

AMURCON 2020
International Scientific Conference**PSYCHOLOGICAL KNOWLEDGE USED IN CRIMINAL
PRACTICE WITH THE INVOLVEMENT OF MINORS**

Irina V. Tseveleva (a)*, Gennadiy P. Starinov (b), Nikolay E. Meretskyj (c)

*Corresponding author

(a) Komsomolsk-na-Amure State University, 27 Lenin Ave., Komsomolsk-on-Amur, Russia, tseveleva21@mail.ru

(b) Komsomolsk-na-Amure State University, 27 Lenin Ave., Komsomolsk-on-Amur, Russia, gpskms@mail.ru

(c) Far Eastern State Transport University, 47 Serysheva St., Khabarovsk, Russia, kaf_ugpd@festu.khv.ru

**Abstract**

Juvenile offenders have several psychosocial characteristics that distinguish them from adult criminals. Investigative techniques involving juvenile offenders require professionals, psychologists and educators' engagement. The authors go through the role and significance of using psychological knowledge in crime detection involving minors. The authors justify the necessity of a psychologist's participation in investigative techniques involving minors; define the problems of using psychological knowledge in criminal proceedings. They specify the forms of applying psychological knowledge in investigative techniques in detail. The authors focus on the review and peculiarities of using psychological expertise in court when investigating criminal cases involving minors. The authors describe the main problems faced by law enforcement officials when commissioning of expert evidence, the result interpretation and suggest the ways how to address them. The article denotes the distinctive features of involving a psychologist as a professional and as a consultee during the investigation. The specific characteristics of the issues solved in a criminal investigation involving minors determine a list of requirements for a psychologist's special skills. Therefore, in the authors' opinion, it is worth involving applied psychologists who are acquainted with a minor who is involved as suspected, a defendant, a victim or witness in an investigation matter. According to the results of the study, the authors propose to amend the regulation of criminal procedure legislation that prescribes investigation and impose punishment on a juvenile. They also recommend the professionals taking part in a criminal investigation involving minors to improve their psychological competence and master their special skills.

2357-1330 © 2021 Published by European Publisher.

Keywords: Juvenile offenders, a criminal trial involving a minor

This is an Open Access article distributed under the terms of the Creative Commons Attribution-NonCommercial 4.0 Unported License, permitting all non-commercial use, distribution, and reproduction in any medium, provided the original work is properly cited.

1. Introduction

Juvenile delinquency as a social phenomenon appeared during the state and the social establishment. It was transformed into different epochs along with the changes taking place in the state. In contemporary Russian society, despite the measures taken by the state, the juvenile delinquency rate remains quite high. According to statistics, the number of crimes committed by juveniles or in complicity with them for the period from January to August 2020 amounted to 19,132 crime figures; 33538 crimes in 2019, and 35805 crimes in 2018 (Legal statistics portal, 2020).

The above figures confirm the relevance of issues of improving investigative techniques of this grade of offence, especially juvenile justice as a party to the criminal process.

2. Problem Statement

Among the socio-psychological characteristics of juvenile delinquents, it is necessary to highlight intense emotional sensitivity, a high degree of dependence on the reference-group influence, dichotomous thinking, callowness, which causes the incompetence to evaluate critically both their behavior and reality situations. These features of a personality of adolescents need to be known and taken into account when investigating criminal cases by law enforcement officers.

As the analysis of the practice of interaction of juvenile offenders and law enforcement officers shows, the latter do not have the skills of effective coordination, which leads to interrogations in a conflict situation, makes it difficult to obtain procedural-relevant information, takes much more time for investigation and, finally, leads to a minor's negative attitude, which does not encourage correction and consciousness of guilt for their actions.

This fact is indirectly confirmed by the data of characteristics of persons who serve the sentence (do time) in juvenile correctional facilities. Thus, the level of routine violation for serving sentences in 2019 is 868 per 1000 convicted minors who serve sentences (Federal Service for the Execution of Sanctions, 2020).

All of the above confirms the necessity to use special competence, primarily special educational need statement while investigating crimes committed by minors or with their complicity.

3. Research Questions

When investigating criminal cases involving minors, the following forms are widely used: psychological expertise in court, psychological-medical, multidisciplinary expert evidence, a psychologist, an educator as a specialist-consultant involvement, interrogation by a psychologist, the analysis of socio-psychological an employer's reference, a CV, and others (Walker & Cesar, 2020).

