

FORENSIC CHARACTERISTICS OF THE VICTIM IN THE INVESTIGATION OF MALICIOUS FAILURE TO FULFILL DUTIES OF CARE FOR A CHILD OR A PERSON FOR WHOM GUARDIANSHIP OR CARE IS ESTABLISHED

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Annotation. The aim of the work is a forensic analysis of socio-demographic, psycho-physiological and criminal-legal characteristics of persons who have become victims of malicious failure to fulfill their duties to care for a child or a person for whom guardianship or guardianship has been established.

The methodological basis of the study is the scientific works of forensic scientists who investigated the identity of the victim, the materials of the investigation of criminal proceedings of the specified category, the analysis of the questionnaires of the National Police employees who took a direct part in the investigation of the malicious failure to fulfill the duties of caring for a child or a person for whom guardianship has been established or care

It has been established that the growth of crime, which changes in accordance with socio-economic changes in the state, prompts the search for new forms and methods of crime investigation. One of these directions is the creation of a forensic classification of persons in such a way that, using information about their typical characteristics, it would be possible to solve the general tasks of detecting and investigating criminal offenses.

It has been established that the increase in the number of specified crimes, which changes in accordance with socio-economic changes in the state, prompts the search for new forms and methods of crime investigation. One of these directions is the creation of a forensic classification of persons in such a way that, with the help of information about their typical features, it is possible to solve the tasks of crime detection and investigation.

It is emphasized that criminal law features do not play a special role in characterizing a person who is a victim of malicious neglect of child care duties or a person for whom guardianship or guardianship has been established, since the vast majority of victims of crimes of the specified category are minors persons. At the same time, the psychophysiological characteristics of the victims should not be ignored, since it is the psychological characteristics, the way of spending free time, etc. that determine the way the crime was committed, the situation and conditions, and are closely related to other elements of forensic characteristics.

Conclusions. It has been established that there are many ways in which malicious failure to fulfill the duty of care of a child or a person in respect of whom guardianship or guardianship has been established can be committed. Instead, the way the crime was committed depends on a number of factors, including the level of education, intellectual development and other data about the victim. On the basis of the analysis of criminal proceedings, the most typical socio-demographic, psychophysiological and criminal-legal characteristics of the victim were established.

Key words: malicious failure to fulfill the duties of caring for a child, the identity of the victim, forensic characteristics, socio-demographic properties, psychophysiological properties, criminal characteristics, victimization.

1. Introduction.

The commission of malicious failure to fulfill the duties of caring for a child or a person in respect of whom guardianship or guardianship is established is characterized by a variety of ways of committing it and the stretching of criminal acts committed against the victim in time. Therefore, the person conducting the investigation must have an idea of the varieties and specifics of such unlawful acts, as well as their criminal-legal and forensic features, which is the key to the information content of the investigation process. The allocation of the necessary information in each specific criminal proceeding contributes to the establishment of the forensic characteristics of such criminal offenses, including the characteristics of the persons in respect of whom they were committed. In the future, such information can be used both during the investigation and during the adoption of preventive measures.

2. Analysis of scientific publications.

Forensic characterization of persons who have committed criminal offenses has repeatedly attracted the attention of scientists such as: A.F. Volobueva, N.V. Pavlova, I.V. Pirig, V.O. Konovalova, O.L. Musienka, O. Pchelina, V.Yu. Shepitka, K.O. Chaplinskyi, Yu.M. Chornoust and other scientists. However, in the legal literature there is a certain discrepancy in the definition of groups of such signs.

3. The aim of the work conducting a forensic analysis of persons who have become victims of committing malicious failure to fulfill the duties of caring for a child or a person in respect of whom guardianship or guardianship is established.

4. Review and discussion.

Information about the identity of the victim plays a significant role in the structure of the forensic characterization, since this element has correlations with other components, such as the setting and conditions of the crime, the identity of the criminal, the way the crime was committed. Having at their disposal generalized information about the crime scene, as part of the criminal situation, the National Police bodies will be able to take preventive measures to prevent the commission of this category crime. In addition, available information about the victim will allow the employees of the pre-trial investigation bodies to put forward substantiated versions of the committed crime in a timely manner, initiate investigative (search) actions, carry out pre-trial investigation planning, establish the most rational sequence of individual investigative (search) actions and assess the degree of guilt of the criminal.

Standing alongside with V.Yu. Shepitka, M.I. Panova, V.O. Konovalova, who emphasize that the victim characteristics system has a complex structure and includes general demographic characteristics (gender, age, place of residence, work or study, profession, specialization, education, etc.), information about lifestyle, character traits, skills, tendencies, connections and relationships. Data about the victim also contain information about his victimhood [1, p. 237].

Agreeing with the opinion of I.V. Pyrig and R.V. Karpenko, who propose to analyze information about the victim's identity according to the following properties:

1. Socio-demographic: gender, age, education, marital status, place of residence, attitude to work or study, presence of ties to a criminal;
2. Psychophysiological: psychological features, presence of mental retardation, ways to spend free time, physical development, behavior of the victim, behavior of the victim during the commission of the crime;

3. Criminal signs: presence or absence of criminal records [2, p. 36].

Examining the identity of the victim, in the context of committing crimes against children, O. Kozytska emphasizes that the main criteria for the classification of children who are victims of crimes are the age of the child, the conditions of life and upbringing, the place of study and the need for special protection of the state [3, p. 205].

