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## **Peculiarities of Underage Witnesses and Victims Examination Training**

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*The article covers the peculiarities of informational, tactical, organizational and technical preparation of underage witnesses and victims before examination.*

*Keywords: examination training, underage witness, underage victim, investigator, tactical situation, tactical scheme, tactical option.*

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Regardless of the person's age peculiarities and procedural status, examination training includes the following elements: informational, tactical, organizational and technical. It is worth mentioning that due to the specificity of underage witnesses and victims, each of these training elements has its own features. They are determined by the peculiarities of the age, the individual psychology of young people and their attitude both to the event and to the accused under the current investigation.

Informational training includes the following aspects: criminal case review; filling in documents; evaluation of the case circumstances; characterizing the person to be examined; in some cases, it also requires special knowledge of pedagogy and developmental psychology.

The success of the examination mainly depends on the amount of information the investigator has about the person to be questioned. That is why the centerpiece of the examination arrangement is

a careful study of the underage personality, more detailed than that of an adult.

Any information about the person can be of great help for determining the subject and tactics of the examination, for framing the examination plan and also for making and maintaining psychological contacts, as well as estimating the evidence.

Underage personality study is aimed, first of all, at getting any information that would aid to predict the person's behaviour during the examination, namely, if they will testify at all and if they do, what their evidence will be. The study starts with an examination training and continues during taking statements. Principally, the investigator must have an idea of such personal characteristics of the young person as their gender, age, interests, hobbies, character, temperament and possible mental state during the questioning.

For conducting underage witness and victim examination training, it is recommended

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to get the following information of primary importance:

- the living and upbringing conditions of the non-adult; their occupation, their circle of contacts and activities they are engaged in their free time;
- the mentality, communication skills, interests, hobbies, character (positive and negative traits) and level of intelligence of the non-adult;
- the ability to observe, to understand, to study, the degree of information awareness (related to the purpose of coming questioning) of the non-adult;
- the inclination to alcohol or drug addiction, abominable behaviour of the non-adult;
- the dominant character traits, emotional stability, relations with peers and adults of the non-adult;
- the constitution of the non-adult;
- the psychological state of the non-adult during the events under investigation;
- the behaviour and activities of the non-adult after the event, the circle of their contacts at that period;
- the information they gave about the event under question, if any;
- any discussions of the event done by their parents and teachers in their presence (Romanov, 2005).

The sources of such information can be different: criminal case records, references and characteristics of different kinds, residential and educational records.

The information of the living and upbringing conditions, relations and pastime, orientation to learning, character traits, etc. can be given by a district police officer or a juvenile police inspector.

Related to underage victims, underage witnesses from the immediate environment of

an offender, and underage witnesses, it is more important to establish the way they manifest some certain traits of their character in certain acts, rather than get general information or judgment. It is also recommended to discover the underage's psyche features, particularities of his/her affection and volition. A supervising instructor, a leisure-time activities centre master or a sport club coach can be definitely objective in the non-adult's personality evaluation.

A non-adult's psychological characteristic must be mainly based on the information similar to that of teenagers and senior school children. Besides, it is necessary to find out the information about their attendance of children pre-school institutions (day-care centres), their behaviour there, their reading and writing competence, fluency and accuracy in story-telling, imagination, tendency to fabulous description, attitude to unauthorized adults (in-touch capabilities).

The information of child development can be given not only by the parents, kindergarteners and teachers but also by school or pre-school public health care workers.

Tactical skills examination training includes different stages: establishing the order of priorities in questioning people, defining the tactical situation of the examination, predicting its development, establishing a tactical scheme related to the tactical situation, selecting the tactical options and finally, drawing up the examination plan.

As a rule, conflict-free situation is usual for most underage witness and victim examinations, as the tasks and intentions of the investigator and the person under examination are the same. That is why the task of the investigator is to establish and to maintain psychological contact with the non-adult, to analyze their evidence and to provide the assistance in refreshing the memory of the event.

However, in conflict situations the investigator's tasks along with those mentioned above depend on two factors: first, if some rivalry occurs, it is necessary to prove the mistakes as to the fact; while in the case of intense rivalry the primary task is to impact their negative attitude psychologically.

Tactical option of an underage victim and witness examination is determined by the following age peculiarities:

- less scope of knowledge and experience;
- imperfect processes of perception, memorizing and reproduction leading to rapid fatigability and lower ability to concentrate;
- suggestibility;
- tendency to mix the reality and imaginary situations;
- higher level of emotional sensitivity, emotional instability.

The tactical options during witness and victim examination must be determined by both their specific evidence formation and natural difference between preschoolers, juniors, teenagers and seniors' psychology. Thus, to find out a minor in a lie, it is undesirable to use the techniques of emotional impact as they can affect child's psyche, generate negative emotions and lead to such unfavourable psychological states, such as tension, confusion, disappointment, anger and aggression (Prokhorov and Velieva, 2003).