The authors review the research of Eisman, Orlov, Isaev, Poleshchuk, Saksin, Yarovenko and others to specify the concept of special knowledge related to criminal proceedings. As the analysis showed, in general, all authors are similar in the opinion that special knowledge is confirmed by scientific training, education, experience in any field of specific knowledge, as well as skills and abilities that allow a researcher to draw conclusions and judgments based on the study of any contents, as well as provide recommendations and make successful conclusions (Sitkovskaya et al., 2000).

Further, analyzing the features of special knowledge, it should be noted that during criminal proceedings, as a rule, special knowledge does not imply legal knowledge itself. Although several criminal law expert scientists do not agree with this approach. In particular, Rossiyskaya, Exarchopulo, believe that if the law does not explicitly state that legal knowledge cannot be special, therefore, it can also be considered special (Rossinskaya, 2019).

Alongside with that, summarizing the above, about the criminal investigation involving minors, the authors consider special knowledge confirmed by appropriate education, scientific, practical activities, life experience, competence, skills and abilities of a professional involved in the criminal proceedings to solve various investigative problems.

The category of psychological knowledge can also be attributed to special knowledge used in the criminal investigation since this type of knowledge has its special characteristics and can be confirmed by vocational education and existing practices.

Considering the features of psychological knowledge referred to a criminal investigation involving minors, it is possible to define their main categories. First of all, it is psychological knowledge of adolescence and youth, and especially the train of cognitive thought processes in this age, the peculiarities of personality trait development as well as behaviour and activities of minors.

Further, the authors can emphasize the necessity for psychological knowledge in the field of communication and interaction arrangement, conflictology studies competence. Social psychology awareness is very important to determine the social status of a teenager or a young man, the circle of reference personalities for him, social and role-specific identity (White, 2019).

As studies show, most juvenile offenders have deviations and defects in psychological development. Therefore, psychopathology knowledge is required in this case.

The main purpose of using psychological knowledge in the investigation of crimes involving minors can be defined as increasing the effectiveness of investigative measures and arrangement of conditions for the prevention of psycho-traumatic effects on a minor's personality as a party to the criminal proceedings.

4. Purpose of the Study

As another justification for the participation of a psychologist in investigative proceedings involving a minor, one can use the psychological characteristics of adolescents requiring individuals, interacting with them not only knowledge but also skills to organize effective communication and cooperation. Thus, as psychological features of adolescence that are important for the criminal process, one can distinguish social dependence on the surround, exposure to negative social experiences, which is the reason of distorted value orientations, disbelief in law rules, acceptance of standards and values of criminal subculture (Noskov, 2017).

At the age of 14-18, there is an intensive social development. In particular, one can talk about legal awareness development, legal values, and critical perception of social situations. At this age, adolescents often commit antisocial acts, often without realizing the consequence of them. A law enforcement officer, when organizing interaction with a teenager, must not only take into account these features but also know the techniques of organizing such interaction. That is proposed to involve a psychologist in investigation proceedings just for this purpose (Chappel, 2019).

When conducting investigative actions involving juvenile suspected and accused persons, law enforcement officials should keep in mind their psychic immaturity, as well as the fact that the task of criminal legislation does not only include punishment of an offender, and the whole work of investigative and judicial authorities is aimed at preventing crimes (Wolff & Baglivio, 2017).

5. Research Methods

The participation of a psychologist in investigating this category of cases can be carried out in various forms. The authors studied the works of Guskova, Miftakhova, Tetyuev and others, who considered the peculiarities of using various forms of participation of a psychologist in criminal proceedings. Based on the contents of these works, it can be concluded that the main forms are psychological expertise in court, a psychologist's participation in investigative activities and a psychologist's consultative function.

As part of the consultative function, in the authors' opinion, it is possible to use not only the involvement of a psychologist as a consultant on the case but also his help in drawing up a psychological portrait of a minor, determining his motivational orientation, choosing the optimal tactics of interaction with him.

If a case of analyzing the current practice for investigation, it can be mentioned that the key and most common form of participation of a psychologist is psychological expertise in court or complex expert psychiatric examination, usually called for a minor suspect and an accused (Beaudry-Cyr et al., 2020).

