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of Vologda Institute of Law and Economics
of the Federal Penitentiary Service

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Address of the publisher: 2, Shchetinin street, Vologda, 160002, Russian Federation
Address of the printing office: 16, Kubinskaya street, apt. 74, Vologda, 160010, Russian Federation

Phones: (8172) 51-82-50, 51-46-12 51-98-70

E-mail: vestnik-vipefsin@mail.ru

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CONTENT

EDITORIAL

Journal "Penitentiary Science" – a Platform for Effective Scientific Communication

The year of 2022 marks the 15th anniversary of the research and practice journal "Penitentiary Science".

Vyacheslav Seliverstov, an Editorial Board member, Doctor of Law, Professor, Honored Scientist of the Russian Federation, noted: "15 years is no longer childhood and not yet maturity, the more so it is not old age. May the Journal develop, strengthen its scientific authority, find new interesting authors and caring readers".

The anniversary is an occasion to analyze the editorial work done, reminisce on crucial events in its development, clarify plans and prospects, and at the same time invite authors and readers to discuss topical issues of penitentiary science and practice.

Appearance of the journal "Institute Bulletin: Crime, Punishment, Correction" in 2007 was the realized initiative of its first Editor-in-Chief Viktor Popov. Thanks to efforts of the Editor-in-Chief, as well as the entire staff of the VIPE FSIN Russia, leading doctors and candidates of sciences, authors and reviewers who enthusiastically implemented the idea of creating a scientific platform for discussing conceptual scientific issues, in 2010 the Journal was included in the List of peer-reviewed academic journals and editions that are authorized to publish principal research findings of doctor of sciences and candidate of sciences dissertations, and then became one of the special purpose scientific periodicals, being focused on problems of the penal system functioning and development.

Since the Journal is special purpose, it was appropriate to change the name to "Penitentiary Science" (registered with the Federal Service for Supervision of Communications, Information Technology and Mass Media) in 2019. This set a new development vector, helped expand geography of publications, and, at the same time, determined the focus of the Journal and type of published content.

The Journal pursues the mission of providing scientific community with information about the state and development of penitentiary science and practice in the Russian Federation and the world through disclosure of legal, psychological and pedagogical aspects, as well as expert evaluation of scientific research results. Such an integrated approach is associated with importance of the topic under consideration. The Journal acts as a scientific platform where problematic issues of the penal system development are tested, discussed and substantiated. In fact, each article presents a preliminary qualitative assessment of proposals and ideas, which may further become draft laws, accelerate or slow down, for example, rehabilitation of persons who have served their sentences.

Taking into account complexity and social significance of the tasks solved by the penal enforcement system and other law enforcement agencies, the founder provides fundamental and applied scientific research, extensive press coverage of activities of penitentiary institutions and bodies. Scientific and technological development is noted among the main areas of improvement and development of the system, reflected in the Concept for development of the penal enforcement system of the Russian Federation for the period up to 2030.

The Journal Editorial Board seeks to publish results of original, creative, relevant studies and positive experience of penitentiary practice. Authors are both eminent specialists and promising scientists of Russia and foreign countries. Publications in the research

and practice journal "Penitentiary Science" are free, including full-text English translation services (since December 2019, the Journal has been published in two languages).

The main tasks of the publisher are to provide authors with favorable conditions for presenting results of their scientific activities, as well as organize open access to them. To achieve it, the Journal was included in the largest international database DOAJ (Directory of Open Access Journals) in May 2021.

Increasing international visibility of the Journal is impossible without expanding distribution channels. In this regard, articles are accessible to the public through the databases, such as "Russian Science Citation Index" (RSCI), CyberLeninka, GoogleScholar, CrossRef, WorldCat, East View Information Services. In 2020, the Journal joined the database of EBSCO Information Services on the EBSCOhost platform. Since 2021 published articles have become available in the electronic periodic reference book "System GARANT".

Digitalization, an element of the state policy of the Russian Federation, requires, especially from the publisher, a radical revision of the system of informing scientific community and representatives of penitentiary practice about results of their activities and its effectiveness, providing scientific research with up-to-date reference and bibliographic information. For the purpose of permanent and effective identification and compatible exchange of managed information in digital networks, since 2019 the articles published in the Journal have been assigned a digital object identifier (DOI), which eliminates loss of citations due to integration with author profiles.

It is interesting to look at the history of the Journal through the prism of digital indicators: for 15 years of its existence there have been 56 issues, 1,164 scientific articles, almost five thousand citations (4,991) of the Journal in the Russian Science Citation Index (RSCI).

Undoubtedly, success of a scientific journal depends on many factors and indicators, with quality of the articles being the most important. Relevance, novelty of the research, as well as variety of problems under consideration are crucial. Undoubtedly, the author's conclusions are of particular interest. Ensuring a high level of content begins with selection of the published material and its thorough review. The Editorial Board of the Journal consists of 10 authoritative scholars from Russia and other countries; all the members of the Editorial Board are doctors of sciences. The Editorial Council consists of 22 scholars, including 19 doctors of sciences and 3 candidates of sciences. International experts are from Belarus, Bulgaria, Kazakhstan, and Slovenia.

Based on the submission of the Chairman of the Dissertation Council: MSU.12.04 of the Lomonosov Moscow State University, by the decision of the Academic Council of the Lomonosov Moscow State University on December 28, 2020, "Penitentiary Science" was included in the list of editions that are authorized to publish principal research findings of doctor of sciences and candidate of sciences dissertations for submission to the dissertation councils of the Moscow State University. Our Journal is the first and so far the only edition on penitentiary topics in this list.

The research and practice journal "Penitentiary Science" stays strong in the pursuit of its goals. Its development is seen in improving quality of scientific publications, which are one of the main means of forming researcher's reputation, determining his/her place in science. In the near future, we will strengthen scientific ties with penitentiaries of foreign countries: China, India, Japan. We intend to significantly expand the range of scientific problems covered in the Journal. More attention will be paid to improvement of legal regulation in the field of implementation of preventive measures and execution of criminal penalties with regard to international obligations of the Russian Federation and generally recognized norms of international law. The Journal will cover issues of improving efficiency of the penal enforcement system, which provides for improving organization of its activities, optimizing institutions, ensuring security, developing production and forming highly motivated and professional human resources. Clearly, it is very important to consider correction of convicts, which involves ensuring execution of punishment in conditions that do not humiliate human dignity and comply with Russian legislation and international standards, improving educational, psychological and social work with con-

victs, aimed at forming a respectful attitude to society, work, norms, rules and traditions of human community. At the same time, we consider it unacceptable to use science as a tool of political struggle. Science should unite researchers, regardless of their political or religious views.

The year of 2021 recorded signing a license agreement on cooperation with the Union of Criminologists and Criminologists, which unites scientists and practitioners focused on problems of criminology, criminal law and criminal proceedings, criminology, operational investigative activities and forensic examination. There is a page of the Journal on the official website of the Union. Igor Matskevich, President of the Union of Criminologists and Criminologists, Chief Scientific Secretary of the Higher Attestation Commission under the Ministry of Science and Higher Education of the Russian Federation, Doctor of Law, Professor, Honored Scientist of the Russian Federation, is a member of the Editorial Board of the Journal. For our edition, it is another opportunity to effectively use the public's efforts to strengthen scientific ties. The journal "Penitentiary Science" is ready to actively cooperate with this public organization in order to promote integration with international scientific community. Focusing, primarily, on publication of high-quality scientific articles prepared by leading penitentiaries, at the same time we have sought and will strive to ensure that our Journal becomes a creative platform for gifted scientific youth.

In this context, it should be emphasized that many authors who published their articles in the Journal as cadets or master's degree students eventually achieved a lot not only in terms of their career, but also personal growth, becoming laureates of prestigious Russian and international prizes, winners of scientific competitions. Today, forming a solid foundation that ensures prosperity of academic science at the regional level, they are engaged in training a new generation of young researchers, being scientific supervisors of adjuncts and teachers of educational organizations of the Federal Penitentiary Service of Russia.

Relentlessly following the path of development of the research and practice journal "Penitentiary Science", we appreciate effective scientific communication and constructive dialogue, and find it important to receive feedback from readers, authors and just interested persons.

Feedback, December 2021:

Sergei M. Vorob'ev, *Doctor of Sciences (Law), Associate Professor, professor of the Department for the Theory of the State and Law, International and European Law of the Academy of the Federal Penitentiary Service of Russia: "It is a worthy and time-tested edition! Move forward for the benefit of development of Russian science and trainees".*

Sergei S. Oganesyan, *Doctor of Sciences (Pedagogy), Professor, Chief Researcher of the Research Institute of the Federal Penitentiary Service of Russia, State Councilor of the Russian Federation, 1st class, member of the Expert Council of the State Duma Committee on Family, Women and Children: "For the past 10 years, the journal "Penitentiary Science" has become one of the most respected not only in the penal enforcement system, but also in Russia. It is also read outside of our country. I wish you further fruitful work for the benefit of our state! Health, well-being and creative success to the Editor-in-Chief, members of the Editorial Board and editorial staff!".*

Nodar Sh. Kozaev, *Doctor of Sciences (Law), Associate Professor, Deputy Head for Academic and Scientific Work of the Stavropol Branch of the Krasnodar University of the Ministry of Internal Affairs of Russia: "I wish you optimism, prosperity and discerning readers!".*

Roman V. Nagornykh, *Doctor of Sciences (Law), Associate Professor, professor of the Department of Administrative Law of the VIPE FSIN Russia: "Dear colleagues! I sincerely congratulate you on the 15th anniversary of the Journal of our institute! Most of you are making significant efforts to develop various branches of scientific knowledge in the field of penitentiary activities and publish results of your research in this wonderful print edition! Your creative ideas, suggestions and recommendations are reflected in practical work of the bodies and institutions executing criminal penalties, boost development of the entire penitentiary system, form its positive image not as a repressive and punitive system, but as a system aimed at restoring social justice and rehabilitation of persons who have violated*

law. I wish everyone involved in the formation and development of the journal "Penitentiary Science" further creative success and prosperity, new ideas and publications!"

Elvira V. Zautorova, *Doctor of Sciences (Pedagogy), professor of the Legal Psychology and Pedagogy Department of the Faculty of Psychology of the VIPE FSIN Russia: "Dear Journal staff! Please accept the warmest and most sincere congratulations on the Journal's birthday! "Penitentiary Science" is a relatively young thematic scientific journal, its 15th anniversary is an important event in the scientific world. Turning over pages of the old files, you involuntarily recall the entire history of the Journal formation and development, where new events in the field of science and practice were constantly reflected. Today, the Editorial Board and publishers have found new forms of cooperation with authors, departmental universities, and foreign scientists. A variety of ideas, views, opinions are present in every issue and are always perceived by readers with interest. May your popularity and high authority flourish among readers. I wish the Journal staff new creative discoveries, success, expansion of interesting topics and attraction of talented authors are published!".*

Natalya S. Oboturova, *Doctor of Philosophy, Associate Professor, professor of the Department of Philosophy and History of the Faculty of Psychology of the VIPE FSIN Russia: "I sincerely congratulate the Editorial Board and all the authors on the 15th anniversary of the Journal. I believe that its creation and continuous development is a great achievement of our institute. I wish you all good health and new interesting publications in 2022".*

Oksana B. Panova *–Doctor of Sciences (Pedagogy), Associate Professor, professor of the Department of Legal Psychology and Pedagogy of the Psychological Faculty of the VIPE FSIN Russia: "Over the 15 years of its existence, the Journal has turned into a real intellectual club of researchers of penitentiary reality in its various manifestations. The Journal unites a community of people who seek to "refine" the prison system with the help of scientific knowledge. In the course of reviewing, the professional level of articles authors and reviewers themselves is growing. I wish the Journal a lot of plans for the near and far future, well-known and not so famous but talented authors. May the circle of readers expand! Just go ahead! Do not stop there!".*

Aleksei V. Agarkov, *Candidate of Sciences (Law), Associate Professor, Head of the Department of Intelligence Gathering Activities of the Faculty of Law of the Vladimir Law Institute of the Federal Penitentiary Service of Russia: "There is confident positive dynamics in the Journal development. I wish you prosperity!".*

Larisa I. Belyaeva, *Doctor of Sciences (Law), Professor, professor of the Department of Criminal Policy of the Academy of Management of the Ministry of Internal Affairs of Russia: "I have known the Institute's Journal for a long time. It has changed both externally and internally. I wish you further improvement and unquenchable interest of readers".*

The above responses and the 15-year history of the edition confirm rectitude of our position aimed at developing the journal "Penitentiary Science". Your trust is a great responsibility for us and a great incentive to new achievements!

Head of the Institute,
Journal Editor-in-Chief
Candidate of Sciences (Law),
Associate Professor
Evgenii L. Khar'kovskii

JURISPRUDENCE

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Digital Transformation of the Modern Russian State: Current Issues of Statutory Regulation

SERGEI M. VOROB'EV
Academy of the Federal Penitentiary Service of Russia, Ryazan, Russia, sergey.vorobev.78@inbox.ru, https://orcid.org/0000-0003-0734-745

OLGA V. MEL'NIKOVA
Pskov Branch of Academy of the Federal Penitentiary Service of Russia, Pskov, Russia, olgaleshchenko@hotmail.com, https://orcid.org/0000-0002-2252-3107

PAVEL V. IVLIEV
Academy of the Federal Penitentiary Service of Russia, Ryazan, Russia, ivliev_pv@mail.ru, https://orcid.org/0000-0002-8508-1633

Abstract

Introduction: the paper reveals essence of digital transformation of the state and its impact on Russian citizens. Taking into account modern trends in the development of information policy that meet security interests and social needs, the authors assess a new direction in the development of state information policy – digital transformation. The researchers substantiate the need to improve the legal mechanism in modern information and technological relations in terms of theoretical and legal understanding. *Task:* to conduct a comprehensive analysis of legal regulation of the institute of digital transformation of key spheres of life of Russian society. *Methods:* the article uses modern general scientific and special methods of cognition, such as analysis, synthesis, structural-functional, normative-logical, complex and legal norm interpretation methods. *Results:* an e-state reflects key functions of a modern state. A balanced state information policy can transform the state mechanism in the information space. Digital transformation is the crucial development vector of modern Russian information policy. These processes should be focused on population, in term of providing high-quality services based on information technology. The COVID-19 pandemic accelerated the pace of society digitalization, contributed to creation of a unified state system of user identification and predetermined a qualitatively new

technological development of various spheres of life. *Conclusions:* to promote an information society, it is necessary to set up an effective information protection system for individuals and legal entities. Due to insufficient development of the regulatory framework in the field of digital transformation, the Russian state and society will experience certain difficulties in the future due to the risk of information security maladaptation.

Keywords: digital transformation; information policy; digital maturity; information society; artificial intelligence; information risks; state; population; economy; penal enforcement system.

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Introduction

A modern pace of the accelerated information technology process directly affects a current state mechanism and the modern state itself. It is no coincidence that in this regard, the term "e-state" has already been firmly established and the legal basis for its functioning is being formed.

In relation to a classical idea of the state, an e-state is seen as the makeup of the first, reflecting new modern trends and opportunities of state activity. In our view, it is impossible to categorically distinguish these categories from the standpoint of the theory of state and law due to confused ideas about these institutions. Theoretical understanding of a state is wider [19, pp. 24–28] than that of an e-state. Thus, any state is forced to take measures due to optimization of its activities, within the framework of the existing information technology dependence, which we consider as a certain maladaptation risk.

The state faces a challenge to build a balanced, competent information policy that meets interests of security and needs of citizens and society. This will make it possible to implement a set of measures for gradual restructuring of the state mechanism in the information technology space.

According to M.M. Abazalieva and M.G. Pavlova, today an information component of the modern era transforms not only forms, mechanisms, impact technologies, society as a whole, but also the world of political relations, thereby determining new aspects of the study of political reality, closely related to information [1, p. 166].

Modernized state information policy should be focused on population's interests, as it is the main consumer of available information and technological resources. Priority areas of information and technological transformation of the state are the following: consideration of Russians' information needs, availability of information resources, swiftness of obtaining the information required, and free information use. At the same time, the state, as the main provider of public services, should also focus on the informative direction of this sphere development. Every citizen should know information technology capabilities provided by the state and be able to use available services. With this in mind, the state should be able to adapt to current growth of information technology processes and defend state interests in terms of its information policy.

Meanwhile, electronic governance for sustainable development (EGOV4SD) is a relatively new field that focuses on how governance can help society become more sustainable with the help of ICT. However, despite growing interest in EGOV4SD and capacities of the research field, interdisciplinary research programs (EGOV and SD) remain poorly worked out and studied, and

are still being elaborated within the framework of separate programs [29, p. 94–95].

In modern conditions, the socio-cultural network imperative for social development sets parameters for transforming the entire system of social relations and forms a new socio-cultural code for human civilization development. The trend formed at the end of the 20th century considers modern society as a network. Networks become increasingly important, they allow any business entity using information technology and located anywhere in the economic system to interact freely and at minimal cost with each other. In accordance with the network principle, economic entities build both their internal and external relations, and such processes occur in various cultural and national contexts [31, p. 65].

In our opinion, digital transformation is an important determining vector of a modern Russian information policy.

It should be noted that cutting-edge digital technologies applied in a wide variety of fields of human activity created a technological basis for the formation of a fundamentally new environment of civil law regulation [24, p. 96]. Impressive growth of the digital economy prompted a revision of classical provisions of the theory of tax law [27, p. 139]. It is also necessary to state that in modern globalizing conditions, new areas of social reality are emerging, causing expansion and deepening of legal regulation of social processes. There are new branches and institutions of law, such as, information, space, medical, etc. [4, p. 57].

Digitalization affected the social sphere as well. Digital transformation of a modern Russian society influenced domestic practices of corporate charity. It significantly expanded digital space of charity, including corporate online donation platforms, pro bono platforms, websites of commercial organizations [5, p. 93].

Regulatory and legal characteristics of digital transformation

In the Russian Federation, legal frameworks are developed to ensure digital transformation in the country. We will consider legal regulation of this area of state activity.

Digital transformation implies provision of a large number of public services. Thus, the Government Decree No. 1228 of July 20, 2021 approved [16]. At the same time, digital transformation of state and municipal services should be based on the principle of an integrated approach to solving vital problems of the population through super services.

Paragraph “m” of Article 71 of the RF Constitution stipulates that Russia shall ensure security of both society and the state as a whole, and of an individual in particular in the use of various kinds of digital technologies and digital data turnover.

To ensure exclusive jurisdiction of the state, provisions of Article 75.1 of the RF Constitution contain an important guarantee laying the basis for relationship of the state, society and a citizen. The Russian Government is implementing a set of measures to boost economic growth, social welfare, and trust between society and the state. It is important to protect dignity of society’s members, encourage respect for workers, balance between duties and rights of citizens, and promote social solidarity, including political [6].

The President of Russia in his Message points out that the Russian Constitution provides wide capacities and such foundations of the constitutional system as human rights and freedoms should remain the main value [22]. The provisions of the RF Constitution fix information society principles and constructive foundations to implement the state information policy.

The tasks to boost information development of the Russian society are determined by the RF Government Decree No. 313 of April 15, 2014 “On approval of the state program of the Russian Federation “Information Society”” [13]. Within the framework of this program, Subprogram 4 “Information state” is being implemented throughout the country. In addition, the Decree of the President of Russia No. 203 of May 9, 2017 “On the Strategy for information society development in the Russian Federation for 2017–2030”, determines conceptual foundations for further strategic development of this important activity area [10]. This Decree postulates exis-

tence of an information society in the country. It also indicates that the electronic mass media, information systems, social networks, which can be accessed via the Internet, have certainly become commonplace for Russians. It should be noted that the Russian reality is characterized by a large number of cell phones and other gadgets, as well as digital technologies.

The Federal Law No. 258-FZ of July 31, 2020 establishes the so-called "digital sandbox" mode to test various types of innovations [18]. Technologies are to be tested in certain territories or for individual organizations for further safe distribution throughout the country. This long-awaited law helps forecast possible risks in advance. Now information technologies can develop faster and more productively. So, Kaspersky Lab created a sandbox on a commercial basis to track dangerous computer programs and create antivirus databases in the future. Creation of such experimental sandboxes on a state or commercial basis will have a positive impact on the operation of the revised Russian legal system with regard to the practice of information technology breakthroughs.

According to the data provided by WeAreSocial and the largest SMM platform Hootsuite, the number of Internet users in 2021 reached 4.66 billion people, which is 7.3% (316 million people) more compared to the same period of the previous year. In 2021 4.2 billion people surfed social networking sites (by 13% more compared to the previous year), 5.22 billion people used mobile phones (66.6% of the world's population). Since January 2020, the number of unique mobile users has grown by 1.8% (93 million people). At the same time, it should be understood that the total number of mobile users had increased by 72 million people (0.9%) and reached 8.02 billion by January 2021 [3].

Thanks to the Internet, the country's economy received an income of 6.7 trillion rubles in 2020. Advertising and marketing rose to almost 350 billion rubles (by 11%) compared to the previous year, e-commerce – to more than 6 trillion (by 22%). infrastructure – to 152 billion rubles (by 20%). Most importantly, the digital content indicators went up by 44% and amounted to 123.4 billion rubles. In general, digital technologies raised domestic economy indicators by 22%.

According to Mediascope, more than 97 million people use the Internet in the country; this is almost 80% of the population who have reached the age of 12. As for intensity of digital technology use, 92% of the above persons use it daily. It should also be noted that 90% of the citizens under the age of 44 are active Internet users. Speaking about Russians aged 12–24, the figures here are off the scale and exceed 95%. According to the same analytical agency, almost 60% of the world's population (about 4.66 billion people) surf the web [2].

In order to efficiently regulate digital relations in the state, the Government of the Russian Federation elaborated and approved Decree No. 1646, which fixes a provision on departmental digital transformation programs and defines digital transformation [7].

According to this regulatory legal act, authorities will focus on changing management of state services and performance of functions through the use of information technology. It is the state who initiates transformation. All this is necessary to achieve goals, such as improving quality of the services rendered to citizens, reducing costs for entrepreneurs, decreasing pressure on public administration, facilitating tax collection procedures, decreasing dependence on foreign IT infrastructure, ensuring reliability of digital infrastructure, and most importantly, reducing excessive administrative pressure on business.

Skilled public administration of digital platform formation consists in finding a right balance between combining functionality of an industry and that of commercial players to merge them into a final platform model. This state balancing can be called orchestration [28, p. 3–4]. This public administration should be implemented to eliminate possible challenges associated with the need for organizational changes in terms of strengthening mechanisms of interstate, interdepartmental, as well as intersectoral cooperation, which can be realized simultaneously [30, p. 270–272].

Information technology processes have also affected activities of law enforcement

agencies. For example, taking into account realities of state digital transformation, a rapid pace of technological progress, spread of various threats in the field of information security, re-profiling of correctional institutions, re-equipment of production facilities, and modernization of the educational process of training highly qualified employees of the Russian penal system predetermined further development vectors of the Federal Penitentiary Service.

Section 14 "Digital transformation and scientific and technological development of the penal system" of the Concept for the development of the penal enforcement system of the Russian Federation for the period up to 2030 (approved by the RF Government Decree No. 1138-r of April 29, 2021) defines a set of strategic directions for further innovative development of the Federal Penitentiary Service of Russia. They are the following:

– updating and testing the system, end-to-end automation of work processes;

– using artificial intelligence technologies to ensure security of penal institutions;

– creating and protecting the information space of the Federal Penitentiary Service of Russia, as well as encouraging electronic interdepartmental interaction;

– working out a new methodological and technological basis for the formation of professional competencies of penitentiary system employees in the context of digital transformation;

– developing scientific potential that contributes to obtaining advanced results adapted to practical activities of institutions;

– conducting scientific research in the effectiveness of execution of certain types of criminal penalties and application of norms and institutions of penal enforcement law;

– developing video conferencing technologies during procedural actions in court sessions, as well as their use during video visits of convicts and persons in custody with relatives, organization of meetings with human rights commissioners and members of public monitoring commissions;

– introducing electronic databases into activities of penal institutions of constantly updated normative legal acts regulating rights and obligations of the persons detained in penitentiary institutions, as well as those necessary for them to protect their interests in courts;

– use of an electronic queue system by lawyers to visit their clients [14].

The Order of the Federal Penitentiary Service of Russia No. 984 of December 30, 2020 "On approval of the departmental program of digital transformation of the Federal Penitentiary Service for 2021 and for the planning period of 2022– 2023" was developed to ensure coordinated implementation of the specified directions [12].

The Presidential Decree No. 474 of July 21, 2020 defines strategic goals of digital transformation, such as introducing digital technologies in the social sphere, raising a number of social services that can be provided online to 95%, providing up to 97% of households with high-quality Internet access, and increasing funding for promotion of digital technologies by 4 times compared to 2019 [8].

It should be noted that the COVID-19 virus pandemic accelerated the society digitalization process; it contributed to formation of a uniform user identification structure, created "digital rails" for ongoing business processes, and introduced artificial intelligence in daily lives of citizens.

Russian legislation defines digital maturity as the most significant result of digital transformation, that is, transition to management decisions through digital analytics. At the same time, the President of Russia formulated conceptually important instructions for elaborating digital transformation strategies.

What is more, the Russian Government launched a long-term strategy for digital transformation of 10 domestic economy spheres and management to achieve digital maturity, implying the use of high-quality Russian software created with the help of artificial intelligence. Authorities of Russian regions were instructed to develop regional digital transformation strategies [21].

The Government of the Russian Federation prepared a draft Unified plan to implement state tasks related to development of the Russian Federation up to 2024 and planning of consequent measures up to 2030. The RF

Government was to approve these goals up to October 1, 2021, ensuring inclusion of strategic socio-economic initiatives [20].

