

STRUCTURE OF THE FORENSIC CHARACTERIZATION OF LEAVING AN UNDERAGED PERSON IN DANGER

Kozubska Anastasia

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Annotation. The article presents and examines the most common scientific approaches to the definition of the concept of forensic characterization as one of the main elements of the criminal investigation methodology.

It is emphasized that for the successful detection and investigation of the facts of intentional abandonment of an underaged person, especially at the initial stage of the investigation, the availability of initial information, the source of which is the forensic characterization, plays a significant role.

Based on the results of the study, the author proposes the author's own approach to the structure of forensic characterization in the context of the methodology for investigating criminal offenses related to intentional endangerment of an underaged person.

It is established that the elements of the criminalistic characterization of intentional endangerment of an underaged person should include the object of the criminal offense, the method of committing the crime, the identity of the offender and the victim, the "trace picture" and the circumstances of the criminal offense.

According to the conclusions drawn from the study of archival criminal proceedings and court verdicts in cases of the category under study, the author identifies the specifics of the structure of each element of a criminalistic characteristic and establishes a set of typical features to be disclosed in the course of pre-trial investigation.

The author proposes and explains the system of correlations between the elements of forensic characterization.

The results presented in this paper can be further used in the practical activities of law enforcement agencies, in particular, for the detection and investigation of criminal offenses of the studied category. Also, the results of the study can be used in further scientific research on methods of investigating criminal offenses.

Key words: leaving an underaged person in danger, forensic characterization, method of committing a crime, object of the offense, trace pattern, pre-trial investigation, situation and conditions, identity of the offender, identity of the victim.

1. Introduction.

In the context of Ukraine's European integration, one of the priorities of the state policy is to ensure comprehensive child protection. Reforming the law enforcement system and adapting legislation to European standards are aimed at creating an effective mechanism for protecting children's rights. However, despite these efforts, the problems of protecting children's rights remain relevant today.

Cases of parents' inadequate attitude to fulfilling their duties are particularly resonant, especially if their actions endanger the health or even the lives of underaged persons.

2. Analysis of scientific publications.

The scientific basis for the study of forensic characteristics became the works of such outstanding scientists as: A.F. Volobuev, N.V. Pavlova, I.V. Pyrig, O.H. Kryvopusk, V.O. Konovalova, O.L. Musienka, V.V. Kornienko, O.P. 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.

The study of the peculiarities of the main elements of forensic characterization in criminal proceedings related to intentional abandonment of underaged persons, in particular, if it has caused serious consequences.

4. Review and discussion.

Forensic characterization undoubtedly occupies one of the central places in the methodology of criminal investigation, being the main source of forensically significant information about the event of a criminal offense.

The quality and volume of initial information about the event of a criminal offense is undoubtedly the key to an objective and complete pre-trial investigation, especially at the initial stage of the investigation. The source of such information is a forensic characterization.

Criminalistic characterization is an information model that is a qualitative and quantitative description of the typical features of a particular type (group) of crimes [1, p. 252].

At the same time, V.Y. Shepitko notes that the essence of the forensic characterization is that it is considered as a system containing signs and data on the natural relationships of traces, which are expressed by the appropriate degree of probability established on the basis of generalization of the data of criminal proceedings and tested by investigative practice. Such data form the basis for building systems of typical versions used in solving specific investigative tasks, putting forward working versions [2, p. 367-368].

Instead, A.V. Starushkevych proposed to understand the criminalistic characterization as a model of a system of summary information about the forensically significant features of a type, group or specific crime based on the practice of law enforcement agencies and forensic research [3, p. 9].

In our opinion, although the above approaches differ, they inherently fully reveal the definition under study. In addition, the main value lies in establishing the content of the definition under study.

In this regard, we are impressed by the approach proposed by R.L. Stepaniuk, according to which the correlation between the elements of the forensic characterization of a certain group of unlawful acts and the possibility of their establishment and use in the implementation of tasks related to the detection and investigation of criminal offenses is of the greatest importance for criminal proceedings [4, p. 399].

