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ISSUES OF TYPICAL INVESTIGATIVE SITUATIONS IN THE INVESTIGATION OF INVOLVEMENT OF MINORS IN ILLEGAL ACTIVITIES

Володимир Приловський. ЩОДО ТИПОВИХ СЛІДЧИХ СИТУАЦІЙ ПРИ РОЗСЛІДУВАННІ ВТЯГНЕННЯ НЕПОВНОЛІТНІХ У ПРОТИПРАВНУ ДІЯЛЬНІСТЬ. Висвітлено деякі аспекти розслідування втягнення неповнолітніх у протиправну діяльність. Розглядаються типові слідчі ситуації в досліджуваній категорії кримінальних проваджень.

Зазначається, що відповідні уповноважені особи повинні виконувати свої посадові обов'язки згідно конкретних обставин та обстановки. Загалом, можна сказати, що однією з основоположних наукових категорій для планування та організації досудового розслідування є слідча ситуація. Водночас утягнення неповнолітніх у протиправну діяльність характеризується специфічними обставинами, що впливають на алгоритми дій працівників Національної поліції під час виявлення та розслідування вказаних кримінальних правопорушень.

Підтримується позиція, що типова слідча ситуація є динамічною інформаційною системою, елементами якої є істотні ознаки й властивості обставин, що мають значення у кримінальній справі, зв'язки, відносини між ними, а також учасниками процесу розслідування, що настали, і передбачувані результати дій сторін. При розслідуванні досліджуваної категорії кримінальних правопорушень має найбільш важливе значення безпосередньо практична складова типових слідчих ситуацій.

Визначається, що на початковому етапі розслідування втягнення неповнолітніх у протиправну діяльність виникають наступні типові слідчі ситуації: а) особа, яка втягнула неповнолітнього в протиправну діяльність, відома та затримана, є достатня кількість матеріальних та особистісних доказів, що свідчать про конкретні умови кримінального правопорушення, для повідомлення підозри; б) особа, яка втягнула неповнолітнього в протиправну діяльність, відома, але матеріальних та особистісних доказів недостатньо для повідомлення йому про підозру; в) особа, яка втягнула неповнолітнього в протиправну діяльність, відома, є достатня кількість матеріальних та особистісних доказів, але злочинець переховується від правоохоронних органів; г) виявлено факт втягнення неповнолітнього в протиправну діяльність, але особа злочинця не встановлена.

Ключові слова: *протиправна діяльність, неповнолітній, втягнення, типова слідча ситуація, слідча (розшукова) дія, організація.*

Relevance of the study. Criminal proceedings of any category should be based on purposeful and planned activities of law enforcement officers. The relevant authorized persons must perform their duties according to the specific circumstances and circumstances. In general, we can say that one of the fundamental scientific categories for planning and organizing a pre-trial investigation is the investigative situation. At the same time, the involvement of minors in illegal activities is characterized by specific circumstances that affect the algorithms of actions of the National Police during the detection and investigation of these criminal offenses. Therefore, we consider it necessary to investigate the issues of typical investigative situations in the investigation of a certain category of illegal acts.

Recent publications review. Significant contribution to the development of typical investigative situations of investigation was made by such scientists as Yu. P. Alenin, V.P. Bakhin, V.D. Bernaz, R.S. Belkin, O.I. Vozgrin, A.F. Volobuev, I.F. Gerasimov, V.A. Zhuravel, A.V. Ishchenko, V.O. Konovalova, M.V. Saltevsky, R.L. Stepanyuk, V.V. Tishchenko, M.P. Yablokov and others. But our study specified the typical investigative situations in the investigation of the involvement of minors in illegal activities, given the current forensic practice and the position of scientists.

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The article's objective is to study typical investigative situations in the investigation of the involvement of minors in illegal activities.

Discussion. It should be noted that we support the position of M.P. Yablokov that investigative situations allow to ensure the following things: a) to properly navigate the diversity of factual and other situations during the investigation in order to obtain data for tactical and strategic decisions in the case; b) to put forward the most substantiated investigative versions and determine the correct direction of the further course of the investigation; c) outline the optimal choice of investigative, operational and investigative actions, forensic operations and their appropriate priority; d) to minimize the number of methodological decisions of the investigator, based on trial and error [12, p. 89].