The draft plan duplicates national development goals of the state enshrined in Presidential Decree No. 474 of July 21, 2020, namely, creating opportunities for encouraging people's accomplishments and self-realization, implementing digital transformation, promoting entrepreneurship and a safe environment for life, as well as taking care of people's health. It addresses current challenges, in particular, technological ones. There is a direct dependence of the Russian economy development and management on the speed of information technology introduction. It is new technologies that should trigger positive changes in quality of life of the population and become a breakthrough in various spheres of life and governance. The plan contains markers and statistical indicators of measures to achieve all the goals set in the Decree stated above [23].

Regulatory and legal support of the learning process and requirements for digital transformation managers at different levels.

For successful implementation of digital transformation, it is critical to establish a new position or state body, such as a head of digital transformation of authorities at federal and regional levels.

The Ministry of Digital Development, Communications and Mass Media of the Russian Federation issued a regulation stipulating requirements for candidates for the position responsible for digital transformation, as well as testing for managerial knowledge. This position implies skills, such as purposefulness, high intelligence, communication skills, competence, as well as knowledge of IT infrastructure and digital technologies. They are tested by highly qualified experts in the 3-stage procedure.

Stage 1. Assessment of managerial capacities, in particular, analysis skills, leadership abilities (i.e. to motivate people to follow his/her lead, charismatic qualities, intelligence, sense of duty), willingness to develop (openness to innovations, readiness for criticism), communicative abilities (persuasiveness, the way he/she speaks), as well as emotional stability, high efficiency.

Stage 2. Identification of knowledge and experience specifically in the digital sphere, with competencies being assessed in an interview from 0 to 3, where 0 is not a manifested level, 1 – a basic level, 2 – a qualified level, and 3 – an expert level.

Stage 3. Organization of a meeting with the Minister of the Ministry of Digital Development, Communications and Mass Media of the Russian Federations. At this stage, it is necessary to formulate criteria for the effectiveness of activities that are required to be achieved in this position with regard to 3-year goal setting.

In 2019, the Training Center for Managers and Teams of Digital Transformation (hereinafter referred to as the Center) was established at the premises of the Russian Academy of National Economy and Public Administration under the President of the Russian Federation to train personnel managers in promotion of digital transformation. The main task of the organization is to train both state and municipal employees who are responsible for digital transformation and improvement of Russian authorities. The Center also conducts expert and analytical activities and promotes digital transformation.

In 2019–2020, more than 20 thousand civil servants underwent courses at the Center, in particular, ministers, deputy governors and deputy heads of services, as well as state and municipal civil servants.

In 2021 there were 4 training programs. The retraining program "Head of digital transformation" was completed by 50 civil servants, such as deputy ministers, heads of services and their deputies. It should be noted that about 1,000 people were engaged in the advanced training program "Implementation of digital transformation projects", more than 6,500 municipal and state employees in the program "Digital transformation and digital economy: technologies and competencies", and about 5,000 state employees (deputy heads of the department and those with a higher position) – the program "Fundamentals of digital transformation" [26].

Digital transformation and digital maturity.

To determine a level of digital maturity at federal and regional levels, the Ministry of

Digital Development, Communications and Mass Media of the Russian Federation elaborated a methodology for different spheres of life. It distinguishes indicators of achieving digital maturity at regional and federal levels [15]. At the federal level, the following areas of state development of indicators of digital maturity are taken into account: social sphere, environmental sphere and environmental management, energy, finance, production, agriculture, construction, public administration, education and science, transport, healthcare, urban planning, etc. At the regional level, they are public administration, education and science, transport, urban planning, and healthcare.

In order to better implement digital transformation projects at the regional level, it was possible to adopt regional long-term planning documents, for instance: the Strategy for digital transformation of socio-economic activity of the Novosibirsk province for the period up to 2024, Concept for digital economy development in the Perm Oblast in 2018–2024, Strategy for information society development in Tuva up to 2030 "Digital Tuva"; Concept for digital development of the economy in the Udmurt Republic within the framework of the national program "Digital economy of the Russian Federation" for 2019–2024.

The RF subjects worked out and approved regional strategies for digital transformation of key sectors of the economy, social sphere and public administration (4,663 projects). They include digital transformation areas, such as communication routes, urban planning, public administration, education, social sphere, and healthcare.

The above strategies were coordinated with the responsible federal executive authorities. On average, they included 10 industries and 50 projects. Among RF subjects, the Perm Oblast included the greatest number of different industries (18), followed by the Republic of Chuvashia (17) and Zabaykalsky Krai (16). As for projects, the Chuvash Republic holds the palm of leadership here (128 projects), followed by the Republic of Tatarstan (102) and the Murmansk Oblast (96) [25].

It should be noted that the Presidential Instructions of December 31, 2020 approve strategic directions in the field of digital transformation of public administration. To implement them, it is necessary to adapt introduction of artificial intelligence technologies and actively use radio-electronic products [17].

Successful digital transformation requires solving a number of urgent problems. To begin with, a lack of statutory regulation can hinder automatic collection of socio-economic indicators, as nowadays legal entities are not obliged to provide such information to the authorities. Besides, there is a shortage of necessary domestically produced equipment for processing remotely collected information. Employees have a low level of competence and skills in the digital sphere. What is more, dependence on the supply of foreign equipment and related risks in the field of digital security is obvious.

Formation of a digital society is based on ensuring protection of every citizen and all legal entities; leakage of protected information is unacceptable. For instance, the decision of the Constitutional Court of Russia No. 1158-O dated May 26, 2016 [11] established that Article 7 of the Federal Law No. 152-FZ of July 27, 2006 [9] stipulating the obligation of operators or other persons not to give information to third parties without consent of the subject of personal data does not contradict Part 4 of Article 29 of the RF Constitution. In this regard, it is illegitimate to give out information to third parties concerning citizens' private life, which is not subject to state control.

Conclusion.

Modern development of an information society, of course, involves protecting every citizen and legal entity. In view of insufficiency of the regulatory framework for regulating digital transformation, we find it difficult to create conditions that ensure information security of all participants and all spheres of life of society and the state.

Systematic and adaptive support of information and digital technologies in the state mechanism requires consolidated participation, experience exchange and responsibility of all subjects of information relations. These criteria should be determinative for creating an optimally functioning electronic Russian

state. An e-state model will depend on the specifics of digital transformation, availability of its qualitative and quantitative characteristics, sufficient level of regulatory support, risks and threats emerging in social life and its interaction with the state.

Digital transformation requires trust of the entire population. For the system to be effective, we need a high-quality information environment that is able to anticipate the onset of various information technology risks in advance, localize them, reduce negative consequences and manifestations [32, pp. 101–102]. Mutual trust, common understanding and new opportunities for joint production of public goods are formed in the environment enriched with new digital technologies. Law in these difficult conditions should act as a trigger for comprehensively developed support of a digital transformation institute. Time will show whether this process is successful and affordable. It will change the content, and the content will determine the quality.

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INFORMATION ABOUT THE AUTHORS

SERGEI M. VOROB'EV – Doctor of Sciences (Law), Associate Professor, professor of the Department for the Theory of the State and Law, International and European Law of the Academy of the Federal Penitentiary Service of Russia, Ryazan, Russia, sergey.vorobev.78@inbox.ru, https://orcid.org/0000-0003-0734-745
OLGA V. MEL'NIKOVA – Candidate of Sciences (Law), associate professor of the Department of State and Legal Disciplines of the Pskov Branch of Academy of the Federal

Penitentiary Service of Russia, Pskov, Russia, olgaleshchenko@hotmail.com, https://orcid.org/0000-0002-2252-3107

PAVEL V. IVLIEV – Candidate of Sciences (Law), associate professor of the Department of Civil Law and Procedure of the Academy of the Federal Penitentiary Service of Russia, Ryazan, Russia, ivliev_pv@mail.ru, https://orcid.org/0000-0002-8508-1633

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Efficiency and Functionality of Public Control over Penal Enforcement System Activities: Discussing the Essence and Identifying Evaluation Criteria

ELENA V. KUZNETSOVA
Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, kuznecova_ev@mail.ru, https: orcid.org/0000-0002-2593-2002

Abstract

Introduction: studying issues of qualitative public control over activities of places of forced detention is very relevant for the modern state, since it contributes to ensuring the rights and freedoms of an individual as the highest value, effective functioning of the penal enforcement system, reducing corruption, developing an open state and increasing the level of trust in the law enforcement system. *Method:* dogmatic analysis of scientific categories, formal legal analysis of existing regulations. Results: traditional approaches to assessing performance of certain subjects are not quite suitable for public control, including over activities of the penal enforcement system. It is proposed to evaluate functionality of public supervisory commissions, that is, assess indicators of their activities in the performance of their functions. Attention is also drawn to the fact that the functions of public supervisory commissions stem from the purpose of their existence and tasks of their activities. The formulations of the goals and objectives contained in the current law "On public control over ensuring human rights in places of forced detention and on assistance to persons in places of forced detention" do not correspond to the social purpose of public supervisory commissions and require improvement. *Conclusions:* the author proposes to evaluate performance of public supervisory commissions through the prism of their functionality, assessing not only quantitative characteristics of their activities, but also qualitative performance indicators, including characteristics of their composition, complexity and systematic work, involvement of members of public supervisory commissions in the activities carried out, flexibility of the public control system and availability of information about it. The choice of criteria and specific evaluation indicators requires further discussion. It is also suggested to improve regulation of the goal-setting activities of public supervisory commissions as subjects of public control.

Keywords: public control, public control over activities of the penal enforcement system, public supervisory commissions, penal enforcement system, efficiency of public control

12.00.01 – Theory and history of the law and state; history of the law and state studies.

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Introduction

Public control over activities of state bodies and institutions is the most important factor in the development of civil society and the rule of law in modern Russia. According to researchers, public control is required to reduce the corruption level, develop principles of openness and transparency in the activities of state bodies and officials, save state resources for the organization of full-fledged control in some areas, increase performance of public authorities, in general, and develop standards for legitimate activities of both the state apparatus and society as a whole.

Public control ensures a balance of interests of various social groups and coordination of efforts to develop managerial decisions, as well as guarantees law and order [13, pp. 105–106]. In addition, the existence of the institution of public control over activities of state bodies and local self-government bodies is also considered as one of the main features of the government legitimacy [1]. However, the opposite point of view is expressed in modern foreign literature, which excludes civil institutions' influence on the implementation of state policy, as well as control over it, in order to eliminate the need for a "war for public and state sovereignty", which has a destructive effect on development of the state and society [16]. Nevertheless, there prevails the stance about a high role of public control over authorities' activities, while researchers conclude that the importance of institutional control is higher than that executed by individual actors [17, pp. 804–805].

Public control over activities of law enforcement agencies, in particular the penitentiary system, is of the utmost importance, given its historical past in our state. Public control in this area is to provide additional guarantees for ensuring the rights and freedoms of persons held in institutions of the penal enforcement system, and promoting law and order. Expediency of public control over penal system activities is beyond doubt. Nowadays, the status of public control subjects and the procedures for their activities are regulated; public supervisory commissions are established in all subjects of the Russian Federation. However, the goals of public control are achieved not only by institutionalizing these public relations, but also by ensuring quality of its functioning. The question of efficiency of public control over activities of the penal system is a natural one. In legal science, sufficient attention is paid to the issues of legal regulation of public control over penal enforcement system activities, features of the subjects and object of public control, forms of activity of public supervisory commissions (A.P. Skiba, N.S. Maloletkina, Ya.Yu. Reent, Yu.V. Perron, etc.). Besides, certain issues of public control performance are addressed, and gaps in legal regulation and problems of practical activity of public supervisory commissions as the main subjects of public control over penal system activities are identified. The problems of developing criteria indicating efficiency of public control over penitentiary system activities have practically not been the subject of independent scientific research.

Research methodology

In the research we used a dogmatic analysis of research vocabulary, studied key approaches to defining the concept and essence of the efficiency of activities of public bodies and public organizations, developed our own stance on the validity of using a term "efficiency of activity" in relation to public supervisory commissions. The formal legal method was also applied to identify and analyze methods and criteria proposed by law-makers to assess performance of certain subjects. Having analyzed data of legal science and materials of public supervisory commissions' practice set out in the reports of the Public Chamber of the Russian Federation, public chambers of RF subjects and considered ideas of a social purpose of public supervisory commissions, we formulated criteria for their functionality.

Problem statement and research results

The ideas of identifying performance criteria in various spheres of state and society (effective public administration, financial control, performance of civil society institutions) are actively discussed in legal science and implemented in political practice. For instance, the indicators of performance of senior officials and executive authorities of RF subjects, local self-government bodies, public councils under federal executive authorities, etc. have been developed (for example: RF President Decree No. 68 of February 4, 2021 "On evaluating performance of senior officials (heads of supreme executive bodies of state power) of the subjects of the Russian Federation and executive authorities of the subjects of the Russian Federation"; RF President's Decree No. 607 of April 28, 2008 "On evaluating performance of local self-government bodies of municipal, municipal, urban districts and municipal districts"; Methodology for assessing and criteria of performance of public councils under federal executive authorities: approved by the protocol of absentee voting of the Government Commission for the Coordination of Open Government Activities No. 3 of April 19, 2018). Evaluating efficiency of anything becomes a kind of trend in state and public administration. Public control follows the trend: in some publications, for example, questions are raised about efficiency of public control in the consumer market [7], control over activities of the penitentiary system during the pandemic [10]. And here a natural question arises, whether we can identify indicators of public control efficiency. Is it reasonable to use the approaches established in science to the concept and criteria of efficiency in relation to public control over activities of the penitentiary system?

Key approaches to the concept and content of the efficiency of various entities' activities

In the management theory, according to GOST R ISO 9000–2015 "Quality management systems. Fundamentals and vocabulary", efficiency is understood as the ratio between the result achieved and the resources used. So, in economic sense, an efficiency ratio is calculated using a formula in which gross profit is divided by costs and multiplied by one hundred percent. If we are not talking about subjects of economic activity, but about the sphere of state and public administration, then efficiency is also, as a rule, considered as a ratio between the results expected and the resources involved. Efficiency, for example, of public administration is considered as a concept that includes economic and social aspects, as a quantitative and qualitative assessment of activities of public authorities, the ratio of the goals achieved to the resources used and the efforts expended and the goals of public administration to the needs of citizens [3, pp. 420–421]. At the same time, management efficiency is often confused with effectiveness, which means a degree of implementation of planned activities and achievement of planned results. Effectiveness of an activity acts as one of efficiency indicators, but does not replace it.

Measuring efficiency of public organizations activities, whether they are non-profit organizations, state and public bodies (for example, public chambers), public councils, public supervisory commissions, is a more complex task, which cannot be considered purely in terms of management, using only quantitative indicators.

For example, to assess efficiency of regional public chambers' activities, the following indicators are proposed: public chamber's involvement in economic, social and political life of the region, its presence in the information field, its recognition among the population, relations with authorities and local self-government, concrete results of activities, an active expert community, a variety of forms of activity of public chambers [4, pp. 119–120]. Researchers point out, however, that some of the listed criteria are secondary, formal, and suggest using two qualitative indicators as the basic ones: a method of forming a public chamber that characterizes representation of various social groups' interests, including the degree of authorities' influence on the process of forming the chamber; conditions, forms and results of its public control [4, pp. 131–132].

When characterizing efficiency of regional non-profit organizations, it is proposed to use the following evaluation criteria: interaction of the non-profit sector and non-profit organizations in the region (awareness of activities, recognition, participation in solving citizens' problems), interaction of non-profit organizations and government authorities, including assessment of the level of administrative barriers to activities of non-profit organizations, interaction of non-profit organizations and the media, business, etc.[8, p. 83].

An attempt is made to develop criteria for evaluating activities of public councils under

federal executive authorities [11]. Though some of them are of a formal nature (for example, election of the Public Council Chairman and Deputy Chairman from among the candidates recommended jointly by the Public Chamber and the Expert Council, holding face-to-face meetings of the Public Council at least once a quarter and discussing certain issues at them, existence of a work plan of the Public Council, etc.). There are also qualitative indicators, such as compliance of the public council activities with openness and publicity requirements, involvement of public council members in the work of federal executive authorities and related sectoral public councils.

With regard to activities of public supervisory commissions carried out in regions, there is no independent document recommending criteria for their assessment. Nevertheless, analysis of their reports to the public chambers of the subjects and subsequent reports of the public chambers of the subjects and the Public Chamber of the Russian Federation on the state of civil society helps identify the following quantitative indicators: number of members of public supervisory commissions, number of planned and implemented visits, received appeals and responses to them, etc. For example, the Public Chamber of the Russian Federation reports that in 2019, for instance, the maximum composition of public supervisory commissions was formed in 4 regions, the number of commission members increased in 17 more regions, 42 grants were supported, etc. [5] Similarly, annual reports of regional public chambers provide information on the number of commission members conducted in places of forced detention inspections, number of appeals, prepared conclusions, proposals, complaints [12]. Hence, indicators for evaluating activities of public supervisory commissions are mainly quantitative, indicating their effectiveness, but not efficiency (Effectiveness of activities of the public supervisory commission is considered as a criterion that characterizes quantitative indicators of the commission's activities: number of planned and implemented activities, number of appeals received and responses given to them).

Functionality of public supervisory commissions: on problem formulation

It is obvious that evaluation of any public formation efficiency goes far beyond the traditional formula indicating the ratio of the efforts expended to the results obtained. Moreover, in some cases it is almost impossible to measure the resources expended, because they include not only material resources, but also intangible ones, such as time, knowledge, work of activists. Therefore, it is necessary to choose a fundamentally different approach to evaluating efficiency of public supervisory commissions, primarily based on qualitative criteria, that is, to consider their efficiency through the prism of their functionality.

The task of any public formation is to perform the functions for which they were created and realize the set goal and objectives. Necessity of public organization existence depends on the extent to which it meets proposed requirements. If a public formation, especially a human rights one, is created for the sake of appearance, does not implement the tasks, then it is not functional (in established terminology, it is efficient), that is, it does not fulfill the function (functions) assigned to it. We believe that when evaluating activities of organizations exercising public control, the emphasis should be shifted from the issue "how effective the organization is" to the one "whether the organization performs functions assigned to it". Hence, it is not efficiency of activities that should be evaluated, but functionality of the organization. Thus, functionality (efficiency) of public control over activities of the penal enforcement system is considered as a state of public relations in which public supervisory commissions and other subjects of public control over activities of the penal enforcement system fully perform their function (functions), realizing the goals and objectives set for them. We will focus on identifying indicators (criteria) of functionality of public supervisory commissions as the main subjects of public control over activities of the penitentiary system.

Purpose, tasks and functions of public supervisory commissions

The study of functionality of public supervisory commissions should begin with identifying key goals and objectives of their creation, which determine the main areas of activity (functions).

In accordance with Article 14 of the Federal Law of July 21, 2014 "On the basics of public control in the Russian Federation", the main purpose of public supervisory commissions is public control over ensuring human rights in places of forced detention. Can the proposed wording be considered the main function of

public supervisory commissions? It is unlikely, since public control is not carried out by itself, not for the sake of an end in itself, but rather acts here as a means to achieve the goal. The Federal Law of June 10, 2008 "On public control over ensuring human rights in places of forced detention and on assistance to persons in places of forced detention" defines the purpose of public supervisory commissions' activities as follows: "assistance to the implementation of state policy in the field of ensuring human rights in places of forced detention". The wording of the law can hardly be considered successful, since it follows from the meaning of the quoted part 1 of Article 6 that control over activities of the state is carried out in order to assist the state. Obviously, the emphasis should be shifted to an individual, whose rights and freedoms are the highest value, that is, control should be carried out in order to ensure the rights and freedoms of man and citizen in places of forced detention in the first place.

The tasks of public supervisory commissions' activities in this law are also formulated rather inappropriately: implementation of public control, preparation of decisions on its results, and promotion of cooperation of public associations, socially oriented NGOs, administration of places of forced detention, state authorities and local self-governments to ensure legitimate rights and freedoms, as well as adequate conditions in places of forced detention. Of the listed above, only the latter is formulated as an activity task that consistently reveals the purpose of public supervisory commissions, while public control and preparation of decisions are a form of implementation of this task.

Summing up the above, we note that the wording of the goals and objectives of the activities of public supervisory commissions in the Federal Law "On public control over ensuring human rights in places of forced detention and on assistance to persons in places of forced detention" needs to be improved. The purpose of the activities of public supervisory commissions is to promote the rights, freedoms and legitimate rights of man and citizen through the exercise of public control over the activities of places of forced detention. In this sense, a public supervisory commission acts as a public guarantor of individual rights and freedoms.

The tasks of activities of public supervisory commissions proceed from the main goal and detail it. In legal science, for example, the following formulations are proposed: increasing effectiveness of the execution of criminal penalties associated with isolation from society, activating and coordinating civil society's efforts not only to ensure the rights of convicts, but also their successful rehabilitation [15, p. 29], monitoring insurance of the law and order in institutions, and promoting implementation of socially significant projects in places of forced detention [9, p. 404, 406]. It is also possible to supplement this list with law-stipulated assistance to interaction between socially oriented NGOs and administration of places of forced detention, as well as elaboration of proposals to improve provision of individual rights and freedoms in places of forced detention.

The set goal and tasks make it possible to determine that the main function of the public supervisory commission will be law-enforcement, expressed in monitoring the observance of individual rights in places of forced detention and facilitating their implementation.

What features should the subject implementing this function have? The following epithets immediately arise: independent, active, competent, person-oriented, not system-oriented, etc. Traditional assessment of the number of planned and implemented visits, complaints considered, and activities carried out should be conducted, though it does not reveal whether the public supervisory commission implements its main function. At the same time, quantitative indicators of public supervisory commissions' activities should be considered not in statics and short-term dynamics in relation to the same period of the previous year, but in comparison by subjects, while not in absolute numbers, but in terms of the number of institutions and convicts.

Functionality indicators of public supervisory commissions

Activities of public supervisory commissions should be evaluated not by quantitative performance indicators (number of visits, number of complaints, etc.), but by certain qualitative results indicating that the rights and freedoms of a person in places of forced detention are being properly implemented. It indicates that the public supervisory commission performs its main function, that is, its functionality (efficiency). These qualitative results can be, for example, expressed in situations where, with the assistance of the public supervisory com-

mission (on a complaint received by the commission, for example) the violated rights of the person were restored, his/her legitimate interests were protected. Functionality of the public supervisory commission can also be reflected in situations where the commission attracted attention of the public and supervisory authorities to systematic and/or massive violation of individual rights in certain places of forced detention; when after the public monitoring commission's visit certain recommendations were made to the facility administration and they were further realized in its activities, etc. In our opinion, the qualitative indicators of functionality of the public supervisory commission are specific cases of assistance to ensuring the rights of persons held in places of forced detention, and not quantitative indicators of visits and events.

A qualitative composition of the commission is, in our opinion, the most important criterion to determine its functionality. Not all subjects have managed to immediately form the composition of public supervisory commissions. According to the report of the Public Chamber, when forming a commission in the Nenets and Chukotka Autonomous okrugs, the initiative was backed only by one public organization, a regional branch of the Russian Red Cross. However, 4 of the selected 5 candidates to commission members refused to participate in its activities for various reasons, as a result, the creation of the public supervisory commission was delayed [6, p. 36]. It is required to assess whether the number of commission members corresponds to a number of places of forced detention and geography of their placement, as well as a number of persons held in them.

It is permissible to evaluate the composition of the public supervisory commission in terms of their independence from the penal enforcement system, professional diversity, quality of experience in the field of protection of individual rights and freedoms, compliance with the code of ethics of public supervisory commission members. Let us draw attention to the fact that the practice of including former employees of the penal enforcement system in its composition is very doubtful in terms of independence of the public supervisory commission, since they are aware of the activities of penitentiary institutions and also might somehow interact with current employees whose activities are subject to public control. It is permissible, in our opinion, to consider the issue of establishing a period after which an employee who has retired from service in the penal enforcement system can be a member of the public supervisory commission. As for persons who have previously served a sentence of imprisonment, we believe that the period under which the criminal record is removed is sufficient to exclude the possibility of influence on a commission member on the part of the facility administration and convicts. In any case, persons connected with the penal enforcement system in the past cannot constitute the majority of commission members.

Functional, in our opinion, will be a gender-diverse composition of the commission, whose members are representatives of different ages, social groups and professions, nominated by different public associations. Practice of some subjects shows that 1–2 public organizations take an active part in the formation of the public supervisory commission. The issues of improving requirements for probation members and the procedure for its formation have repeatedly become the subject of criticism in scientific literature [14, p. 56].

As criteria of functionality of public supervisory commissions, we can also suggest complex and systematic nature of the commission's work. This criterion, in our opinion, should be based on indicators, such as regularity and continuity of the work of the public supervisory commission, implementation of its activities in various areas, all commission members' involvement in its activities, interaction with state bodies and public organizations, constant interaction with territorial divisions of the Federal Penitentiary Service of Russia and administration of institutions.

For example, the Vologda Oblast Public Supervisory Commission is quite actively interacting with the Commissioner for Human Rights in the subject of the Russian Federation, conducting joint visits, the Vologda Oblast Prosecutor's Office, the Vologda Branch of the Russian Red Cross, etc. There is close cooperation between the Vologda Oblast Public Supervisory Commission and the regional Federal Penitentiary Service, in particular, participation in board meetings, organization of various working meetings, etc.

Commission members' involvement in its activities is an important indicator: everyone should be aware of social significance of their activities and regularly participate in events. Unfortunately, nationwide there is such a situation when 5–6 concerned people take active part in the commission work, the rest joined

the organization to make their CV more attractive.

