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## **INTERROGATION OF INDIVIDUAL PARTICIPANTS IN CRIMINAL PROCEEDINGS**

There is an urgent problem regarding the effectiveness of investigative (search) actions in criminal proceedings against minors, as there is a rising trend in juvenile delinquency as of today. In order to investigate crimes committed by minors or with their participation, it is necessary to take into account age, gender, individual and psychological characteristics when conducting investigative (search) actions with the participation of this

category. The interrogation of a person is one of the main and most difficult investigative (search) actions in criminal proceedings at the stage of pre-trial investigation and an important source of evidence during the trial, but at the same time, it raises many controversial issues both in science and in practice. Without denying the fact that there is a large array of scientific papers on this topic, which have a practical focus, most of which are based on the norms of The Criminal Procedure Code of Ukraine, 1960. Therefore, the issues of interrogation and the peculiarities of its conduct over minors, juveniles and people with physical disabilities, their detailed characteristics remain unsubstantiated.

During the pre-trial investigation, the investigator, interrogator, prosecutor may encounter different statuses of minors in a particular criminal proceeding, such as a juvenile or underage witness, suspect, accused or victim. In this regard, an important element of conducting a quality interrogation is to study the identity of the interrogated [1]. The interrogation procedure is carried out with great caution and additional precautions, as the investigator is confronted with a minor with an unformed child psyche, so the negative impact should be excluded. In practice, a significant number of interrogations by investigators are distinguished as obtaining important information about the proceedings, but it is better to mention such actions with the suspect as a way of protection on his part. The interrogation of a suspected/accused juvenile takes place with the obligatory participation of a defense counsel. The suspect has the right to refuse to testify at any time, regardless of the reasons. Thus, although in many protocols of interrogation of the suspect in case of refusal to testify the investigator formulates the phrase «refuse to testify on the basis of Art. 63 of the Constitution of Ukraine, such formulation has no legal consequences, as to testify is a right, not a duty of the suspect» [1].

The interrogation of a minor or an underage is conducted in the presence of a legal representative, pedagogue or psychologist or a doctor if it is necessary. The interrogation of a minor or and underage may not continue without a break for more than one hour, and in general for more than two hours a day [2, Art. 226]. The situation with a juvenile witness is different: showing a person the photos from the crime scene or other physical evidence that could lead a teenager to a neurological disorder is forbidden. Similarly, a juvenile, based on his age, cannot fully assess and identify the important circumstances of the crime for further consideration

of the proceedings, so his condition and the tactics of the interview shall be taken into account.

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules, 1985) stipulate that the competent authorities must respect the legal status of the juvenile, promote her or his well-being and avoid harm, taking into account the circumstances of the case [3]. Juvenile victims and witnesses under the age of 16 are not warned of criminal liability for refusing or evading testimony and for giving false testimony; as such liability arises from the age of 16. Children under the age of 16 are only told the need to tell the truth. The juvenile victim and witness under the age of 18 are explained that they have the right to refuse to testify that they themselves, family members and close relatives have committed a crime. Other procedural rights and responsibilities are also explicated to them. This must be noted in the interrogation report, which is certified by their signature.

A separate group of people with physical disabilities (vision, hearing and worldview), whose interrogation should be based on other criteria should also be noted. Lev Arotsker dealt with this issue in detail. The scientist noted that the formulation of questions should be strictly individual, chosen taking into account the personality of the respondent, his physical and mental characteristics [4]. Thus, investigators are not allowed to ask deaf people such questions as «Did you hear anything?» or blind people «Have you seen the picture of the crime?» and so on, but in practice we have to deal with certain cases that lead people with disabilities to certain consequences. The sign language interpreter is a participant, without whom it is practically impossible to conduct effective and high-quality investigative (search) actions with the participation of the deaf, dumb, deaf-mute. With his help, the investigator is able to understand the person and ask him all the necessary questions without knowing the language of facial expressions and gestures. But there is a case in judicial practice when the court ignored this provision. Thus, during the trial of the Sosnivsky District Court of Cherkasy (court case №117/1156/13-к) it was established that the suspect had hearing impairments, but he was not provided with a sign language interpreter during the pre-trial investigation, which affected the correct perception of the circumstances of the event and the questions of the investigator during the procedural actions [5]. Thus, non-involvement of a sign language interpreter is considered a violation of a person's right to protection, which affected the emotional and mental

state of the case participant, and therefore became the basis for reversal of the court decision and referral of the case for retrial. It will be wrong to use plodding sentences or commissionings, because simple sentences make it easier to build answers that have a positive effect on the outcome of the interrogation. It is more convenient for people with physical disabilities to accompany their speech with graphic images, drawings, sketches or diagrams that may lead the investigator to think correctly: to depict the location of victims of crime as an example.

Summarizing the above-mentioned, it should be noted that the interrogation is quite complex and at the same time informative action by the investigative body. Considering the individual participants in the case, we conclude that a separate approach should be developed for each person. Children and people with physical disabilities are the most vulnerable segments of the population, and therefore it is necessary to take into account these features during the interrogation at all stages of criminal proceedings.

### **List of used literature**

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