information about the property belonging to the suspect is also important, as it may be seized to secure a civil claim. Various open registers and lawyer’s requests are tools for obtaining this information.

Comparison of the expert opinions obtained during the survey with the work of scientists helped to supplement the results of the study. As for the interrogation of victims, special requirements for their interrogation should be imposed if they are minors. These requirements are both legal (statutory) and psychological in nature. The representative of such a victim should take steps to ensure that the investigator or prosecutor follows such requirements. As pointed out by V. Zarubei *et al.* (2021), at the further stage of the investigation of a criminal road accident, it is advisable to rely on the researchers’ conclusions that the method of obtaining testimony should be

based on the age and procedural status of the minor, which requires a special approach given the vulnerable state, social immaturity, and the risk of violation of the rights and freedoms of such persons. O.Y. Guseva *et al.* (2021) emphasise that in each case of interrogation of an underage victim, it is advisable to ensure that the interrogation is conducted by an investigator specially trained for this purpose and of the same sex as the victim; the questions to be asked are clear, simple, and without alternative; and that specialists in age-related pedagogy and age psychology are consulted and present during the interrogation. The author also supports the practice of introducing “green rooms” in the field of criminal justice, as the child’s environment during the relevant procedural actions is crucial for establishing contact with the child (Zarubei *et al.*, 2021).

Regarding the continuous video recording of interrogation, which according to the survey is not always used by investigators, important aspects are noted by I. Miroshnykov *et al.* (2022). The scientists argue that an additional useful effect of video recording during the interrogation of a suspect is that it will be possible to investigate all their non-verbal and paraverbal reactions to questions and evaluate the veracity of their answers based on behavioural patterns. Furthermore, scholars fairly point to the possibility of using other means of detecting lies in the testimony of a suspect that are extra-procedural in nature, namely, polygraph examination (Miroshnykov *et al.*, 2022). A suspect may, in an attempt to avoid punishment, provide deliberately false testimony. Therefore, if doubts regarding the veracity of the suspect’s testimony are confirmed, the representative of the road accident victim may initiate the use of procedural means of exposing false testimony, to which scholars rightly include repeated interrogation, additional and simultaneous interrogation of previously interrogated persons, and an investigative experiment (Mohilevskiy, 2022).

At the same time, modern Ukrainian and world science pays great attention to the narrowly professional aspects of conducting certain types of examinations in cases of crimes against road safety. Specifically, this refers to such types of expertise as forensic and automotive. For instance, in 2023, medical experts investigated the issues of assessing the severity of facial and general trauma in children and adolescents injured in road accidents (Xavier *et al.*, 2023), as well as diagnosing facial fractures and determining the severity of associated injuries after motorcycle accidents (Chuang *et al.*, 2023). The introduction into expert practice and use of the methods proposed in this study are important for the criminal

¹ Criminal Procedural Code of Ukraine. (2013, April). Retrieved from <https://zakon.rada.gov.ua/laws/main/4651-17?lang=en#Text>.

² Law of Ukraine No. 5076-VI “On the Bar and Practice of Law”. (July, 2012). Retrieved from <https://zakon.rada.gov.ua/laws/show/5076-17#Text>.

law qualification of criminal road accidents, which largely depends on the severity of the injuries sustained by the victim. The same can be said about the methods of determining the cause of death within 24 hours of the accident (Kamabu *et al.*, 2023) and determining the cause of death of road traffic victims in individual cases (Rastogi *et al.*, 2023)

Automotive experts have recently also been investigating specific issues of conducting examinations in the field of their professional activity. This includes determining the speed of the vehicles before the initial contact (Serdiukov, 2018), which is important legally for establishing causal links between the actions of the road traffic participants and the harmful consequences of a car accident. Scientists have also developed methods for determining the technical failure of a vehicle's braking system (Koshkarov, 2020) and establishing indicators of the traction of a vehicle's wheels (tyres) to the road surface (Kashkanov *et al.*, 2020). These techniques are important for determining the technical ability of a driver to avoid an accident, which in turn has a considerable impact on the decision on their guilt. To address this issue, in some cases, the results of examinations of automotive lubricants are important, which necessitates scientific research into their properties (Estevanes *et al.*, 2023). The above-mentioned scientific achievements enrich expert and legal practice and are important for the representative of a road accident victim.

■ Conclusions

Based on the results of the survey, analysis of criminal proceedings and regulatory documents, a list of appropriate investigative actions for a road accident victim's representative was established. The results of the survey showed that, based on the forensic methods of investigating crimes against road safety, it is effective to determine the most suitable list and sequence of investigative (detective) actions necessary to complete the objectives of the representation, actively monitor the work of the investigator and provide them with advice or adjust their activities in a procedural manner.