The epidemiological situation in 2020–2021, caused by the spread of a new coronavirus infection, requires flexibility of the public control system as a significant criterion revealing functionality of the public supervisory commission. We consider flexibility of public control as such a state of public relations and legal regulation in the field under study, which gives an opportunity to quickly change conditions and procedure for holding events that make up the content of commission activities without prejudice to the purpose of their activities. Research in effectiveness of public control during the COVID-19 pandemic showed the need to improve the penal enforcement legislation and digital transformation of the system [10, pp. 53–55]. It is reasonable to analyze not only measures implemented within the penitentiary system during the pandemic, but also relevant practice of the Public Chamber of the Russian Federation, public chambers of the subjects to draw further conclusions about flexibility of public control over activities of places of forced detention.

Availability of information about activities of the public supervisory commission and its results also discloses its functionality. The right to access to information in modern science is considered one of the key constitutional rights of the individual. In modern conditions of the information society, digital economy and open electronic government, availability of information becomes not only the right, but also a condition and guarantee for realization of other human and civil rights. According to researchers, the right to information "... acts as a connecting element of the entire system of fundamental rights and freedoms. Only if it is observed, we can talk about actual realization of personal, political, social, economic, environmental and cultural rights and freedoms" [2, pp. 14–15].

Availability of information on public control over activities of places of forced detention is crucial, since it generates public interest in problems of ensuring human rights in these institutions, stimulates human rights public associations, boosts interest of citizens, including young people, promotes openness of the system of places of forced detention, etc. In modern society, Internet resources, such as official websites, pages in social networks, chat rooms in messengers, Internet media, etc., are key channels for providing access to information. Unfortunately, availability of information about activities of public supervisory commissions leaves room for improvement: in some subjects there are commission websites that post information about the composition and procedure of activities, the news feed is actively upgraded, in others – information is posted on websites of regional public chambers, social media pages are maintained, and in the rest – only brief information about the composition of the commission and the regulatory basis of its activities is available. It is obvious that active maintenance of websites, pages, work with the media requires both time and financial costs from commission members, while the issues of financial assistance to commissions have not yet received proper legal regulation. It is necessary to conduct further research in the problems of information support for activities of public supervisory commissions, considering not only official websites/pages on the Internet, but also conducting content analysis of sources in which commissions and their members became newsworthy.

Conclusions

Summing up the above, we note that the approaches developed in humanitarian (political, sociological and legal) studies to assess efficiency of certain institutions are not fully applicable to assessment of subjects of public control over ensuring human rights in places of forced detention, since they are mostly of a formal nature. Various reports on public supervisory commissions' activities mainly contain quantitative data on their efficiency and do not reflect quality of implemented tasks. It is proposed to consider efficiency of public control over activities of the penal enforcement system from the standpoint of its functionality, that is, to evaluate activities of public control subjects in terms of performance of their main function (functions). Functions of public supervisory commissions depend on the purpose of their creation and tasks of their activities. We believe that the goals and objectives of commissions' activities formulated in the Federal Law of June 10, 2008 "On public control over ensuring human rights in places of forced detention and on assistance to persons in places of forced detention" are not entirely appropriate. The following wording of Article 6 of the said law is proposed: "Article 6. Goals and objectives of public supervisory commissions.

1. Public supervisory commissions shall operate on a permanent basis in accordance with

the procedure established by this Federal Law and other regulatory legal acts of the Russian Federation in order to ensure the rights, freedoms and legitimate interests of a person and a citizen by exercising public control over activities of places of forced detention.

2. One public supervisory commission shall be formed in the subject of the Russian Federation, which carries out its activities within the territory of the relevant subject of the Russian Federation.

3. The main objectives of the public supervisory commission are the following:

1) assistance to cooperation of public associations, socially oriented non-profit organizations, administrations of places of forced detention, state authorities of RF subjects, local self-government bodies, other authorities within the territory of the RF subject to ensure the legitimate rights and freedoms, as well as conditions of detention of persons in places of forced detention;

2) assistance to ensuring law and order, as well as proper conditions of detention of persons in places of forced detention;

3) assistance to successful rehabilitation of persons sentenced to imprisonment and held in penitentiary institutions of the Russian Federation;

4) assistance to implementation of socially significant projects in places of forced detention;

5) development of proposals to improve provision of individual rights and freedoms in places of forced detention.

4. Public supervisory commissions are not legal entities".

The stated formulation of goals and objectives of activities, in our opinion, is more in line with the social purpose of public control in a modern democratic state, and makes it possible to emphasize law enforcement as the main function of public supervisory commissions.

We believe that when evaluating functionality of public supervisory commissions, it is critical to consider not only effectiveness of their activities (quantitative indicators), but also qualitative indicators of the work: significant cases, complexity, systematic nature, qualitative composition of commissions, its members' involvement in its activities, flexibility of the public control system, and availability of information. In our opinion, these indicators should be taken into account by the public chambers of the constituent entities of the Russian Federation when drawing up reporting forms for public supervisory commissions and assessing their functionality (efficiency). However, the issues of the choice and content of criteria for evaluating functionality of public supervisory commissions require further research.

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INFORMATION ABOUT THE AUTHOR

ELENA V. KUZNETSOVA – Candidate of Sciences (Law), Associate Professor, associate professor of the Department of State and Legal Disciplines of the Faculty of Law of the Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, kuznecova_ev@mail.ru, https: orcid.org/0000-0002-2593-2002

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Rationality of Coercion as a Principle to Regulate Execution of Prison Sentences

VLADIMIR A. UTKIN
National Research Tomsk State University, Tomsk, Russia, utkinva@inbox.ru, https.org/-0000-0001-9126-7971; WoS ResearcherID: 0-8426-2014

Abstract

Introduction: the article discusses the regulatory framework and practice of implementing a principle of rational use of coercive measures enshrined in Article 8 of the Penal Enforcement Code of the Russian Federation. Ambiguity of its understanding is noted in the theory of penal enforcement law. *Research:* using a systematic approach as a methodological basis, the author substantiates that this principle is not reduced to the economy of coercion, but assumes its necessity and sufficiency in specific conditions of penal enforcement activity. Singling out penalties from the entire system of coercive measures, the author simultaneously identifies subsystems of disciplinary (penal enforcement) and criminal liability of convicts in places of deprivation of liberty. They, in turn, can be studied as model systems enshrined in the law, and systems of measures implemented in practice. Using the published data of departmental statistics of the Federal Penitentiary Service as arguments, the author shows that both systems in the enforcement of imprisonment do not fully achieve their goals, and therefore the principle of rationality of coercion is not implemented effectively enough. *Conclusions:* it is proposed to change the name and content of Article 321 of the Criminal Code of the Russian Federation to "Systematic malicious violations of the established procedure for serving a sentence" and amend its content. At the same time, a list of malicious violations of the order of serving a sentence established in Part 1 and Part 2 of Article 116 of the Penal Enforcement Code of the Russian Federation should be revised; an intermediate category of major violations should be introduced and a repeated mere violation should be excluded from their number of malicious ones. In addition, a head of the institution should be entitled not to recognize a violation as malicious when a convicted person commits an act provided for in Part 1 of Article 116 of the Penal Enforcement Code, depending on circumstances of the case and identity of the culprit.

Keywords: penitentiary law and order, rationality of coercion, penitentiary liability.

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Article 8 of the Penal Enforcement Code of the Russian Federation establishes a principle of rational use of coercive measures. It is noteworthy that there is a contradiction in the text of this article: its name speaks about principles of legislation, and the content – about a law enforcement principle.

In addition, regulatory and legal bases of penal enforcement activities are not reduced only to penal enforcement legislation (the Code and other federal laws). It is necessary to keep in mind other regulatory legal acts on the execution of punishments (Article 4 of the Penal Enforcement Code). In this regard, in theoretical, rule-making and law enforcement aspects, it is more accurate to understand this and other principles fixed in Article 8 as principles of penal enforcement legal regulation. This position was previously justified by the author in the collective monograph devoted to a theoretical model of the General Part of the amended Penal Enforcement Code of the Russian Federation [8, pp. 64–65]. Taking into account the above, this principle should be considered as the one of rationality of coercion.

In the theory of penal enforcement law, there is still no proper certainty whether this principle is independent or constitutes the content of other principles; what is its relationship with principles of legality, humanism, differentiation and individualization of the execution of punishments, stimulation of law-abiding behavior of convicts, etc. [21, pp. 80–82]. Some researchers believe that the principle of rational use of coercive measures should be replaced by a general legal principle of incentives [18, pp. 168–173]. It is hardly possible to agree with this, because proposed generalization does not reflect two opposite vectors of incentives: positive (encouragement) and negative (sanctions and other coercive measures). We cannot but consider the specifics of such a voluminous and multifaceted sphere of coercion as execution of punishment, which by definition (Article 43 of the Criminal Code of the Russian Federation) is a state coercion measure itself, in particular, deprivation of liberty. Correct understanding of the principle of rationality of coercion as the one of penal enforcement regulation is critical not only for rule-making, but also for accurate organization of penal enforcement activities, formation of professional mentality of employees of the penal enforcement system and its correct perception by society.

S.N. Smirnov considers rationality as a single principle of using coercive measures and convict correction means and describes it as “reasonableness, rationality, expediency” [15, pp. 54–56]. However, it hardly clarifies its specific content, as all means of influencing convicts should be reasonable and expedient. The author’s reference to necessary sufficiency of all measures as a criterion of rationality of the latter just testifies to impossible use of the principle as a single means of correction and stimulation for convicts. After all, the vectors considered from such positions and intensity of these means are directly opposite: with positive development of the convict’s personality, the degree of coercion against him/her should decrease, and non-punitive corrective effect should expand. On the contrary, changes for the worse require the use of stricter coercive measures, which in turn narrow possibilities of positive corrective action [19, pp. 134–138].

Undoubtedly, that the most important component of the principle of rationality of coercion is its economy. According to N.I. Lankin, it is more correct to consider this principle as a principle of economy of coercive means (economy of repression) [5, p. 49]. Agreeing with the term “economy” itself in this context, we would like to clarify that economy of repression in the penal sphere is not identical to economy of coercion. The latter is much broader: it should permeate the entire complex of compulsory measures fixed by the penal enforcement legislation. These are measures expressing a degree and quality of isolation of convicts (their placement, detention conditions, number of parcels permitted, etc.), penalties (Articles 115-117, 136 of the Penal Enforcement Code of the Russian Federation, etc.), security measures (Articles 82,85,86 of the Penal Enforcement Code, Chapter 5 of the Law of the Russian Federation of July 21, 1993 “On institutions and bodies executing criminal penalties in the form of imprisonment”). The latter are often defined as instruments of restraint in international acts.

Rules and principles of their application are determined, in particular, by the UN Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules) adopted in 2015. Article 36 of the Rules states that “discipline and order should be maintained by introducing only those restrictions that are necessary to ensure reliability of supervision, safe functioning of the prison institution and compli-

ance with proper rules of a dormitory". At the same time, "instruments of restraint must not be applied for any longer time than is strictly necessary, patterns and manner of use of instruments of restraint shall be the least harsh of those that are necessary (emphasis added) and reasonably applicable, and they should be removed as soon as possible after the risks ... cease to exist" (Article 48).

Requirements of economy of coercion are relevant not only in relation to security measures, but also to changing imprisonment conditions, as well as penalties applied to convicts. The Nelson Mandela Rules instruct the institution administration to ensure "proportionality of disciplinary punishment and violations" (Article 39), never use "instruments of restraint as punishment for disciplinary violations" (Article 43), and use solitary confinement only as a last resort and for the shortest possible time (Article 45).

We should mention an important specific criterion of rationality of coercion when depriving liberty, such as economy of coercive means both in the field of liability and security measures. This aspect has become a theoretical basis for formulating a principle of economy of coercion by the author in the mentioned Theoretical model of the General Part of the amended Penal Enforcement Code of the Russian Federation. Draft Article 19 stipulates that, first, "coercion in the execution of criminal penalties and other measures of a criminal legal nature is justified only when other forms of treatment and control are ineffective or are assumed to be as such with regard to the level and nature of actual or possible unlawful behavior of the convicted person and risks that arise". Part 2 of the Article under study states that "stricter coercive measures are justified only when less stringent ones do not give results". Finally, Part 3 of Article 19 discloses that "instruments of restraint are used only for the time required" [8, p. 83].

Nevertheless, it does not follow from what has been said that economy of coercion is the only criterion of its rationality. Here it seems very constructive to analyze all legal coercive measures in the sphere of imprisonment execution as an integral complex, a certain system of law enforcement (regime) in correctional institutions, consisting, among other things, of a legal liability subsystem. The latter, in turn, consists of a subsystem of disciplinary liability measures and a subsystem of criminal liability measures of convicts. Due to the limited scope of this article, it is liability measures that will be the subject of further consideration.

Among other philosophical interpretations, the most valuable is the so-called target methodological approach, which received a detailed justification in the works of V.N. Sagatovskii and others [17, pp. 73–75; 10, 69–75]. The system is considered as an object whose actions to achieve the goal are ensured by the construction of this object, that is, by totality of its necessary and sufficient elements that are in certain relationships. In this regard, integrity of any system is determined by its ability to achieve certain goals. When applying this variant of a systematic approach to public life (and to legal phenomena as well), the terms "goal" and "task" differ only in varying degrees of concretization. At least two aspects of the systemic approach are theoretically possible in this field: descriptive (isolation of systems from the whole variety of existing objects and constructive (construction of systems with specified goals and external conditions) [16, p. 72].

Necessity and sufficiency of system's elements are its defining properties. Opposite characteristics will be their redundancy or insufficiency that reduce or completely eliminate system qualities of the object. It is clear that the degree of necessary sufficiency can be more or less reasonably assessed only with regard to objectives of the system and totality of existing external conditions (factors).

These seemingly abstract philosophical judgments can be used as a methodology for scientific analysis of consistency between coercive measures in general and legal liability measures of convicts in particular. In turn, such consistency is a necessary condition for rationality of coercive measures.

To start with, we should consider the issue of objectives of the legal liability measures system. It is necessary to distinguish between effectiveness of norms and effectiveness of measures based on them. Therefore, two interrelated aspects are obvious here. First, it is a system of liability measures, which the state

actually applies to execute penal enforcement (disciplinary) and criminal law enforcement. Second, it is a legal model fixed in the law. For the latter, the goal is obviously its full and consistent implementation in law enforcement. The purpose of the system of coercive measures as a set of measures actually used by the state is usually considered as provision of law and order in institutions, and "prevention of prison offenses" [11, p. 4–5]. In our opinion, a deeper level of understanding of the issue presumes provision of a legal punishment measure (quantitative-qualitative characteristics) that is adequate to the state, structure and dynamics of crimes committed in a penitentiary institution and typical personality traits of individual groups of prison offenders.

In literature considerable attention is paid to typical characteristics of offenders committed crime in penitentiary institutions [11, pp. 39–41; 9, pp. 70–102; 2, pp. 59–99] therefore, we will focus on prison offenses within the framework of this article.

It is known that, in recent years the total number of convicts in Russian correctional facilities has been steadily decreasing. If in 2016 it was 480,039 people, then as of July 1, 2021 it decreased by 30 percent, up to 341,335 people. Reduction in the use of real deprivation of liberty naturally led to deterioration of the composition of convicts in correctional institutions, due to a greater number of those convicted of serious and especially serious crimes, as well as those previously convicted. In 2015, the share of such persons among those sentenced to imprisonment was 60%, in 2017 – 62.5%, and in 2018 – 65.6% [3, p. 46].

Data of departmental statistics of the Federal Penitentiary Service of the Russian Federation reveal that, in 2020, in penitentiary institutions the crime rate showed an upward trend and amounted to 2.59 per 1,000 people (in 2019 – 2.19). A total of 1,184 crimes were registered. At the same time, the number of registered "specially considered" crimes decreased by 17.8% (from 45 in 2019 to 37 in 2020). For the first 6 months of 2021 alone, 561 crimes had been registered in places of deprivation of liberty, with the largest part of them (413) – in correctional facilities.

At the same time, there is no information in the available departmental statistics about crimes, such as causing violence against a representative of the authorities (Article 318 of the Criminal Code of the Russian Federation) and disorganization of the activities of institutions providing isolation from society (Article 321 of the Criminal Code of the Russian Federation), not to mention that these crimes are now generally excluded from the category "specially considered".

Dissolution of such acts in the group "other crimes" leads to the increase in their latency and hinders conduct of adequate criminological analysis of the operational situation in correctional institutions and purposeful fight against them. It was noted that crimes under Article 321 of the Criminal Code of the Russian Federation account for 18% of the structure of penitentiary crime and their number is increasing [11, p. 19]. According to the data published earlier, the change in the number of crimes qualified under Part 3 of Article 321 of the Criminal Code of the Russian Federation has no clear trend (in 2016 – 8, in 2017 – 6, in 2018 –13, in 2019 – 17, in 2020 – 13) [7, p. 354]. Ultimately, there is certain discrepancy between the data on the state of crime in the penal system and information about violations of the order and conditions of serving a sentence (regime).

According to statistics, for the 1st half of 2021, the rate of convicts' regime violations compared to the same period in 2020 per 1,000 convicts had gone up by 6% and amounted to 782. The rate of malicious regime violations per 1,000 convicts accounted for 26, and in correctional facilities it increased by 26%. In January–June 2021, 276,972 regime violations were committed by convicts in correctional facilities, including 9,000 malicious ones. Among the latter, it was manufacture, storage or transfer of prohibited items (4,163), followed by repeated violation committed during the year (2,921). Job refusals closed the top three (1,005). Threat, disobedience to or insult of institution administration representatives (719) were also widespread. During the specified period, 192 cases of such violence were recorded, including 68 with injury to health; employees used special means and gas weapons against convicts 4,986 times.

Other malicious violations of the order and conditions of serving a sentence, fixed in Part 1 of Article 116 of the Penal Enforcement

Code of the Russian Federation, are reflected extremely sparingly in the disciplinary practice of correctional colonies, but their comparison with results of operational regime activities discloses a high degree of their latency (including artificially created).

In the first half of 2021, among 80,488 convicts who were on the watch list, 8,683 were prone to the use of alcoholic beverages, narcotic and psychotropic substances. During this period, 15,715 liters of artisanal alcoholic beverages and 4,800 liters of industrial production ones were confiscated in institutions. However, only 111 malicious violations, such as the use of alcoholic beverages or narcotic drugs or psychotropic substances were recorded.

At the end of the 1st half of 2021, among those on the watch list 955 people were "leaders and active participants of criminal groups", 1,343 – "organizing and provoking group counteractions to legitimate demands of the administration", 986 – serving sentences for disorganizing activities of correctional institutions and mass riots. At the same time, not a single fact of preparing strikes or other group disobedience, as well as organizing groups of convicts aimed at committing malicious violations was indicated in the departmental statistics of malicious violations.

In the first half of 2020, 197 convicts who were recognized as requiring compulsory treatment were on the watch list of correctional facilities. However, not a single case of convicts' evasion from such treatment was recorded among malicious violations in the same period.

Against this background, the situation is worrisome: in the totality of malicious violations of the order and conditions of serving sentences reflected in departmental statistics, the provisions of Part 2 of Article 116 of the Penal Enforcement Code are gradually beginning to prevail: repeated mere violations during the year. Unfortunately, statistics of the Federal Penitentiary Service of Russian Federation does not reflect the structure of this population.

Incorporating a specific list of malicious regime violations in Part 1 of Article 116 of the Penal Enforcement Code of the Russian Federation was reasonably regarded as a way to reduce arbitrary discretion of the correctional institution administration in the application of the most severe disciplinary penalties [4, pp. 306–307]. Part 2 of this Article was considered as a kind of forced exception. Now this exception has actually turned into a rule: out of 9,000 malicious violations registered in the first half of 2021, 2,921 (31.6%) were repeated mere violations.

Returning to model systems and systems of measures, it will be fair to conclude that the model system currently fixed in Part 1 of Article 116 of the Penal Enforcement Code in terms of malicious violation types does not achieve its goals, since the legal possibilities are insufficiently used in practice. In our opinion, this is also true for the system of penalties reflected in Article 115 of the Penal Enforcement Code of the Russian Federation. It begins with a reprimand (paragraph "a" of Part 1 of Article 115) and disciplinary fine (paragraph "b" of Part 1 of Article 115), which among the measures applied are not reflected in statistics of the RF Federal Penitentiary Service, where placement of convicts in an isolation cell (91%) predominates among penalties.

The rate of convicts' regime violations grew by 8% in 2020 compared to 2019, and by 6%. in the first half of 2021 compared to the same period of the previous year. The rate of malicious violations per 1,000 people amounted to 26 and 20, respectively, and in correctional facilities it increased by 29%. Paradoxically, but at the same time, both the total number of convicts recognized as malicious violators and the use of single-space ward-type rooms as a liability measure have been decreasing. If in 2016 22,310 convicts were recognized as malicious violators, then in 2017 there were 20,664 of them, in 2018 – 18,938, in 2020 - 17,370, and in the first half of 2021 – 16,340 people.

The average annual number of convicts in single-space ward-type rooms in 2016 was 2,092 people (approximately 50% of the limit), in 2018 – 1,685 (45%), in 2020 – 1,274 (35%), in the first half of 2021 – 1,224 (33%). As a result, it is difficult to explain the following: the total number of convicts in places of deprivation of liberty decreased by 30% in 2016–2021 (with deterioration in their quality), then the number of malicious violators declined by 42%. Thus, single-space ward-type rooms as one of the most acute legal penalties are now

used by barely a third, which also indicates insufficient effectiveness of the system of disciplinary sanctions provided for in the law and the procedure for their application.

Ultimately, considering this in terms of the systemic characteristic of necessary sufficiency, we should emphasize that the principle of rationality of coercion is not fully implemented in practice.

To a large extent, this is also true for another subsystem of liability measures – criminal liability. First of all, we are talking about the need for a certain amendment of Article 321 of the Criminal Code of the Russian Federation "Disorganization of the activities of institutions providing isolation from society". According to the reasoned stance of many scientists and practitioners, its preventive potential is still far from being fully used.

Reasons for this are largely of a bureaucratic nature: in the specifics of statistical accounting (see the stated above), in reporting in the penal enforcement system. We cannot but consider Article 321 itself. To begin with, its name is unsuccessful and does not correspond to the actus reus of the act provided for in this article and degree of its completeness (giving rise, for example, to the question whether it is a formal corpus delicti or a material one). It also does not correspond to public danger of this act, clearly overestimating it. In this regard, we find it important to back the authors who believe that disorganization of a correctional institution's activities is not included in objective elements of the crime, therefore, it is necessary to abandon the use of this term in the text of the criminal law [12, p. 7]. Proposals to consider disorganization as a significant goal of organized criminal groups [6, p. 14] can hardly be accepted due to impossibility of its reliable identification with the help of criminal procedural means.

History of the issue is an additional supporting point. As known, the Criminal Code of the RSFSR adopted in 1960 in the first years of its existence did not stipulate criminal liability for such acts. In that relatively short period, in such cases, Article 77 of the Criminal Code of the RSFSR (banditry) was actually used by analogy. Article 77 of the Criminal Code was in the Chapter "Other state crimes". Only later, in 1962, Article 771 "Actions that disorganize work of correctional labor institutions" was included in the Code, fixing liability of particularly dangerous repeat offenders and persons convicted of serious crimes. Article 771 was also in Chapter 2 "Other state crimes", which indicated its high public danger.

But not all such wrongful acts could be qualified under Article 771 according to the degree of their danger, therefore it was proposed to supplement the Code with an article on criminal liability of convicted persons for malicious regime violations [14, p. 55]. But only twenty years later, in 1983, Article 1883 "Malicious disobedience to requirements of the correctional institution administration" was introduced into the Criminal Code. Convicts who have been transferred to a cell-type room (solitary cell) or to prison earlier in the year fall under this article. Part 2 of Article 1883 stipulated increased liability for particularly dangerous recidivists or convicted of serious crimes.

This offense, in contrast to the one provided for in Article 771, was in Chapter 8 "Crimes against justice". Thus, this crime was still recognized as having less public danger than actions that disorganize work of penitentiary institutions.

When working out the 1996 Criminal Code of the Russian Federation, an article similar to Article 771 of the Criminal Code of the RSFSR was not included in the Code. However, its name was given to Article 321 of the Criminal Code in Chapter 32 "Crimes against the order of management", replacing Article 1883 of the Criminal Code of the RSFSR. Such a symbiosis hardly contributed to proper realization of preventive capacities of Article 321 of the Criminal Code, creating a distorted idea of the degree of its public danger.

Conclusion

In our opinion, such an article could now be transformed into an article "Systematic malicious violations of the established procedure for serving a sentence". We agree with Professor A.L. Remenson stating that "when malicious regime violations turn into a system, they acquire quality of public danger, and if other corrective actions taken by the penitentiary institution administration are unsuccessful, they should entail criminal liability" [13, p. 31].

Application of such a norm should be preceded by imposing a disciplinary penalty to

convicts within a year for a malicious violation of the established procedure for serving a sentence in the form of expulsion to ward-type rooms, single-space ward-type rooms, solitary cells. Thus, the proposed norm, obviously, on the one hand, will turn into a blank one, and on the other hand, it will assume the so-called criminal-executive prejudice. Consequently, its introduction into the Criminal Code is possible only in close connection with amendment of relevant provisions of the Penal Enforcement Code. In this regard, at first, Part 1 of Article 116 of the Penal Enforcement Code needs revision in the direction of reducing torts. It should fix only those violations that are really dangerous for the existing law and order in institutions, threaten security and manageability of detention places and reflect actual malice of violators. It is advisable, for example, to exclude from the number of malicious violations the convicts' refusal to work or their use of alcoholic beverages, if the latter is not associated with acts of a violent nature, petty hooliganism, etc. At the same time, the list of malicious violations should include convicts' commission of acts of self-mutilation or hunger strike in order to compel the administration to perform clearly illegal actions or terminate legal actions. For instance, Article 361 of the Criminal Code of the Republic of Kazakhstan provides for criminal liability of convicted persons for "committing an act of self-mutilation by a group of persons held in institutions providing isolation from society in order to destabilize normal activities of institutions or hinder legitimate activities of institution employees". Unfortunately, the degree of actual applicability of this norm is unknown to us.