In turn, some authors emphasize that the essence of the initial stage of the investigation: is characterized by uncertainty associated with lack of information and its incompleteness, so the dominant focus of the investigator at this stage is «identifying the necessary evidence and tactical information and its sources. This task is solved taking into account the current investigative situation by conducting a set of investigative, other procedural and organizational actions. Most often, the basis for investigative actions is a forensic version. The main task of the initial stage, as a rule, is to identify the person involved in the crime. Therefore, the collection of information about it begins with a retrospective study of the traces left at the crime scene, in the memory of eyewitnesses, and so on. The information obtained is used to put forward versions of the subject of the crime, to determine the direction of his search [9]. In this regard, the question arises, the filling of typical investigative situations investigating the involvement of minors in illegal activities.

The opinion of I.I. Kohutych, who emphasizes that there are certain stages in the investigation process, namely:

1) initial – the period of investigative (search) actions, the temporal factor of which is characterized by the so-called urgency, also seems relevant to us. The beginning of this stage coincides, according to the scientist, with the beginning of the pre-trial investigation defined by part 1 of Art. 214 of the CPC, and ends with the implementation of tasks due to this stage;

2) the next stage – the period of all other investigative (search) actions aimed at thorough and systematic collection of evidence in the proceedings;

3) the final stage – the final period of the investigation, which begins when the investigator (prosecutor) decides to terminate the investigation and ends with the adoption of an authorized person of one of the procedural decisions under Art. 283 of the Criminal Procedure Code of Ukraine [5, pp. 235-236].

In view of the above, it should be noted that the initial and subsequent stages of the investigation into the involvement of minors in illegal activities will differ in the presence of a certain procedural participant: the suspect.

For her part, V.O. Shershneva on the content of the initial investigative situation noted that it can be considered in two aspects: theoretical (as typical for a particular type of crime and even more broadly – as a scientific, abstract category) and practical (as a specific life situation) in a criminal case under investigation, characterizes the initial stage of the investigation and includes, first of all, information on the results of preliminary inspections, urgent investigative actions and operational and investigative measures), and its main elements are: priority information obtained during the inspection statements, notifications and immediately after the initiation of a criminal case, about an event that contains signs of a crime, and about the persons involved in this event; objective conditions that characterize the receipt of this information; the forces and means at the disposal of the investigator for further work on the use of initial information in these conditions; the position of the suspect, victim, witnesses, as well as the results of their opposition to the establishment of the truth at the initial stage of the investigation and the potential for counteraction; other factors that hinder or contribute to the successful solution of forensic tasks (loss of material evidence found during the inspection, guilty plea, etc.) [11].

A.V. Ishchenko emphasizes that the study of the investigative situation as a forensic category has theoretical and applied significance. The theoretical significance of the development of this problem in general lies in the objective need to specify the content and concept of this scientific category. Its practical significance is that determining the content of investigative situations, their classification, analysis and evaluation provide an opportunity to objectively justify the choice of investigation methods that would best meet the circumstances and objectives of the investigation at a certain stage [3, p. 57]. Important in the investigation is

the most important direct practical component of typical investigative situations.

It is pertinent to conclude that the typification of investigative situations is possible provided that information is selected on some of the most important elements and such common components. Thus, M.S. Kachkovsky identified several groups of factors, the first of which includes information about certain circumstances of criminal activity (the person who committed the crime, the method, traces of the crime, the subject of encroachment and the amount of damage). The second group consists of a set of information about the most significant circumstances of the investigation (the state of the evidence base, the possibility of investigation, the behavior of suspects and other participants in the investigation, outsiders who try to interfere in the investigation). Typical investigative situations carry the main informational and organizational-methodical load in the construction of methods of investigation of crimes related to the intentional introduction of dangerous products on the Ukrainian market, and the most typical investigative situations of the initial and subsequent stages of investigation are interrelated [4].

Therefore, we believe in the position of S.I. Konovalov on the fact that the classification of investigative situations is useful as a form of organizing and organizing knowledge about it, but the idea of it should be supplemented by the mechanism of its influence on the investigation process, considering how it should be in these conditions organize and implement an investigation program [6, p. 124]. In this context, it is appropriate to cite the views of scholars who classify proceedings on the source of primary information about criminal offenses, namely: 1) cases initiated on operational materials and 2) cases in which the fact of pimping revealed by the investigator. The scientist stressed that a set of ways to collect primary information depends on it. In case of incomplete information received at the time of initiating a criminal case, the factor of suddenness in the production of primary investigative actions will be significantly lost, because the initiation of a criminal case on the same day is notified to the person against whom it was initiated. In the absence of initial information, the investigator is deprived of the opportunity to immediately plan, prepare and conduct urgent investigative actions so that the fact of notifying suspects of a criminal case did not interfere with exposing them in criminal activity [10, p. 11].