Meanwhile, the main problem that law enforcement officers face when scheduling psychological expertise in court is to make up questions to it. The problem of the investigator's articulation of questions for psychological expertise in court can be solved by using a non-procedural form of involving a psychologist in investigating a crime, namely his advisory activities (Savin, 2014).

Currently, the status of an expert psychologist for conducting psychological expertise in court is not defined by law. In this case, I would like to draw attention to the fact that psychologists have quite a lot of areas of specializations, and therefore a pediatric psychologist should be involved as an expert in cases involving minors, and if a minor is a special needs teenager, the psychologist should have an appropriate specialization (Starinov & Tseveleva, 2017).

Another difficulty in conducting psychological expertise in the court of minors is the interpretation of its results. In fact, an investigation officer often needs explanation or clarification of the conclusions of the expert examination contained in the professional finding. For this purpose, the expert is interrogated, allowing such explanations to be obtained.

6. Findings

The authors analyze the functions and tasks that a psychologist who participates in the interrogation of a minor accused (suspected) faces. First of all, this is informing the investigating officer about the age characteristics of the interrogated person and arranging conditions for coming in psychological contact, reducing emotional tension and counteraction. Later, during the interrogation, the psychologist can assist in formulating questions asked to the minor, taking into account his level of mental development, as well as evaluate the information delivered during the interrogation to the minor correctly. After the interrogation,

the psychologist can explain to the investigation officer the features of the emotional response of the interrogated, pay attention to the features of his development, and the intelligence level.

As noted above, a psychologist as a specialist can be involved in investigative proceedings with the involvement of minors. First of all, his function is to optimize the interaction between law enforcement officers and minors, reducing emotional tension and minimizing the negative psychological impact on the personality of a teenager involved in the investigation proceedings, and assistance to employees, through the transfer of knowledge about the identities of minors.

In recent years, an expert's opinion has been used as a procedural form of applying psychological knowledge. This form is used, for example, to clarify the terminology, assess the correspondence of the psychological examination techniques used in the study of the characteristics of a minor, as well as for evaluating the validity of the expert's assessment. If expert opinion contradicts the expert's opinion who conducted the psychological examination in court, it is possible to call for a re-examination. The experience has proven that the psychologist's opinion is usually used by lawyers to evaluate the results of a psychological examination in court (Starinov et al., 2019).

A psychologist's consultative function is also quite widely used in criminal procedure. The purpose of this form is to obtain background information concerning the general patterns of development and functioning of cognitive processes at a certain age, as well as about the possible influence of various mental states on a minor's behaviour.

To sum up, the authors can make the following conclusions. One of the main procedural forms of using special knowledge is a psychological examination in court. However, its scheduling in real life is quite rare. It stands for the difficulties of real law enforcement officers in looking for specialists, preparing questions for expertise. The authors offer to make appropriate changes to the Russian Federation Code of Criminal Procedure and consider it mandatory to involve a specialist (psychologist) as a consultant in all criminal cases involving minors held liable as suspected or accused.

In criminal proceedings involving minors, it is necessary to determine the level of mental development and other characteristics of a minor's personality, especially the level of psychological dependence of the individual on social groups and socialization conditions. For this purpose, the authors suggest that a psychologist of the same institution has to participate in a report on the characteristics of a minor by the educational institution.

The particular characteristics of the issues solved during the criminal investigation involving minors determine the list of requirements for a psychologist's special knowledge and skills, so it is reasonable to involve applied psychologists who work in fact with children of the same age in this activity. To participate in legal proceedings against minors, it is suitable to invite psychologists from educational institutions, since they specialize in the field of child and youth psychology. Nevertheless, in some cases that require a certain competence, one can also use Psychology lecturers of higher educational institutions, practical psychologists – consultants.

7. Conclusion

It should be focused on the imperfection of legislation actualized when taking evidence on crimes involving minors. In particular, section 191 of the Russian Federation Code of Criminal Procedure regulates

features of proceedings with participation of minors, with the obligatory presence of a teacher or a psychologist (Consultant Plus, 2020). However, when carrying out the investigative proceedings with the involvement of a minor who has reached the age of sixteen years specified in the section, a teacher or psychologist is invited at the option of the investigation officer.

The authors believe that in this case, the rights of a minor who has not reached the age of eighteen are significantly interfered with since the age of sixteen should not be considered a stating fact of the lawful age of a particular crime committer.