It should be emphasized that the above amount of information required for investigation is not constant and may change depending on each individual incident of the crime. However, based on the analysis of judicial and investigative practice, we can conclude that in the vast majority of cases, the prosecution and the court establish exactly these circumstances during the pre-trial investigation and trial of the case.

Taking into account the specific features of the issue we are investigating, we suggest considering the identity of the victim based on socio-demographic and psychophysiological properties, since the victims of a crime in 96.2% of cases are underage persons, who, in accordance with the current legislation of Ukraine, have not reached the age of criminal responsibility and they cannot be brought to criminal proceedings. With that in mind, considering the criterion of criminal signs is inappropriate in our case.

Summarizing the information, based on the analysis of the practice of the Ukrainian judiciary and pre-trial investigations criminal proceedings materials, for the commission of crimes provided for in Art. 166 of the Criminal Code of Ukraine, it can be concluded that the victims of malicious non-fulfillment of duties to care for a child or a person under established custody or guardianship are mostly male (62.5% of cases).

The information obtained by us during the study of the materials of criminal proceedings allows us to conclude that in the vast majority (96.2% of cases) the victims of crimes are underage persons, which means, those who at the time of committing the crime did not reach the age of 14, where 24.3% are newborn children, while 12.5% of them were not even registered in the relevant civil status registration bodies.

The vast majority of the victims, who reached the age of six, were secondary school students and studied in junior grades. At the same time, according to reports provided by the administration of the schools where the victims studied, they often or systematically did not attend school classes without valid reasons, and at the same time had a low level of knowledge.

Based on the results of the study of judicial and investigative practice, it can be concluded that the victims (together with family members) lived in villages, or small cities or district centers with a population of up to 100,000 people (81.25% of cases), where a significant percentage of the unemployed population exists. The bulk of the employed population is involved either in the field of agriculture or works at a city-forming enterprise, which negatively affects the material situation of the population [4, p. 495]. The level of financial security of the family where the victims lived was at a low level.

In the context of the issue we are studying, we consider it necessary to investigate the conditions in which the victims lived and were brought up accordingly. Our study of the materials of criminal proceedings found that the vast majority (78%) of the victim was brought up in an incomplete family, namely in the absence of a father. Thus, the victim's mother was mainly engaged in the education of the victim. In this connection, most of the families in which these crimes occurred had a low level of material security. As a result, the difficult financial situation pushed mothers in search of additional income to shift the responsibility for caring for the child (ward person) to other family members, most often grandparents or their other children.

Establishing information about the presence of the needs of the victim in special protection allows you to correctly qualify the illegal actions of the offender. It is important to note that most of the crimes were ongoing, and were committed over months or even years. At the same time, the study found that only 14.29% families in which there was a malicious failure to fulfill the duties of caring for a child or a person in respect of whom guardianship or guardianship was established were counted

by the relevant social services as families who found themselves in difficult life situations. Such a small percentage can be explained by a set of interconnected circumstances that lead to unlawful acts on the part of parents, guardians or trustees.

As for the existence of ties with the criminal, it is worth noting that the subject of the crime provided for in Art. 166 of the Criminal Code of Ukraine, is a special one. It can only be parents, adoptive parents, guardians and custodians [5, p. 296]. Based on this, the victim of a crime is in a family relationship with the criminal, or is under their custody (care).

Considering the psychophysiological characteristics of the victims, it is necessary to emphasize that this issue in the context of the topic we are investigating has its own peculiarity. Studying the materials of criminal proceedings, in 64.3% of cases, the forensic medical examination established physiological defects or disproportionate development of the victim, while such a percentage is the result of malicious non-compliance with the care of a child or a ward, which was caused by a complex of actions and/ or inaction on the part of the criminal. In 74.8% of cases, the victims were born with indicators of vital activity and general physical development within normal limits, in 18.75% of cases, children were born prematurely (premature), respectively, in 6.45% of cases, the doctors recorded various types of minor deviations in the state of physical development, which are not dangerous for the victim's life or health.

Regarding the victimization of the victim's behavior, we note that in the vast majority of cases, the victims, due to their age, did not understand that a crime was being committed against them. One of the characteristic features of this type of crime is a high level of latency. Among the reasons for latency, we can include the following: the victim's fear that, due to his youth or limited legal capacity, he will not be believed; fear of minor consequences of turning to law enforcement agencies, the reason for which is that if the parents are brought to criminal responsibility, the victim will be removed from the family and sent to an orphanage [4, p.496]. Such behavior of the victim creates favorable conditions for malicious failure to fulfill the duties of caring for the child. Thus, it can be concluded that the victim's behavior during the commission of the crime is passive or neutral.

5. Conclusions.

As a conclusion, it should be noted that the study of the identity of the victim of malicious failure to fulfill the duties of caring for a child or a person for whom guardianship or custody (care) has been established has important forensic significance. Having at their disposal a sufficient amount of information about the victim, the investigative bodies of the National Police should put forward substantiated versions, initiate investigative (search) actions, and make decisions to conduct the required amount of examinations. In addition, having sufficient information about the victim allows effective measures to be taken to eliminate the causes and conditions of the suspect's criminal behavior.

During the investigation of the malicious failure to fulfill the duties of caring for a child or a person in respect of whom guardianship or guardianship is established, it is necessary first of all to pay attention to the establishment of socio-demographic and psychophysiological information about the injured person. It should pay attention to the age of the victim, living conditions and needs for social protection.

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