V.K. Gavlo noted that the following provisions should be taken into account during the practical application of a typical investigative situation to put forward versions and orient in the investigation environment: a typical investigative situation is a scientific concept regarding the manifestation of the general limits of the investigation it is the most probable, exemplary for the given conditions situation of investigation; the basis of a typical investigative situation is information data focused on the general boundaries of the forensic characteristics of certain types (groups) of crimes and the conditions of their investigation; a typical situation has «its» natural set of features (about the course and state of the investigation), the system of which individualizes it, makes it stable, fixed at the moment of the investigation, which allows to group situations by different, previously named, provisions [1, pp. 243-244].

Therefore, after entering the information into the URPI, as mentioned above, the initial stage of the investigation begins immediately. V.V. Tishchenko offers the following list of tasks of the initial stage of crime investigation:

1. Detection and recording of evidentiary information about the crime, which is being investigated on the «hot leads».
2. Taking measures to prevent the loss of evidence contained in traces, other objects, its timely detection and fixation.
3. Clarification and assessment of the current investigative situation.
4. Identification of sources of information about the investigated crime.
5. Determining the direction of the investigation and developing an investigation plan.
6. Choosing the form and methods of interaction with bodies and services carrying out operational and investigative work.
7. Search and obtain information about the mechanism and circumstances of the crime.
8. Collection and study of information about the identity of the victim.
9. Search, receipt and analysis of information about the perpetrators, their search and detention [8, p. 137].

Regarding the definition of a typical investigative situation, we consider the most accurate definition given by L. Ya. Drapkin, who formulated the investigative situation as a dynamic information system, the elements of which are the essential features and properties of circumstances relevant to a criminal case, connections , the relationship between them, as well

as the participants in the investigation process that occurred, and the expected results of the actions of the parties [2, p. 28].

Regarding their classifications, forensic scientists emphasize that many of these situations are typical. Thus, the main directions of the investigation are determined accordingly. For example, the initial stage is characterized by the following situations: 1) there is information about the event of the crime and the person allegedly guilty of it (mainly from the victims), but it is not yet clear whether this event was real, whether it was criminal and involved the person is specified to it. The direction of the investigation is to establish the reality of the event, its specific circumstances, the involvement of the suspect. It is of great importance to identify relevant traces and physical evidence and features of the relationship between the participants of the event. If necessary, the suspect is detained; 2) events with signs of a crime have been established and specific persons who are responsible for this according to their official position are known, but the nature of their personal guilt is not known. The direction of the investigation is to find out the immediate and main causes of the event and the degree of influence on the occurrence of the main causes of each of these persons, to identify the main culprits and prove their guilt; 3) events with signs of a crime have been established, which could be committed and used only by persons from a certain circle according to their position (forged expenditure documents, non-commodity transactions, destruction of accounting documents) or for which special professional skills and knowledge are required. money, securities, hacking storage using sophisticated methods). The direction of the investigation – the study of behavior related to the event under investigation, each suspect, the nature of their relationship to the identified data, establishing the fact that any of them used the results of the crime; 4) events with signs of a crime have been established, but there is no or almost no information about the guilty person (theft, secret murders). The direction of the investigation – using the use of standard versions of the detection of the maximum amount of data characterizing the offender, the area of his possible stay, screening of identified suspects, detention of the guilty person [7, p. 262].

Based on the study of the materials of the proceedings, it was established that at the initial stage of the investigation of the involvement of minors in illegal activities, the following typical investigative situations arise:

a) the person who involved the juvenile in illegal activities, known and detained, has a sufficient amount of material and personal evidence indicating the specific conditions of the crime, to report the suspicion – 15 %;

b) the person who involved the minor in illegal activities is known, but material and personal evidence is not enough to inform him of the suspicion – 52 %;

c) the person who involved the juvenile in illegal activities is known to have a sufficient amount of material and personal evidence, but the offender is hiding from law enforcement agencies – 23 %;

d) the fact of involvement of the juvenile in illegal activity is revealed, but the identity of the criminal isn't established – 10 %.