Second, some of such violations can be differentiated into a separate intermediate group of major regime violations, which, on the one hand, could be grounds for application of penalties in the form of placement in ward-type rooms, and on the other hand, would not constitute the above-mentioned criminal-executive prejudice. A similar gradation of offenses committed in penitentiary institutions into minor, less grave, grave (malicious) and especially grave (especially malicious) has already been proposed in literature [20, p. 10–13; 21].

Third, repeated regime violation within one year should not be considered malicious, if for each of these violations the convicted person was subjected to punishment in the form of placement in a penal or disciplinary detention center, and it should be excluded from Article 116. If necessary, such a violation could be recognized as major.

Fourth, the head of an institution should be entitled not to recognize the violation as malicious, when a convicted person commits an act under Part 1 of Article 116 of the Penal Enforcement Code, depending on circumstances of the case and identity of the perpetrator.

Finally, it is necessary to strengthen non-departmental, including public control over placement of convicts in cell-type premises, thereby eliminating the ground for reproaches to the administration from some human rights defenders and convicts for a biased attitude towards the latter.

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INFORMATION ABOUT THE AUTHOR

VLADIMIR A. UTKIN – Doctor of Sciences (Law), Professor, Honored Lawyer of the Russian Federation, Head of the Department of Penal Enforcement Law and Criminology of the National Research Tomsk State University, Tomsk, Russia, utkinva@inbox.ru, https://orcid.org/0000-0001-9126-7971, WoS ResearcherID: 0-8426-2014

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Conceptual Aspects of Reforming Russian Criminal Legislation

IVAN V. DVORYANSKOV
Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia
Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia
diw@yandex.ru, https://orcid.org/0000-0003-0542-5254

A b s t r a c t

Introduction: the article is devoted to fundamental problems of criminal law, namely the legal and doctrinal definition of its institutions, such as a subject of regulation, objectives, principles, punishment, its goals, sanctions. *Purpose:* based on the study of the legal nature, social conditionality, and achievability of these institutions the author tries to identify problems of their conceptual compliance with the modern criminal policy of Russia. *Methods:* the research is based on a dialectical approach to the study of social processes and phenomena. It used methods traditional for criminal law and criminology sciences, such as analysis and synthesis, comparative legal, retrospective, formal legal, and logical methods. Private scientific methods were also used: the legal-dogmatic one and the method of interpretation of legal norms. *Results:* the author concludes that the time has come to change the conceptual foundations, Russian criminal law is based on. Without downplaying the importance of criminal legal means, it should be emphasized that their effectiveness is largely due to its combination with the crime prevention system, as well as the implementation of social, economic, and political measures that contribute to reducing the influence of criminogenic factors. It is noted that the presentation of the main provisions of criminal law is flawed: the subject of criminal law regulation is narrowed; formulation of tasks and functions of criminal law do not correlate with each other; criminal law principles lack clarity and consistency; the goals of crime correction and prevention contradict to each other; the consistency principle is violated and a single doctrinally developed legal and technical methodology is absent in the punishment system. Therefore, the model of criminal punishment needs a serious revision, especially in the teleological aspect. *Conclusions:* as a result of the conducted research, the need for legislative reform of the main institutions of criminal law is justified, since the effectiveness of judicial and penal enforcement activities, the validity of financial costs depend on it. At the present stage, Russian criminal legislation needs conceptual reform in terms of bringing it into line with the requirements of consistency, provisions of the Constitution of the Russian Federation, international obligations of the Russian Federation, social expectations, as well as modern and predictable criminal trends and challenges.

K e y w o r d s : subject, tasks, principles of criminal law; probation; punishment; goals; sanctions; effectiveness; restoration of social justice; crime prevention; general and special prevention; correction of convicts; criminal law policy; conceptual foundations.

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Introduction.

Modern Russian criminal law is characterized by instability, violation of consistency requirements, presence of doctrinal, legal and legal-technical defects. This is partly caused by the processes of its excessively intensive transformation. Thus, according to Professor A.V. Naumov, only from December 20, 2010 to June 20, 2011, the amendments made to the Criminal Code affected 126 articles (about a third of all its articles). During the last week of 2010, 4 articles of the Criminal Code were amended within 4 days. As of the beginning of 2015, about 300 articles of the Code were amended (360 articles – in the original version) [1]. This negatively affects the consistency of presentation and quality of the norms of the CC RF.

Even basic provisions of criminal law are characterized by contradictory presentation. Thus, Article 1 of the CC RF, in fact, reduces a subject of the criminal law regulation only to criminal liability, ignoring the relations regulated by it regarding a criminally lawful order, exemption from criminal liability and punishment, sentencing (application of other criminal legal measures), etc.

The principles of criminal law are very contradictory, and sometimes discriminatory (Article 4 of the CC RF). Verification criteria for goal-setting are absent, legal and technical requirements for executing punishment are violated. All this requires a doctrinal and legal examination of the Criminal Code of the Russian Federation for its subsequent amendment.

Results.

The most important function of the state is to protect society's interests to ensure the inviolability and stable existence of basic social values, such as those of personality, property, economic activity, law and order, state and public security, as well as prevention of crimes as the most dangerous forms of delinquent behavior, reducing the influence of criminogenic factors.

Criminal legislation is of particular importance in this regard. First, it regulates the grounds and forms of criminal liability. Second, it guarantees observance of the rights and ensures the safety of participants in criminal law relations, legality, humanism, justice, equality before the law. The use of punitive measures against innocent persons is excluded, including due to age or insanity; violations of these requirements, abuse of authority, etc. are prosecuted by criminal law.

Criminal law regulates application of the most stringent response measures in relation to the most dangerous forms of deviant (deviating from the norms) human behavior – crimes. However, the same circumstance determines a targeted nature of the criminal legal impact. Criminal law should not be considered as a panacea for all the problems of society. The specifics of criminal law lies in its reactive nature. Dealing with crimes already committed as events of the past, it has a very limited resource of constructive influence on the future, including in the aspect of prevention. Therefore, without downplaying the importance of criminal legal means, it is worth noting that their effectiveness is ensured only in combination with the system of crime prevention, as well as measures of a social, economic, political nature that contribute to reducing the influence of criminogenic factors.

If we consider crime as an absolute evil, without taking into account its features as a social phenomenon connected by numerous and diverse correlations with the structure and dynamics of social development, then the most powerful means should be directed against it. The effectiveness of such counteraction, characterized by "struggle" in Soviet times, is very low, because it will affect not the underlying causes of the phenomenon, including at the level of the psychological and moral attitude of the criminal and society, but a superficial, easily observable consequence of criminal intrusion into the fabric of public life, a linear response to which plays, first of

all, the role of assessing the damage done, expressed in measures of criminal responsibility. The effectiveness of the impact on crime is obviously based on accuracy, targeting, comparability and, accordingly, fairness.

In turn, any constructive influence on criminal legislation in order to improve it, whether it is amendment, addition, reforming, etc., should be based on conceptual foundations, i.e. the fundamental positions prevailing in society, developed by theory and practice, reflecting philosophical, scientific, cultural, historical, spiritual, axiological, legal views on the subject, tasks, principles, forms and content of criminal law regulation of public relations, protection of the most important social benefits and interests.

Nowadays, a number of conceptual documents have already been adopted to ensure social security and protect law and order, in particular, the National security strategy of the Russian Federation adopted by the Order of the President of Russia No. 400 of July 2, 2021, the Concept for the development of the penal enforcement system of the Russian Federation for the period up to 2030 approved by the Decree of the Government of the Russian Federation, etc. In this regard, a Concept for the criminal law policy of the Russian Federation should be another important conceptual document, laying foundations for long-term counteraction to crime.

So, it is necessary to contemplate the need to reform modern criminal legislation, unfortunately, suffering from systemic shortcomings that prevent its full application as a tool of state policy in the field of combating crime. We will focus only on critical aspects.

1. Subject of criminal law regulation. The subject of criminal law regulation is a complex of public relations that arise either from the moment criminal law norms entry into force, or as a result of crime commission. They can be called general regulatory and protective, accordingly [3, pp. 122–123].

Thus, the subject of criminal law regulation includes not only issues of crime and guiltiness detection. Regulated relations arise not only between the state and a perpetrator, but all the persons covered by criminal law, assuming that the latter comply with it and competent state bodies control this process (the so-called relations of positive criminal responsibility) [4].

In addition, criminal law regulates commission of crime through a breach of the lawful conditions for necessary defence, extreme necessity, justified risk, etc.; innocent infliction of harm (acts committed by the insane, incidents, etc.); a system and types of punishments, sentencing, its replacement, postponement and release from punishment, expungement and cancellation of criminal records; establishment of penitentiary bodies' powers, exemption from criminal liability and punishment; amnesty and pardon; criminal liability of minors; use of coercive measures and educational influence, application of other criminal-legal measures (compulsory measures of a medical nature, confiscation of property, compensation for damage caused, a court fine).

So, it is reasonable to consider an imperative requirement of Article 1 of the Criminal Code: "The criminal law of the Russian Federation consists of the present Code. New laws providing for criminal responsibility are subject to inclusion in the present Code". Thus, most of the above-mentioned aspects of criminal law regulation are not covered by it. Does this mean that they may be contained in other regulatory legal acts or is this an example of imperfection of legislation? There is a clear narrowing of the subject of criminal law regulation.

2. Purposes of criminal law are actual socially significant problems caused by criminal threats to the most important social values (goods), which can be solved with the help of criminal law regulation. They are the following: protection of human and civil rights and freedoms, property, public order and public safety, environment, and constitutional order of the Russian Federation from criminal encroachments; provision of peace and security of mankind; and prevention of crimes.

Meanwhile, formulation of tasks should correlate with criminal law functions, i.e. actual ways of solving such tasks, thus giving the opportunity to scientifically justify effectiveness of this process.

A systematic analysis of criminal law makes it possible to distinguish, in addition to the traditionally considered protection function, such

functions, as prevention (it is conditioned by the task to prevent crimes); prohibition (it consists in imperative establishment of criminality of specific acts in the Special Part of the Criminal Code); regulatory (it is an important manifestation of the essence of criminal law, as, in addition to prohibitions, it contains norms expressing positive legal regulation, in particular, norms-rules (Articles 60–72.1 of the CC RF), norms-principles (Articles 3–7 of the CC RF)), norms-declarations (for example, Articles 1–2 of the CC RF), norms-definitions (for example, Articles 14, 43 of the CC RF), norms-guarantees (Articles 37–42 of the CC RF); incentive (first, it is expressed in the promotion of lawful behavior, including that related to countering criminal encroachments, their suppression, and detention of persons who have committed crimes; second, it concerns cases of refusal of criminal behavior at the stage of preparation or attempt (Articles 31, 34 of the CC RF); third, it consists in encouragement of post-criminal behavior, indicating a desire to minimize its consequences, make up for the harm caused, and commit active repentance (Articles 75–76.1 of the CC RF, Notes to the articles of the Special Part on exemption from criminal liability), as well as to cooperate with state authorities in matters of disclosure of crimes (surrender, cooperation agreement)); educational (it forms legal consciousness of citizens by establishing prohibitions on those acts that are recognized by the state as the most socially dangerous); and axiological (consists in value orientation of criminal law, systematization and protection of crucial social values and their consolidation in the law). It is obvious that the functions actually inherent in criminal law should be reflected in the list of its tasks.

3. Criminal law principles are fundamental ideas (guiding principles), it is based on, i.e. basic, historically formed forms of reflection of the fundamental provisions regarding criminal responsibility, criminality and punishability of acts, etc. in public consciousness. Criminal law principles are based on the provisions of the Constitution of the Russian Federation and international law. However, the content of these principles is not clearly stated.

Principle of legality is enshrined in Article 3 of the CC RF, which part one states: “The criminality of a deed, and also its punishability and other legal consequences shall be determined by the present Code alone”. This principle stipulates, on the one hand, exclusivity of criminal law regulation, and, on the other, requirement for the criminal law not to contradict the Constitution of the Russian Federation and ratified acts of international law. Criminal legislation should not contradict other federal laws that have equal legal force. Part two of Article 3 of the Criminal Code of the Russian Federation contains a prohibition on the application of criminal law by analogy. The meaning of this prohibition is based on the formal and material concept of crime that has features of both public danger and criminal illegality (Article 14 of the CC RF). In the current criminal law, there are norms stipulating analogy of the law, which is not an exception to the rule, but an example of a violation of systematic presentation of criminal law material and requires immediate elimination, such as part one of Article 228 of the Criminal Code of the Russian Federation: “Illegal acquisition, storage, transportation, making or processing of narcotic drugs, psychotropic substances or analogues…”.

The fact is that the above stated norm is blank, i.e. for its interpretation and application it refers to normative legal acts relating to another branch of law, in particular, the Decree of the Government of the Russian Federation No. 681 dated June 30, 1998 (as amended August 9, 2019) “On approval of the list of narcotic drugs, psychotropic substances and their precursors subject to control in the Russian Federation”. However, the term “analogue” gives the opportunity to bypass it, thus violating the principle of legality.

The principle of equality of individuals before the law states: “Persons who have committed crimes shall be equal before the law and shall be brought to criminal responsibility, regardless of their sex, race, nationality, language, origin, property and official status, place of residence, attitude to religion, convictions, belonging to public associations, or other circumstances”. It is obvious that in relation to criminal law, the principle of equality means establishment of the same grounds of criminal responsibility, exemption from criminal liability and punishment, conditions for criminal record cancellation, etc.

However, criminal law sometimes allows for special regulation of these grounds for certain categories of persons united by generic characteristics: minors, women, military personnel, certain categories of officials. We cannon but mention a discriminatory character of the principle of equality of individuals before the law provided for in Article 4 of the Criminal Code of the Russian Federation. Taking into account the fact that Russian criminal law applies not only to citizens of the Russian Federation, but also to foreign citizens and stateless persons, it is obvious that such a formulation, in fact, excludes the last two categories from the scope of the principle of equality.

All this shows a conditional nature of equality in the criminal legal context, applied only in relation to the grounds of criminal liability for those elements of crimes that do not provide for the presence of a special subject.

The principle of guilt (Article 5 of the CC RF) stipulates the following:

a) a person shall be brought to criminal responsibility only for those socially dangerous actions (inaction) and socially dangerous consequences in respect of which his guilt has been established.

b) objective imputation, that is criminal responsibility for innocent injury, shall not be allowed.

The principle of guilt is fundamental and one of the oldest in criminal law. Its essence consists in personal responsibility of the person who committed crime. Unlike other branches of law, for example, civil law, which provide for joint, subsidiary and other types of collective responsibility. Besides, a person may be liable only for those acts that he has committed culpably, i.e. with intent or by negligence. This unconditional requirement of criminal law is based on the postulate that only guilty people can comprehend the meaning and significance of criminal responsibility, including penalties applied against them or other criminal legal measures. In addition, establishment of guilt is inextricably (conceptually) connected with the subsequent achievement of punishment goals, such as correction and prevention of new crime commission.

This is the reason for prohibition of objective imputation, permissible, in particular, in civil law (Article 1064 of the Civil Code of the Russian Federation states that the obligation to redress the injury may be imposed by the law on the person who is not the inflictor of injury.

However, in the criminal law, unfortunately, there remains the possibility of objective imputation by taking into account certain evaluative features when qualifying, such as infliction of significant damage to the victim. A stricter responsibility for aggravation is established. It stands out, as it is evaluated after the fact. The Plenum of the Supreme Court of the Russian Federation in its decision No. 29 of December 27, 2002 “On judicial practice in cases of theft, robbery and plundering” indicated, “when qualifying actions of a person who committed theft on the basis of causing significant damage to a citizen courts, guided by Note 2 to Article 158 of the Criminal Code of the Russian Federation should take into account a property status of the victim, a value of the stolen property and its significance for the victim, amount of wages, pensions, presence of dependents, total income of family members with whom he runs a joint household, etc. At the same time, the damage caused to a citizen cannot be less than the amount established by the Note to Article 158 of the Criminal Code of the Russian Federation”. No doubt, a thief committing a crime cannot always assess the above features of the victim, especially amount of wages, pensions, presence of dependents, total income of family members. Therefore, qualifying an act as that caused significant damage is in fact an objective imputation. It seems that such features, if they were not covered by the intent of the perpetrator, can be taken into account by the court only when deciding on compensation for damage to the victim.

The principle of justice provided for in Article 6 of the Criminal Code of the Russian Federation states that punishment and other legal measures applicable to a person who has committed an offence shall be just, that is, they shall correspond to the character and degree of the social danger of the offence, the circumstances of its commission, and the personality of the guilty party. No one may bear double criminal jeopardize for one and the same crime.

Based on the above formulation, the principle of justice is implemented in two aspects: a) compliance of punitive measures with objective and subjective features of the deed; b) exclusion of double responsibility.

Exclusion of double liability is essentially an element of precedent law: a court decision that has entered into force exhausts the legal conflict in a particular case and does not allow for a retrial of the case on the same materials, as well as the application of other liability measures. Consideration of a case on newly discovered circumstances is an exception (Chapter 49 of the Criminal Procedural Code of the Russian Federation).

At the same time, the term "justice" is also mentioned in Article 43 of the Criminal Code of the Russian Federation as one of the purposes of punishment (restoration of social justice). Without delving into the study of its meaning, we see a certain contradiction with the principle under consideration, the observance of which clearly indicates that justice should be ensured even when sentencing. The goal of restoring social justice means that after sentencing it has yet to be achieved, i.e. assumes a certain perspective function. In other words, compliance with the principle of justice makes it unnecessary to achieve the goal of restoring social justice. Conversely, the requirement to achieve such a goal actually indicates that this principle has been violated [5, p. 36.].

The principle of humanism states that the criminal legislation of the Russian Federation ensures human security. Punishment and other measures of a criminal nature applied to a person who has committed a crime cannot be aimed at causing physical suffering or debasement of human dignity.

This principle has a pronounced human rights character. It unites two positions that are close, but not identical to each other. The first proclaims the need to ensure human security. Given the principle universality (for criminal law), this is not about a certain person, whether it is a victim or a person who committed a crime, but a generic concept. Thus, ensuring human security means protecting an individual as a social good, respecting his/her rights, freedoms, honor and dignity. First of all, this concerns safety of citizens and other persons who are protected by the criminal law. It is ensured both by the very fact of establishing responsibility for criminal encroachments, and by its implementation.

4. Punishment, its goals. Punishment system. The essence of punishment is retribution, i.e. forced influence on the personality of a perpetrator, expressed in causing him/her suffering, legal restrictions, public censure, temporary ostracism. At the same time, punishment cannot be a blind retribution due to its instrumental nature. Both in law and public consciousness, it is perceived as a means, in addition to retribution to criminals for what they have done, to achieve any social effects related to both consolidation and preservation of social values and achievement of certain social ideals. The latter, in turn, is expressed in the purpose of punishment. Currently, these goals are formulated in criminal law as a fundamental branch in relation to penal enforcement law: restoration of social justice, correction of convicts, prevention of new crimes (part two of Article 43 of the CC RF).

Do these formulations correspond to true functions and possibilities of punishment? We consider it necessary to disclose some findings regarding the nature of punishment and its ability to achieve these goals.

Punishment, in our opinion, acts as a means of achieving a positive social effect, modeled with regard to two indicators: 1) what society expects from punishment; 2) what punishment with its unlimited possibilities is really capable of.

Punishment deals with consequences of a crime, but cannot affect its causes, since they are woven into a complex system of socio-personal determination with powerful factors that remain beyond the reach of the law. Therefore, hope that punishment will affect them does not have sufficient grounds. In this regard, punishment only fixes public and state assessment of what has been done, and the assessment should be fair, otherwise it is senseless.

We believe that punishment is a form of response to crime and can be effective only in combination with preventive measures. In essence, this is a measure of criminal responsibility for what has been done, assuming the obligation of the guilty to suffer retribution,

and also a possibility for responsibility differentiation (for example, by replacing one punishment with another, imposing additional penalties).

In addition, it seems that punishment is nothing more than a means of communication between the state and society, through which the former expresses its position on what is criminal and, accordingly, dangerous.

Punishment ("nakazanie" as pronounced in Russian) comes from the old Russian word "nakaz", i.e. instruction, order. Thus, punishment fulfils functions of social management, assertion of the state will, repression (suppression), official assessment of the crime, expressed fixation of the damage caused, equalized in qualitative and quantitative characteristics of punishment, and censure of the deed.

Speaking about the existing goals of punishment, it should be noted that they do not have a single conceptual basis.

Thus, the goals of correcting and preventing crimes contradict each other. The first is focused on the fact that under the influence of punishment the personality of a perpetrator will undergo a certain transformation associated with the formation of a respectful attitude towards a person, society, work, norms, rules and traditions of human community and promotion of law-abiding behavior (Article 9 of the CC RF).

Thus, correction in its existing form involves considering criminal disposition as an internal pathology that can be corrected by changing the criminal's attitude to social values.

On the other hand, the goal of crime prevention, especially in the aspect of special prevention, postulates the fear of punishment as a deterrent mechanism against possible criminal behavior in the future, thus devaluing correction effects.

At the same time, by formulating both of these goals, the legislator actually ignores social (external) determination of crime, considers the criminal abstracted from life conditions both before and after punishment.

Let us get back to the basics. How is the criminal formed? What determines crime? The decision on the goal of correction and expediency of its preservation depends on the answer to these questions. In terms of social conditionality of crime, it would be wrong to see the root of all evil only in the personality of a criminal and regard his/her correction as of paramount importance. To do this, we should assume that after its achievement, criminogenic factors will not affect offenders, or we should consider correction abstractly, in isolation from real conditions of their lives, including after serving their sentence [2].

Strengthening correction and prevention goals put the law enforcement officer in a very difficult position. We will consider as an example the activities of the penal enforcement inspectorates (PEI), executing punishment not related to convict's isolation from society. As known, punishment consists in forcing a convicted person to perform certain duties (to work, study, undergo treatment, be registered in the PEI, etc.). A number of punitive measures are provided for their non–fulfillment (evasion), including replacement of a suspended sentence with a real one, and a real one with a more severe one. At the same time, penal enforcement inspectorates organize educational and social work with convicts as part of punishment execution.

It seems that from a rational point of view it is difficult to combine punitive and socially rehabilitating aspects in PEI-convict relations. At least, both subjects find themselves in conflicting roles. Penal enforcement inspectorates, on the one hand, should exercise punitive influence, and on the other hand, provide social assistance. So, social roles clash. Undoubtedly, this is promoted by the goal of correction, achieved precisely in the process of punitive treatment, which is both logically and psychologically unreasonable. Obviously, it is difficult for a convict to adapt to constant change of the inspector's image and trust it.

As for the purpose of crime prevention, as already noted, it is based on the postulate of the fear of punishment, which fundamentally contradicts the concept of correction.

Restoration of social justice also does not have a consistent conceptual basis. In our opinion, justice is a relatively stable axiological category that acts as a kind of constant, a measurement system, an ideal model to evaluate both criminal acts and authoritative (judicial) measures. With this understanding, we should not restore social justice, but bring so-

cial relations (specific circumstances) in line with relatively stable axiological requirements (criteria), acquiring a kind of status quo.

If we proceed from the concept of restoring social justice, then we should automatically assume that it is an unstable (often violated) category. But if we assume that justice needs to be restored, what the standard (pattern) for it is? Or are we talking about two types of justice (violated and standard)? It does not make any sense.

At the same time, we cannot but pay attention to contradiction of this goal and the principle of justice enshrined in Article 6 of the CC RF, indicating that justice should be provided (restored) even when sentencing.

Thus, in its current form, the goals of punishment are declarative and conceptually imperfect. This means that, though having a noble purpose, they cannot be achieved for a number of reasons, such as conceptual inaccuracy (restoration of social justice), redundancy, inconsistency and practical non-verifiability (correction and special prevention), and their archaic character (general prevention).

If punishment is the state's reaction to crime, then it should be up-to-date and relevant to real manifestations of crime and social needs. Given the essence of punishment and its modern understanding, we can identify its goals as follows: retribution, legal protection of society from crimes and persons committing them, and state censure of crime.

At the same time, punishment as a punitive means should be consistent with subsequent forms of perpetrator's adaptation to life in society. The system of such measures should be humanitarian and supportive in nature. The probation system to be implemented in Russia may succeed.

In European countries theories of convicted person resocialization are very popular. Accordingly, important areas of social work are the following: post-penitentiary social work (work with persons released from penitentiary institutions); work with those sentenced to punishments not related to isolation from society [6–9].

Probation and punishment are different, but complementary institutions in their legal nature, goals and objectives. Punishment is an extreme form of the state's response to commission of the most dangerous forms of human behavior – crimes. Its essence is punishment for what he has done. Probation is not a retribution or other measure of a criminal nature; there is no criminal liability in this case. Unlike punishment, it is an alternative to criminal prosecution, focused on humanization of criminal policy, ensuring the possibility of resolving the conflict without the use of punitive means, compensation for the damage caused, reconciliation with the victim, assistance to persons in respect of whom probation in resocialization is applied, social adaptation and social rehabilitation, including through psychological support, assistance in socio-legal issues, in restoring social ties, employment, obtaining general and vocational education, getting medical care, etc.

