

<https://doi.org/10.61345/2734-8873.2024.3.9>

# USING THE SPECIALISED KNOWLEDGE IN THE INVESTIGATION OF CHILD ENDANGERMENT

Kozubska Anastasia<sup>1</sup>

**Annotation.** The scientific article highlights the peculiarities of the use of special knowledge in the investigation of endangering an underage person. The author analyses the opinions of scholars on the concept of special knowledge and classification of its forms in the forensic theory. It is emphasized that in order to form the evidence base in criminal proceedings, it is necessary to use special knowledge in the following forms: appointment of forensic examinations; involvement of a specialist during procedural actions, reference and advisory form, etc. It is proved that the participation of a specialist is justified during such investigative (detective) actions as an investigative examination, interrogation, temporary access to things and documents; presentation for identification, investigative experiment. The author defines the role of a teacher (psychologist) during the interrogation of a juvenile victim: assistance to the investigator in establishing psychological contact with the interrogated person; assistance in choosing effective tactical techniques and methods of psychological influence, taking into account the personality of the interrogated person; etc. The author identifies the difficulties of interrogating an underage person and emphasises the use of modern techniques and specialists with extensive experience in interrogating underage persons.

Attention is drawn to the role of consultations as an auxiliary form in the appointment of forensic examinations. The author identifies the forensic examinations which are of greater importance in criminal proceedings of this category, including: trace evidence, biological, forensic medical, and forensic psychiatric examinations. Attention is drawn to obtaining initial information during a psychological examination.

**Key words:** specialised knowledge, forensic expertise, specialist, expert, abandonment, underage person, pre-trial investigation.

**Introduction.** Under the martial law regime, the problem of protecting children's rights is particularly acute. Not only are the crimes committed by the Russian invaders against children noteworthy, but also the inadequate attitude of parents to fulfil their duties. Unfortunately, due to the difficult situation in Ukraine in the face of a full-scale enemy invasion, there are no

---

<sup>1</sup> Aspirant Research Institute of Public Law, Kyiv, Ukraine. E-mail: stasya5353@gmail.com. ORCID: 0009-0004-4701-2030.

safe territories. And parents of children, guardians and other citizens who deliberately do not want to leave their homes must understand that their actions endanger the health or even the lives of minors. For a complete and comprehensive investigation of such criminal offences under Article 135 of the Criminal Code of Ukraine, it is important to use specialised knowledge, have data on the capabilities of forensic examinations, and timely use of professional assistance from specialists, which significantly contributes to the effectiveness of the pre-trial investigation.

**Analysis of scientific publications.** The scientific basis of the study was the scientific achievements of criminalists in the field of special knowledge, in particular, O.M. Bandurka, V.P. Bakhin, V.A. Zhuravel, A.V. Ishchenko, N.I. Klymenko, V.O. Konovalova, V.K. Lysychenko, I.V. Pirig, M.V. Saltevsykyi, M.Y. Segai, V.Yu. Shepitko, M.G. Shcherbakovsky, and others. As well as works devoted to the methodology of investigating related criminal offences, including: N.V. Pavlova, O.H. Kryvopusk, O.L. Musienko, V.V. Kornienko, K.O. Chaplinskyi, Yu.M. Chornoust, and other scientists. However, no scientific research has been conducted on the use of specialised knowledge in the investigation of leaving an underage person in danger.

**The aim of the work.** The purpose of the article is to study the peculiarities of the use of special knowledge in the course of investigation of leaving an underage person in danger.

**Review and discussion.** There are many approaches to the definition of specialised knowledge in forensic theory. For example, V.Y. Shepitko considers special knowledge to include any knowledge and skills gained as a result of higher professional training, scientific activity, practical experience that correspond to the current scientific and practical level [1, p. 119]. According to P.V. Tsymbal, M.A. Fedorchuk and Y.L. Varshavets, special knowledge is knowledge developed by science and implemented in the practical professional activities of persons who possess it mainly as a result of higher specialised education [2, p. 376].

I.V. Pirig and H.S. Bidniak emphasise that special knowledge is a set of theoretical knowledge and practical skills in the field of science, technology, art or craft, acquired as a result of special training or professional experience, used for the purpose of solving, investigating and preventing crimes [3, p. 15].

It is quite clear that the investigator does not have special knowledge and must seek assistance from knowledgeable persons, including experts, specialists, translators, psychologists, etc.

O.G. Kryvopusk, studying the malicious failure to fulfil the obligations to care for a child or a person in respect of whom guardianship or custody has been established, rightly notes that ensuring the fulfilment of the tasks of criminal proceedings is largely ensured by involving specialists who have knowledge that goes beyond the plane of law and is in the plane of such fields as medicine, technology, pedagogy, psychiatry, psychology and other sciences. The involvement of relevant specialists in the pre-trial investigation process significantly increases the ability of the person conducting the pre-trial investigation to identify, record, examine and evaluate evidence [4, p. 166].

Our survey of law enforcement practitioners found that specialised knowledge was used in almost all cases of investigation of child endangerment, as indicated by 95.4% of respondents, with the remaining 4.6% doubting the answer.

