

LEGAL PRINCIPLES FOR THE APPOINTMENT AND CONDUCT OF FORENSIC EXAMINATION IN THE INVESTIGATION OF ILLEGAL POSSESSION OF VEHICLES COMMITTED BY MINORS

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Annotation. The article reveals the issue of the legal principles of the appointment and conduct of forensic examinations. It is noted that examinations are one of the most important means of obtaining evidence in criminal proceedings. During the investigation of illegal possession of vehicles committed by minors, the investigator appoints forensic examinations, which are carried out in order to study traces and objects that are evidence in criminal proceedings. It is proven that thanks to such examinations the investigator can establish the truth in criminal proceedings. It is found out that forensic examination makes it possible to establish the mechanism of certain traces at the scene of the crime, to identify criminals by the detected traces, as well as the tools and instruments used by them. It is shown that it can also be used to establish the presence of traces invisible to the naked eye on various obstacles and objects removed from the scene of the crime, and in the case of detection of such traces, to determine their suitability for identifying the person and the objects that left them. The peculiarities of the purpose and expediency of conducting forensic examinations in the investigation of illegal possession of vehicles committed by minors, such as: traceological, dactyloscopic, forensic, computer-technical, portrait, phonoscopic, are determined. It is concluded that the list of outlined forensic examinations that are assigned and conducted during the investigation of illegal possession of vehicles committed by minors is not exhaustive and depends on the specific situation that develops during the investigation. It is also undeniable that the capabilities of expertise are constantly growing due to the emergence of new objects of research, as well as the development of new methods of conducting expert research, which should be taken into account when investigating this category of crimes.

Key words: forensic examinations, investigation, illegal possession of vehicles, minors, criminal proceedings.

1. Introduction.

The effectiveness of the investigation of illegal possession of vehicles is associated not only with the professional experience of the National Police, but also with the need to use various specialized knowledge. The complexity and practical importance of the issues that are put to the decision of specialists require expert research at the highest qualification level. We draw your attention to the fact that the commission of such a criminal offense by minors as illegal possession of vehicles has its own characteristics, which are manifested in their level and dynamics, in the reasons, conditions and motivation. These characteristics may be associated with certain characteristics of the age of minors, determined by their status in society.

2. Analysis of scientific publications.

P.D. Bilenchuk, A.V. Ishchenko, V.K. Lysychenko, D.A. Patrelyuk, and M.G. Shcherbakovsky devoted their works to the consideration of legal, theoretical, and practical issues of appointing and conducting

expert research in criminal proceedings regarding the illegal possession of vehicles, in particular those committed by minors, but a wide range of debatable issues still remain open for discussion.

3. The aim of the work.

To analyze the legal basis for the appointment of forensic examinations in the investigation of illegal possession of vehicles and to determine the specifics of their conduct in proceedings against minors.

4. Review and discussion.

The fundamental principles of the appointment of forensic examinations and expert researches, the organization of their conduct and the registration of their results are carried out in accordance with the procedure established by the Criminal Procedure Code of Ukraine, Civil Procedure Code of Ukraine, Economic Procedure Code of Ukraine, the Code of Ukraine on Administrative Offenses, the Code of Administrative Procedure of Ukraine, the Customs Code of Ukraine, the Laws of Ukraine "On Forensic Examination", "On Enforcement Proceedings", "On Valuation of Property, Property Rights and Professional Appraisal Activities in Ukraine", as well as other regulatory legal acts on forensic expert activities, including the Instruction on the Appointment and Conduct of Forensic Examinations and Expert Studies [1], as well as the Regulations on the Expert Service of the Ministry of Internal Affairs of Ukraine, etc. [2; 3; 4; 5].

According to the current Criminal Procedure Code of Ukraine, a forensic examination can be ordered immediately after entering information about a criminal offense into the Unified Register of Pre-Trial Investigations [6]. During the investigation of illegal possession of vehicles committed by minors, the investigator orders forensic examinations, which are carried out to examine traces and objects that are evidence in criminal proceedings. Depending on the nature of the crime committed, various examinations may be ordered: traceological, ballistic, fingerprint, etc. Thanks to such examinations, the investigator can establish the truth in criminal proceedings. Forensic examination makes it possible to establish the mechanism of certain traces at the scene of the crime, to identify criminals based on the detected traces, as well as the tools and instruments used by them. It can also be used to determine the presence of traces invisible to the naked eye on various obstacles and objects removed from the scene of an incident, and in the event of the detection of such traces, to determine their suitability for identifying the person and the objects that left them.

Most often, when investigating illegal possession of vehicles committed by minors, forensic traceological examinations are conducted. The objects of *forensic traceological examination* are material traces (hands, feet, shoes, tires, tools and instruments, etc.), among which there are objects – trace carriers (trace-receiving objects), objects that formed traces (trace-forming objects), sample objects [2]. It is important to note that the same object (for example, a cigarette butt) is a carrier of several types of information (traceological and biological) and can be examined from different sides. In such cases, first a forensic examination is conducted to identify a person by dental marks, and then a forensic examination to determine the group affiliation of saliva. Failure to follow the correct sequence of appointment and conduct of various examinations leads to the fact that objects lose a number of features, and therefore certain studies become impossible (or impractical) in the future [7, pp. 472–484].