The tactical options used for high school students' examination, however, can be the same as for adults.

During underage witness and victim examination training it is necessary to think about the order of questioning. The specific feature of this point is that as a rule, along with the non-adult, there are adults involved in the case, first of all, their relatives, that can be also questioned and can somehow influence the teenager. If the investigator has no reason to

suppose their negative influence, it is reasonable to interview adult witnesses first, as they can also give some important information about the young person. Generally, after that the investigator can be more accurate in defining the subject of non-adult examination and formulating the questions in regard to the issues under consideration.

If there are reasons to suppose that the adult influences or tends to influence the non-adult, the priority is given to questioning the young person.

If the case involves several underage witnesses (victims), from the tactical point of view it is desirable to examine the victims first, then the witnesses having taken the situation as a whole, or eye-witnesses, or other people who happened to become witnesses of any events associated with a crime committed, that is, those who can give the information truly and in all details. In case of examination delay, some external influence, for example, adults' talks about the event can cause the incorrectness of the evidence.

If there are several underage witnesses associated with the same episode of the crime, the priority in questioning must be given to those who can tell about the event in more details in virtue of favourable receptive and expressive abilities, life experience or other circumstances. Within such order of priority the investigator can use the most efficient techniques for examining other people.

The final stage of tactical examination training is to draw a plan in writing, otherwise the quality and reliability of the investigation will be lower due to inaccuracy, fragmentariness and repeated callings to testify.

The plan covers the circumstances to explore, the proofs and the order of their presentation to the non-adult during the examination.

During the pre-examination period, the key issue is to think over the formulation of the questions for the non-adult; they must be plain,

concrete and without any factual information which can give the child or the teenager a clue to the facts they did not take directly. The interrogation must be neither suggestive nor influential. Besides, the question content must not lead to any presumptive answers. It is reasonable to start asking favourable questions that do not provoke any negative emotions. Then, it is necessary to proceed to some neutral questions that do not affect the examinee's interests. The questions of the first and the second groups help to make psychological contact with the examinee. The final group includes the questions most essential and informative for the investigator.

Organizational work that is to be carried out to prepare for the examination includes some aspects, such as: to set the place and time of the examination, to list all the participants, to determine the way of summoning non-adults for questioning.

It is better to question underage witnesses (victims) in the morning when they are less emotionally agitated and not tired. The appointed time must prevent the non-adults from long hours of waiting in the corridor as it can make them distracted and forgetful, sometimes even irritated and short-tempered. As a result, it encumbers creating both positive climate and good psychological contact during the examination.

To achieve the most comprehensive evidence it is essential for the investigator to make the right choice of non-adults interrogation time. It must be appointed as soon after the perception of the circumstances associated with the crime as possible, for the under-aged not to forget the details of the case. Besides, the applicability of speedy examination is caused by easy response of non-adults (minors in particular) to external influence, as a result of which their own impressions can be unwittingly replaced by different people's statements who they spoke to before the examination.

It is a general rule. However, there can be exceptions connected with the phenomenon of reminiscence. The point is that the testimony given immediately after the crime is sometimes not full, not clear enough and inconsistent. For 2-3 days, however, the testimony effect is maximized as all the perceived details of the event, its conceptual links are put together and analyzed in the memory. That is why in such cases an examination postponed for several days is more productive than an immediate one (Dospulov, 1976). It is also recommended to delay the examination of non-adults for several days, if they are distressed and feel psychologically uncomfortable.

To refresh the associative bonds, minors can be questioned right on the crime scene, where different small details and things as well as different sounds, voices and noises can have a profound positive impact on the memory. They bring to mind much more information than they could do in official environment. The only requirement is not to cause any negative emotions on the questioned non-adult because of their presence on the scene of the investigated event. That is the reason why such recommendations can hardly be appropriate for examination of minor victims.

It is desirable to examine pre-school and junior school children in the conditions close to their everyday environment. For example, it is better to question a minor victim at home. School or pre-school institutions are suitable for the examination of minor witnesses as well. As for teenagers and senior school children, it is the investigator's office where they can be productively questioned, because the official atmosphere boosts understanding of the importance of the occurrence and encourages honesty of the questioned.

It is necessary to underline that during the examination there must not be any unauthorized

people in the investigator's office. Otherwise, such typical characteristics of teenagers as curiosity, instability and diversity of interests, shyness and timidity may prevent them from making psychological contacts, talking openly and telling unbiased information (Kanevsky, 1991).