Conclusions. Summing up, we note that one of the fundamental scientific categories for planning and organizing a pre-trial investigation is the investigative situation. The position is maintained that it is a dynamic information system, the elements of which are the essential features and properties of the circumstances relevant to the criminal case, connections, relations between them, as well as participants in the investigation process and the expected results of the parties. Based on the study of forensic practice and the opinions of scholars, typical investigative situations of the initial stage of the investigation of the involvement of minors in illegal activities were identified.

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Abstract

The article deals with covering some aspects of the investigation of the involvement of minors in illegal activities. Typical investigative situations in the studied category of criminal proceedings have been considered.

It is stated that the relevant authorized persons must perform their duties according to the specific

It has been determined that at the initial stage of the investigation of involvement of minors in il-

legal activities, the following typical investigative situations arise: a) the person who involved a minor in illegal activities is known and detained, there is sufficient material and personal evidence reports of suspicion; b) the person who involved the minor in the illegal activity is known, but the material and personal evidence is not sufficient to inform him of the suspicion; c) the person who involved the juvenile in illegal activities is known to have a sufficient amount of material and personal evidence, but the offender is hiding from law enforcement agencies; d) the fact of involvement of the juvenile in illegal activity is revealed, but the identity of the criminal isn't established.

Keywords: *illegal activity, juvenile, involvement, typical investigative situation, investigative (search) action, organization.*

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PROBLEMATIC ISSUES RELATING TO THE AGE OF THE VICTIM OF THE CORRUPTION OF MINORS

Вадим Фурса. ПРОБЛЕМНІ ПИТАННЯ ЩОДО ВІКУ ПОТЕРПІЛОЇ ВІД РОЗПУСНИХ ДІЙ ОСОБИ. У статті, на підставі аналізу теоретичних напрацювань з кримінального права та діючих положень Розділу IV Особливої частини Кримінального кодексу України, здійснено спробу проаналізувати інститут потерпілої від розпусних дій особи. Зокрема, у статті зазначається, що Законом України від 14 березня 2018 «Про внесення змін до Кримінального кодексу України щодо захисту дітей від сексуальних зловживань та сексуальної експлуатації» було змінено редакції статей 155 та 156 КК України та фактично виконано вимоги ст. 18 Конвенції Ради Європи про захист дітей від сексуальної експлуатації та сексуального насильства в частині рекомендації країнам-учасникам визначити вік, до досягнення якого заборонені статеві відносини з дитиною навіть за добровільної згоди останньої, при цьому закріплено, що віком до досягнення якого заборонено будь-які статеві відносини з неповнолітнім є 16-річний вік.

Також у статті аналізуються аргументи вчених щодо підвищення віку потерпілої від розпусних дій особи. Загалом, погоджуючись із аргументами вчених, доводиться недоцільність на даному етапі підвищувати вік потерпілої особи до 18 років, оскільки підвищення віку не вирішить проблему вчинення розпусних дій в силу того, що значна кількість дітей вступає в добровільні статеві відносини ще в малолітньому віці. У зв'язку з цим акцентовано увагу на необхідності запровадження сексуальної освіти на рівні початкової та середньої школи, яка в кінцевому результаті приведе до формування сексуально свідомої людини із високими моральними цінностями, і як наслідок зменшить кількість ранніх статевих контактів малолітніх та неповнолітніх осіб, а також зменшить кількість статевих злочинів узагалі.

Ключові слова*: статеві зносини, розбещення неповнолітніх, розпусні дії, статеві злочини, потерпіла особа, вік потерпілої особи, сексуальна освіта.*

Relevance of the study. The topic of sexual crimes against minors remains relevant. They pose an increased public danger. The position that a child, due to his physical and mental immaturity, needs increased protection and guardianship, has long been universally recognized. As a result of the commission of a sexual crime against a minor, his further physical and mental development is often disrupted. Such persons may form the wrong, from a moral point of view, the idea of sexual relations. Subsequently, personality deformation is not excluded. Also, sexual crimes are characterized by high latency, therefore, the registered cases of this category of crimes do not reflect reality.

This largely intensified the search for ways to improve the current legislation in Ukraine, which is still taking place.

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