

Some Criminal-Procedural, Criminalistic and Criminological Aspects of Studying the Personality of Minors Who Have Complete Theft

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Abstract

The study of apartment thefts committed by minors has its own characteristics. In the research process, determining the age of the minor, studying the conditions of life and upbringing, determining the level of physical, intellectual and mental development, discovering the adult persons who provoked them to criminal activity, the possibility of separating the criminal proceedings against him if there were other participants in the crime he committed, investigators the provisions on sending the research material to the Commission on the Affairs and Protection of Rights of Minors when finding cases that exclude criminal prosecution have been analyzed in detail.

Thefts occupy a special place in the structure of all crimes committed on the territory of our republic, as a result of which significant material and moral damage is inflicted on citizens. In many cases, juveniles are the subjects of these types of crimes. In article 428.2 of the Code of Criminal Procedure of the Republic of Azerbaijan, minors in criminal proceedings include persons who have not reached the age of eighteen at the time of the crime. One of the important points is the determination of criminal cases in the proceedings on the case of minors, with the exception of cases that must be determined for the commission of a crime under Article 429 of the Criminal Code of the Republic of Azerbaijan.

It can be concluded that the study of burglaries committed by minors has its own characteristics. In the course of the study, the provisions related to determining the age of a minor, studying the life and "conditions of education", determining the level of physical, intellectual and mental development, the possibility of separating a criminal case against him in the presence of others were taken into account, the participants in the crime he committed were analyzed in detail.

Keywords: apartment theft, method, primitive, specialized, professional, combination lock, key selection, lock mechanism

Деякі кримінально-процесуальні, криміналістичні та кримінологічні аспекти вивчення особистості неповнолітніх, які вчинили крадіжку

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Анотація

Дослідження квартирних крадіжок, вчинених неповнолітніми, має свої особливості. У процесі дослідження, встановлення віку неповнолітніх, вивчення умов життя та виховання, визначення рівня фізичного, інтелектуального та розумового розвитку, виявлення повнолітніх осіб, які спровокували їх до злочинної діяльності, розглядається можливість виділення кримінальних проваджень за об'єктом і чи були інші учасники вчиненого ним злочину. Автором детально проаналізовано положення про направлення матеріалів розслідування до комісії у справах і захисту прав неповнолітніх при виявленні справ, що виключають кримінальне переслідування.

Особливе місце в структурі всіх злочинів, що вчиняються на території Азербайджанської Республіки, займають крадіжки, внаслідок яких громадянам завдається значна матеріальна та моральна шкода. У багатьох випадках суб'єктами цих видів злочинів є неповнолітні. У статті 428.2 Кримінально-процесуального кодексу Азербайджанської Республіки до неповнолітніх у кримінальному провадженні відносяться особи, які на момент вчинення злочину не досягли вісімнадцяти років. Одним з важливих моментів є визначення кримінальних справ провадження у справах неповнолітніх, за винятком справ, які повинні бути визначені за вчинення злочину, передбаченого статтею 429 Кримінального кодексу Азербайджанської Республіки.

Можна зробити висновок, що дослідження квартирних крадіжок, вчинених неповнолітніми, має свої особливості. У ході дослідження розглядаються положення щодо визначення віку неповнолітнього, вивчення побуту та «умов виховання», визначення рівня фізичного, інтелектуального та розумового розвитку, можливості виділення щодо нього кримінальної справи та врахування присутності інших осіб і детально досліджено учасників вчиненого ним злочину.

Ключові слова: квартирна крадіжка, спосіб, примітивний, спеціалізований, професійний, кодовий замок, підбір ключа, замковий механізм

Introduction.

Thefts occupy a special place in the structure of all crimes committed on the territory of our republic, as a result of which significant material and moral damage is inflicted on citizens. In many cases, juveniles are the subjects of these types of crimes. In article 428.2 of the Code of Criminal Procedure of the Republic of Azerbaijan, minors in criminal proceedings include persons who have not reached the age of eighteen at the time of the crime. One of the important points is that in addition to the cases that should be determined for the crime committed under Article 429 of the Criminal Code of the Republic of Azerbaijan, the following cases should also be determined in the course of proceedings against minors.

