

UDC 343.985.7:343.61

DOI: 10.56215/naia-chasopis/1.2023.28

Criminal offences related to domestic violence: Structure of the investigation methodology

Yuliia Komarynska*

PhD in Law, Associate Professor
National Academy of Internal Affairs
03035, 1 Solomianska Sq., Kyiv, Ukraine
<https://orcid.org/0000-0002-1747-1816>

Pavel Polian

Mgr.
Academia Huspol
68604, 699 Osvobozeni, Kunovice, Czech Republic
<https://orcid.org/0000-0002-3258-0340>

Abstract

Violence by family members is not only systematic in nature, but also characterized by an increase in their intensity, growth in aggression, and the feeling of impunity and the inability of the victim to resist, leads to serious criminal consequences. Even after detection of criminal offenses leading to maiming or death of a person, it is not always possible to identify their connection with domestic violence. Such a situation can be avoided by following a defined, scientifically based structure of actions. Therefore, today there is a need to develop algorithms for investigator actions during the investigation of criminal offenses that are the consequences of domestic violence. That is why in the article the author sets the goal of determining mutually dependent elements of the process of investigation of criminal offenses. To achieve the specified goal, the methods of analysis, synthesis and questionnaires, the decomposition method, and the special legal method were used. As a result, such work made it possible to justify the feasibility of dividing the investigation methodology into nine mandatory structural elements. The fullness of such elements depends on the investigative situation, on the specific type of criminal offense committed, the form of implementation of criminal plans, the identity of the offender (either a person who commits systematic domestic violence or a person who is a victim of such violence or a witness to it), the presence or absence previous experience of illegal behavior of the offender, place of commission of the criminal offense (rural area or environment of a big city). The article substantiates the need to include in the structure of the methodology such structural elements as "interaction with state and public bodies, institutions and organizations on the prevention and counteraction of domestic violence and gender-based violence" and "preventive activity of the investigator in criminal proceedings related to domestic violence" violence". It is also determined that the effectiveness of the methodology is determined by the interdependence of the investigative (search) actions, compliance with the stages of the investigation and the timeliness of the involvement of relevant specialists in it. Such elements, subject to the correct sequence and combination, form the methodology of investigation of the specified category of criminal offenses. The practical value of the work lies in the formation of an effective program, the planning of the investigator's

Article's History:

Received: 02.12.2022

Revised: 17.01.2023

Accepted: 10.02.2023

Suggest Citation:

Komarynska, Yu., & Polian, P. (2023). Criminal offences related to domestic violence: Structure of the investigation methodology. *Law Journal of the National Academy of Internal Affairs*, 13(1), 28-35. doi: 10.56215/naia-chasopis/1.2023.28.

*Corresponding author



Copyright © The Author(s). This is an open access article distributed under the terms of the Creative Commons Attribution License 4.0 (<https://creativecommons.org/licenses/by/4.0/>)

actions not only with the aim of establishing the circumstances of the event, but also establishing a cause-and-effect relationship between domestic violence and other criminal offenses

Keywords:

criminalistic characteristics; special knowledge; investigation tactics; investigative situation; illegal activity

Introduction

The complex, long, and time-consuming process of investigating criminal offences requires the scientific community to constantly analyse, create, and develop investigation methods based not only on the types of offences defined in the Criminal Code of Ukraine, but also on their individual aspects and manifestations, considering the characteristic features – the method of commission, identity of the offender or victim, territoriality, level of public danger, etc. Such activities require the search and determination of effective algorithms that factor in the interdependence of individual investigative (search) actions, the stages of the investigation and the timely involvement of appropriate specialists in it.

Forensic scientists such as A.P. Zapototskyi (2018), V.V. Tishchenko (2017), V.V. Piaskovskyi (2020) note that with the development of society there are corresponding changes in the human rights sphere, which in turn require relevant institutions to solve tasks towards countering crime. This situation creates problematic tasks for criminalistics, namely in terms of adapting forensic methods to modern legislation. The author emphasizes the need to consider legislative changes during scientific research, and not only those related to the criminal procedure.