When designing a modern punishment system, the legislator followed an extensive path of creating measures of criminal law repression similar in mechanism of impact. Thus, punishment in the form of forced labor became the fourth type of punishment without convicts' isolation from society, associated with their involvement in labor, along with compulsory and corrective works, as well as restriction in military service. The reasons for it remain unclear. If it is a need to expand the use of so-called alternative punishments, then it hardly depends on the number of punishments meted out by courts. As practice shows, such punishments are applied unevenly. It can be assumed that the observed punitive pluralism is caused by the task of implementing a differentiated approach in criminal policy. But such an approach can be fully ensured within the framework of a single punishment. For example, deprivation of liberty varies in severity depending on the type of regime, and there is no need to invent an independent type of criminal repression for each regime.

Comparison of 3 current labor-related punishments, such as compulsory works (Article 49 of the CC RF), corrective labor (Article 50 of the CC RF) and forced labor (Article 53.1 of the CC RF) shows their duplicative nature, since convicts' involvement in labor may be implemented within the framework of a single punishment. Only the restriction on military

service stands out, as it has certain specifics, including those concerning execution, since it applies only to special subjects – military personnel.

In addition, there is a violation of the consistency requirement, in particular, classification basis unity. While correctional labor in its content has a pronounced goal to ensure correction of a convicted person and most adequately reflects its relationship with labor, the terms "compulsory" and "forced" are, in fact, tautological, since they define the same thing – a mechanism of attracting convicts to work against their will. It is obvious that obligation implies coercion, and coercion follows from obligation. Hence, we can conclude about specific redundancy of the use of labor as a means of criminal legal influence.

In view of the above, it is advisable to propose unification of compulsory, correctional and forced labor within the framework of one punishment – correctional labor (note that during the Soviet period, forced labor was renamed into correctional labor without any damage to its content) with three degrees of severity: Degree 1 corresponds to conditions for the compulsory work performance; Degree 2 reflects the content of correctional labor in its modern form; Degree 3 (the most severe) is expressed in the application of punishment corresponding to the regime of forced labor according to their current legal regulation.

This solution has several advantages at once. First, it is possible to eliminate an unsuitable (ambiguous in terms of international and constitutional law) term "forced labor". Second, forced labor does not reflect the main purpose of punishment. Forced labor is not an end in itself, but provides correction as an important goal of punishment. Third, by combining labor-related punishments, unification of criminal law regulation and penal enforcement practice is ensured. Fourth, it makes it possible to differentiate the impact on the convicted person depending on his/her behavior, in particular, by introducing the principle of interchangeability of punishments both in the direction of increasing severity (in cases of evasive behavior or violation of service conditions) and reducing it (as a reward for compliance with the regime requirements and law-abiding behavior, as well as to reinforce the effect from correction).

As a means of differentiating the impact on convicts in case of evasion from serving correctional labor, it is necessary to provide for the replacement of punishment with a more severe one. Moreover, as correctional works of degrees 1 and 2 are characterized by small difference in punitive potential, they should be replaced by correctional labor of Degree 3, but in a different ratio of terms (1:3 for correctional labor of Degree 1, and 1:2 – for Degree 2, respectively). Evasion of correctional labor of Degree 3 results in its replacement by imprisonment as the most adequate in severity.

It seems that punishment system transformation may follow the path of generalization of punishments by the method (nature) of punitive impact: property (fine, confiscation), labor (correctional labor), disqualification (prohibition to hold certain positions or engage in certain activities) and isolating (imprisonment, death penalty).

5. Sanctions. The question of sanctions of the norms of the Special Part of the Criminal Code of the Russian Federation, as a rule, is not considered in criminal law studies. Meanwhile, as the systematic analysis of the norms-prohibitions shows, there is no single doctrinally developed legal and technical methodology when constructing sanctions. This often leads to a clear discrepancy between sanctions in terms of qualitative and quantitative parameters of the comparative severity of crimes. Thus, perpetration of an explosion, arson, or any other action endangering the lives of people, causing sizable property damage, or entailing other socially dangerous consequences, if these actions have been committed for the purpose of exerting influence on decision-making by governmental bodies, and also the threat of committing said actions for the same ends, i.e. terrorism, shall be punishable by deprivation of liberty for a term of 10 to 15 years (part one of Article 205 of the CC RF). At the same time, mere complicity in the commission of at least one of the crimes provided for in Article 205, part three of Article 206, part one of Article 208 of the CC RF is punishable by imprisonment for a term of 10 to 20 years (part 3 of Article 205.1 of the CC RF).

Conclusion.

Taking into account the above, the Russian criminal legislation requires reform in order to give it conceptual integrity and consistency, ensure the requirements of consistency, compliance with constitutional provisions and international obligations of the Russian Federation, increase its effectiveness, bring it in line with social expectations, as well as modern and predictable criminal trends and challenges.

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INFORMATION ABOUT THE AUTHOR

IVAN V. DVORYANSKOV – Doctor of Sciences (Law), Professor, Chief Researcher at the Research Institute of the Federal Penitentiary Service of Russia, Russia, Moscow, Russia, professor of the Department of Penal Law and Organization of Educational Work with Convicts at Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, diw@yandex.ru, https://orcid.org/0000-0003-0542-5254

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Current State of Juvenile Delinquency

ROMAN V. KOLESNIKOV
Voronezh Institute of the Ministry of Internal Affairs of Russia, Voronezh, Russia,
rkolesnikow@mail.ru, https://orcid.org/0000-0002-0246-5536

Abstract

Introduction: juvenile delinquency has always been one of the most important evaluated factors when analyzing effectiveness of the fight against crime. Currently, the types of crimes committed by minors, as well as methods of their commission, have undergone significant changes. This is due to deterioration of the nature of juvenile delinquency, which is now characterized by special cruelty, mercenary orientation and well-managed organization. The article examines the current state of juvenile delinquency. The concept of "minor" contained in the Russian criminal legislation and official regulatory legal acts is defined. The term "juvenile delinquency", disclosed by theoretical scientists and practitioners in the field of criminology, is given. Quantitative (level, dynamics) and qualitative (structure, nature) indicators of juvenile delinquency are analyzed on the basis of official statistical data of the Main Informational and Analytical Center of the Ministry of Internal Affairs of Russia for 2016–2020, with regard to a relatively high level of crime latency. Despite serious epidemiological challenges of 2020 and socio-economic difficulties associated with them, it is believed that the criminogenic situation in the country has been stabilized. According to the Prosecutor General's Office of the Russian Federation, the indicators of juvenile group crime have been consistently decreasing over the past 5 years (since 2016 it has decreased by more than 30%). Statistics of the Federal Penitentiary Service for more than 10 years indicate a consistent decline in the number of minors serving sentences in juvenile correctional facilities. Thus, the average number of convicted persons in these institutions amounted to 1,764 in 2016, 1,678 in 2017, 1,443 in 2018, 1,354 in 2019, and 1,251 in 2020. At the same time, the number of repeat offenders remained fairly constant: 27–19 people. It is noteworthy, however, that such optimistic data are connected, in particular, with the state's desire to reduce a number of persons held in places of deprivation of liberty, and for this reason cannot be proof of absolute well-being in the field of juvenile delinquency. *Purpose:* to study the current state and criminological features of juvenile delinquency for further development of proposals to improve prevention measures implemented by law enforcement agencies, state and public structures. *Methods:* the universal dialectical method of cognition is used; in addition, the methodological basis of the research is made up of general scientific methods, such as generalization, analysis, synthesis, deduction and induction, classification, typing, system-structural method, comparison method, and private scientific methods, such as analysis of normative documents and statistical method. Results: juvenile delinquency is one of the components of crime in general, and at the same time it stands out as part of female, careless, intentional, penitentiary, mercenary and violent and other types of crime. In 2016–2020, the total number of crimes committed by minors decreased by 31.6%, and the number of identified

minors who committed illegal acts went down by 44.7%. In the structure of juvenile delinquency, a significant part is occupied by mercenary and mercenary-violent crimes, most of which are crimes against property (60.8%). *Conclusions:* having analyzed the current state of juvenile delinquency, the author identifies characteristic features that determine illegal behavior of adolescents, which ultimately contribute to emergence and development of a sense of impunity in a minor and ultimately lead to repeated offenses.

K e y w o r d s : crime; minor; adolescent; crime; state; level; dynamics; share.

12.00.08 – Criminal law and criminology; penal law.

5.1.4. Criminal legal sciences

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Introduction

Juvenile delinquency is one of the components of crime in general, having its common features, as well as specific ones due to a special subject of crime, namely, a minor. In addition, it stands out as part of other types of crime, in particular, female, reckless, intentional, penitentiary, mercenary and violent crime.

Considering juvenile delinquency in terms of forecasting and research, it is also necessary to note a humanitarian aspect. Persons who have not reached the age of majority are one of the least protected social groups and that is why crime prevention is of the greatest importance for this category of persons. In this case, we mean protection of a social group consisting of children and young people from the negative criminal impact. Unfortunately, at present, the level of criminal influence on this part of population remains quite high.

Constant rejuvenation of the crime subject is one of the main diseases of society all over the world. A few decades ago, information about murders and other socially dangerous acts perpetrated by children and youth seemed incredible, it was simply impossible.

Juvenile delinquency is subject to general laws of crime existence. Its identification as an independent type of crime is based on age-related moral, psychological and intellectual characteristics of minors. During this period, the intellectual sphere is actively developing, experience is accumulating, including negative (criminal). It is noteworthy that not all children in our society have a proper socialization process. A considerable part of children and teenagers grow up in dysfunctional families, communicate in bad companies, do not receive necessary social and legal knowledge. Some minors have contact with direct criminal and criminogenic situations.

At present, types of crimes committed by minors, as well as methods of their commission, have undergone significant changes due to a different nature of juvenile delinquency, characterized by special cruelty, organization, mercenary orientation, better concealment of crime traces. In addition, adolescents' psychology has recently been undergoing negative changes; thus law enforcement agencies find it much more difficult for to obtain information.

It is important to note that numerous measures are already being conducted in the Russian Federation: from eliminating criminogenic factors in youth environment to improving effectiveness of the crime prevention system. In Russia, for example, the Decade of Childhood was announced in 2017, the Foundations of the state youth policy of the Russian Federation for the period up to 2025 were approved in 2014, and the Concept for information security of children was adopted in 2015, the Federal Law No. 120-FZ of June 24, 1999 "On the basics of the system to prevent neglect and juvenile delinquency" (hereinafter – Law No. 120) is in force. These documents show that the state policy focused on ensuring the future of Russia is being formed and implemented in our country. However, in the context of the ongoing globalization pro-

cesses, society and the state face new problems, which require fundamental solutions. The information causes of juvenile delinquency, which in modern realities are one of its leading factors, are not sufficiently studied in modern criminology, and therefore are not taken into account when developing practical measures. These facts indicate the need for a more detailed consideration of juvenile delinquency, as well as importance of developing practical measures with regard to the theoretical data obtained.

In the 19th century the problem of juvenile delinquency was studied by prominent Russian scientists: L.M. Vasilevskii, A.I. Zak, E.N. Tarnovskii, N.N. Makovskii, S.A. Sokolinskaya. Many works of famous criminologists of the Soviet and post-Soviet period, in particular Z.A. Astemirov, M.M. Babayev, L.I. Belyaeva, N.I. Vetrov, A.B. Sakharov, V.D. Ermakov and others, are devoted to these issues. Juvenile delinquency is still reflected in modern Russian literature. We should note works of the following scientists: A.V. Anosov, Yu.M. Antonyan, E.A. Armanova, I.N. Artemenko, E.V. Batyshcheva, A.I. Bel'skii, E.V. Bochkareva, A.P. Varygin, E.V. Demidova-Petrova, T.M. Zaiko, A.N. Il'yashenko, G.S. Karshiev, E.V. Kosheleva, U.E. Klinova, Ya.I. Kurinova, V.A. Lelekov, E.D. Naimanova, N.G. Osadchaya, L.S. Rad'kova, A.I. Titova, T.S. Fetisova, M.V. Shaikova, O.V. Shlyapnikova, and L.M. Shcherbakova.

This interest is provoked by the fact that it is difficult to correct juvenile offenders in future and, thus, they may commit crimes in adulthood. So it would be fair to judge that the current state of juvenile delinquency reflects the crime rate of tomorrow, poses a threat to the future generation and the state as a whole.

Research methods

A universal dialectical method for cognition of juvenile delinquency is used in the study. Its methodological basis is made up of general scientific methods, such as generalization, analysis, synthesis, deduction and induction, classification, typing, system-structural method (juvenile delinquency is considered not as a simple set of crimes, but as a certain complexly organized systemic entity that has a clear structure and is due to a number of factors), comparison method (used in comparing the overall crime rate in the Russian Federation and juvenile delinquency at the moment and in previous years), and private scientific methods, such as analysis of normative documents (consideration of modern Russian legislation), statistical method (used in the study of juvenile delinquency in the Russian Federation).

Discussion

Juvenile delinquency is a complex system consisting of many elements that has its inherent characteristics (quantitative and qualitative), and manifests itself in a set of criminally punishable acts committed by persons aged 14–18.

Based on the analysis of theoretical and scientific sources, the following definition of juvenile delinquency can be formulated: it is a historically changeable, relatively massive, social and legal phenomenon, which is an integral systemic set of negative socially dangerous, criminally punishable acts and minors who committed them in a certain territory (locality, region, state as a whole) for a specific time period with qualitative and quantitative characteristics (indicators). This provision is also confirmed in the criminological literature [5, p. 114; 7, p. 41].

Juvenile delinquency is characterized by a high degree of public danger, which follows from its ability to act as a serious personnel base for replenishment of organized and professional crime. According to some expert estimates, over 80% of adult professional criminals (apartment thieves, pickpockets, fraudsters, etc.) committed their first criminal act in adolescence [2; 6; 8; 9, pp. 242–248].

The above circumstances make it necessary to clarify the concept "minor" in order to conduct a full-fledged analysis of the current state of youth crime.

To begin with, we will consider the criminal law definition of the term "minor". In Part 1 of Article 87 of the Criminal Code of the Russian Federation, the concept "minor" is interpreted as a "person who at the time of crime commission turned fourteen, but did not reach eighteen years old". In Law No. 120, a minor is defined as a person who has not reached the age of eighteen. These definitions, in our opinion, are quite applicable for prevention of juvenile delinquency.

Due to the special legal status of minors, a special approach should be applied to criminals of this category when forming a set of measures to prevent crimes with their participation. It is important to take into account that effective organization of specific and targeted preventive work is possible on the basis of clear ideas about the state of juvenile delinquency, its level, dynamics, structure and nature.

A current state of juvenile delinquency in Russia shows a downward trend, but this does not mean that its level is adequate to society's needs. It is crucial to further reduce its level and degree of public danger.

In Russia in 2016–2020, the number of crimes committed by minors decreased: 2016 – 53,736 crimes, 2017 – 45,288, 2018 – 43,553, 2019 – 41,548, 2020 – 39,421 (Table 1).

Table 1

Dynamics of juvenile crimes in Russia, 2016–2020 [14]

	2016	2017	2018	2019	2020	Rates of decline, growth, in %
Total crimes	2 160 063	2 058 476	1 991 532	2 024 337	2 044 221	5.62
Juvenile crimes	53 736	45 288	43 553	41 548	39 421	36.3
Share of juvenile delinquency in the total volume of crime, in %	2.5	2.2	2.2	2.1	1.9	31.6

In 2020, 39,421 crimes committed by minors or with their complicity were registered, which is 4.8% or 2,127 crimes less than in the previous year (2019 – 41,548 crimes). In general, during the study period, the number of juvenile crimes decreased by 36.3% (in absolute terms – by 14,315 crimes). Thus, it can be concluded that juvenile crime dynamics in 2016–2020 showed a steady downward trend.

At the same time, the share of juvenile delinquency in the total volume of crime decreased by 31.6% and amounted on average to 2.2%.

The state of juvenile delinquency in the country can be assessed by taking into account a number of minors who have committed crimes. During the period under analysis, the number of minors who committed crimes went down: in 2016 – 48,589, 2017 – 42,504, 2018 – 40,860, 2019 – 37,953, 2020 – 33,575 (Table 2).

Table 2

Dynamics of identified delinquent offenders in Russia, 2016–2020 [14]

	2016	2017	2018	2019	2020	Rates of decline, growth, in %
Identified criminals, total	1 015 875	967 103	931 107	884 661	852 506	19.1
Of them minors	48 589	42 504	40 860	37 953	33 575	44.7
Share, in %	4.8	4.4	4.4	4.3	3.9	23

During the study period, the number of identified minors who committed a crime reduced by 44.7%, while the total number of identified criminals – by 19.1%.

The proportion of minors in the total number of identified criminals during the study period averaged 4.5%. At the same time, throughout the entire period, the share of juvenile delinquents was going down, and only in 2018 it remained at the same level.

Reduction in the number of delinquent offenders reproduces dynamics in relation to all criminals. However, as noted by Y.M. Antonyan and M.V. Goncharova, the number of delinquent offenders decreases more intensively in comparison with adult criminals [1, pp. 91–92].

Analyzing quantitative indicators of juvenile delinquency, we bear in mind that a large number of such crimes are hidden from accounting and registration. According to expert estimates, the juvenile delinquency rate is 3–4 times higher than it is reflected in official statistics. Robberies, thefts and hooliganism are characterized by the greatest latency.

Such a situation occurs, as educational organizations often conceal facts of students' illegal behavior, thus contributing to emer-

gence and development of a sense of impunity among minors, which ultimately generates repeated offenses and crimes. Heads of schools and other educational organizations, in cases of revealing facts of intentional damage to other people's property, petty theft, and beatings, resort to the use of its own educational measures. Consequently, comprehensive preventive measures are not applied to such minors, which negatively affects the overall state of the fight against juvenile delinquency.

The current state of juvenile delinquency and reduction of its quantitative indicators are influenced by transfer of crime into virtual space. Thus, a number of cybercrimes characterized by high latency is growing [10, pp. 3–24]. We share E.V. Demidova-Petrova's opinion that today a global information environment serves as a communication center for a wide range of Internet users, between whom virtual social connections are built, including in the criminal sphere [3, p. 328].

Due to a limited scope of criminal encroachments inherent in minors, they are mainly self-serving. Accordingly, the structure of the considered type of crime is dominated by mercenary and mercenary-violent crime. At the same time, crimes against property make up 60.8%, of which 71% are theft (Article 158 of the Criminal Code of the Russian Federation). Of all juvenile offenders, persons who have committed crimes against property make up 82.3%.

Cell phones are the most common objects of theft. To illustrate it, we will give a brief example from investigative and judicial practice: a minor S., while in the gym of the Golden Dragon club during training, stole a mobile phone of the brand "Xaomi 5-s", worth 13,000 rubles, belonging to a minor victim A. from the pocket of a jacket in the locker room [12].

In foreign countries, the situation with juvenile delinquency is similar. In European countries and the USA, juvenile crimes against property account for up to 80% of all youth crimes [4, p. 48; 15, pp. 488–493].

It is interesting to note that in Russia the proportion of minors who committed robbery, plunder, theft and rape is 1.5–2 times higher than the average for all other crimes. At the same time, drug trafficking is growing as well, mainly crimes provided for in Articles 228 and 228.1 of the Criminal Code of the Russian Federation [13, p. 228].

Characterizing the content of youth crimes, it is important to analyze the structure of this type of crime by crime severity (Table 3).

Table 3

Dynamics of grave and especially grave youth crimes in 2016–2020 [14]

	2016	2017	2018	2019	2020	Rates of decline, growth, in %
Juvenile crimes, total	53 736	45 288	43 553	41 548	40 367	33
Of them heavy and especially heavy	11 537	10 238	9 716	10 113	9 651	19.5
Share, in %	21.5	22.6	22.3	24.3	23.9	-10.04

In 2020, 9,651 grave and especially grave crimes were committed by minors, which is 19.5% less than in 2016. At the same time, these crimes are accompanied by greater audacity and cynicism. As for the proportion of serious and especially serious crimes in the total volume of juvenile delinquency, it amounts to 23.1% on average. At the same time, during the study period, this indicator showed an upward trend – by 2.43%. If in 2016 it was 21.5%, then in 2019 it was already 23.9%.

According to severity of juvenile crimes, they are distributed in the following percentage (Figure 1).

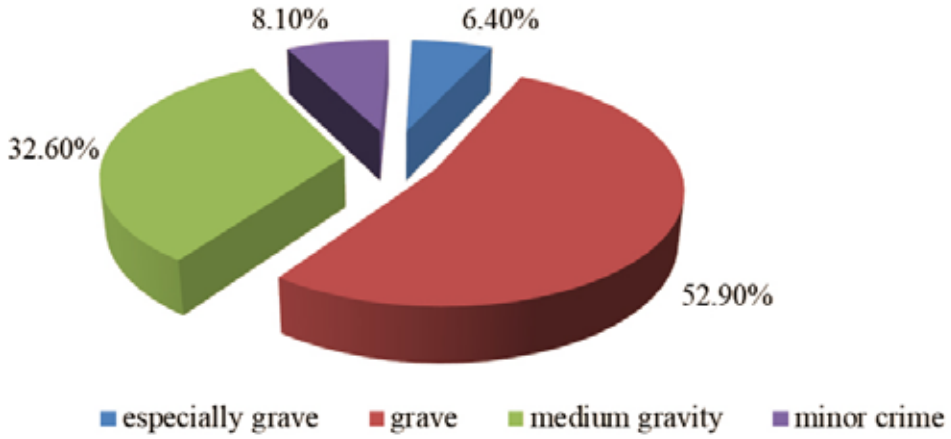

Figure 1. Structure of juvenile crimes by severity, in 2020 (according to official data of the Main Information and Analytical Center of the Ministry of Internal Affairs of the Russian Federation)

Territorial distribution of juvenile delinquency in 2020 by regions with the highest proportion of delinquent youth (of the total number of identified persons) is shown in Figure 2.

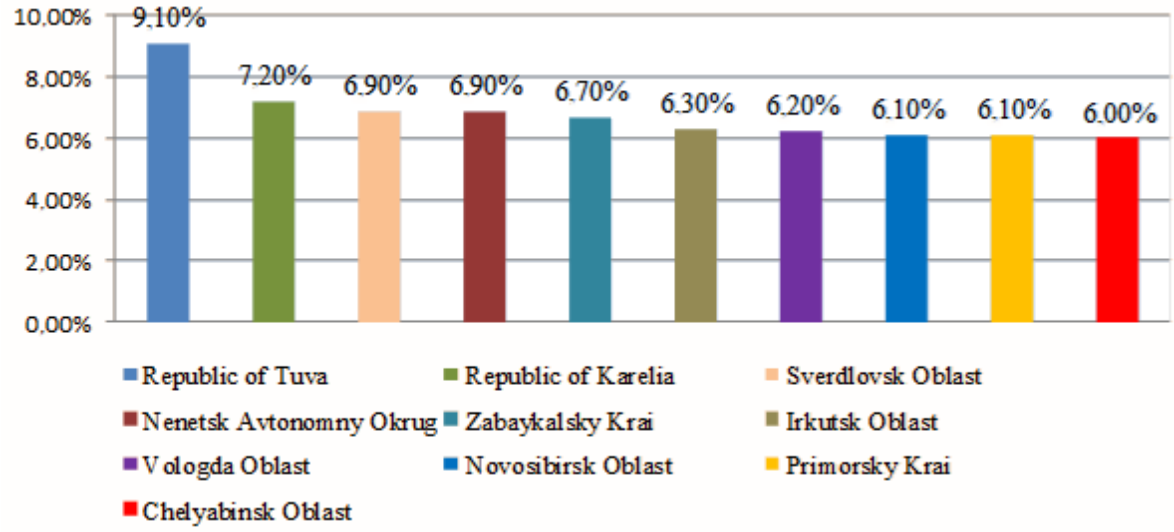

Figure 2. Share of minors in the total number of identified persons by Russian regions in 2020 (according to official data of the MIAC MIA RF)

The largest share of delinquent youth is recorded in the Republic of Tuva – 9.1% and the Republic of Karelia – 7.2%.

A group nature of juvenile delinquency is its specific feature. A significant number of crimes are committed by teenagers in complicity with adults (in most cases, in the form of co-execution). Such groups usually consist of 2–3 people and are unstable in terms of activity duration (up to 3 months).

Dynamics of youth group crimes for the period from 2016 to 2020 is presented in Table 4.

Table 4

Dynamics of youth group crimes, 2016–2020 [14]

	2016	2017	2018	2019	2020	Rates of decline, growth, in %
Identified minors, total	48 589	42 504	40 860	37 953	36 811	31.99
Those who committed a crime in a group	21 463	19 889	19 508	17 882	16 694	28.6

Share in the group, in %	44.2	46.8	47.7	47.1	45.4	-2.7
Those who committed a crime as part of an organized criminal syndicate, criminal community	62	75	88	96	99	-37.4
Share in the composition of the organized criminal group, criminal community, in %	0.1	0.2	0.2	0.3	0.27	-62.9

Table 4 shows a 28.6-percent decrease in the number of minors who committed a crime as part of a group and a 37.4-percent increase – as part of an organized criminal syndicate and criminal community.

The total number of minors who committed group crimes in 2016–2020 averaged 45.7% of the total number of juvenile offenders during the study period. It should be noted that this is a fairly high indicator, which indicates law enforcement agencies' insufficient attention to adolescents, and consequently weak preventive work with this special category of offenders.

The share of minors who committed a crime as part of organized criminal groups and criminal communities averaged 0.2%. In 2020, 16,694 minors (28.6%) committed crimes as part of a group, of which 99 minors (37.4%) as part of an organized group or criminal community (criminal organization).

Analysis of investigative and judicial practice proves a predominantly group nature of youth crimes. For instance, minors R. and M., by prior agreement, for the purpose of stealing someone else's property, illegally entered an auto repair shop through an open window and stole a welding machine and two car headlights [11].