1. Determining the Age of a Minor.

A person's identity, including age, is determined by a birth certificate or identity card. At this time, the eighteen-year age of a person is taken not from the day of his birth, but from the end of that day, that is, from the beginning of the next day. If during the study of preliminary materials, it was not possible to establish the exact age of the teenager, then this issue is resolved in the investigative process after the initiation of a criminal case. In the absence of an identity card or birth certificate, the age limit is changed by obtaining the relevant documents (medical record, office work in educational institutions, personal file from the personnel department, etc.). Witnesses (parents, guardians, relatives, etc.) may be interrogated for this purpose. In the absence of other possibilities, the age of a person is determined by the appointment of a forensic medical and forensic psychological examination. At the same time, it should be taken into account that when determining the age of a minor accused by the conclusion of a forensic medical expert, his birthday is considered to be the last day of the year indicated in the expert's conclusion. When determining the age of such a person according to the minimum and maximum years, the minimum age proposed by the experts is taken as a basis. (On judicial practice, 2008, p. 2).

2. Study of the Living Conditions and Upbringing of a Minor.

In order to implement this provision of the law, information is obtained that characterizes the family of a teenager, and the following is determined: life outlook. Here, in particular, where and in what position the parents of a minor (or persons replacing them) work, how parents interact, whether they are in a registered marriage, their moral and cultural level, their views and attitude to raising children, circumstances surrounding a teenager, characteristics, whether parents have the opportunity to really engage in his upbringing, the presence of other children in the family, their age limit, employment, financial and living situation of the family, relationships between families of members, the presence in the family of persons suffering from alcoholism and previously convicted, etc. In other cases, it should be clarified.

All of these cases must be investigated. After all, the worldview of a teenager, his character, psychology, life principles, attitude to the team, work, women are formed in the family. A person receives the first ideas about good and evil in the family, observes the behavior of elders and often blindly imitates them.

As a rule, honest, hardworking children grow up in families where they live kindly and work honestly. If there are opposite relations between parents in a family, then the children who grow up here are selfish and do not hesitate to use any means to achieve their goals. As a result of the influence of certain factors, they often begin to commit crimes. Usually, the breakup of a family has a strong effect on children. As a result, many of them run away from home, become vagrants, fall under the influence of criminal elements, and some begin to commit criminal acts.

If a teenager dropped out of school, it is necessary to find out what is the reason for this, when this event occurred, how the teaching staff, a public organization should react to it, and what measures need to be taken to return the teenager to school. educational institution. In cases of expulsion of a teenager from an educational institution, it is necessary to check whether this measure of influence is justified and whether this measure is coordinated with the commission on juvenile affairs.

If a minor works, it is necessary to determine: where and in what position he works, whether he likes the profession he has chosen, how he mastered this profession, what salary he receives, how he behaves at work, his subordinate (foreman, foreman) how to him to address, the moral qualities of these persons; if the minor attends evening schools after work, his educational achievements; whether he worked somewhere before, why he was released from work; experience; the establishment of individual guardianship over a minor and how this guardianship is expressed; the moral qualities of each, whether his personal qualities influence the correct upbringing of a teenager, etc.

It is no coincidence that the issues to be studied in connection with the education and work of a minor have such a wide scope. It is known that an educational institution, and then production, serve to continue the upbringing of a teenager in a family. It is in these institutions that the organization of educational work on the correct organization of work and free time of young people at the appropriate level plays an important role in their growth as a useful member of society.

But in secondary schools, institutes, etc. We often have to deal with such serious violations in the system of educating the younger generation. These violations do not affect the formation of a new person. During the investigation of burglaries, it turns out that the educational work at the school attended by the accused minors is organized improperly, there is no proper discipline, there are serious shortcomings in education, and students' free time is not organized. At the same time,

more particular cases are being identified that explain the bad behavior of children. Such cases include the drinking of alcoholic beverages by children on school evenings, their participation in gambling, etc. can be attributed.