Scientific research and development should be accessible and understandable to the practitioners who directly implement scientific achievements in practice. The adaptation of practical activities to the requirements of legislation, as well as the introduction of achievements and the latest developments of certain sciences (psychology, engineering, medicine, etc.) into practical activities require the construction of effective communication between theoreticians and practitioners.

The importance of the communication component between practitioners and scientists is also indicated by researchers from the United States of America (Carlson *et al.*, 2021), who emphasize that during the investigation of a crime, evidence is collected, analysed, interpreted, and discussed by various stakeholders. Such communication can be understood as a set of interdependent actions: e.g., a request for a particular analysis or study from an investigator involves obtaining the relevant opinion of an expert or specialist, which is further evaluated by the investigator considering the circumstances of the case. Based on these conclusions, there is a need to clarify or establish the following circumstances, which leads to further analysis of requests, etc. Such interaction is necessary to understand the evidence and implement the function of each participant in the investigation.

UK researchers (Yu *et al.*, 2023) point out that complex crime investigations often require both an interdisciplinary and interagency approach. This is especially true for the initial stage of the investigation when clear forensic strategies are needed, which involves the creation of a joint action plan that combines the knowledge and achievements of various disciplines, including the research of forensic practitioners. The key to effective planning is to ensure that all participants have the clearest possible understanding of the context and interrelationships of areas of interest in the investigation, as well as an assessment of evidence of potential interest to prove. Mehzeb Chowdhury (2021) from the University of the West of England also researched the issue of combining scientific and practical experience during the investigation of criminal offences, noting that ensuring the quality of practical activities at the scene of a crime is an underdeveloped and understudied field, despite its crucial importance and impact on achieving the goals of criminal justice.

There is a difference between a practising police officer and a scientist in providing evidence. Such a situation can manifest itself as a mismatch between the “mode of urgency” and the “prospective mode” (Li Vigni, 2020). Scientists from Germany and the Netherlands (Dirksen *et al.*, 2022) explain this situation by the fact that during the investigation of a criminal offence, the police direct the main efforts to quickly establish the identity of the suspect to prevent the commission of a new crime, while the scientist (in the legal field) investigates many possible options, avenues of investigation, considering cognitive and normative markers that make some future lines of inquiry more plausible and desirable, but long-term.

Notably, the pre-trial investigation is determined by the norms of criminal procedural legislation, and accordingly, these norms have an impact on the structure of methodology, form, and sequence of application of special knowledge and procedural actions. For the practical worker, all the achievements of scientists should be clear and adapted for application. Therefore, it is necessary to determine the structure of the new methodology for investigating criminal offences based on the available practical developments, factoring in current changes in the legislative and scientific spheres.

The reason for the lack of practical training in the investigation of criminal offences related to domestic violence is that, in comparison with other manifestations of violent actions that encroach on human rights

and freedoms, domestic violence was considered purely a family affair for many centuries because of religious norms, traditions, and customs of peoples (Komarynska, 2022). This problem is not limited to a particular religion, nationality, nation, or territory. Violent actions against loved ones are not only long-term and cause physical and moral pain, they also affect the normal development of children who grow up in such conditions, which in turn hinders the normal development of society. However, despite all the negative manifestations and consequences of such violence, today not all countries (Pakistan, South Africa, Russia) have criminalized such actions (Komarynska, 2022). Therefore, even with considerable achievements in ensuring the rights of victims of domestic violence, the speed of response to reports of such facts, the availability of internet platforms with a variety of regulatory and psychological and therapeutic information, media coverage of advice and addresses of shelters for victims, abusers stay unpunished.

Therefore, the purpose and tasks of this study were defined by the author as follows: to investigate and form the structure of the methodology of investigation of criminal manifestations of various degrees of severity, which is a consequence of systematic perpetration of violent acts in the family environment. Proceeding from the results of a questionnaire and survey of practitioners, the author was to determine the elements of the methodology inherent in the category of criminal offences under study.