As a result of the analysis of criminal proceedings, it was found that investigative (detective) actions carried out at the subsequent stage of pre-trial investigation of crimes against road safety may include re-inspection of the scene; additional interrogation of witnesses and the victim; interrogation of the suspect; interrogation of two or more previously interrogated persons, investigative experiment, and expert examinations. The survey showed that it is advisable for a representative of a road traffic accident victim to initiate a re-inspection of the scene of the accident if, during a preliminary personal inspection of the scene, they have discovered circumstances important to the criminal proceedings that were not

established and recorded by the investigator during the initial inspection of the scene or when conflicting witness statements can be verified in this way. Additional interrogations, including interrogations of two or more previously interrogated persons, should be initiated by the victim's representative when it is necessary to clearly record or eliminate contradictions in the testimony of different witnesses or the suspect, as well as to identify the reasons for the inconsistency of their testimony with other factual data obtained in criminal proceedings.

In the opinion of experts and based on the results of the analysis of criminal proceedings, it can be argued that the initiative of the road accident victim's representative to conduct an investigative experiment is appropriate when there are all the initial data and necessary conditions for its conduct, and the investigator does not appoint it, as well as when the investigator asks the victim's representative for such an initiative for certain tactical reasons. The search component of the activities of the road traffic accident victim's representative at the subsequent stage of the pre-trial investigation, depending on the circumstances, may include personal visit to the scene of the accident, its examination and observation; identification and interviewing of still unknown witnesses to the accident; search and analysis of criminal proceedings concerning road traffic accidents that occurred under analogous circumstances in the same place; consultations with experts; collection of data characterising the perpetrator of the accident, information about their property; detection and exposure of attempts to unlawfully influence the victim and witnesses.

Prospects for further scientific research in this area are a detailed investigation of the institution of using special knowledge in criminal proceedings as an instrument of activity of a road accident victim's representative at the subsequent stage of pre-trial investigation.

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■ Conflict of Interest

The author of this study declares no conflict of interest.

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Представництво потерпілого від дорожньо-транспортної пригоди на подальшому етапі досудового розслідування

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■ **Анотація.** Через брак професійних кадрів і високе навантаження на слідчих розслідування злочинів проти безпеки дорожнього руху та експлуатації транспорту часто проводять неефективно. Унаслідок цього права жертв автомобільних аварій залишаються незахищеними. Це зумовлює актуальність питань надання їм правової допомоги. Метою дослідження визначено розроблення засад представництва потерпілого на подальшому етапі досудового розслідування злочинів проти безпеки дорожнього руху. З-поміж методів, які використано в цьому дослідженні, слід виокремити загальнонаукові (індуктивний, дедуктивний, аналіз, синтез, аналогія, моделювання) та спеціальні (системно-структурний аналіз, логіко-юридичний, порівняльно-правовий, соціологічний). Діяльність представника потерпілого від дорожньо-транспортної пригоди під час подальшого етапу досудового розслідування розглянуто з розмежуванням її на окремі компоненти (процесуальний, контрольно-консультативний та пошуковий), які є взаємопов'язаними та взаємообумовленими. Системно окреслено особливості цих компонентів у їх взаємозв'язку. Процесуальний та контрольно-консультативний компоненти досліджено невідривно один від одного на загальному рівні й на рівні проведення конкретних слідчих (розшукових) дій. Пошуковий компонент досліджено окремо з визначенням конкретних його складників, прийомів і засобів їх реалізації. Визначено засади організації та деякі тактичні прийоми представництва потерпілого від дорожньо-транспортної пригоди на подальшому етапі досудового розслідування злочинів проти безпеки дорожнього руху. Запропоновано методику ініціювання представником потерпілого необхідних слідчих дій за різних типів взаємодії (конструктивна, офіційно-ділова, конфліктна), що склалися на подальшому етапі між ним і представниками сторони обвинувачення. На підставі аналізу законодавства України та практики його застосування встановлено коло проблем, які виникають у практичній діяльності представника потерпілого від дорожньо-транспортної пригоди на подальшому етапі досудового розслідування, та запропоновано шляхи їх розв'язання. Використання положень цього дослідження буде сприяти вдосконаленню діяльності адвокатів-представників, підвищенню ефективності надання правничої допомоги потерпілим від дорожньо-транспортної пригоди, а також проведенню подальших наукових розвідок за цим напрямом

■ **Ключові слова:** адвокат-представник; слідчі (розшукові) дії; кримінальне провадження; кримінальне правопорушення; захист прав; безпека руху