Possession of comprehensive information on forensic characteristics increases the effectiveness of the development and use of recommendations for the analysis of investigative situations, construction and verification of versions, planning of crime investigation, organization and tactics of individual investigative (search) actions, tactical operations and combinations, proper interaction in detecting, recording crimes, as well as other tasks for the detection, investigation and prevention of criminal offenses [5, p. 316].

Investigating the issue of forensic characterization, M.M. Iefimov comes to the conclusion that forensic characterization is a set of elements. Regarding its structure, most authors name 4-5 elements, and

almost all of them name the subject of the criminal offense, the method of committing the crime, the identity of the offender, the “trace picture” and the setting of the crime [6, p. 286].

Depending on the specifics of each individual criminal offense, the quantitative composition of these elements may be changed. This is primarily due to the circumstances to be established. For example, for property crimes, one of the main elements will be the object of the criminal offense, while for criminal offenses aimed at intangible goods, the object of the crime may be absent.

Thus, the reason for the dynamism of the quantitative composition of the studied definition is mainly due to the peculiarities of the methodology of investigation of certain types of criminal offenses, on the one hand, and the rules of substantive law, in particular, criminal law, on the other.

In addition, the regime of legal regulation of public relations, which is encroached upon by the offender’s unlawful acts, has a significant impact on the formation of the methodology for investigating certain types of criminal offenses.

We propose to reveal the elements of the forensic characterization of endangering underaged persons which should be disclosed in the course of pre-trial investigation.

The object of a criminal offense in the theory of forensic science is considered by some authors as a set of information about the most typical direct objects of a criminal offense, which allows us to judge the interests and some properties of the offender’s personality. For forensic characterization, it is also important as a trace object, since the description of its features allows to predict and identify the presence of traces in the elements of the crime scene. In contrast to the criminal law concept of the subject of a crime, according to scholars, in the forensic sense, the subject (object) of an offense may be the human body (his or her life or health) [7, p. 411-412].

While studying the subject of criminal trespass in the context of forensics, we note that in crimes of the category under study, the subject will be the life and health of the victim. Thus, the object of the offense can be attributed to the structure of the forensic characterization of the studied category of criminal proceedings. However, it should be noted that the legislator expressly provides for liability in case of harm to health or death of the victim. Thus, the subject matter of the crime affects the formation of the trace picture, since the body of the victim in cases of the studied category can be one of the sources of trace information.

Considering the manner in which the offense of endangering an underaged person is committed is one of the central places in the system of criminalistic characterization.

As noted by V.A. Bidniak, G.S. Bidniak and K.O. Chaplynskyi, the formation of a trace picture occurs precisely under the influence of this element. Manifestations of the method in the material or virtual environment provide an opportunity to have an evidence base, put forward versions, identify the offender, etc [8, c. 25].

At the same time, emphasizing the importance of studying the method, N.V. Pavlova notes that the method of committing a crime is the main and unifying element with the help of which, according to the scientist, it is possible to study the connections between all the structural elements of the forensic characterization identified in the course of analysis [9, p. 23].

In addition, as rightly noted by O. Kryvopusk, comprehensive information about the method of committing a crime will allow initiating the necessary examinations, asking appropriate questions to the expert, as well as obtaining the necessary materials (conclusions of commissions, information references, etc.) to ensure a full, comprehensive investigation of criminal proceedings and bringing the perpetrators to criminal liability [10, p. 370].

Based on the analysis of criminal proceedings, it is established that the method of committing this type of crime is characterized by an incomplete structure, in particular, the absence of a method of preparation for committing a criminal offense.

This is because although this category of crimes is classified by criminal law scholars as intentional, i.e., those that may include preparation, the intent of the perpetrator in proceedings for intentional

endangerment of an underaged persons arises suddenly, which in turn makes it impossible to prepare (commit preparatory acts).

Thus, the method of committing crimes of the studied category has a two-component structure, and its elements are: the method of direct commission and methods of disguising (concealing) illegal activities.

An equally important element of the forensic characterization in proceedings of this category is the trace picture, since it carries an array of information about past events, and one of the main tasks of law enforcement officials is to identify such traces, study them, research and analyze them based on the information received [11, p. 450].