Literature Review

Determining effective algorithms of the investigator's actions, technologies for the investigation of certain criminal offences, including those related to domestic violence, involves the separation of interdependent elements united by a single purpose. Notably, it is the methods of investigating criminal offences of various types (murder, mutilation, and torture, driving to suicide, human trafficking, etc.) that should become the basis for determining the structure of the methodology of the criminal offences under study.

The structure of forensic methods of investigation of criminal misdemeanours and crimes is studied by scientists, considering their individual manifestations and characteristics. Depending on the criminal law feature, the structure of the investigation methodology is divided into two groups: separate types of crimes and separate groups of crimes united by a certain feature (the offender's persona, group nature of crime, etc.) (Filipov, 2014; Illes & Wilson, 2020). According to the type of classification, namely the basis of its classification, scientists (Shchur, 2010; Shepitko, 2010; Pyaskovskyi *et al.*, 2020) distinguish the main, most significant structural elements of the methodology of investigation of criminal offences.

In studies of recent years (2000-2023) on the methodology of investigation of certain types of criminal offences, the authors lean towards a broader and more

informative typical structure of the methodology of investigation of criminal offences. Consistency of the opinions of scientists is traced in the mandatory filling of such structural elements of the methodology as forensic characteristics; circumstances to be established and proven; investigative situations, versioning and investigation planning; tactics of overt and covert investigators (detectives); specific features of using special knowledge in criminal proceedings of this category; determination of the order of organization of the interaction of the investigator with the employees of operational units. Therewith, such structural elements of the methodology, which determine the algorithm, assistance in obtaining information from the media and public organizations, and the algorithm for conducting preventive actions by the investigator and other subjects of the investigation, have received almost no attention from scientists.

The unifying factor in all scientific discussions is that all elements of the structure of the methodology for investigating a criminal offence should be interrelated and interdependent.

Admittedly, the broader the subject of the methodology, i.e., the more it covers the composition of crimes, methods of commission, categories of individuals involved in a criminal offence, the broader its structure will be. Often, attempts by scientists to identify as many manifestations of criminal activity as possible lead to the opposite result. Such many scientific developments are still only theoretical material and are not applied in practice, due to the overload of scientific categories, the lack of need for practitioners, due to the availability of more effective methods, or non-compliance and contradictions with the requirements of legislation, which occur as a result of legislative changes.

The difficulty in creating a methodology for the investigation of criminal offences related to domestic violence is that, as noted earlier, research on this issue is just beginning, since the fight against manifestations of domestic violence has gained its relevance relatively recently (Komarynska, 2022). Due to the latest definitions of the criminal-legal essence of domestic violence, many scientific studies in criminology are related to the classification of crimes related to domestic violence; the procedure for conducting individual investigative (search) activities involving victims of particular violence; the use of specialized knowledge in the investigation of crimes related to family violence. However, no comprehensive scientific research has been conducted on the principles and features of building and implementing a methodology for investigating domestic violence.

Materials and Methods

To substantiate the structure of the forensic methodology, to algorithmize the investigation of criminal misdemeanours or crimes committed in the family, it is necessary to define the level, staged tasks that arise before the investigator starting from the first steps of

the investigation. It is an understanding of these tasks that allows identifying structural components, each of which will have the purpose of solving a particular task. For this purpose, the decomposition method was used, which identified groups of interrelated tasks, which are less complex if they are solved at the relevant levels.

Furthermore, using the methods of analysis and synthesis, the results of a group survey of employees of the National Police of Ukraine were generalized, which was conducted in writing and distributed among 102 employees of the investigative units of the National Police of Ukraine, in the period from October 2021 to February 2022, during the completion of advanced training at the National Academy of Internal Affairs. For this purpose, open-ended questionnaires were distributed to the respondents, in which they were asked, based on their own practical experience, to indicate, in their opinion, the principal tasks that need to be solved during the pre-trial investigation of the specified category of cases. The survey was anonymous, and the results were obtained by generalizing the questionnaire.

General scientific methods (analysis and synthesis) were used to determine the problematic aspects of pre-trial investigation, which as a result have a negative impact on establishing the offender's guilt. The special legal method was used to investigate the judicial practice for the period from 2019 to 2022, which are publicly available in the Unified State Register of Court Decisions (Unified state register of..., n.d.).