The purpose of the traceological examination is determined by the circumstances of the criminal offense committed and the set of traces found and provided for expert examination. In the case of detecting shoe traces at the scene of the crime, such an examination establishes what type this shoe belongs to, what its features are – the pattern of the sole, the presence of damage, scuffs, etc. From the traces of shoes left at the scene of the crime, it is possible to find out some features of the person who was present at the scene of the crime - approximate height, weight, etc.

Indicative list of issues to be addressed:

1) Are there traces of bare feet (stockings, socks, shoes) of a person on this surface (this object) and are these traces suitable for identifying a person (stockings, socks, shoes)?

- 2) Were the traces left by this person or by socks, stockings or shoes taken from a certain person?
- 3) Were the traces of feet (socks, stockings, shoes) found in different places left by the same person (by the same socks, stockings, shoes)?
- 4) What type of footwear left these traces and what are its characteristics and special features (size, degree of wear, etc.)?
- 5) What is the approximate height of the person who left the traces?
- 6) What features of a person's gait are reflected in the "trail of traces"?
- 7) What is the mechanism of formation of shoe traces? [1].

Considering that before illegal possession of vehicle, minors in most cases must overcome certain obstacles. When encroaching on a vehicle located in a closed room, criminals need to break the locking device or the gate itself. In doing so, they use auxiliary tools (lock picks, crowbars, levers, etc.), which often remain at the scene of the crime after the crime. The investigator should pay considerable attention to finding these tools, because it is on them that criminals often leave fingerprints. Even if the car is parked in an open area (near a house, in an unguarded parking lot, etc.), objects with fingerprints, glass fragments (if the car window was broken to get into it), unlocking devices, etc. can also be found at the scene of the crime.

The main task of traceological examination of traces of burglary and tools is to establish:

- a specific instance or type (characteristic features) of a tool, instrument, or unit based on the traces of its action;
- the mechanism (method) of burglary (other action), the direction in which the obstacle was broken (from the inside or outside), the type (species) of the product that left the trace, the method of its manufacture, etc.

Indicative list of issues to be addressed:

- 1) Was a burglary or other action committed with this exact tool (wire bitten, lock shackle, etc.)?
- 2) Were there any traces of burglary left by the same tool, removed from different places of the incident?
- 3) Was the burglary committed with one or more tools?
- 4) What type of tool was the burglary committed with?
- 5) From which side (internal or external) was the burglary committed against an obstacle (wall, window, grille, etc.)?
- 6) In what way was the object divided (by cutting, chopping, sawing, drilling, etc.)? [1].

For the examination, as a rule, the expert is provided with an object(s) with traces. On the parts of the objects with traces, it is necessary to mark their spatial position (top, bottom, outer or inner side, etc.). As an exception, casts of three-dimensional objects may be provided.

If the object of the investigation is traces of drilling, sawing, crushing, the expert should also be provided with shavings, sawdust, chips found at the scene of the incident, and indicate their localization in relation to an obstacle or other object. If it is clear from the circumstances of the case that the mentioned particles may have been formed as a result of the action of not only the tools being examined, the expert should be informed about

Important in criminal proceedings on the illegal possession of vehicles is the traceological examination of locking devices (means), which is carried out on such objects as locks and other locking devices. It is garage locks, car door locks, various additional locking devices installed by owners that can be broken when seizing vehicles.

The traces that remain can help resolve various issues.

In this regard, the main tasks of the examination are to establish the fact and method of unlocking (hacking) the device, the types of objects that were used for this, and the identification of these objects.

Indicative list of issues to be addressed:

- 1) Is the lock mechanism working? If not, what is the malfunction?
- 2) Was the lock unlocked with foreign objects (picks, stolen or counterfeit keys)?
- 3) In what way was the lock unlocked (broken)?
- 4) Were the provided locks unlocked (broken) in one way?
- 5) In what state (locked, unlocked) was the lock at the time of its damage?
- 6) Is it possible to unlock this lock using a tool (object) that was seized in the case of the crime?
- 7) Was the lock broken with a tool seized in the case of the crime?
- 8) Was the lock unlocked using this key (pick)?
- 9) Are there any signs on the original key that are characteristic of its copy or cast? [1].

If the object of the study is locks, in addition to them, marks and other objects that could be used to open or break the lock, as well as all keys to these locks, are sent to the expert. The locks are provided for study in the condition in which they were found at the scene of the incident and removed. It is prohibited to insert any objects (including standard keys) into the keyhole, as well as to conduct other experiments with the locks before their expert study.

In addition, from the traces left at the scene, in the process of conducting a traceological examination (examination of vehicles and the traces they leave), it is possible to establish: the type of vehicle; what type and model it belongs to; the direction in which the criminals disappeared, and other individual features inherent in this particular vehicle, which will help to identify it from other similar cars. In addition, the results of the examination can be used to verify the veracity of the testimonies of victims and witnesses of a criminal offense [7, p. 472].