Summarising the variety of specialised knowledge, forensic scientists classify forms of specialised knowledge into non-procedural and procedural forms, that are directly provided for by law and indirectly used in the conduct of procedural actions, either mandatory or optional. [5]. Thus, H.S. Bidniak notes the existence of such forms of use of special knowledge in the investigation of offences as: appointment of forensic examinations; reference and consultation form; departmental inspections and checks on records; involvement of a specialist in conducting investigative (search) actions; interrogation of an expert; presence of an investigator during the examination [6].

Based on the analysis of forensic practice materials, we have determined that the most effective forms of using specialised knowledge in investigating child endangerment are:

- appointment of forensic examinations – tracing, psychological, biological, forensic medical, forensic psychiatric (100%),
- involvement of a specialist in conducting an investigative examination; interrogation (92.3%); temporary access to things and documents (18.4%); identification (16.3%), investigative experiment (11.2%);
- consulting assistance (76.1%);
- accounting and reference assistance (68.5%).

An important source of evidence is the interrogation of the victim, in this case, an underage person. As provided by the legislator, the interrogation of a minor or underage person is conducted in the presence of a legal representative, teacher or psychologist, and, if necessary, a doctor. The interrogation of a minor or underage person may not continue without a break for more than one hour, and in total – more than two hours per day. Persons under the age of sixteen are explained the obligation to give truthful testimony, without warning of criminal liability for refusal to testify and for knowingly giving false testimony (Article 226 of the CPC of Ukraine) [7].

In addition to fulfilling the mandatory requirements of procedural law regarding the conduct of this investigative (detective) action, it is difficult for an investigator not to make mistakes and to be aware of the peculiarities of communicating with such a vulnerable category of persons, to establish psychological contact. Practice shows that specialists do not always succeed in this either. Therefore, it is important to involve a teacher or psychologist who has experience in this specific area and is aware of the circumstances of the criminal proceedings, which significantly affects the achievement of a high result while preserving the mental state of the victim.

The role of the teacher (psychologist) during the interrogation of an underage victim includes: assisting the investigator in establishing psychological contact with the interrogated person; assistance in choosing effective tactics and methods of psychological influence, taking into account

the personality of the interrogated person; assistance in formulating questions, their number and sequence; use of technical means during the interrogation (anatomical dolls, etc.); encouraging the interrogated person to provide truthful testimony and to present it fully. When interrogating minors, it is necessary to take into account their quick fatigue and inability to focus on one object for a long time. Therefore, the duration of communication should be minimal. The investigator, depending on the child's psychological characteristics, should provide for breaks during which the psychologist will help the child to rest and distract attention from the subject of interrogation for a while [8, p. 120].

The legislator also provided for the need to involve a specialist during a line-up with the participation of a minor (underaged person) (Article 227 of the CPC of Ukraine) [7]. The role of a specialist during an identification with the participation of a minor is to facilitate the establishment of psychological contact between the investigator and the minor; assistance in choosing methods of psychological influence; encouragement to provide truthful information [4].

It should be noted that the functions of the involved specialist during temporary access to things and documents, identification, investigative experiment aimed at helping to record the procedural action are provided by specialists of the forensic support departments of the investigative departments of the National Police of Ukraine. At the same time, psychologists and educators involved as specialists may be persons working as forensic experts and other persons who meet the legal requirements by education and activity.

The formation of the evidence base of any criminal proceedings qualified under Article 135 of the Criminal Code of Ukraine is impossible without the conclusions of forensic experts.

As rightly noted by scholars, forensic examination is appointed regardless of whether the investigator, prosecutor, or judge has special knowledge when appointing the examination, since the factual data obtained through expert research cannot be reflected in any procedural document other than the expert's opinion. Even when the investigator himself makes a certain conclusion due to the visible signs, without an expert's assessment and scientific interpretation based on special knowledge, they cannot be substantiated and serve as evidence [6].

The Law of Ukraine 'On Forensic Examination' regulates that forensic, forensic medical and psychiatric examinations are carried out only by state expert institutions, including research institutions of forensic examinations of the Ministry of Justice of Ukraine; research institutions of forensic examinations, forensic medical and forensic psychiatric institutions of the Ministry of Health of Ukraine; expert services: The Ministry of Internal Affairs of Ukraine, the Ministry of Defence of Ukraine, the Security Service of Ukraine and the State Border Guard Service of Ukraine [9].

By summarising the materials of forensic practice, we found that the following forensic examinations were ordered for the criminal offences in

question: trace evidence, psychological, biological, forensic medical, forensic psychiatric and other.

Without diminishing the importance of other types of expertise, we would like to emphasise the significant significance of psychological expertise. In their research, forensic experts O. Slipets and O. Khmara rightly draw attention to the acquisition of initial data during the forensic psychological examination of children. The researchers note that an anamnestic interview with a child is based on the child's age, hypothesis about the level of his or her mental development and personality [10].

As there is usually a need to conduct several types of forensic examinations, it is advisable to conduct comprehensive examinations in different expert specialities, which allows for a reduction in procedural time. For example, in this category of criminal proceedings, a psychological and psychiatric examination is often carried out.