The specific sociological method was used to analyse the existing scientific research.

Results and Discussion

The results obtained during the study actualize the need for an effective methodology that would determine the intermediate goals of the pre-trial investigation, would promote qualified work with forensic information and, accordingly, the proper preparation of criminal proceedings materials.

Thus, in 38% of court decisions, it is stated that during the pre-trial investigation, the facts of the connection between the criminal offence and domestic violence are not established or are not procedurally established, so they cannot be considered by the court. Such a situation indicates the improper conduct of a pre-trial investigation, which is conditioned upon the lack of an effective algorithm for establishing and procedurally securing evidence of systematic psychological, physical, economic,

or sexual acts in the family circle in the proceedings and other evidence that the criminal offence was connected with domestic violence.

In addition, 87% of respondents during the survey noted that criminal offences committed in connection with domestic violence have different degrees of social danger and, accordingly, different consequences. In 68% of cases, victims are silent, not reporting the facts of such violence. Such a situation leads to the offender's feeling of impunity and confidence in the correctness of their actions, which in the future will have grave consequences, even lethal ones. Accordingly, practitioners indicate that in 53% of cases, the investigator becomes aware that the committed criminal offence is the result of domestic violence after the victim's next appeal to the police.

Many public institutions (public organizations, unions, charitable and religious organizations, etc.) legalized pursuant to the legislation of the Resolution of the Cabinet of Ministers of Ukraine¹, have the task of aiding victims of domestic violence during the entire period of violence and after its cessation, i.e., its consequences. Accordingly, representatives of such organizations have a lot of criminally significant information. Entities carrying out measures in the field of prevention and counteraction of domestic violence and gender-based violence specified in Article 6 of the Law of Ukraine "On Prevention and Combating Domestic Violence"² and Article 7¹ of the Law of Ukraine "On Ensuring Equal Rights and Opportunities of Women and Men"³ (except for citizens of Ukraine, foreigners, and stateless persons who are in Ukraine on legal grounds). And the procedure that determines the procedure of their interaction was approved by the resolution of the Cabinet of Ministers of Ukraine No. 658 "On the Approval of the Procedure for the Interaction of Entities Implementing Measures in the Field of Prevention and Counteraction of Domestic Violence and Gender-Based Violence" dated August 22, 2018⁴. Therefore, one of the intermediate tasks of the investigator is to establish existing state and public organizations within the relevant territory, authorized to act towards countering and preventing domestic violence; establishment of effective interaction with them; obtaining and procedural consolidation of forensically significant information about the personal characteristics of participants in domestic violence, its periodization, conditions, and systematization.

The specific feature of the preventive activity of the investigator and other competent subjects in criminal

¹Resolution of the Cabinet of Ministers of Ukraine No. 658 "On the Approval of the Procedure for the Interaction of Entities Implementing Measures in the Field of Prevention and Counteraction of Domestic Violence and Gender-Based Violence". (2018, August). Retrieved from <https://zakon.rada.gov.ua/laws/show/658-2018-п#Text>.

²Law of Ukraine No. 2229-VIII "On Preventing and Countering Domestic Violence". (2017, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/2229-19#top>.

³Law of Ukraine No. 2866-IV "On Ensuring Equal Rights and Opportunities for Women and Men". (2005, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/2866-15#top>.

⁴Resolution of the Cabinet of Ministers of Ukraine No. 658 "On the Approval of the Procedure for the Interaction of Entities Implementing Measures in the Field of Prevention and Counteraction of Domestic Violence and Gender-Based Violence". (2018, August). Retrieved from <https://zakon.rada.gov.ua/laws/show/658-2018-п#Text>.

proceedings related to domestic violence is that the investigator must collect and submit to the court evidence confirming the existence of the probability of repeating the commission of both domestic violence and criminal offences related to the perpetrator; evidence of the existence of a threat to the health and safety of the victim and witnesses; evidence of possible negative consequences in case of continued criminal prosecution, etc.