In proceedings on illegal possession of vehicles committed by minors, *fingerprint examinations* are quite often prescribed. The main task of this examination is to identify persons who committed a criminal offense by fingerprints left by criminals at the scene of the crime during its commission. Fingerprint examination is prescribed when fingerprints are found on objects belonging to the case, and the investigator needs to establish who left them.

When investigating illegal possession of vehicles committed by minors, it is often advisable to conduct a *forensic medical examination of living persons*. The grounds for ordering a forensic medical examination are the absence of documents on the minor's age and the impossibility of obtaining them; the presence of doubts about the authenticity of documents certifying the minor's age. Indicative list of issues to be addressed is as follows: what is the age of the person being examined; has this person reached a certain age (for example, 14, 16, 18 years old)? Materials that must be provided to the expert: medical documents indicating the minor's mental development, injuries, illnesses, and health status; copies of the protocols of interrogations of parents, educators, and teachers, which contain data on the age at which the teenager began to walk and talk, behavioral characteristics, needs, interests, habits, attitude to learning, behavior at home and at school, circle of interests, relationships with peers, teachers, and circle of acquaintances; information about the parents, their attitude towards raising the minor.

Recently, during the investigation of illegal seizure of vehicles committed by minors, it is increasingly necessary to conduct such a type of forensic examination as *computer technical examination*, in order to search for and record electronic and digital traces of criminal activity. The need for its conduct

is due to the fact that communication between persons, including those minors who are engaged in criminal activity, reaching agreements between them about meetings, communicating about intentions, usually takes place in the Internet environment using social network pages, on various sites, through messengers installed on mobile phones. Conducting computer technical examination involves obtaining access to information resources and systems, hardware and software responsible for the functioning of electronics, electrical engineering, radio engineering, mobile communications, etc. [8].

The tasks of computer technical examination are to identify information contained on information carriers; restore deleted information from information carriers; study reproduced computer programs and their compliance with certain parameters or functions; identify signs of connection to computer networks, the presence of visits to Internet resources, history of access to Internet resources, etc. It should be noted that in the case of ordering computer technical examination during the investigation of illegal possession of vehicles committed by minors, most of the information that may be important for the investigation may be stored not only in stationary or portable computers, but also on tablets and mobile phones of both criminals and victims and witnesses.

During the examination of a mobile phone, the expert, using specialized software and hardware, can examine information in the mobile phone's memory about the last dialed numbers; received and missed calls; sent, received and saved messages (SMS, MMS, instant messengers, e-mail); phone book, notes, etc.; audio, graphic, video and other files. The phone book, SMS and other text information can be stored in the SIM card's memory.

At the same time, of course, one of the tasks of computer technical examination is the study of destroyed information in the memory of a mobile phone, smartphone and SIM card. The question of the origin of information in the memory of a mobile device (as a result of mobile communication, video, sound or photography) is beyond the competence of the expert [2; 7, pp. 472–484].

In order to identify the criminal by photograph (photo card, negative, video recording) when investigating illegal possession of vehicles committed by minors, a *portrait examination* may be ordered. This is possible in the case when the actions of the criminal and his face are recorded by external video surveillance cameras, the corresponding recordings are seized by officers of the National Police and are used to investigate criminal offenses. During the investigation of illegal possession of vehicles committed by minors, it is quite often necessary to order and conduct a portrait examination in order to establish the identity of the person depicted in photographs or video recordings. Today, the most common objects of portrait examination are video recordings obtained from various video surveillance cameras. These may be video recordings from shopping centers, cafes, nightclubs, parking lots, which record meetings of minors or persons who involve minors in criminal activity with victims.

Depending on the specific video recording device, data can be recorded using external and internal surveillance cameras; video recorders (including car cameras); mobile phone cameras; video cameras of the city-wide video surveillance system "Safe City", which covers places of mass gatherings of people, key intersections, sections of streets, and other city infrastructure facilities/

In addition, during the investigation of illegal possession of vehicles committed by minors, covert investigative (search) actions are quite often carried out, as a result of which a video recording is obtained with the image of the person committing the illegal actions, and, accordingly, there is a need to identify this person. Comparative materials for identifying a person by photograph can be reliable photographs and a video recording of this person [2].

When investigating illegal possession of vehicles, not only investigative (search) but also covert investigative (search) actions can be carried out, which make it possible to obtain audio recordings of conversations between accomplices in the crime, in particular, recording conversations between criminals and the victim in the case when the latter is offered to buy back his car, or when criminals record their actions directly during the commission of the crime. To identify the person whose voice is recorded on the signalogram (film, disk or other information carrier), diagnose the conditions and content of the recording when investigating illegal seizure of vehicles, a *phonoscopic examination* is

prescribed. The objects of its study may be: a) original phonograms obtained during investigative (search) or covert investigative (search) actions; b) phonogram samples for comparative research obtained during voice sampling; c) phonogram samples for comparative research obtained during voice sampling [2].

5. Conclusions.

Taking into account the above, it can be concluded that the results of forensic examinations are of great importance for criminal proceedings, and their list, which should be assigned and conducted during the investigation of illegal possession of vehicles committed by minors, is not exhaustive and depends on the specific situation that develops during the investigation.

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