According to O.G. Kryvopusk, studying the methodology of investigating crimes related to the commission of malicious failure to fulfill childcare responsibilities, she concludes that the trace picture of the crime is one of the key elements of the forensic characterization and depends on the method of committing the crime [10, p. 72].

In contrast to the method, the trace pattern of abandonment is represented by a complete structure, as unlawful acts are reflected in material, ideal and digital traces.

An important element of the trace picture, given the subject of the criminal attack (the life and health of the victim), is the documentation (documentary traces) of the Ministry of Health, state authorities, local governments, etc.

The study of criminal proceedings has established that the bulk of traces of unlawful acts are preserved by things of the material world, i.e. material traces.

Considering the circumstances of the criminal offense in the context of leaving an underaged person in danger. This element plays an important role in the disclosure of a criminalistic characteristic, as it has a significant impact on the manner in which a criminal offense is committed.

After analyzing a number of approaches to determining the circumstances of a criminal offense, we can conclude that the circumstances of a crime are a set of objective factors that affect the nature and consequences of a criminal act, including the place and time of its commission. Therefore, the importance of disclosing this element cannot be overestimated.

In our opinion, when describing the situation in the context of crimes of the investigated category, it is necessary to pay attention, first of all, to the time and place of the criminal offense.

At the same time, given the peculiarities of the pre-trial investigation of the proceedings under study, these definitions should be considered in a broad sense. We mean that during the investigation it is necessary to determine not only the short period of time when the event of the criminal offense actually occurred, but also to pay attention to the establishment of such categories as day of the week, time of year, etc., since this is crucial for the formation of the method of committing a criminal offense.

We adhere to the same position regarding the place of commission of a criminal offense. That is, we propose to consider both the place where the crime actually occurred and to pay attention to the geographical location.

This approach, in our opinion, will allow for a deeper and more accurate establishment of correlations between the elements of the situation, in particular, place and time, and between the method of committing a criminal offense.

The disclosure of conditions that individually or in combination contributed to the commission of a criminal offense should not be neglected. This will allow, first of all, to establish in more detail the determinants of abandonment, which in turn will allow taking measures for the effective prevention of criminal offenses of this category. [12, p. 59].

Investigation of the person committing criminal offenses related to abandonment and the victim will ensure the functioning of an effective prevention mechanism. In addition, having sufficient

information about the identity of the offender, investigators can be offered reasonable versions on the basis of which an investigation plan will be drawn up.

Having analyzed the approaches of scholars to the elements of the offender's and victim's personality, we can state that groups of characteristics vary depending on the criminal offense. Criminal offenses of the studied category are no exception.

However, without law enforcement agencies having information on the main characteristics of persons committing certain categories of crimes, it is not always possible to guarantee this success, since the investigation in such circumstances is carried out in conditions of information insufficiency [13, p. 41].

Thus, we propose that in the process of investigating this element of forensic characterization, attention should be paid to the study of the moral (psychological), biological and social qualities of the offender.

Establishing information about the offender's personality will allow us to determine the motivation for his or her behavior, the presence or absence of mental illness, social ties, etc. In our opinion, the personality of the offender is largely formed under the influence of the social environment, value orientations, which are usually laid down long before the commission of illegal acts, etc.

When investigating the victim, we believe that it is important to disclose socio-demographic and psychophysiological characteristics.

5. Conclusions.

Summarizing the above, we note that the forensic characterization of leaving a minor in danger includes the object of the offense, the situation and conditions, the method of committing the criminal offense, the trace pattern, the identity of the offender and the identity of the victim.

The method of committing a criminal offense of this category is characterized by its incompleteness (lack of a training element).

These elements are correlated. The situation and the personality of the offender and the victim have the greatest influence on the method, while the method and the subject are the main trace-forming components. At the same time, the conditions of a criminal offense, both individually and in aggregate, affect the formation of certain elements of the offender's personality and in a certain way influence the formation of not only the situation, but also the method.

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Anastasia Kozubska,

Aspirant

Research Institute of Public Law, Kyiv, Ukraine

E-mail: stasya5353@gmail.com

ORCID: 0009-0004-4701-2030