As an example of mistakes made during the pretrial investigation of criminal offences of the specified category, it will be appropriate to cite the decision of the Nova Ushytsia District Court of Khmelnytskyi Region in case No. 680/320/20¹. Thus, the court considered in an open court session in the courtroom the criminal proceedings introduced in the Unified Register of Pre-trial Investigations under No. 12020240190000062 dated April 13, 2020, established as follows: By the body of the pre-trial investigation, the defendant is accused of the fact that on April 13, 2020, around 09:00 a.m., while at home at his place of residence during a verbal conflict, which occurred based on a suddenly arising hostile relationship with his cohabitant, with whom he is in a family relationship, with the purpose of inflicting physical injuries on the latter, he deliberately struck one blow on the upper right part of the victim's back with the fist of his right hand, which caused her physical injury in the form of one bruise in the interscapular region on the right, which in terms of severity belongs to the category of light physical injuries. Such actions are qualified by the pre-trial investigation body under Part 1 of Article 125 of the Criminal Code of Ukraine², as intentional light bodily injury.

However, the victim filed a motion with a waiver of charges. To which the prosecutor objected to the specified motion, justifying their position by the fact that the provisions of Item 7, Part 1 of Article 284 of the Criminal Procedural Code of Ukraine³ prohibits the closing of criminal proceedings regarding a crime related to domestic violence.

At the court hearing, the court noted that the term "crime related to domestic violence" is broader than the term "domestic violence", such illegal actions cover not only the commission of this crime, but also include other socially dangerous behaviour with signs of domestic violence. Therefore, when establishing the content of the above concepts, one should proceed from the particular circumstances of the case, and not solely from the qualification of the guilty party's behaviour. Therefore, the task of the prosecution is to prove the circumstances

that indicate the commission of both domestic violence and other crimes related to the victim.

The prosecution must provide evidence that these two offences are related so that the defence can be able, pursuant to the established procedure, to refute them. That is, for the court to recognize a crime related to domestic violence, it is mandatory to reflect this circumstance in the wording of the charge (in the report of suspicion, in the indictment). In addition, these documents must indicate the relevant factual circumstances: family or kinship relations between the victim and the abuser, the nature of violence, etc.

In the proceedings, No. 680/320/20⁴ of the prosecution in the indictment indicated that the accused committed the crime because of a suddenly arising hostile relationship. This wording alone does not indicate that the violence was caused by discriminatory treatment of the victim aimed at maintaining dominance over the victim, or that it was one of the cases of domestic violence between the accused and the victim. In addition, the prosecution did not provide information about bringing the accused to administrative responsibility for the previous facts of showing an aggressive attitude towards the victim earlier. As a result of consideration of the mentioned case, the court found the fact that the victim was a victim of domestic violence unproven, and, accordingly, that the incriminated crime was "related to domestic violence".

Such circumstances confirm and actualize the need to create an effective methodology for investigating criminal offences related to domestic violence, which will help eliminate such gaps in the activities of pre-trial investigation bodies. Among such mistakes, the main ones are the lack of evidence of a cause-and-effect relationship between a separate criminal offence and domestic violence, the lack of evidence of systematic perpetration of violence, which can be obtained not only from the victim and witnesses of the immediate event, but also from authorized institutions and organizations operating towards prevention and counteraction of domestic violence.

The development of such a methodology should factor in the combination of proven methods of investigating criminal offences that are usually associated with domestic violence and methods of investigating domestic violence itself, specifying the structural elements and their fullness. Considering the relatively new type of criminal offence such as domestic violence, its recent criminalization in Ukraine, the development of a methodology for

¹Court case No. 680/320/20 "Unified State Register of Court Decisions". (2022, September). Retrieved from <https://reyestr.court.gov.ua/Review/85166572>.

²Criminal Code of Ukraine No. 2341-III. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

³Law of Ukraine No. 2227-VIII "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine to Implement the Provisions of the Council of Europe Convention on the Prevention of Violence Against Women and Domestic Violence and the Fight against These Phenomena". (2017, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/2227-19#Text>.