Recently, the flow of teenagers to industrial enterprises, construction and transport has been increasing. However, experience shows that the management of enterprises and public organizations does not pay due attention to the industrial training and education of young men and women. During the investigation of criminal cases, facts are revealed confirming the lack of work with adolescents, the improper organization of their industrial training, violations of the legislation on labor protection of adolescents and safety regulations, and the long-term use of minors in auxiliary work. All this causes a feeling of dissatisfaction in a teenager, he tries to get rid of work and look for another way to live. A teenager released from work is briefly exposed to negative influences and may begin to commit crimes.

3. The level of physical, intellectual, and mental development of a minor must be determined.

In order to find out the interests of a minor, his friends and how he spends his time, it is necessary to find answers to the following questions: How does a minor spend his free time, what does he like best? What films does he like, and which do not? Does he read newspapers, magazines, books? What kind of literature is he fond of, does he play sports, what sports does he do? Does he participate in creative associations? Does the minor have friends, what do they do? Do they know about the juvenile delinquency, how did they feel about it? What is the influence of friends on a teenager?

Characteristics of the person and information about his behavior in the period before the commission of the crime can often explain what circumstances contributed to the commission of the crime. It is known that some people quickly succumb to negative influences, while others resist them. For example, weak-willed people easily succumb to the negative influence of the environment, they do not find the strength to independently break off relations with an unhealthy environment. It is they who soon commit criminal acts under the influence of criminal elements.

Before committing a crime, a person's behavior should be deeply studied. At this time, the circumstances that characterize him on the positive side should also be objectively investigated. It is an objective study of these issues that makes it possible to determine whether the crime was committed by chance or whether this act logically completed the previous behavior of the person. With regard to the negative behavior of a person in the past, it is advisable to determine the following circumstances: has he committed a crime before (if so, when and what kind)? How many times have you been convicted (at what age and for what crimes)? What punishment was he sentenced to, did he serve the punishment (served completely, partially, did not serve at all)? Where did

he serve his sentence? Did he escape from places of punishment, how many times and was he punished for them? Was he in a special educational institution for juveniles, when, why and for how long was he in this institution? Is he registered with the police? Was he brought to administrative responsibility and why? Was he associated with criminals and other anti-social elements?

Despite these circumstances, it is important to find out the objective circumstances of each criminal case, the motive for the crime, approaching the individual individually in relation to her life and upbringing. In practice, the main goal is to determine why a person committed a crime. For example, a person is found guilty of a crime involving burglary. During the investigation of the case, it is important to find out why he committed this crime. What reasons influenced this? The role of determining the time and place of the crime is highly appreciated. At the same time, the place of the crime, the incitement of other persons, etc. it should be clarified to what extent the circumstances create conditions for the commission of a crime. When considering this category of crimes, it is necessary to analyze the distribution of these types of crimes in the region, town, or city.

4. If there are other participants in a crime committed by a minor, the possibility of separating a criminal case against him should be determined.

Article 431 of the Criminal Code of the Republic of Azerbaijan states that if a minor participates in the commission of a crime together with other persons, the criminal case against him must be separated into a separate proceeding at the stage of pre-trial proceedings.

Separating a criminal case against a minor into a separate proceeding is not allowed if this creates significant obstacles to a comprehensive, complete, and objective examination of the circumstances of the case. (Criminal Procedure Code, 2000, p. 352).

The law attaches particular importance to identifying older persons who incite minors to commit criminal acts. Failure to expose these individuals generally allows them to involve other minors in burglary-related criminal activities. Therefore, an investigator conducting a preliminary investigation in a criminal case of a minor must concentrate all his efforts on investigating the following issues: whether the minor acted on the recommendation of an adult who has not yet been exposed; Were every opportunity taken to identify the instigator?