Minors more often become organizers and instigators. Such groups are characterized by cohesion and clear hierarchy. When planning criminal actions, they distribute roles between participants.

A group nature of juvenile delinquency has an objective ground: biological and social factors of adolescent cohesion and desire to protect themselves from violence from other peers or older adolescents. Low recidivism is another feature of juvenile delinquency. Assessed dynamics of repeated juvenile delinquency is presented in Table 5.

Table 5

Indicators of repeated crimes committed by minors in Russia, 2016–2020 [14]

	2016	**2017**	**2018**	**2019**	**2020**	**Rates of decline, growths, %**
Number of juvenile delinquents	48 589	42 504	40 860	37 953	36 742	32.3%
Previously committed crimes	12 778	11 022	10 035	9 357	8 683	47.16
Share, in %	26.3	25.9	24.6	24.7	23.6	11.5
Of them previously convicted of crimes	4 389	4 245	3 811	3 520	3 415	28.5
Share, in %	9.0	10.0	9.3	9.3	9.3	-3.22

In the study period, the proportion of minors who had previously committed crimes in the total number of juvenile offenders averaged 25.1%, and previously convicted persons – 9.4%.

In 2020 8,683 minors who had previously committed crimes were identified, which is 47.16% less than in 2016. Of these, 3,415 minors were previously convicted of crimes (9.3%), which is 28.5% less than in 2016.

The reported recidivism rate for juvenile offenders is lower (approximately by 2 times), in comparison with that for adults, as minors are not criminally liable for many crimes due to their age. After returning from juvenile correctional facilities or being sentenced to a suspended sentence, they usually reoffend after reaching the age of majority. Accordingly, their recidivism will be recorded as adult crime.

Results

After considering juvenile delinquency, the following conclusions can be drawn:

1. Juvenile delinquency is a complex system consisting of many elements, which has its inherent characteristics (quantitative and qualitative), and manifests itself in the totality of criminally punishable acts committed

by persons aged fourteen to eighteen years. This is one of the components of crime in general, and at the same time it stands out as part of female, careless, intentional, penitentiary, mercenary, violent and other types of crime.

2. Juvenile delinquency exists in all subjects of Russia, but in some regions it significantly exceeds the national average. The highest level of juvenile delinquency is observed in the republics of Tuva and Karelia, the Novgorod Oblast and Zabaykalsky Krai.

3. Juvenile delinquency acts as a human resource potential to replenish adult crime, especially organized and professional crime, characterized by increased public danger. According to experts, 80% of apartment thieves, pickpockets and scammers committed their first crime in adolescence.

4. The current state of juvenile delinquency in the Russian Federation, which is confirmed by official statistical indicators, shows a downward trend in key quantitative indicators: in general, in Russia for the past five years, the number of youth crime decreased by 36.3%, in absolute terms – by 14,315 crimes, and at the same time the share of such crimes in the total volume declined by 31.6%. The number of identified minors who committed illegal acts went down by 44.7%, while the total number of identified adult criminals reduced by only 19.1%. It is reasonable to forecast further decline in the main indicators of juvenile delinquency. However, it is noteworthy that in the present realities the level of juvenile delinquency is still inadequate to modern society's requirements, which causes the need to further reduce its level and degree of public danger when formulating concrete proposals for the implementation of general social and special criminological measures to prevent juvenile delinquency.

5. When analyzing quantitative indicators of juvenile delinquency, it is necessary to take into account a crime latency level. According to experts, the juvenile delinquency rate is 3–4 times higher than reflected in official statistical sources (thefts, robberies and hooliganism are still highly latent, especially committed on the territory of schools and other educational organizations of secondary and special education).

6. Virtual space has a very significant impact on reduction of quantitative indicators of juvenile delinquency. With IT technology development, modern youth crime is also transferring into the Internet, where a fertile ground is being created for commission of cybercrimes, characterized by a high degree of latency.

7. In the structure of juvenile delinquency, a significant part is occupied by mercenary and mercenary-violent crimes. At the same time, crimes against property make up 60.8%, and of all juvenile offenders, persons who have committed crimes against property make up 82.3%.

8. In 2020, 9,651 serious and especially serious crimes were committed by minors, which is 19.5% less than in 2016. Juvenile delinquency is mainly of a group nature (over the past five years – an average of 47.16%) and has a lower criminal recidivism than among adults (in 2020 – 9.3%).

9. When forming a set of measures to prevent youth crimes, it is necessary to apply a special integrated approach, it is important to bear in mind that effective and targeted preventive work can be organized only on the basis of a representative analysis of the state of juvenile delinquency: level, dynamics, structure and nature.

10. To prevent juvenile delinquency, we propose the following:

1) a set of measures for general social prevention of juvenile delinquency should include:

– social patronage and formation of various specialized funds whose activities are aimed at solving specific socio-economic problems of families and minors;

– adoption of the federal state program for the formation of a legal culture of family relations based on the "Concept of state family policy in the Russian Federation for the period up to 2025" and legalization of a system of compulsory treatment for drug addiction and alcoholism of aggressive persons who raise minor children;

– conduct of thematic events for parents dedicated to spiritual and moral education of minors; widespread introduction and development of a network of crisis and psychological centers, hotlines and counseling centers on family relationships, including between parents and children;

2) in the complex of measures for special criminological prevention of juvenile delinquency, it is necessary to:

– identify socially disadvantaged families;

– carry out operational and preventive measures;

– consult school teachers on the problems of taking into account individual psychological characteristics of a minor's personality in the educational process;

– form effective mechanisms to ensure children's safety on the Internet;

3) in the complex of measures for individual prevention implemented in the activities of the Department of Internal Affairs, it is important to:

– conduct regular conversations with minors in order to involve them in sections, clubs, children's and youth public associations;

– hold meetings with teachers of educational organizations;

– visit minors at the place of residence;

– involve minors in prevention as public educators;

– continue practice of announcing official warnings to adults that negatively affect minors.

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INFORMATION ABOUT THE AUTHOR

ROMAN V. KOLESNIKOV – Candidate of Sciences (Law), associate professor of the Department of Criminal Law and Criminology of the Voronezh Institute of the Ministry of Internal Affairs of Russia, Voronezh, Russia, rkolesnikow@mail.ru, https://orcid.org/0000-0002-0246-5536

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Some Problematic Aspects of Registering and Verifying Crime Allegations in Russian Penal Institutions

ROMAN M. MOROZOV
Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, morozur@mail.ru, https://orcid.org/0000-0002-5298-8941

ANTON M. LYUTYNSKII
North-Western Institute of the Kutafin Moscow State Law University (MSAL), Vologda, Russia, anton238@mail.ru, https://orcid.org/0000-0002-8047-7938

Abstract

Introduction: the article deals with problematic procedural aspects of registration and verification of crime allegations carried out by officials of territorial bodies of the Federal Penitentiary Service of Russia in institutions of the penal system. Analysis of published statistical data shows that, despite a significant reduction in the number of convicts in correctional institutions subordinate to the Federal Penitentiary Service of Russia, there is a steady increase in the number of crimes. In addition, due to specifics of initiating cases of private and private-public prosecution and criminal subculture it may be difficult to conduct investigation in procedural and tactical terms. Having analyzed departmental statistical data, regulatory legal acts, scientific research on the subject under consideration, the authors formulate and discuss topical problems of the application of the departmental order approving the instructions regulating reception, registration and verification of crime reports in penitentiary bodies and institutions. The authors come to the conclusion that numerous changes in the norms of criminal procedural legislation are not properly fixed in the departmental normative act, undermining effectiveness of activities of officials who register and verify crime allegations in penitentiaries. Thus, these gaps lead to contradictory regional law enforcement practice, which is reflected in their different interpretation by both law enforcement agencies and prosecutor's offices. As a result, this leads to acts of prosecutorial response and bringing employees of the Federal Penitentiary Service of Russia to disciplinary and other responsibility. *Purpose:* on the basis of generalization and analysis of normative legal acts, scientific sources, opinions of penitentiary scientists and official statistical data, to disclose prospects for improving the institution of registration and verification of crime reports in institutions of the penal enforcement system of Russia. *Methods:* dialectical cognition method, general scientific methods of analysis and generalization, empirical methods of description, interpretation, theoretical methods of formal and dialectical logic. Results: the conducted research reveals a number of urgent problems, in particular: absence of forms of procedural documents in the Criminal Procedural Code of the Russian Federation, the instructions refer to; uncertainty of the content of emergency response measures and other verification actions and their relationship with

legislation norms and other departmental regulations; inconsistency of the subjects of urgent investigative actions specified in the instructions; unsettled list and powers of officials authorized to investigate crimes and incidents; absence of timing, medical or other special studies in the instructions; gap in the procedure for obtaining an explanation from convicts during verification of statements and reports of crimes and lack of the form of the specified procedural document; legal and organizational problems of issuing a registration document to the convicted applicant. *Conclusions:* for all the problems considered, the authors propose solutions implying amendments to the Criminal Procedural Code of the Russian Federation, departmental instructions and other regulations.

K e y w o r d s : penal enforcement system; reception and registration of reports; initial inquiry body; convicts; urgent investigative actions; verification actions; explanations; register document.

12.00.09 – Criminal procedure.

5.1.4. Criminal legal sciences.

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Introduction

Considering problematic issues of crime registration in all types of correctional institutions, prisons and pre-trial detention centers, it is first necessary to indicate relevance of this topic. For almost twenty-year operation of the Criminal Procedural Code of the Russian Federation, more than 280 federal laws have been adopted, providing for changes in both individual procedural norms and entire institutions [3, p. 754]. However, the Order of the Ministry of Justice of the Russian Federation No. 250 of July 11, 2006 (amended August 15, 2016) "On approval of the Instructions on reception, registration and verification of reports on crimes and incidents in institutions and bodies of the penal enforcement system" has not undergone significant changes in the aspect under consideration. These issues were also reflected in a number of dissertation studies, in particular of E.R. Pudakov and A.M. Sautiev [10; 11].

Research

Let us consider departmental statistics, in particular individual indicators of the activity of the penal enforcement system in 2013–2020, given in the table. Statistical data show that the number of persons held in penal institutions is steadily decreasing from year to year (table, Column 2), however, it does not correlate with a rise in the number of crimes committed in penitentiary institutions (table, Column 3), and so is the number of registered crimes and burden on persons carrying out their registration and verification.

The situation does not change dramatically for the better with the number of decisions made by law enforcement agencies on refusal to initiate criminal proceedings based on materials received from penal institutions (table, Column 4). They are based on registered reports in penitentiaries (parts 1, 2 of Article 140 of the Criminal Procedural Code of the Russian Federation) that were handed over in accordance with the jurisdiction (paragraph 3 of Part 1 of Article 145 of the Criminal Procedural Code of the Russian Federation). The information, sent to law enforcement agencies for investigation and further dismissed, can be conditionally divided into two groups: 1) data on crimes committed by convicts before admission to penal institutions (crimes of "past years"); 2) data on ambiguous cases (injuries of convicts, deviation from convicts' routes of movement without escort, etc.). In these cases, employees gathering information and registering crime complaints should correctly determine availability of sufficient data indicating constituent elements of the offence in order to exclude excessive data registration. To support this position, it is worth quoting I.L. Bednyakov: "Duty officers

at the correctional facility register reports on illegal actions of convicts without detailed consideration of their content. Low requirements in competent compilation of primary documentation carried out by correctional facility employees leads to unreasonable registration in the crime report registration book" [1, p. 29].

Moreover, shortage of personnel in institutions of the penitentiary system is noteworthy; as of January 1, 2021, it was 10.6% [5]. This condition has a direct impact on the quality of registration and verification of crime reports. It leads to mistakes, filing acts of prosecutorial response, recognizing evidence obtained during verification of crime allegations as inadmissible, bringing employees of territorial bodies of the Federal Penitentiary Service of Russia to justice.

It is also worth paying attention to Column 5 of the table, where data on the injuries of convicts are indicated. It seems that some of these injuries may be of a criminal nature; however, as Part 1 of Article 115 of the Criminal Code of the Russian Federation "Minor harm to health" refers to cases of private prosecution, criminal proceedings are initiated not otherwise than at the request of a convict. Besides, it is important to mention Part 1 of Article 132 of the Criminal Code of the Russian Federation "Violent acts of a sexual nature" relating to cases of private and public prosecution, the initiation of which is possible only at the request of a victim (with the exception of Part 4 of Article 20 of the Criminal Procedural Code of the Russian Federation) [4, p. 20]. In addition, laying of complaints is influenced by a criminal subculture supported by negatively minded convicts who have a physical and psychological impact on the applicant who violated unofficial norms of behavior. Thus, it can be argued that some of the crimes committed in penal institutions are latent in nature; it is important to improve procedures for detecting, registering and verifying the latent offenses we have indicated.

Table

Statistics data on a number of incidents, offenses in penitentiary institutions

Year	Number of convicts held in penitentiary institutions , as of January 1	Number of registered crimes committed by convicts in penitentiary institutions, criminal proceedings were initiated	Number of registered crimes committed by convicts in penitentiary institutions, criminal proceedings were not initiated. No data for 2019 and 2020 in departmental statistics collections	Registered injuries, total (domestic, industrial, self-mutilation)
2013	585 088	974	1 268	27 415
2014	559 938	861	4 053	28 380
2015	550 852	940	3 330	26 282
2016	524 848	960	2 313	26 932
2017	519 491	974	2 293	25 156
2018	495 016	1025	2 731	24 445
2019	460 923	1171	-	26 024
2020	423 825	1184	-	23 579

So, it is worth pointing out that greater burden on employees engaged in registering facts of convicts' illegal behavior, together with personnel shortage in the penal enforcement system negatively affects the quality of decisions made. The situation is aggravated by a latent nature of crimes of private and private-public prosecution. At the same time, the most important negative aspect in this sphere is imperfection of the departmental regulatory legal act, namely the Order of the Ministry of Justice of the Russian Federation No. 250 of July 11, 2006 "On approval of the Instructions on reception, registration and verification of reports on crimes and incidents in institutions and bodies of the penal enforcement system" (hereinafter – the Instructions). The Instructions have discrepancies with the criminal procedural legislation norms; besides, the content of certain provisions is not disclosed. We share the point of view of N.V. Gryazeva and E.S. Kabanen that "regulatory and legal regulation in the field of activity under consideration should not cause a double interpretation, that is, it should be unambiguously understood by the law enforcement officer" [6, p. 123].

According to Paragraph 2 of the Instructions, responsibility for correct registration of received documents falls directly on security department employees and duty assistants to the head of the institution (their deputies). Besides, Paragraph 11 stipulates that "it is heads of penal institutions and bodies who shall ensure reception and registration of complaints, provide legality when considering information about offenses and incidents, as well as monitor its conduct". In accordance with Paragraph 29 of the Instructions and Paragraph 1 of Part 1 of Article 40 of the Criminal Procedural Code of the Russian Federation (with regard to the reference norm to the Federal Law "On operational investigative activities"), employees of operational units of the penal enforcement system are engaged in direct verification of crime allegations; Paragraph 25 of the Instructions determines that urgent investigative actions are carried out by heads of institutions of the penal enforcement system.

We find it crucial to focus directly on certain problems in the regulatory act under consideration.

1. Absence of forms of procedural documents in the Criminal Procedural Code of the Russian Federation, the Instructions refer to [2, p. 92]. In accordance with the Federal Law No. 87 of June 5, 2007 "On Amendments to the Criminal Procedural Code of the Russian Federation and the Federal Law 'On the Prosecutor's Office of the Russian Federation' ", Article 476 of the Criminal Procedural Code of the Russian Federation, where forms of procedural documents were submitted, became invalid. However, the Instructions in paragraphs 5, 31 refers to appendices 1, 10, 11 of Article 476 of the Criminal Procedural Code of the Russian Federation. In addition, when describing rules for keeping crime report registration books, references are also made to appendices 1–3 of Article 476 of the Criminal Procedural Code of the Russian Federation. Before repeal of the specified article of the Criminal Procedural Code of the Russian Federation, the Instructions contained the following sample documents: report on detection of essential elements of the offense, protocol for accepting an oral complaint about the crime, protocol of surrender, a resolution on transfer to the appropriate investigative jurisdiction, resolution on the transfer of a complaint to the court. We believe that in order to solve this problem, it is necessary to supplement the Instructions with the abovementioned sample documents.

2. Failure to disclose the content of emergency response measures and other verification actions and their correlation with legislation norms and other departmental regulations. Paragraph 5 of the Instructions states that "an employee takes urgent response measures and immediately informs a duty officer at the penal institution or body...". Paragraph 26 of the Instructions discloses emergency response measures as "... arrival to the crime scene, prevention and suppression of a crime, ensuring safety of traces of a possible offense, carrying out operational investigative measures to identify and detain persons preparing, committing or committed a crime redhanded or shortly after, obtaining explanations or performing other verification actions". We believe that the authors of the Instructions tried to combine employees' authorities to conduct regime (Article 82 of the Criminal Procedural Code of the Russian Federation) [9, p. 65] and operational search activities and some procedural powers specified in Part 1 of Article 144 of the Criminal Procedural Code of the Russian Federation; however, they did not enumerate all of them and did not provide reference rules to this article. It seems that the Instructions should also contain a clear list of what an employee of the initial inquiry body of the penal enforcement system is entitled to do when verifying crime allegations; it should correspond to Part 1 of Article 144 of the Criminal Procedural Code of the Russian Federation or be broader, taking into account current non-procedural authorities of employees of the penal enforcement system (regime and operational investigative measures). At the same time, groups of powers and authorities should be clearly differentiated in separate paragraphs of the Instructions.

It is also not clear what constitutes the content of other verification actions in Paragraph 26 of the Instructions. They seem to be regime measures. For example, in accordance with Order No. 95 of June 23, 2005, a duty assistant to the correctional facility head,

upon receipt of the report about the escape or detection of its elements, "organizes a name check of convicts in order to establish identity of the escapee; organizes a thorough search of his/her work and sleeping places, and withdraws all personal belongings and correspondence". In this regard, it seems that the list of other verification actions (non-procedural measures) should also be described in more detail in the Instructions. It would be logical if these measures included regime measures, such as a regime search, examination, and inspection of convicts. At the same time, it should be clearly understood that the conduct of investigative actions provided for in Part 1 of Article 144 of the Criminal Procedural Code of the Russian Federation (inspection, examination, appointment of the expertise) when checking reports of crimes should be carried out in the first instance, since investigative actions carried out initial inquiry bodies of the penal enforcement system form independent evidence. This is not true for regime measures that require further procedural consolidation.

Summing up, we note that the possibility to carry out regime measures should also give an opportunity to use them as evidence in the future, which implies amendments to Article 74 of the Criminal Procedural Code of the Russian Federation. These changes are due to the fact that the stated article does not consider the results of regime measures as independent evidence, and law enforcement practice shows that these materials are not used as other documents. It It also seems logical to introduce Instructions on the use of regime measures like the one "On the procedure for submitting results of operational investigative activities to the initial inquiry body, investigator or the court". We believe that Paragraph 26 of the Instructions should include several categories of urgent (immediate) response measures, which should be set out sequentially and involve procedural (inspection, examination, appointment of expertise), regime and operational search measures. We assume that the list of urgent response measures in itself is broader in scope than measures related to the conduct of a procedural revision and regulated only by the Criminal Procedural Code of the Russian Federation, the implementation of which is carried out in accordance with Paragraph 29 of the Instructions.

3. Inconsistency of the subjects of urgent investigative actions specified in the Instructions. The concept of urgent investigative actions is fixed in Paragraph 19 of Article 5 of the Criminal Procedural Code of the Russian Federation: it is investigative actions carried out after initiation of cases that require preliminary investigation. Paragraph 5 of Part 2 of Article 157 of the Criminal Procedural Code of the Russian Federation defines subjects entitled to perform them in penitentiary institutions, in particular, heads of institutions and bodies of the penal enforcement system. The investigative procedure term is specified in Part 3 of Article 157 of the Criminal Procedural Code of the Russian Federation and it is no later than 10 days from the criminal case initiation date. The concept under consideration is presented in paragraphs 25 and 28 of the Instructions. In Paragraph 25, the issue of conducting urgent investigative actions is addressed exclusively to heads of institutions and bodies of the penal enforcement system. However, Paragraph 28 of the Instructions states: "If essential elements of a crime are found in the process of reviewing other information, as well as during immediate actions or official duty performance by an employee of the institution or body of the penal enforcement system who has identified them, a report is drawn up on detection of elements of a crime ...". Hence, interpreting Paragraph 28 of the Instructions, it is possible to conclude that a report on detection of essential elements of a crime during conduct of immediate actions can be filed by an indefinite circle of employees of the penal enforcement system who have identified elements of a crime, but their production is possible only by the subject defined in Paragraph 5 of Part 2 of Article 157 of the Criminal Procedural Code of the Russian Federation and Paragraph 25 of the Instructions. Based on the above, we believe that Paragraph 28 of the Instructions should be set out in the following wording: "If essential elements of a crime are detected by heads of the institutions of the penal enforcement system during immediate actions,

as well as by all its employees in the process of reviewing the information received, both related and unrelated to the performance of their official duties, a report is drawn up ... (hereinafter as in the Instructions)".

4. Insufficient regulation of the list and powers of officials authorized to verify crime allegations. This problem goes beyond the limits of the departmental regulatory act and is more significant, as it concerns uncertainty of the legal status of employees of penitentiary institutions and bodies in the Criminal Procedural Code of the Russian Federation. This aspect was considered on the pages of periodical literature, where amendments to the norms of procedural law were proposed [12, p. 502].

The Criminal Procedural Code of the Russian Federation directly defines only heads of penal institutions and bodies as procedurally authorized subjects of the Federal Penitentiary Service of Russia entitled to carry out procedural actions, (Paragraph 5, Part 2 of Article 157 of the Criminal Procedural Code of the Russian Federation). However, Paragraph 1 of Part 1 of Article 40 of the Criminal Procedural Code of the Russian Federation states that initial inquiry bodies include executive authorities authorized to carry out operational investigative activities. Thus, the Criminal Procedural Code of the Russian Federation makes reference to the Federal Law No. 144-FZ of August 12, 1995 (amended December 30, 2021) "On operational investigative activities", where Article 13 indicates the Federal Penitentiary Service of Russia, along with other bodies. Consequently, employees of the operational units of the Federal Penitentiary Service of Russia act as an inquiry body. At the same time, the analysis of Article 151 of the Criminal Procedural Code of the Russian Federation shows that these divisions of initial inquiry bodies are not entitled to conduct an inquiry in full under any articles of the Criminal Code of the Russian Federation. It turns out that employees of operational units in accordance with Article 144 of the Code of Criminal Procedure of the Russian Federation have the right to verify a crime allegation and transfer it under investigation. Our stance on this issue fully coincides with Paragraph 1.1 of the Instructions of the Prosecutor General No. 456/69 of October 25, 2013 "On strengthening the prosecutor's supervision of the procedural activities of institutions and bodies of the penal enforcement system", which also emphasizes limited powers of employees of the Federal Penitentiary Service of Russia: they are authorized to carry out verification measures, and in case of receipt of a crime report they are obliged to hand over the materials under investigation within 3 days.

The entire list of verification measures implemented by employees of the penal enforcement system is defined in Part 1 of Article 144 of the Criminal Procedural Code of the Russian Federation: obtaining explanations, samples for comparative research, requesting documents and objects and their seizure, appointment of a forensic examination, inspection of the scene, documents, objects, corpses, examination, demand for documentary inspections, revisions, etc.

The results of A.S. Shatalov's research are very convincing. Of the list of measures provided for by Article 144 of the Criminal Procedural Code of the Russian Federation, the following were practically not carried out: appointment of forensic examinations or obtaining samples for comparative research, conducting revisions, research and obtaining expert opinions. Much less often, employees of the penal enforcement system performed inspections of the scene of the accident, corpses, examination [13, pp. 517–518]. We believe that a lack of legal regulation of this issue in the Instructions could also affect quantitative expression of the procedural measures taken.

It should be noted that Paragraph 29 of the Instruction provides that "for each complaint or report of crimes and incidents, the head of a penal institution or body is obliged to give written instructions to specific performers about their consideration in accordance with requirements of the Criminal Procedural Code of the Russian Federation and this Instructions".

Hence, the Instructions should include a list of verification measures specified in Part 1 of Article 144 of the Criminal Procedural Code of the Russian Federation, following the example of urgent response measures contained in Paragraph 26 of the Instructions. Also, Para-

graph 29 should fix that employees of operational units of bodies and institutions of the penal enforcement system act as authorized officials verifying crimes and incidents.

5. Absence of timing of revision, medical or other special studies. So, Paragraph 26 of the Instructions stipulates that "in cases where revision, medical or other special studies are required, decisions are made upon their completion". However, according to Part 3 of Article 144 of the Criminal Procedural Code of the Russian Federation, if it is necessary to carry out documentary inspections, revision, forensic examinations, studies of documents, objects, corpses, the duration of their implementation is up to 30 days.

We are sure that the specified paragraph of the Instructions should be brought into compliance with the norms of the Criminal Procedural Code of the Russian Federation.

6. Absence of a procedure for obtaining explanations from convicted persons during verification of statements and reports of crimes and a form of the specified procedural document. Paragraph 26 of the Instructions stipulates the possibility to obtain explanations when verifying reports of crimes. However, employees, due to a lack of sample documents, receive explanations not as a procedural action provided for in Part 1 of Article 144 of the Criminal Procedural Code of the Russian Federation, but as a regime measure. So, Article 117 of the Criminal Procedural Code of the Russian Federation provides for receipt of written explanations before imposition of a penalty on a convicted person. Since convicts do not always know the whole essence of the case and are not sure, whether they are giving explanations in disciplinary or criminal proceedings. The Criminal Procedural Code of the Russian Federation implies an explanation of the rights and obligations of the participant when receiving explanations. Employees substantiate this substitution by the fact that convicts provide explanations to cases that are subject to disciplinary liability more willingly than to criminal. Having an explanation form and procedure for obtaining it in the Instructions may be the solution to this problem.