⁴Court case No. 680/320/20 "Unified State Register of Court Decisions". (2022, September). Retrieved from <https://reyestr.court.gov.ua/Review/85166572>.

investigating criminal offences related to it is in demand by practical units of the National Police of Ukraine.

Therefore, considering the complex nature of illegal actions related to domestic violence, the following general structure of the methodology of their investigation will be appropriate:

- 1) forensic characteristics, the fullness of the elements of which is determined by the appropriate level (general, special, single);
- 2) circumstances to be established and proved;
- 3) investigative situations, versioning, and planning of the investigation;
- 4) features of formation and implementation of tactical techniques, combinations, and operations;
- 5) tactics of overt and covert investigative (search), other procedural actions and measures at the initial, subsequent, and final stage of the investigation;
- 6) features of using special knowledge in criminal proceedings of this category;
- 7) features of interaction of the investigator with operational units and divisions of preventive activities and operational units of the National Police, state and public bodies, institutions, and organizations (regardless of the form of ownership), whose tasks are to prevent and counteract manifestations of violence in the family and based on gender;
- 8) the importance of using the assistance and capabilities of the population and the media in the investigation of criminal offences;
- 9) features of preventive activities of the investigator and other competent entities in criminal proceedings related to domestic violence.

Understanding the essence of crime detection activities, i.e., its basics, rules, and technology, contributes to the construction of forensic methods for investigating a particular category of crimes (Tishchenko, 2007). It is the consideration of forensically crucial features of a criminal event that affects the content of such a methodology. These signs include the method of commission, features of the trace picture, and characteristics of the criminal's identity. There can be no general or universal method of Investigation designed to solve any type of crime, although it appears appropriate to develop a basic model of forensic methods of investigation (Zhuravel, 2012), or a basic program of investigation (Tishchenko, 2017).

Usually, during the formation of the methodology of the investigation of a criminal offence that combines several components of the crime, it is necessary to supplement the basic structure of the methodology with individual structural elements for a particular type of offence. Therefore, the issue of creating and implementing methods for investigating "broader groups of torts than the types of crimes" becomes relevant (Stepanyuk, 2014).

However, even such basic models differ in their content. Thus, individual scientists (Filipov, 2014) do not reflect the versioning process and the specific

features of the use of special knowledge in the structure of the methodology, and do not factor in the stages of the investigation, namely the sequence and appropriate implementation of actions. For a qualified investigation, not only the initial stage of the investigation highlighted by the author is important, but also the following and final stages, which have their specific features (depending on the type of offence) and significance for proving the guilt of the offender. Other researchers (Shchur, 2010) single out as a separate element "elimination of opposition to the investigation", although this very issue is solved by the investigator during the entire investigation using the tools of forensic tactics. Some scientists (Shepitko, 2010; Pyaskovskiy *et al.*, 2020) do not define in the structure of the methodology the actions of the investigator, which will be directed not only towards the establishment or clarification of forensically important circumstances, but also towards the establishment of circumstances subject to proof.

Proceeding from Volobuyev's (2011) definition of a complex methodology for the investigation of criminal offences, one that combines various types of criminal offences that are interconnected, as a result of which they acquired signs of systemic activity, the method of investigating criminal offences related to domestic violence belongs to the complex category.

The analysis of scientific research and the opinions of practical workers suggests that it is necessary to determine the importance of including criminal offences related to domestic violence in the structural elements of the investigation methodology – the specific features of attracting the help of the public and using the possibilities of the media during the investigation of criminal offences of this type (groups) and specific features of preventive activities of the investigator, other competent subjects in criminal proceedings related to domestic violence.

Conclusions

In summary, it can be argued that the methodology for investigating criminal offences related to domestic violence is complex, since it involves combining the investigation of two types of criminal offences, which is combined with a single criminal plan and has signs of systematic nature.

Solving a complex task, namely establishing and proving the guilt of the offender and the cause-and-effect relationships of a separate criminal offence with domestic violence, involves solving a certain number of intermediate tasks. Such tasks correspond to the stages of the investigation and the corresponding investigative situations. The investigation of such complex facts requires the investigator to follow a certain sequence of actions conditioned upon a scientifically based and proven structure.