The study of criminal cases committed in a group with the participation of minors shows that in many cases, elderly instigators are not prosecuted under the relevant article of the Criminal Code of the Republic of Azerbaijan. Persons prosecuted under this article are often acquitted by the courts. This situation is explained by the fact that in the process of investigating a criminal case, the investigator must establish exactly what actions an elderly person performs when involving minors in criminal activity - a statement, a threat, etc. does not

define. It should be taken into account that before the incrimination of an elderly person in connection with burglaries, he used alcohol, drugs, gambling, etc. with a minor. takes place (Pashayev, 2009, p. 64-70).

To implement these requirements of the law, it is necessary to establish the causes of antisocial habits and views of minors, find out the circumstances that lead to the formation of criminal intent, facilitate the preparation and commission of a crime, and hide the traces of a crime. For each criminal case, the following assumptions must be made and tested: the presence of elderly instigators and other accomplices; presence of several groups of juvenile delinquents; the existence of facts of non-reporting or concealment without a prior promise from adults (parents, persons who gave drugs to a teenager, etc.); purchase of drugs by older people and their sale by teenagers; involvement of a minor in begging, drunkenness, gambling, drug use, vagrancy, etc. When working on these assumptions, it is necessary to refine the various options. For example, a teenager was forced to commit a crime, or even if he participated in the commission of a crime, this participation was not active (Trubachev, 1983, p. 82).

If the criminal behavior of a person was discussed at a meeting of teachers at the school where he studied, at a vocational school, at meetings of state bodies of the enterprise, department, organization where he works, extracts from the minutes of these meetings are necessary, and it is appropriate to add them to the case.

Sometimes there are cases when, in the opinion of the investigator, the act is less socially dangerous, so there is no need to clarify in detail the reasons and circumstances that led to its commission. In our opinion, this practice cannot be considered correct. Without clarifying the causes of a minor offense, it is impossible to take measures to eliminate them, and thus it is impossible to prevent a person from committing a crime again.

The actions of the investigator to request a large number of documents (personal documents, references, certificates, etc.), their study and inclusion in the criminal case should be an organic component of the investigation and be carried out creatively, and not mechanically. Because the planning of future investigative actions and the tactics of their conduct often depend on the information contained in these documents.

The inclusion in the plan of specific investigative actions, the determination of their duration and sequence depends on the nature of the crime and the initial information collected at the time the criminal case was initiated. However, taking into account the age of adolescents when planning investigative actions; avoid a major interruption in the course of the investigation; determine the sequence and tactics of interrogation, etc. Recommended.

It should be noted that the termination of the criminal case and the transfer of the case to the Commission for the Protection of the Rights and Rights of Minors does

not relieve the investigator from conducting a full and thorough investigation. At the same time, the investigator, when sending the case to the court, is still obliged to find out the circumstances to be proved in the criminal case, in particular the circumstances that contributed to the commission of the crime, in accordance with the requirements of Art. criminal procedure legislation of the Azerbaijan Republic. This requirement is perfectly legal. Because the commission on juvenile affairs and the protection of rights, when deciding the fate of a teenager, must have all the evidence of his guilt, information about his personality, know what reasons and circumstances contributed to the commission of the crime (Mammadov, 2004, p. 342).

Unfortunately, in many cases, investigators refuse to initiate a criminal case or terminate the initiated criminal case, carrying out only a number of investigative actions of a verification nature. For example, only the fact of a crime and the guilt of a minor in committing a crime are investigated, and the case is referred to the Commission for the Protection of the Rights and Rights of Minors. Of course, such a step does not provide a full explanation of the reasons that contributed to the commission of a crime by a minor. Taking such a step, he assigns the duties assigned to him by law to the commission on juvenile affairs. Thus, in accordance with the Regulations on commissions for the protection of the affairs and rights of minors, this commission is also obliged to find out the causes and conditions that contributed to the commission of crimes, as well as take measures to eliminate them. However, it should be taken into account that the commission on juvenile affairs mainly includes educational institutions, housing authorities, immediate parents, etc. can perform such work on the basis of incoming materials.