7. Legal and organizational problems of issuance of a registration document to the convicted applicant. Paragraph 4 of the Instructions establishes the obligation to issue a registration document to a convicted person in case of filing of a complaint or voluntary surrender. Some authors emphasize a law enforcement aspect of the problem, as after receiving the document, a convict has to keep it somewhere, but it is difficult for the convict to ensure its safety. It is not about physical keeping of the document, but about saving of the fact that the convicted person submitted a complaint. If the document is found in the applicant's possession, convicts adhering to unofficial norms of behavior can influence him/her. In this connection, it is proposed not to issue a register document to the convicted person personally, but to keep it in a special department of the penitentiary institution [8, p. 49]. Other authors do not consider it as a problem; on the contrary, if the document is not issued, the provisions of Part 4 of Article 144 of the Criminal Procedural Code of the Russian Federation are violated, triggering crime concealment [7, p. 32]. We agree with the stance of O.A. Malysheva that register document issuance should not occur in the form in which it is now fixed in the Instructions. From our point of view, it would be reasonable to supplement Paragraph 4 of the Instructions as such: "A convicted person who has received a register document is entitled to request that the original is attached to his/her personal file. The obligation to inform a convict about it falls on the person who has registered an application".

Conclusion

On the basis of statistical data, current regulatory legal acts, scientific research results, the most significant legal problems concerning registration and verification of crime allegations in institutions of the penal enforcement system of Russia, regulated by the departmental Instructions, are analyzed. The conducted study revealed the following inconsistencies of the departmental normative act: absence of forms of procedural documents in the Criminal Procedural Code of the Russian Federation, the Instructions refer to; uncertainty of the content of emergency response measures and other verification actions and their correlation with legislation norms and other departmental regulations; inconsistency of the subjects of urgent inves-

tigative actions specified in the Instructions; poorly developed list and powers of officials authorized to conduct verification of crimes and incidents; absence of verification timing, medical or other special studies in the Instructions; gap in the procedure for obtaining an explanation from convicts during verification of statements and reports of crimes and a form of the specified procedural document; legal and organizational problems of issuing a register document to the convicted applicant.

The proposals formulated in the article to improve the Instructions and other legal acts should undoubtedly have a positive effect on law enforcement practice in registration and verification of crime allegations.

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INFORMATION ABOUT THE AUTHORS

ROMAN M. MOROZOV – Candidate of Sciences (Law), Associate Professor, associate professor of the Department of Criminal Procedure, Criminalistics and Operational Investigative Activities of the Faculty of Law of the Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, morozur@mail.ru, https://orcid.org/0000-0002-5298-8941
ANTON M. LYUTYNSKII – Candidate of Sciences (Law), Associate Professor, associate professor of the Department of Criminal Procedure and Criminalistics of the North-Western Institute of the Kutafin Moscow State Law University (MSAL), Vologda, Russia, anton238@mail.ru, https://orcid.org/0000-0002-8047-7938

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Personnel Training Strategy as an Element of Personnel Policy of the Federal Penitentiary Service of Russia and Tasks of Educational Organizations for Its Implementation

NATALYA V. MOTOROVA
Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, motorowa-nw@mail.ru, https://orcid.org/0000-0003-0951-6399

Abstract

Introduction: staffing the penal enforcement system of the Russian Federation is crucial for effective execution of penalties on the basis of legality and humanism principles. The Federal Penitentiary Service of Russia faces the task of replenishing its personnel, including through training of specialists in higher education institutions. Activities of professional education and vocational training organizations subordinate to the Federal Penitentiary Service of Russia to provide bodies and institutions of the penal enforcement system with skilled employees require formation of legal foundations defining critical principles of personnel training. *Purpose:* analysis of modern legislation and formulation of proposals for elaboration of program documents in the field of staffing the penal system. *Methods:* research methods include both general scientific methods (formal methods, such as induction and deduction, analysis and synthesis) and private (comparative legal). Formal methods (analysis, synthesis, induction, deduction) were used in determination of goals and objectives of the research, formulation of concepts, analysis of regulatory legal acts, development of proposals for improving legal foundations of the legal relations under consideration. The comparative legal method helped study the modern legislation system in the field of staffing the penal system. *Results:* the author substantiates the need to adopt a personnel policy concept – a normative legal act that enshrines basic principles of personnel policy of the penal system, and proposes its structure. It is emphasized that the personnel training strategy should become a separate element of the personnel policy concept of the Federal Penitentiary Service of the Russian Federation, with educational organizations of the Federal Penitentiary Service of Russia being its main subject. *Conclusions:* the strategic goal of the Russian penal system development is to boost performance of bodies and institutions executing punishment. To achieve it, the Federal Penitentiary Service of Russia seeks to fulfil one of the key tasks of forming a highly professional, stable, optimally balanced personnel composition of institutions and bodies of the penitentiary system. Educational organizations of the Federal Penitentiary Service of Russia make a significant contribution to solution of this task. For staffing of the penal enforcement system to be more effective, it is necessary to work out program documents – a personnel policy concept and personnel training strategy.

Keywords: personnel policy; staffing; personnel training strategy; educational organizations of higher education.

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Introduction

Effective functioning of any state institution depends on people fulfilling its functions. Tangible shifts in solving tasks are achieved "not only due to implementation of progressive concepts and legislative innovations in practice, but also due to skills of performers who are able to realize these transformations and ready to work on their implementation in a new way" [21, p.10]. Employees' competence, professionalism, and ability to find optimal solutions to problems predetermine successful performance of the functions assigned to bodies and institutions of the Federal Penitentiary Service of the Russian Federation (FPS Russia).

As of January 1, 2022, the number of the penal system personnel funded from the federal budget amounted to 295,968 people, including 225,285 people of commanding staff (including 5,960 people of non-permanent personnel) [19].

The personnel composition of the penitentiary system is not a static value, there is constant dynamics in the number of employees of penal bodies and institutions. Up to 10 percent of the personnel are dismissed annually: as of January 1, 2021, 16,347 employees were dismissed (7.68% of the full-time number); and as of January 1, 2020 – 17,208 people, or 8.10% [12, 13].

The Federal Penitentiary Service of Russia lacks personnel, for the past three years its shortage has reached almost ten percent. As of January 1, 2019, there wereo 30,274 vacant positions (10.95% of the full-time number), including 20,592 employees (9.68%); as of January 1, 2020 – 26,935 vacant positions (9.76% of the full-time number), including 17,105 employees (8.05%); as of January 1, 2021 –27,420 vacant positions of the penitentiary system maintained at the expense of budget financing (without non-permanent composition of educational institutions) (9.92% of the full-time number), including 16,846 employees (7,91%) [12, 13, 14].

Statistical data indicate that the Russian penitentiary system faces a permanent problem of replenishing and strengthening its personnel. Personnel defines development capacities of the system, forms "intellectual resource of the penal enforcement system, which makes it possible not only to develop another strategic plan (program, "roadmap"), but also identify trends in external environment development, prospects for penal system functioning, formulate directions for its development" [15 , pp.96–97], implement planned activities in practice. Constant systematic work is required to preserve it and replenish it with highly qualified specialists. This important activity area of the Russian penitentiary system should be based on a conceptual legal document defining principles, key directions, necessary resources and other issues of organizing effective work with personnel of the penitentiary system.

Personnel policy of the penal enforcement system and its legal foundations

Principles and guidelines developed within the framework of personnel policy of the state in general and the penal system in particular are fundamental in work with personnel in the penal system. The state personnel policy is a combination of certain principles, legal norms, various methods, means and forms of influence that gives the opportunity to carry out measures of work with state body personnel.

The category "state personnel policy" in the theory of personnel management is ambiguously defined: as the "main line in personnel training, general direction in personnel work" [2]; as "key directions, goals, methods and style of working with personnel" [8]; and as a "branch of general policy that affects the process of senior personnel formation and control over their activities" [17, p. 37].

According to G.V. Shcherbakov and A.Yu. Dolinin, the following interpretation can be considered the most complete: "personnel

policy is a set of principles, methods, means and forms of influence on interests, behavior and activities of employees in achieving goals that the organization pursues. The personnel policy purpose is to ensure timely replenishment and preservation of the quantitative and qualitative composition of personnel and its development in accordance with the organization's needs. This objective is achieved due to implementation of specific personnel measures that act as objects of personnel policy: personnel planning; organization, selection and placement of personnel; formation of talent pools; organization of personnel's work; evaluation of professional and business qualities of employees; motivation and stimulation of personnel; professional training, retraining and advanced training of employees" [22].

Analysis of scientific approaches to the category "personnel policy" [6, 7, 9, 11, 18, 24] shows that it is a complex socio-legal phenomenon that includes several implementation levels and areas, providing for the use of legal, organizational, socio-psychological, economic and other means aimed at effective staffing of the public authorities' activities.

The state personnel policy has its own sectoral modifications reflecting specific conditions of public administration branches. In relation to the penal enforcement system, a separate direction of the state personnel policy is being formed, based on goals and objectives of the system's activities, specifics of service in bodies and institutions of the Federal Penitentiary Service of Russia.

The FPS personnel policy is characterized by a number of factors, such as a complicated recruitment procedure (professional selection of candidates for service with regard to physical and mental qualities, education, social ties, etc.); special procedure for appointment to positions (contract service, appointment on a competitive basis, probation, mentoring, surety); organizational support of a career (having special knowledge, promotion depending on professionalism, formation of talent pools); special legal status of personnel, need to comply with norms of professional ethics not only within official time, but also beyond it; presence of powers and authority among employees; hierarchical subordination in the service, unity of command; intense official activity associated with a long stay in a closed and limited space, contact with convicts; availability of the system for promoting professional competence of personnel (service training, advanced training and retraining of personnel) [10].

Personnel policy in the penal enforcement system is the activity of relevant state bodies and officials, the strategic goal of which is to form and develop personnel capacities of the system, principles of working with personnel, as well as specific directions (mechanisms) of its implementation [23, p.158].

Taking into account these features, the personnel policy of the Federal Penitentiary Service of Russia is a system of fundamental principles that determine strategic directions of the state activity in the field of staffing bodies and institutions of the penal system.

Conceptual attitudes. i.e. principles of the FPS personnel policy, are expressed in the current legislation, which acts as the most important legal means of positivizing theoretical and methodological attitudes in legal norms and forms its independent level – legal foundations.

The legal basis of personnel policy is a set of normative legal acts that define fundamental principles of various areas of personnel work: issues of recruitment, career growth in the penal system, training, retraining, advanced training of employees, their legal status, as well as issues of social protection and personal safety of employees, etc.

Legal foundations of the FPS personnel policy were formed in stages. Since separation of the Russian penal enforcement system into an independent structure subordinate to the Ministry of Justice of Russia, short-term program documents, defining key tasks of work with personnel, have been developed. At the same time, planning of work with personnel was reflected in separate regulations: 2002 –Concept for improving work with personnel of the Ministry of Justice of the Russian Federation; 2006 – departmental program "Staffing activities of the penal enforcement system for 2007–2009". In 2007, the Concept for development of staffing of the penal enforcement system for the period up to 2011 was adopted, containing the "official stance of the Federal Penitentiary Service of Russia

on goals, tasks, principles, methods and priority areas of work with personnel, formation of talent pools of penal institutions and bodies, effective personnel management" [3, pp. 68–69].

The Decree of the Government of the Russian Federation No. 1772-r of October 14, 2010 "On the Concept for development of the penal enforcement system of the Russian Federation up to 2020" is a program document stipulating development of the Russian penitentiary system, including the modern personnel policy. Section 7 "Staffing and social status of employees of the penal enforcement system" identifies priority areas of staffing of the penitentiary system up to 2020, for example, determining the number of employees in correctional institutions and pre-trial detention facilities on the basis of Russian legislation norms and international practice; establishing time sheet of employees working in direct contact with convicts and persons in custody; developing requirements for official behavior of penal system employees, implementing the policy to reduce the number of employees of the penal enforcement system through the use of innovative technologies in the work; ensuring a high social status and prestige of the service, legislative definition of the system of social guarantees, including allocation of housing to employees of the penal system and their family members, development of a network of regional medical rehabilitation centers for prevention of professional deformation, psychological overload and organization of family recreation of employees; wide application of the practice of material and moral incentives for employees of the penitentiary system, further development of the system of incentive measures; improving quality of service and working conditions of employees of the penal system, corresponding to the specifics of work and level of working conditions of employees of penitentiary institutions of developed European states; rotation of senior staff of the penal system, etc..

In 2021, a new target program for development of the Russian penitentiary system was worked out and adopted – the Concept for development of the penal enforcement system up to 2030 (approved by the Decree of the Government of the Russian Federation No. 1138-r of April 4, 2021). This program document stipulates enhancement of organization of FPS activities and formation of highly motivated and skilled personnel.

Certain issues of personnel policy of the penal enforcement system are fragmentally fixed in other regulatory legal acts, such as decrees of the Russian Government No. 312 of April 15, 2014 "On approval of the State program of the Russian Federation 'Justice' ", No. 420 of April 6, 2018 "On approval of the Federal target program "Development of the penal enforcement system (2018–2026)", etc.

The Federal Law No. 197-FZ of July 19, 2018 "On Service in the penal enforcement system of the Russian Federation and amendments to the Law of the Russian Federation "On Institutions and bodies executing criminal penalties in the form of imprisonment" (hereinafter – Law on Service in the penal system) came into force. It defines staffing principles as follows: mandatory professional selection with equal access of citizens to service in the penal enforcement system; improvement of professional knowledge and skills of employees; appointment of employees to positions in the penal enforcement system with regard to their level of qualifications, merits in official activities, personal and business qualities; compliance with the sequence of service in the penal enforcement system and assignment of special ranks.

This law stipulates key staffing policy directions: regular training of personnel to fill positions in the penal system; creating conditions for employees' professional growth; evaluating results of employees' performance through certification; formation and effective use of talents pools; maintaining a list of positions in the penal system to be replaced by competition; use of modern personnel technologies in the employment and service in the penal system.

Thus, at present, crucial directions of the FPS personnel policy are normatively determined within the framework of the general course of the penitentiary system development as its most important component. However, there is no single legal act that would determine the system of work with personnel of the Federal Penitentiary Service of the

Russian Federation using the program-target method at the federal level. Relevance, complexity and social orientation of staffing problems require creation of an appropriate legal framework – the "Concept of personnel policy of the Federal Penitentiary Service of the Russian Federation", approved by the order of the Federal Penitentiary Service of Russia.

The specified regulatory legal act can be structured as follows:

1. General provisions (main content (definition) and purpose of the concept, regulatory framework, terms, general implementation mechanism, monitoring (control) over concept implementation).

2. Current state of staffing the penal enforcement system (analysis of the personnel of penitentiary bodies and institutions in the context of services, age composition, etc.)

3. Goals, objectives, basic principles of personnel policy in the penal enforcement system of the Russian Federation (including approaches to the proportion of different staff categories: penal system personnel, Federal state civil servants and employees).

4. The main directions of personnel policy in the penal enforcement system of the Russian Federation (content of the FPS personnel policy in the field of establishing general and special (qualification) requirements for personnel; in the field of formation and professional development of senior personnel; in the field of strengthening service discipline and legality, prevention of corruption offenses among personnel; in the field of professional training of personnel (Strategy for FPS personnel training); approaches to the personnel promotion system, rotation of senior personnel, professional adaptation of young employees, educational work, etc.). At the same time, an action plan, deadlines, and a necessary resource base should be thought out in each direction.

5. Stages of concept implementation.

6. Expected results of concept implementation.

Personnel training strategy as an element of the FPS personnel policy .

The FPS personnel policy is focused on replenishing human resources through training of specialists for work in penitentiary institutions. Goals and basic principles of this activity are fixed in regulatory legal acts – a Strategy for FPS personnel training.

The category "strategy" (from the Greek strategia) is widely used in scientific circulation within the framework of economic and managerial theories and disclosed as long-term, most fundamental, important attitudes, plans, intentions of the government, regional administrations, enterprise management in relation to production, income and expenses, budget, taxes, capital investments, prices, social protection [16, p. 409]. It is a general direction of the organization's actions, which in the long term should lead to the goal; a general, comprehensive plan for achieving goals [1, p. 41]. In turn, the personnel management strategy is defined as a specific set of basic principles, rules and goals of working with personnel with regard to types of organizational strategy, organizational and personnel capacities, as well as the type of personnel policy [1, p.43].

The category "strategy" is also extrapolated into the processes of staffing various industries, institutions, organizations. For example, this term was used in the acts of the Ministry of Education and Science of Russia to fix plans for workers training. This executive authority implemented the "Strategy for development of the personnel training system and formation of applied qualifications in the Russian Federation for the period up to 2020".The Federal Service for State Registration, Cadastre and Cartography approved the order "On the Strategy of personnel policy of the Federal Service for State Registration, Cadastre and Cartography for the period up to 2020".The category "strategy" can also be applied as a component of personnel policy of the penal enforcement system.

The FPS personnel training strategy should be understood as long-term, fundamental guidelines, plans, intentions of the Federal Penitentiary Service of Russia regarding training of specialists for the penal enforcement system, capable of effectively solving the tasks assigned to the system in accordance with requirements of domestic legislation and international standards.

To date, the regulatory documents defining the FPS personnel policy reflect key activities of Russian penitentiary bodies and institu-

tions leading to formation of highly qualified staff. Fundamental guidelines for personnel training are normatively fixed in the Concept for development of the penal enforcement system up to 2030 and the Law on Service in the penal enforcement system, and represent the following personnel training principles: planned training of personnel to fill positions in the penitentiary system; conducting measures for further enhancement of the vocational education structure; ensuring balance of preserving and replenishing the quantitative and qualitative composition of personnel, improving their professional competence; working out a methodological and technological basis for formation and development of competencies of employees of penitentiary institutions and bodies in order to implement measures for digital transformation, etc.. However, the legal basis for training personnel for the penal enforcement system is fragmented, contained in various regulatory legal acts and does not represent an integral system.

Solution of this task is possible within the framework of development of the "Strategy for training personnel of the Federal Penitentiary Service of the Russian Federation" (FPS personnel training strategy) as an integral element of the "Concept of personnel policy of the Federal Penitentiary Service of the Russian Federation".

The Strategy for FPS personnel training should reflect critical directions of personnel policy of the Federal Penitentiary Service of Russia in the field of professional training, such as:

– improvement of the system of higher education institutions of the penal system;

– development of a program for improving the material and technical base of educational organizations of the Federal Penitentiary Service of Russia;

– timely update and expansion of the list of training programs for employees of the penal system, improvement of specialization areas of higher education institutions within the framework of implementation of the main educational programs of the master's degree and specialty level;

– formation of a unified system of vocational guidance for schoolchildren, students of secondary vocational educational institutions, involving open days, excursions, presentations in educational institutions, within which information about all educational institutions of higher education of the Federal Penitentiary Service of Russia should be provided;

– betterment of the system of professional retraining and advanced training of employees, expansion of the list of educational programs with regard to the penal system's requirements in personnel;

– development of a unified system for assessing quality of vocational training in higher education institutions of the penal enforcement system, etc.

At the same time, timing and stages of individual directions implementation, resource provision and other aspects of practical realization of measures should be determined.

Elaboration of the "FPS personnel training strategy" as a program document will create the legal basis for systematic work to replenish personnel of the Penitentiary System and determine key directions for improving activities of educational organizations of the Federal Penitentiary Service.

Tasks and key activity directions of educational organizations of the Federal Penitentiary Service of Russia to ensure personnel training

The personnel training strategy is implemented through a set of organizational measures and technical methods related to fulfilment of the personnel function in the system of bodies and institutions of the Federal Penitentiary Service of Russia. The essential content of personnel policy in the penal enforcement system and the personnel training strategy is expressed in direct activities of penitentiary bodies and institutions, personnel departments and officials who put specific measures into practice. The personnel policy and, within its framework, the personnel training strategy are developed and implemented by certain entities – public authorities, special divisions of management bodies, officials, etc. The system of subjects of the FPS personnel training strategy is formed by state authorities of general competence, as well as specialized bodies. They play different role in elaboration and realization of the FPS train-

ing strategy: some subjects define and form basic principles, areas of activity, goals (subjects of general competence), others develop specific mechanisms for its implementation and carry out planned activities (subjects of special competence).

Educational organizations of the Federal Penitentiary Service of Russia also play a significant role in the implementation of the personnel training strategy, since they are called upon to carry out important tasks that the Russian penitentiary system faces at the present stage.

Analysis of regulatory legal acts provisions (the Concept for development of the penal enforcement system up to 2030 and the Law on Service in the penal enforcement system) allows us to identify key activities of educational organizations of the Federal Penitentiary Service of Russia as special subjects for implementation of personnel training tasks.

First, educational organizations are to regularly train personnel to fill positions in the penal enforcement system, namely, specialists with higher education.

Second, according to the program guidelines, educational organizations should carry out constant work to improve educational programs.

Third, educational organizations should take an active part in the implementation of measures for further development of the structure of vocational education of employees of the penal system.

Fourth, educational organizations should actively engage in the processes of professional development and retraining of personnel, namely, creation of a methodological and technological basis for the formation and development of competencies of employees of penitentiary institutions and bodies.

Fifth, educational organizations, based on interaction with territorial bodies of the Federal Penitentiary Service of Russia, can make a certain contribution to improving special and psychophysical training of employees of the penal enforcement system by bringing the content of training programs as close as possible to real conditions of operational and service activities, improving methodological support and conditions for conducting lessons.

Departmental higher educational institutions have great opportunities and are able to engage in the implementation of various areas of personnel work in cooperation with bodies and institutions of the penal enforcement system. For example, the central element of personnel policy of any organization, including the penal enforcement system, is management of human resources and, depending on specific operating conditions, it involves implementation of measures aimed at building and developing human resources, its rational use, release or replacement of excess labor. Labor (service) capacity of an employee of the penal enforcement system is a complex set of business, professional and personal qualities of an employee that determine his/her ability to effectively solve official tasks. Personnel capacity of the penal enforcement system should be considered as the personnel's ability to effectively achieve goals of the penal enforcement system due to full realization of service capacities of employees within the existing organizational and functional structure, headcount and personnel technologies [5, p.74]. Personnel capacity is managed by HR divisions of the Federal Penitentiary Service of Russia and its territorial bodies and institutions. However, educational organizations can also make a certain contribution to these processes, as they study problems of diagnostic assessment of personnel capacity of the penal enforcement system, and ensure professional and qualification development of employees.

Effective personnel risk management is the most important direction of the FPS personnel policy nowadays [4, pp. 117–118]. It requires a scientifically based approach, special techniques, comprehensive programs, etc. Educational organizations of the Federal Penitentiary Service of Russia can work out special programs to improve professional competence of employees of the penal enforcement system, elaborate and improve methods for diagnosing the personnel situation.

Management of personnel capacity and personnel risks should be included in the FPS personnel policy concept, and specific tasks can be set for educational organizations of

the Federal Penitentiary Service of Russia in these areas.

Conclusion

Thus, to date, the personnel training strategy and personnel policy in general are only fragmentally defined in the planning documents for development of the penal enforcement system. The regulatory documents that consolidate modern principles of personnel policy of the Federal Penitentiary Service of Russia also define strategic tasks for personnel training, the main subjects of which are educational organizations of the penal enforcement system, and first of all, educational organizations of higher education. Implementation of these tasks ensures personnel replenishment and improvement.

Work on the formation of conceptual guidelines in the field of personnel work within the framework of the penal enforcement system is also being carried out: the Research Institute of the Federal Penitentiary Service of Russia together with educational organizations of the Federal Penitentiary Service of Russia, prepared a draft "Concept of personnel policy of the Federal Penitentiary Service of Russia" in 2021.

However, there are also objective shortcomings in consolidation of personnel policy fundamentals: revision of program documents, for example, of the Concept for development of the penal enforcement system up to 2020 has led to reduction in targets in the field of personnel support; program documents exist only in the form of projects.

Consequently, it is crucial to develop the concept of personnel policy that will include both the FPS personnel training strategy and key development directions of the departmental education system. This work should be carried out within the framework of strategic planning of Russian penitentiary system development, since the provisions of program documents should be coordinated, cannot duplicate each other, and in their entirety should represent a hierarchical system of normative legal acts.

The central link of legal foundations of the FPS personnel should be provisions of the Law on Service in the penal enforcement system, defining principles and key directions for forming staff of the penal system (Article 77). On the basis of legislative provisions, the Concept of personnel policy of the Federal Penitentiary Service of the Russian Federation should be developed, which includes, as a separate section, a personnel training strategy.

This strategy as an element of the program document should determine key directions of activities to replenish personnel of the penal enforcement system by training specialists, as well as contain a list of relevant activities, realized by departmental organizations of higher education.

Educational organizations of the Federal Penitentiary Service of Russia have sufficient capacity to fulfil the main task of personnel policy, which determines philosophy and principles of the FPS leadership in relation to human resources of the penal enforcement system – replenishment and strengthening of the personnel capacity of the system. Educational organizations of higher education of the Federal Penitentiary Service of Russia are defined in regulatory documents as the main subjects to implement modern objectives:

– regular training of personnel to fill positions in the penal system;

– improvement of educational programs;

– development of the structure of professional education of employees of the penal enforcement system;

– professional development and retraining of personnel, taking into account further differentiation of types of punishments, increasing the role of types of punishments alternative to imprisonment;

– creation of a methodological basis for formation and development of competencies of employees of penal institutions and bodies, etc.

In addition to implementing their own tasks, educational organizations can make a significant contribution to improving the personnel work of bodies and institutions of the Federal Penitentiary Service of Russia by participating in implementation of various measures to strengthen FPS personnel capacity.