For this, based on the available, proven practice, systems of effective actions in the investigation procedure and existing legislative norms related to pre-trial investigation

and countering manifestations of domestic violence, factors have been identified that cause not only the occurrence of violence in the family circle, but also cause the latter to develop into actions with more grave consequences.

The combination of the results of the survey of practitioners of the National Police of Ukraine and the available scientific research and judicial practice allowed summarizing the relevant stages, methods, and means of gradual activity of the investigator to identify, collect, and investigate forensic information that occurs as a result of illegal activities. The nine-element structure of the investigation methodology was also defined, which determines the detection and accounting of signs of domestic violence starting from the moment of receiving information about the commission of a criminal offence.

Compliance with this method allows collecting evidence of possible repetition of violent actions, the existence of a danger to the victim and witnesses. Adherence

to the investigation methodology by the investigator will contribute to the discovery and procedural processing of all evidentiary information.

Prospects for further research are conditioned upon the need for a thorough study of the unified system of actions for the investigation of criminal offences related to domestic violence, which will serve as the basis for the formation of an algorithmic approach of narrower investigation methods. This refers to methods of investigating leading to suicide in connection with domestic violence; beatings and torturing committed as a result of domestic violence; abuse of guardianship rights, etc.

Conflict of Interest

None.

Acknowledgements

None.

References

- [1] Carlson, L. (2022). Describing communication during a forensic investigation using the Pebbles on a scale metaphor. *Forensic Science International: Synergy*, 4, article number 100199. doi: 10.1016/j.fsisyn.2021.100199.
- [2] Chernyavskiy, S.S. (2009). Conceptual foundations of the complex methodology of financial fraud investigation. *Bulletin of the National Technical University of Ukraine «Kyiv Polytechnic Institute». Political Science. Sociology, Law*, 4, 177-183.
- [3] Chowdhury, M.A. (2021). A broken system? Examining the perilous state of quality assurance in crime scene practice. *Science & Justice*, 61(5), 564-572. doi: 10.1016/j.scijus.2021.07.001.
- [4] Dirksen, V., Neumann, M., & Lotzmann, U. (2022). From agent to action: The use of ethnographic social simulation for crime research. *Futures*, 142, article number 102994. doi: 10.1016/j.futures.2022.102994.
- [5] Filipov, A.R. (2014). *Criminalistics: A textbook*. Retrieved from <https://stud.com.ua/80450/pravo/kriminalistika>.
- [6] Illes, M., & Wilson, P. (2020). *The Scientific Method in Forensic Science*. Canada: Canadian Scholars Press.
- [7] Komarynska, Y.B. (2022). The ratio of the victim's identity and the perpetrator's identity in criminal offenses related to domestic violence. *Law Journal of the National Academy of Internal Affairs*, 12(1), 25-32. doi: 10.33270/04221201.25.
- [8] Komarynska, Y. (2022). Criminalistics characterisation of criminal offences related to domestic violence. *Scientific Journal of the National Academy of Internal Affairs*, 27(3), 55-64. doi: 10.56215/0122273.55.
- [9] Li Vigni, F. (2020). Five anticipation communities in complex systems sciences. *Futures*, 120, article number 102551. doi: 10.1016/j.futures.2020.102551.
- [10] Pyaskovskiy, V.V. (2020). *Criminalistic: Textbook* (2nd ed.). Kharkiv: Pravo.
- [11] Shchur, B.V. (2010). *Theoretical foundations of the formation and application of forensic methods*. Kharkiv: Kharkiv Legal.
- [12] Shepitko, V.Yu. (2010). *Criminalistics*. Retrieved from <https://www.e-reading.life/book.php?book=1001853>.
- [13] Stepanyuk, R.L. (2014). Classification of individual forensic methods of crime investigation. *Law and Security*, 3(54), 156-160.
- [14] Tishchenko, V.V. (2007). *Theoretical and practical foundations of crime investigation methodology*. Odesa: Phoenix.
- [15] Tishchenko, V.V. (2017). Criminalistic methods of investigation: Theoretical, methodological and scientific principles. *Criminologist First Printed*, 15, 34-35.
- [16] Unified state register of court decisions. (n.d.). Retrieved from <https://reyestr.court.gov.ua/>.
- [17] Volobuyev, A.F. (2011). *Forensics: Education manual*. Kyiv: KNT.
- [18] Yu, S.H., Grant, T., Rinaldi, V., Rowland, C., & Daeid, N.N. (2023). Development of a Dundee ground truth photography protocol for recording indoor crime scenes to facilitate virtual reality reconstruction. *Science & Justice*, 64(2), 238-250. doi: 10.1016/j.scijus.2023.01.001.
- [19] Zapotocki, A.P. (2018). Theoretical foundations and practice of investigation of crimes in the field of construction (Doctoral dissertation, Donetsk Law Institute of the Ministry of Internal Affairs of Ukraine, Kyiv, Ukraine).
- [20] Zhuravel, V.A. (2012). *Forensic methods: Modern scientific concepts*. Kharkiv: Apostille.