During the examination training process it is important to think over the circle of people whose participation can be obligatory for the investigator when interacting with the teenager. The law explicitly provides for the norm that the examination of a witness (a victim) aged under 14 is conducted only in the presence of a teacher (Article 191, Criminal Procedure Code). During the examination the teacher is to take account of the age and the personal psychological peculiarities of the non-adult; so, to avoid formal observance of this legal provision it is necessary to understand that not every person qualified as a teacher should be invited for the examination.

The selection of people to be invited to the examination is of great tactical importance. Herewith, it is recommended to consider if the teacher is able to create favourable and confident atmosphere at the examination. In particular, it is useful to predict certain responses of the non-adult to the certain teacher.

Concerning sexual crimes it is imperative to invite a teacher of the same gender as the examinee, as shyness and timidity which non-adults feel during examination in the presence of people of different gender can not only make adverse effect on the quality of the evidence, but also cause emotional and psychological damage.

The approach to inviting an educator must be differentiated. A kindergartener should be invited for pre-school children examination, teachers of different grades should be recommended for the examination of children of different school age. Children with developmental multiplication should be questioned in the presence of a developmental pediatrician; a child psychologist

or a child psychiatrist should participate in the examination of children with mental abnormalities (Zimin, 2011).

In practice, professional child psychologists are usually invited to examination of minor children. From our point of view, it is quite reasonable.

As well as a teacher, a psychologist provides great assistance in finding out the peculiarities of perception, remembering and reproduction of the information, psychological abilities and conditions, character accents and individual intellectual abilities of the non-adult. They help the investigator to reach psychological contact with the under-aged, to formulate questions taking into account the specific psychological features of the non-adult. Besides, a psychologist participating in the examination process does not only make contribution into determination and immediate correction of the examination option, but also helps to decode the information of non-verbal means of communication (body language and facial expression) and to objectivise it in the investigation protocol (Semyonov, 2008).

If necessary, the underage witness (victim) can be examined in the presence of their statutory agent (Article 191, Criminal Procedure Code, RF). Such a statutory reference should not be turned into a general rule, because the statutory agent is nearly always one of the parents. That is why their case theory and the influence on a teenager are not always known by the time of the examination. It should be also taken into consideration that the presence of parents can distract non-adults from the questions, makes them follow the parents' response and answer according to it. Moreover, not all the parents are in good relationships with their children. Consequently, it is recommended to invite statutory agents for pre-school children only, as they often feel shy or are afraid of stranger adults. When junior school children are examined, it is necessary to consider their

procedural position, the investigated case and personal peculiarities.

In case an underage witness (victim) examination involves a teacher (a psychologist), parents or other non-professional participants, it is essential to explain them their procedural rights and obligations along with all the particularities of non-adults examination determined by their age. For productive participation it is imperative to consult them and clarify what exactly they can do in making psychological contacts with the teenager, what questions permitted by the investigator they can ask. Moreover, both the teacher and the statutory agent must be advised beforehand not to comment, not to speak ironically or with indignation, not to express some other emotions as well.

Taking into account the danger of non-adults' suggestive interrogation it is important to explain people involved in the examination what questions are considered to be suggestive and why they are forbidden. Herewith, it is advisory for the investigator to talk over the questions to be asked by participants during the examination.

At the organizational stage of examination training the investigator must choose the way to call the under-aged to testify. The general rule to do it, is with the help of their statutory agents.

An under-aged can be also summoned with educational institution authorities if there is the information that a statutory agent can assert negative influence over the non-adult. Under such circumstances their appearance at the investigator's office must be immediate to

prevent the discussion of the fact of calling to testify. At the same time it is essential to notify the institution authorities about the nondisclosure of the fact.

To appear as a witness, an under-aged over 16 can be summoned or called.

Technical preparation for the examination includes, if necessary, the proofs arrangement and the technical devices to record the given evidence.

Special attention must be paid, for example, to audio/video recorders as they can significantly improve the accuracy and fullness of the testimony given by underage witnesses and victims.

Audio records providing the fullness and accuracy of the testimony reproduce not only the meaningful content but also its emotional part. However, they do not fix the body language and facial expressions of the examinee; it is video record that is the most effective way to fix the examination of minor witnesses and victims.

It is difficult to overestimate the importance of video records of psychologically undeveloped or insane people.

Video recording can keep the audible and visual information as well as the examination conditions.

**Resume.** Underage witness and victim examination training must be held taking into account the age peculiarities of the non-adults and their evidence building psychology. It is provided by examinee-centred approach, proper tactical options and effectiveness of the investigating action.

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## **Особенности подготовки к допросу несовершеннолетних свидетелей и потерпевших**

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*В статье рассматриваются особенности информационной, тактической, организационной и технической подготовки к допросу несовершеннолетних свидетелей и потерпевших.*

*Ключевые слова: подготовка к допросу несовершеннолетних, свидетели, потерпевшие.*

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