The question of the participation of the investigator in the meetings of the commission on juvenile affairs is solved in practice in different ways. A number of investigators do not participate in the meetings of the Commission and consider the participation in these meetings of the relevant operational police officers and an assistant prosecutor sufficient. Some investigators take an active part in the meetings of the commission, knowing closely the minor who committed the crime, the conditions of his life and upbringing, indicate to the commission how to choose a more targeted measure of educational influence and whom to invite to meetings, advise where to hold meetings.

Criminal cases should be carefully selected for performances in groups where minors work in connection with burglaries. At the same time, it should be taken into account that the actions of a juvenile delinquent may cause a feeling of pity in some part of the audience (Kosenko, 2003, p. 298).

The investigator must apply to the commission on juvenile affairs, at the place of residence of minors, at the place of work of their parents, at police departments

for juvenile affairs, etc. in addition to the presentations sent out, it is advisable to use other forms of preventive activity (Mammadov, 2004, p. 195).

In some cases, it is recommended to talk to teachers and tutors. The goals of such conversations are usually that people directly involved in the education of young people need to increase their attention to any teenager or group of teenagers.

The recorded conversations are not procedural actions, therefore they are not reflected in the materials of the criminal case. However, in our opinion, it may be useful for the investigator to make a brief extract about the conversation and leave it in the proceedings. This is important to complete all maintenance work later.

Identification and Prosecution of all Participants in the Crime.

The main directions of the investigator's operational-search activity are related to identifying all participants in the crime, exposing criminals and bringing them to justice (Karimov, 1998, p. 79). If a person is not exposed, he can repeat the crime.

New technologies provide privacy for criminals. We must have the necessary means to prevent their actions and work to ensure that they do not go unpunished. The fight against the sale and sexual exploitation of children, which is carried out with the use of new technologies, should be approached in a comprehensive manner. Laws must be enacted to prohibit the sale of children and all forms of sexual exploitation of children. The criminal legislation of Azerbaijan provides for liability for the distribution of child pornography (Eyvazov, 2018, p. 89).

The law attaches particular importance to identifying older persons who incite minors to commit criminal acts. Failure to expose these individuals generally allows them to involve other minors in burglary-related criminal activities. Therefore, an investigator conducting a preliminary investigation in a criminal case of a minor must concentrate all his efforts on investigating the following issues: whether the minor acted on the recommendation of an adult who has not yet been

exposed; Were every opportunity taken to identify the instigator?

It should be taken into account that before the incrimination of an elderly person in connection with burglaries, he used alcohol, drugs, gambling, etc. with a minor. takes place (Nasibov, 2004, p. 22).

Conclusions.

It is known that identifying and exposing incitement is not an easy task. It is clear that, first of all, a juvenile delinquent can show the accomplices of the crime related to burglaries, including the perpetrator, and provide the necessary information about them. The difficulty here is that the juvenile offender does not always report it correctly. His failure to report the instigator can be explained in many ways. In some cases, the minor is afraid of revenge (in practice, such cases are common). In other cases, he believes that the denunciation of the instigator is a betrayal of a comrade, and therefore does not reveal the instigator. Finally, sometimes it happens that as a result of the instigator's speech, the minor testifies that he committed the crime himself, without anyone's participation. He believes that the age limit is a mitigating circumstance and the punishment that will be imposed on him will not be so severe.

It should be noted that even in cases where minors show who involved them in criminal activity, and the latter admit it, the investigator must try to find additional evidence of their participation in the crime. This is necessary because sometimes instigators and minors retract their original testimony in court. If yes, then more evidence is needed.

It can be concluded that the study of burglaries committed by minors has its own characteristics. In the course of the study, the provisions related to determining the age of a minor, studying the life and "conditions of education", determining the level of physical, intellectual and mental development, the possibility of separating a criminal case against him in the presence of others were taken into account, the participants in the crime he committed were analyzed in detail.

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