Кримінальні правопорушення, пов'язані з домашнім насильством: структура методики розслідування

Юлія Комаринська

Кандидат юридичних наук, доцент
Національна академія внутрішніх справ
03035, пл. Солом'янська, 1, м. Київ, Україна
<https://orcid.org/0000-0002-1747-1816>

Павло Полян

Магістр
Академія Гуспол
68604, Освободені 699, м. Куновице, Чеська Республіка
<https://orcid.org/0000-0002-3258-0340>

Анотація

Насильство з боку членів родини має не лише систематичний характер, а й характеризується збільшенням інтенсивності, зростанням агресії, а відчуття безкарності й неможливість жертви чинити опір спричиняють тяжкі кримінальні наслідки. Навіть після виявлення кримінальних правопорушень, які спричиняють каліцтва або смерть людини, виявити їхній зв'язок із домашнім насильством не завжди є можливим. Уникнути такої ситуації можна дотримуючись визначеної, науково обґрунтованої структури дій. Тому в умовах сьогодення існує потреба в розробленні алгоритмів дій слідчого під час розслідування кримінальних правопорушень, які є наслідками вчинення домашнього насильства. Саме тому автор статті поставив за мету визначити взаємообумовлені елементи процесу розслідування кримінальних правопорушень. Для досягнення зазначеної мети було використано методи аналізу, синтезу та анкетування, метод декомпозиції, спеціально-юридичний метод. У результаті така робота дозволила обґрунтувати доцільність розподілу на дев'ять обов'язкових структурних елементів методику розслідування. Наповненість таких елементів залежить від слідчої ситуації, конкретного виду вчиненого кримінального правопорушення, форми реалізації злочинних задумів, особи правопорушника (будь-то особа, яка чинить систематичне домашнє насильство, або особа, яка є потерпілою від такого насильства, або його свідком), наявності або відсутності попереднього досвіду протиправної поведінки правопорушника, місця вчинення кримінального правопорушення (сільська місцевість або середовище великого міста). У статті обґрунтовано необхідність включення до структури методики таких структурних елементів: «взаємодія з державними та громадськими органами, установами та організаціями з питань запобігання та протидії домашньому насильству та насильству за ознакою статі» та «профілактична діяльність слідчого в кримінальних провадженнях, пов'язаних із домашнім насильством». Також визначено, що ефективність методики обумовлена взаємозалежністю проведення слідчих (розшукових) дій, дотриманням етапності розслідування та своєчасністю залучення до нього відповідних спеціалістів. Такі елементи, за умови правильної послідовності, об'єднання утворюють методику розслідування зазначеної категорії кримінальних правопорушень. Практична цінність роботи полягає у формуванні дієвої програми, плановості дій слідчого не лише з метою встановлення обставин події, а й встановлення причинно наслідкового зв'язку між домашнім насильством та іншим кримінальним правопорушенням

Ключові слова:

криміналістична характеристика; спеціальні знання; тактика розслідування; слідча ситуація; протиправна діяльність