Practice shows that the appointment of forensic examinations is a complex process that cannot be carried out in a short time without additional consultations with forensic experts. Such explanations help to determine certain regulatory support for the relevant examination, formulate possible questions to be addressed by the examination, and prepare the necessary materials for expert research.

Scholars, in addition to specific consultations on special issues in preparation for investigative (detective) actions, distinguish general consultations that allow the person conducting the investigation to understand the crime, its mechanism, the scope of criminal activity, the circle of participants in the crime, etc. in the part of these issues related to special knowledge. It can be said that such expert consultations are of an introductory nature and are mostly carried out at the stage of criminal proceedings or during the period of initial, urgent investigative (detective) actions [11, p. 46].

**Conclusions.** Thus, the investigation of child endangerment is necessarily accompanied by procedural and non-procedural forms of using specialised knowledge. The most significant among them are: the appointment of forensic examinations (forensic, forensic medical, forensic psychiatric), as well as the involvement of a specialist in the investigation; interrogation; temporary access to things and documents; consultations, accounting and reference assistance.

## References:

1. Shepitko V.Yu. 'Kryminalistyka: kurs lektzii. Vyd. 2-e, pererob. i dopov.' [Criminalistics: a course of lectures. Edition 2, revised and supplemented]. Kharkiv: «Odysei», 2005. 368 p.
2. Tsymbal P.V., Fedorchuk M.A., Varshavets Ya. L 'Spivvidnoshennia poniattia «spetsialni znannia» iz sumizhnymy poniattiamy u kryminalnomu provadzhenni.' [Correlation of the concept of 'special knowledge' with related concepts in criminal proceedings]. *Teoriia i praktyka sudovoi ekspertyzy i kryminalistyky: materialy Vseukr. nauk.-prakt. konf. (m. Kyiv, 27 liut. 2018 r.)*. Kyiv – Mariupol, 2018. p. 376.

3. Pyrih I.V., Bidniak H.S. (2019). 'Vykorystannia spetsialnykh znan na dosudovomu rozsliduvanni' [navchalnyi posibnyk] [Use of special knowledge in pre-trial investigation] Dnipropetrovsk: Dniprop. derzh. un-t vnutr. sprav, 140 p. (in Ukrainian).
4. Kryvopusk O.H. (2024). Rozsliduvannia zlisnogo nevykonannia obov'язkiv po dohliadu za dytynoiu abo za osoboio, shchodo yakoi vstanovlena opika chy pikluvannia: dys. ... doktora filosofii: 081. Dnipro, 226 p. (in Ukrainian).
5. Shcherbakovskyi M.H., Kravchenko A.A. (1999). 'Prymenenye spetsyalnykh znanyi pry raskrytyi y rassledovanny prestuplenyi' [The use of special knowledge in the detection and investigation of criminals] Kharkov. 78 p. (in Ukrainian).
6. Bidniak H.S. (2019)., 'Teoriia i praktyka vykorystannia spetsialnykh znan pry rozsliduvanni shakhraistv' [monohrafiia] [Theory and practice of using special knowledge in fraud investigation] Dnipro: Dnipropetrovskyi derzhavnyi universytet vnutrishnikh sprav, 170 s. (in Ukrainian).
7. Kryminalnyi protsesualnyi kodeks Ukrainy: Zakon Ukrainy vid 13.04.2012 № 4651 VI. (2012) Data onovlennia: 28.11.2019. URL: <https://zakon.rada.gov.ua/laws/show/465117?find=1&text=%D1%81%D1%82+242#w14978> (in Ukrainian).
8. Pavlova N.V. 'Vykorystannia spetsialnykh znan pid chas dopytu malolitnoi osoby': kolektyvna monohrafiia. [Use of specialised knowledge during the interrogation of a minor]. Kontseptualni polozhennia mekhanizmu zakhystu prav ditei: ukraïnskyi ta zarubizhnyi kontekst. 2021. pp. 115–128. (in Ukrainian).
9. Pro sudovu ekspertyzu: Zakon Ukrainy vid 25.02.1994 roku № 4038-XII (zi zminamy ta dopovnenniamy). Vidomosti Verkhovnoi Rady Ukrainy. 1994. № 28. St. 232 URL: <https://zakon.rada.gov.ua/laws/show/4038-12> (in Ukrainian).
10. Slipets Olena, Khara Oksana. 'Features of obtaining initial data during the forensic psychological study of preschool children'. [Peculiarities of obtaining initial data during the forensic psychological study of preschool children]. *Topical issues of forensic examination of forensic examination and forensic science*: collection of materials of the international scientific and practical conference on the occasion of the 100th anniversary of the birth of M.S. Romanov (Kharkiv, 17.05.2024). Kharkiv: ICE named after Hon. Prof. M.S. Bokarius, 2024. 314 p. (in Ukrainian).
11. Konovalova V.O. 'Dopyt: Takyka i psykholohiia'. [Interrogation: Tactics and psychology]. Kharkiv: Konsum, 1999. 157 p. (in Ukrainian).