In conclusion, it seems appropriate to hold judicial investigations in criminal cases involving a juvenile defendant in jury trials or a three-judge panel, regardless of the gravity of a criminal act to achieve the maximum effects for guarantees of protection of the law of persons under legal age.

References

- Beaudry-Cyr, M., Leiber, M., Brubaker, S. J., & Jaynes, C. (2020). The Liberation Hypothesis Perspective and Juvenile Court Outcomes: Implications for an Understanding of the Interplay Between Offender and Offense Characteristics. *Crime & Delinquency*, 66(6-7), 806-836. <https://doi.org/10.1177/0011128719894916>
- Chappel, A. T. (2019). Predicting the Behavior of Law in the Juvenile Court: A Focus on Noncompliance Cases. *Crime & Delinquency*, 17(8), 62-87. <https://doi.org/10.1177/0011128718787156>
- Consultant Plus. (2020). Uголовno-protsessual'nyy kodeks Rossiyskoy Federatsii: federal'nyy zakon ot 18.12.2001 N 174-FZ [the Russian Federation Code of Criminal Procedure: Federal Law No. 174-FL of 18.12.2001] (as amended on 27.10.2020). http://www.consultant.ru/document/cons_doc_LAW_34481/ [in Russ.].
- Federal Service for the Execution of Sanctions. (2020). Kharakteristika lits, soderzhashchikhsya v vospitatel'nykh koloniyakh dlya nesovershennoletnikh [Characteristics of persons placed in juvenile educational colonies]. <http://фсин.рф/structure/inspector/iao/statistika/Xar-ka%20v%20VK/> [in Russ.].
- Legal statistics portal. (2020). Pokazateli prestupnosti [Indicators of crime in Russia]. http://crimestat.ru/offenses_map [in Russ.].
- Noskov, O. S. (2017). Psikhologicheskiye osobennosti Nesovershennoletnego prestupnika. [Psychological characteristics of a minor criminal]. *Legal State: Theory and Practice*, 1(47), 152-155. [in Russ.].
- Rossinskaya, E. R. (2019). *Sudebnaya ekspertiza v grazhdanskom, arbitrazhnom, administrativnom i ugovnom protsesse* [Forensic examination in civil, arbitration, administrative and criminal proceedings]. Norma: INFRA-M. [in Russ.].
- Savin, P. A. (2014). Formy ispol'zovaniya spetsial'nykh psikhologicheskikh znaniy v ugovnom protsesse [Forms of using special psychological knowledge in criminal proceedings]. *Bulletin of South Ural State University*, 14(1), 37-39. [in Russ.].
- Sitkovskaya, O. D., Konysheva, L. P., & Kochenov, M. M. (2000). *Novyye napravleniya sudebno-psikhologicheskoy ekspertizy* [New trends of a psychological examination in court]. Yurlitinform. [in Russ.].
- Starinov, G. P., & Tseveleva, I. V. (2017). Osobennosti ispol'zovaniya kriminologicheskogo prognozirovaniya v rabote po profilaktike delinkventnogo povedeniya molodezhi [The peculiarities of using criminological forecasting in the prevention of delinquent behavior of young people]. *Komsomolsk-on-Amur State Technical University Transactions*, 4(32), 88-92. [in Russ.].
- Starinov, G. P., Tseveleva, I. V., & Pershina, E. Yu. (2019). Foresight System in the Structure of Criminological Forecasting of Corruption in the Business Environment in Multicultural Space of Russia. *Smart Innovation, Systems and Technologies*, (172), 379-390. https://doi.org/10.1007/978-981-15-2244-4_35

- Walker, D'. A., & Cesar, G. T. (2020). Examining the “Gang Penalty” in the Juvenile Justice System: A Focal Concerns Perspective. *Youth Violence and Juvenile Justice*, 18(4), 315-336. <https://doi.org/10.1177/1541204020916238>
- White, C. (2019). Treatment Services in the Juvenile Justice System: Examining the Use and Funding of Services by Youth on Probation. *Youth Violence and Juvenile Justice*, 18(4). <https://doi.org/10.1177/1541204017728997>
- Wolff, K. T., & Baglivio, M. T. (2017). Adverse Childhood Experiences, Negative Emotionality, and Pathways to Juvenile Recidivism. *Crime & Delinquency*, 63(12), 1495-1521. <https://doi.org/10.1177/0011128715627469>