The leading strategic goal of Russian penal enforcement system development is to increase efficiency of the work of bodies and institutions executing punishment. In order to realize this goal, one of the key tasks of the

Federal Penitentiary Service of Russia, which determines the essence of its personnel policy, is to create a highly professional, stable, optimally balanced personnel composition of institutions and bodies of the penitentiary system. Educational organizations of the Federal Penitentiary Service of Russia make a significant contribution to the solution of this task.

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INFORMATION ABOUT THE AUTHOR

NATALYA V. MOTOROVA – Senior Lecturer of the Department of Administrative and Legal Disciplines of the Faculty of Law of the Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, motorowa-nw@mail.ru, https://orcid.org/0000-0003-0951-6399

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Recording Investigation into Activities of Criminal Leaders and AUE Extremist Organization Members

ALEKSEI V. AGARKOV
Vladimir Law Institute of the Federal Penitentiary Service of Russia, Vladimir, Russia, oper72.kum@mail.ru, https://orcid.org/0000-0001-5326-9757

ANTON A. SHIKOV
Vladimir Law Institute of the Federal Penitentiary Service of Russia, Vladimir, Russia, antonshikov@mail.ru, https://orcid.org/0000-0002-2442-7434

Abstract

Introduction: the study of scientific literature, regulations and law enforcement practice indicates that at present, due to introduction of Article 210.1 of the Criminal Code of the Russian Federation "Occupation of the highest position in the criminal hierarchy", there is a need to consider this concept. In addition, after recognition of the AUE international public movement (AUE international public movement (Convict's Codex) as extremist and prohibition of its activities on the territory of the Russian Federation, it is important to determine features of its activities in institutions of the penal system. It is also advisable to formulate key directions of recording identified features of these concepts for their subsequent use in activities of operational units. *Purpose:* on the basis of generalization of incoming requests from operational and investigative units, available scientific publications and experience of our own practical activities, we will formulate the main criminological characteristics of a person occupying the highest position in the criminal hierarchy, AUE cell's activities, and identify conditions for effective use of results of operational search documentation of these features in proving criminal cases. *Methods:* comparative legal, theoretical methods of formal and dialectical logic; private scientific methods: empirical, legal-dogmatic and method of interpretation of legal norms. *Results:* the article presents the author's formulations of concepts of criminal environment, criminal ideology, criminal hierarchy, position in the criminal hierarchy, organizational and administrative functions in the criminal environment, thieves' way of life, position holders, watchers, and game watchers. It is concluded that bearers of these statuses, like thieves in law, can occupy highest positions in the criminal hierarchy, due to presence of organizational and administrative functions. The authors identified features of the activity of AUE cells in penal institutions and disclosed their content. Key directions for recording these factors are outlined, as well as recommendations on preparing investigation results for further research are formulated. *Conclusions:* the authors emphasize that the above-mentioned changes in legislation make it possible to take effective measures to qualitatively change the operational situation in places of deprivation of liberty by bringing criminal leaders and AUE active participants to criminal liability. To do this, operational units should carry out work on identifying and documenting specific facts of criminal leaders' fulfilment of organizational and administrative functions, reproduction and imposition of criminal rules and traditions of an antisocial nature, and other illegal actions. The information obtained in the course

of operational investigative activities, provided they are properly processed, can be sent to specialists for research, the results of which will not only become grounds for initiating criminal cases, but can subsequently be used as evidence in criminal proceedings.

Keywords: investigation; recording; highest position in the criminal hierarchy; thief in law; watcher; (AUE international public movement (Convict's Codex).

12.00.12 – Criminalistics; forensic examination activities; law enforcement intelligence-gathering activities.

5.1.4. Criminal legal sciences.

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Introduction. Operational units of the penal enforcement system of the Russian Federation function in conditions of constant counteraction to criminal environment, which includes most of the convicts held in places of deprivation of liberty. Personal experience of the authors' work in detention facilities, as well as study of numerous scientific and journalistic works show that criminal environment is heterogeneous and includes groups in its hierarchy that differ in the composition of informal authorities, rights and duties. Scientific papers [4, 9, 14] provide various options for informal stratification of persons in the criminal environment and their characteristics, but we do not share all the opinions. Without setting the task to criticize other views, we consider it appropriate to state our vision of the circumstances that determine informal statuses of persons occupying highest positions in the specified structure, with regard to their subsequent use by operational units to record illegal activities and bring perpetrators to liability. Besides, it is noteworthy that the use of criminal jargon in this article in no way pursues the goal of spreading the AUE ideology, but is exclusively scientific in nature.

It should be emphasized that conduct of the work was triggered by repeated oral and written inquiries of operational and investigative units of various law enforcement agencies. Introduced by the Federal Law No. 46-FZ of April 1,2019, Article 210.1 of the Criminal Code of the Russian Federation "Occupying the highest position in the criminal hierarchy" gave operational units, including in places of deprivation of liberty, effective tools to counteract activities of criminal leaders. The Decision of the Supreme Court of the Russian Federation No. AKPI 20-514c of June 17, 2020 on recognition of the AUE international public movement (Convict's Codex) as extremist and banning its activities on the territory of the Russian Federation is another effective measure, capable, in our opinion, of changing the current operational situation in places of detention. Thus, diverse illegal activities of persons convicted and detained in pretrial detention facilities, negatively related to measures of penal institution administrations, were criminalized. Currently, operational units of the penal enforcement system and other law enforcement agencies take pains to identify and suppress extremist activities of members of AUE numerous cells in places of detention.

Practice of preparing responses to the above-mentioned inquiries has shown that at present, in connection with formation of the evidence base for relevant criminal cases, there is a need for scientific interpretation of the basic terms used in the criminal environment. In the framework of this publication, we will try to present our view on the content of some of them.

Problematic issues of proving person's occupation of the highest position in the criminal hierarchy

The content of the term "criminal hierarchy" used by the legislator in Article 210.1 is worth discussing. Literal interpretation of this term, in some cases used by lawyers as a defense

position, is that the criminal hierarchy is a hierarchy of criminals, i.e. persons who commit crimes within this hierarchy, whereas only a court can recognize a person as a criminal. Thus, persons who have not been convicted by a court for committing other crimes are not criminals, therefore, they cannot be brought to criminal liability under this article.

This position is partly based on the following statement given in one of the educational publications: the criminal hierarchy is an established system of relationships of persons committing crimes, depending on their status, i.e. a certain order of subordination of the lower elements of this system to the higher ones [16, p. 324]. However, we disagree with the above definition and believe that the terms "criminal hierarchy" and "prison hierarchy" mean the same concept, which we will try to clarify in the article.

The hierarchy can be concisely defined as an "order of subordination of the lower to the higher according to precisely defined degrees, gradations" [8]. We believe it reasonable to consider criminal environment members as persons who recognize and comply with criminal ideology rules, recognize the authority and execute orders of persons with a higher criminal status. It should also be clarified that the criminal ideology is a part of a criminal subculture, which includes a system of concepts and ideas that has developed in group consciousness of criminals; a kind of philosophy that justifies, substantiates and encourages a criminal lifestyle. In turn, the criminal environment is a historically formed and relatively stable part of the social environment that denies supremacy of legal norms, is guided by informal rules of criminal ideology and uses material and moral resources for its functioning.

The criminal environment consists of persons with an antisocial illegal past or present, a significant part of whom have served their sentences in prison, who comply with criminal subculture rules, recognize the authority and carry out orders of persons with a higher criminal status.

Thus, the criminal hierarchy is the order of subordination of persons occupying a lower position in the criminal environment to persons occupying a higher position, the established system of relationships between them. It should be emphasized once again that synonym of the term "criminal hierarchy" is "prison hierarchy", and the fact that a person is not recognized by the court as guilty of committing a crime does not cancel the possibility of a person belonging to the criminal hierarchy.

It should be pointed out that criminal hierarchy extends not only to places of deprivation of liberty. Having received, as a rule, an informal status in the penitentiary institution (in the lingo it means "having determined who you are in life"), a person retains this status both in any place of deprivation of liberty and outside it. Moreover, a person is obliged to answer the truth to the question: "Who are you in life (in the life of a convict)?", otherwise he may be subjected to physical harm, up to murder. The status can be subsequently changed both upward and downward, but only persons with a higher informal status can do this.

It seems necessary to briefly list categories (informal statuses) of persons who are part of it (from the highest to the lowest): thief in law , "polozhenets" (position holder), "smotryashchii" (watcher), "kozyrnyi fraer" (trump frayer), tramp, convict (decent convict), hook, "blatnoi" (trusties), "stremyashchiisya" (ambitious), man, red (goat, household service), offended (merked). It should be noted that this list is approximate in nature, because it depends on criminal traditions of a particular region, penitentiary institution, etc.

It is noteworthy that Russian penal enforcement agencies consider not only persons occupying the highest position in the criminal hierarchy as objects of operational interest and, possibly later, persons brought to criminal liability under Article 210.1 of the Criminal Code of the Russian Federation. In our opinion, supported by the current judicial practice, criminal liability under Article 210.1 of the Criminal Code of the Russian Federation is subject not only to the so-called thieves in law, but also to other persons occupying a position in the criminal environment that allows them to exercise organizational and managerial functions. So, in particular, by the Verdict of the Vologda Oblast Court of December 2, 2021 in case No. 2-2/2021, five persons were found guilty of committing a crime under Article 210.1 of the RF Criminal

Code, and only one of them was the so-called thief in law, and the rest were appointed by them and performed functions of watchers (or rather, position holders), i.e. persons responsible for certain objects, including some penitentiary institutions.

For a more precise definition of the circle of such persons, it seems appropriate to formulate the following definitions, some of which were given in the above-mentioned sentence:

position in the criminal hierarchy – an informal social status of a person in the criminal environment that determines his rights and obligations. The position in the criminal hierarchy is determined by self-esteem, confirmed by persons who have an equal or higher informal social status in the criminal environment;

organizational and administrative functions in the criminal environment – informal powers of a person that are associated with creation and (or) involvement of new participants in an organized criminal group; and (or) management of the specified group consisting of criminal environment participants; and (or) planning of activities of the specified group, distribution of roles between participants, organization of communication between its members and with other organized groups; and (or) generation and distribution of income received due to activities of the specified group; and (or) formation of antisocial values among members of the specified group; and (or) establishment and maintenance of corrupt ties with representatives of government and law enforcement agencies to back activities of the group or introduction of group members in state, including law enforcement, bodies;

thieves' way (way of life) – a set of norms and rules of conduct created, disseminated and enforced by persons enjoying authority in the criminal environment, aimed at regulating criminal activities of AUE extremist organization members, settlement of intergroup relations while committing crimes and in daily lives.

It is necessary to briefly describe key categories of persons included in the criminal hierarchy, including those performing informal organizational and administrative functions in the criminal environment.

A thief in law is a person who occupies the highest position in the criminal hierarchy, enjoys unconditional authority among representatives of the criminal environment, performs organizational and administrative, regulatory and disciplinary functions [7, p. 98]. A thief in law is a particularly dangerous and authoritative professional criminal who received his title in a special procedure – "kreshchenie" ("coronation"). Several recognized thieves in law must recommend him for it. This person, as a rule, has a criminal record, inflated self-esteem, sufficiently high level of intelligence, sociability, ability to adapt to the current situation, influence people and use them for his own selfish interests. A thief in law can lead (and more often supervise) a certain organized criminal formation, territory, segment of criminal business [6, p.53]. The structure of this social group is heterogeneous: the theory of criminology distinguishes thieves in law of the old formation and new «thieves in law; spade (Caucasian) thieves in law and diamond (Slavic) thieves in law. Besides, they can be divided based on their belonging to a particular clan ("family") [1].

It should be emphasized that the top of the criminal world reacted quickly and accurately to the introduction of Article 210.1 of the Criminal Code of the Russian Federation. If earlier the thief in law was not allowed to hide his status even in front of law enforcement agencies and, in most cases, they answered evasively ("I am a citizen", "and who is a thief in law?", etc.), now the so-called concepts (i.e. unwritten behavior norms of AUE members) permit to deny the existence of such a status and make even louder statements. So, it is possible to mention an interesting dialogue between the judge and the thief in law Tengiz Gigiberiya, nicknamed Tengo Potiiskii, [12] cited in the materials on the website "Prime Crime": "During investigation, the man had not admitted the accusation and refused to testify. Everything changed already in court... Gigiberiya turned to the judge: "Your Honor, I agree with everything, I admit my guilt, everything is true what the Prosecutor has said. I have been crowned as a thief in law since 1996... I admit my guilt, if you want, punish me". The judge asked the defendant why he had not given up the status of a thief in law and how this procedure had taken place. "Since 2019, when the law was issued, all my thoughts have

been only about how to get free. I declare to you from the bottom of my heart, not to engage in any criminal actions... Since 2019, I have not thought of engaging in criminal actions. All I want is to be free". The judge asked about a procedure of uncrowning of a thief in law. "Either someone claims that you are not a thief, or you claim it yourself", Tengo Potiiskii replied. "Whom should you declare this to, so that the status of a thief in law is removed from you"? "Either other thieves remove it, or you do it yourself… I was going to do it when I was free. I wanted to see the thieves. I wanted to be free and do business. If some miracle happens and I am released, I give you my word not to engage in criminal activity and live with my family. Your Honor, I am a decent man and I swear by all that is holy..." [15]. At the same time, Tengiz Gigiberia, nicknamed Tengo Potiiskii, by the Decision of the Lipetsk Regional Court of June 4, 2021 was acquitted under Article 210.1 of the Criminal Code of the Russian Federation (this Decision was canceled on the application of the Prosecutor's Office); still he is defined as a thief in law on the Prime Crime website [12].

The next status in terms of importance is occupied by a "polozhenets" (position holder) – a person occupying the highest position in the criminal hierarchy, authorized by a thief in law to perform informal organizational, administrative, regulatory and disciplinary functions within a certain territory (at a certain facility), including in places of forced isolation from society.

"Smotryashchii" (watcher) is a person occupying a high position in the criminal hierarchy, authorized by a position holder or by a general decision of a "skhodka" (gathering), i.e. by a joint decision of several persons with authority in the criminal environment, to perform informal organizational, administrative, regulatory and disciplinary functions within a certain territory (at a certain facility), including in places of forced isolation from society.

A game watcher is a person occupying a high position in the criminal hierarchy, authorized by a position holder, watcher or by a joint decision of several persons with authority in the criminal environment to perform certain informal organizational and administrative, regulatory and disciplinary functions in the field of organizing illegal gambling in places of forced detention.

It should be emphasized that a watcher, game watcher and position holder are not informal statuses that can be assigned to a specific person. These are kind of informal positions, which persons with authority among criminal environment members can have.

Turning directly to investigative support of bringing to justice criminal leaders, it should be noted that the introduction of Article 210.1 "Occupying the highest position in the criminal hierarchy" into the Criminal Code of the Russian Federation eliminated a number of gaps and contradictions that existed in the legal regulation of conducting investigation in correctional institutions. Operational units of correctional facilities had been facing the task to deter activities of criminal leaders since the 1940s. However, the legislative regulation of investigative activities introduced in 1992 (previously it had been regulated exclusively by closed departmental acts) did not stipulate solution of this task. The legislator outlined them rather succinctly: identification, prevention, suppression and disclosure of crimes, as well as search for certain categories of persons. Unfortunately, the task of countering activities of criminal leaders was not reflected in the 1995 Federal Law "On investigative activities", declaring that their purpose is protection ... from criminal encroachments. Thus, operational units did not have legal grounds for launching investigation, since taking leading positions in the criminal hierarchy was not a crime. Thieves in law appointed position holders, they, in turn, – watchers of cities, towns, colonies, etc. Implementing informal organizational and administrative powers, the listed categories of persons formed a shadow administration, which, in some cases, had real power based on the use of physical force and other illegal methods and means. Nowadays, the situation is different: criminal leaders do not declare their belonging to the elite of criminal environment and have also made changes to informal rules of the criminal subculture. In addition to denial of their status in a conversation with law enforcement officers, position holders and watchers refuse to sign the so-called "progon" (mandatory directions initiated by authoritative prisoners). In order

not to form evidence of their highest position in the criminal hierarchy, they use signatures "Side Brothers", etc., and in some cases they generally abandon practice of using them in favor of oral messages.

There is a range of issues that require recording of operational investigative measures and subsequent submission to a preliminary investigation body. The first and most significant aspect, in our opinion, is availability of facts that a person performs informal organizational and managerial functions. They are as such: a person can resolve third parties' disputes, including those not included in the criminal hierarchy (with subsequent compliance of the decision), give various orders and control their implementation, including by persons occupying lower levels in the criminal hierarchy, appoint people responsible for any objects (position holders, watchers), etc. These facts can be fixed with the help of video and audio recordings, as well as other technical means. In addition, it is possible to confirm them in the operational search measure "survey" with the possibility of subsequent procedural actions.

Presence of informal statuses of a thief in law, position holder, watcher is, in our opinion, only indirect evidence. We believe that there may be situations when these statuses are of a formal nature, and either a person does not exercise real power functions, or they are carried out by persons from the leader's entourage, being a kind of gray cardinals. In this case, a person with a certain status does not pose a significant public danger. In particular, one of the lines of defense was built on this during criminal prosecution of one of the thieves in law, but it was broken up by the evidence of facts of his appointment of watchers.

At the same time, it is necessary to record the fact of having an informal status and it is not a problem nowadays. To do this, it is proposed to conduct an operational search measure "making inquiries" and study the above-mentioned website "Prime Crime", positioning itself as the registered mass media since 2006, all materials of which ("the fruits of 20-year work on collecting and summarizing information on history of the thieves' world") are copyrighted [10]. The specified resource not only provides background information of all thieves in law, but also traces their locations and discloses their activities (for example, "in the early 1990s, after serving out his time, Sh. settled in Cherepovets, from where he controlled the Vologda Oblast for more than a quarter of a century, up to his last arrest" [11].

In addition, the facts of existence of a stable privileged informal status or occupation of a position providing for the exercise of informal organizational and administrative powers can be confirmed both at the preliminary investigation and at the court session by employees and convicts who agreed to testify as witnesses. For it operational officers are to identify such persons, get their consent and ensure safety of their participation in the criminal process, since both employees and convicts may fear physical violence in connection with their assistance in the crime investigation.

Problematic issues of proving the facts of AUE cell's activity in the penitentiary institution

Considering operational search support for proving facts of illegal activities of AUE members in places of detention, it is reasonable to list its main features, which we formulated when preparing responses to inquiries of law enforcement agencies. First of all, it should be emphasized that the AUE international public movement (Convict's Codex) is a decentralized organization consisting of many interconnected groups (cells), whose members are united by common goals of ensuring their livelihoods by conducting illegal activities, extremist ideology based on legal nihilism, permissibility and desirability of illegal behavior, hatred and hostility to representatives of state authorities and citizens who do not share their views.

Features of the AUE cell operating in a penitentiary institution are the following:

– presence of the cell leader with a special informal social status in the criminal environment (thief in law, watcher, position holder, etc.), which guarantees him a high, steadily privileged (but not always the highest) position in the criminal (prison) hierarchy, is an optional feature, as in some cases there is no explicit leader, and the cell's activities are

worked out and implemented by a group of persons occupying a steadily privileged position in the criminal hierarchy (by tramps, convicts, etc.). In the criminal world jargon, such a situation is called "lager' na bratve" (the facility is controlled by bratva);

– high degree of cell members' consolidation due to presence of an intra-group hierarchy, distribution of social roles and functions;

– AUE members' adherence to informal norms – the thieve'' way of life: they impose criminal rules and traditions (the so-called concepts) in places of forced isolation from society, monitor their compliance by suspected, accused and convicted persons, and apply measures of influence to violators of informal regulations and prohibitions;

– practice of illegal (prohibited by the criminal-procedural and criminal-executive legislation of the Russian Federation) secret communication between AUE cell members and persons held in detention places, including through the use of specific documentation (illegal correspondence) and gatherings ("skhodka");

– joint commission of illegal acts by AUE cell members;

– use of nicknames ("human names") to identify AUE cell members;

– production, use, storage, distribution of AUE symbols and AUE attributes.

Characterizing the latter indicator, it should be noted that the international public movement "Convict's Practice" has its own marks in the form of an eight-pointed star with black and white rays with an epaulette with a tiger's head, an eight-pointed star, wings and a swastika [5]. Thus, it is not possible to attribute other symbols characteristic of the criminal environment to the AUE movement symbols.

Attributes of the extremist organization "Convict's Practice" are not described in this Decision, which allows us to formulate its definition and key features. The Russian Wiktionary defines attributes as a set of essential distinctive (often external) features of belonging to something, signs common to a number of objects, phenomena [3]. Russian Explanatory Dictionary by S.I. Ozhegov and N.Yu. Shvedova interprets the term "attribute" as a "necessary, permanent feature, accessory" [11, p. 30]. Thus, based on the above, we consider it possible to define AUE attributes as a set of essential features inherent in objects of the material world used by members of the AUE extremist organization, as well as their actions that have a traditional (established) character.

We can classify AUE attributes into several groups:

– phrases often used in illegal correspondence or gathering, such as "Peace and prosperity to the our overall house!", "May course of thieves be prosperious!", "AUE. Life to thieves!", "May thieves thrive and flourish!" May the human be and flourish!", symbols: – of employees of the penitentiary institution administration and employees of other law enforcement agencies, X – "khata" (camera), M – "malyava" (note of an illegal nature), etc.;

– accounting forms used by AUE cell leaders to ensure its stable functioning: the so-called house register (to register persons who arrived, departed and are in the penitentiary institution), "tochkovki" (from the word "tochkovat'", i.e. to fix – to take account of received or directed financial or other material values in the so-called "obshhak" (common fund), etc.), globes (schemes of penitentiary institutions);

– records of words (names, surnames and "human names" (nicknames) of thieves in law) and numbers (dates of their birth or death, indicated per month) according to established rules of the criminal subculture. Correspondence periodic congratulations and commemorations of thieves in law are one of the traditions characteristic of AUE cells.

Thus, operational units need to focus their efforts on detecting and recording the above-listed features of AUE cells operating in a penitentiary institution. It is important to consider the following:

– implementation of informal organizational and administrative functions by a group leader (if any);

– distribution of social roles and functions in the gang (performance of informal functions of a SHIZO watcher, squad watcher, canteen watcher, etc.);

– reproduction and dissemination of criminal rules and traditions (concepts) by members of the gang: correspondence periodic congratulations and commemorations of

thieves in law, formation and distribution of "obshhak", including to persons in the penitentiary institution, organization of gambling with contribution of part of the winnings to "obshhak", stories about actions that need to be taken in a particular situation arising in the criminal environment (for example, if a loser is not able to pay);

– presence of "progon", "malyava", and illegal use of mobile communications;

– use of nicknames ("human names") to identify AUE cell members;

– production, use, storage, distribution of AUE symbols (in the form of an eight-pointed star with black and white rays with an epaulette with a tiger's head) and AUE attributes, the main types of which were listed above.

At the same time, it should be emphasized that the list we have formulated is approximate and by no means exhaustive. It is quite possible that there are other circumstances indicating activities of AUE cells.

It should also be emphasized that the identified circumstances should be assessed in aggregate. Estimation depends not only on presence of any features, but also on their semantic content. It is impossible, for example, to assert presence of extremism only when identifying illegal correspondence containing information of a domestic or even personal nature. It is not reasonable to state that a person has the highest position in the criminal hierarchy, if he does not perform informal organizational and administrative functions, although he has the status of a thief in law or tattoos with appropriate symbols, etc.

Correct recording of the materials provided for research is another significant point: documents should be drawn up as close as possible to the form used for sending documents for examination. A photo table is the most accurate form of providing images of various objects and documents ("malyava", "progon", house registers, playing cards, rosaries, etc.). Each sheet should be numbered, contain brief circumstances of receiving the depicted object (where, when, as a result of what), signed by an official and stamped. It is advisable to send only those materials for research that can presumably carry information relevant to the purpose of the study. All questions to a specialist should be correct. Implementation of these recommendations not only reduces the time for preparing a specialist's conclusion, but also eliminates the possibility to complain its results.

Conclusion. It should be emphasized that according to the provisions of Article 74 of the Criminal Procedural Code of the Russian Federation, which establishes an exhaustive list of types of evidence, results of the specialist's conclusion relate to other documents that, in accordance with Article 84 of the Criminal Procedural Code of the Russian Federation, can be used in evidence if the information contained in them is relevant for establishing the circumstances specified in Article 73 of the Criminal Procedural Code of the Russian Federation. At the same time, the Criminal Procedural Law does not establish requirements for the procedure for requesting and compiling such documents. While not claiming to be unambiguous in the conclusions and recommendations formulated in this publication, we hope, however, that they will contribute both to further scientific discussion and improvement of law enforcement in the area we have considered.

Conclusions. Summing up certain results, we should once again pay attention to key findings. The changes listed above in the legislation currently allow us to take effective measures to qualitatively change the operational situation in places of deprivation of liberty by bringing leaders and active members of AUE cells to criminal liability. To do this, operational units, including penal enforcement agencies, should carry out work on identifying and documenting specific facts of their illegal activities, expressed in implementation of organizational and administrative functions by leaders occupying the highest position in the criminal environment (thieves in law, position holders, watchers), dissemination of criminal rules and traditions, and other actions listed above. The results of operational investigative activities, provided they are properly executed, can be sent to specialists for research, the results of which are not only the basis for initiating criminal cases, but can subsequently be used as evidence in criminal proceedings.

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INFORMATION ABOUT THE AUTHORS

ALEKSEI V. AGARKOV – Candidate of Sciences (Law), Associate Professor, Head of the Department of Operational Investigative Activities of the Faculty of Law of the Vladimir Law Institute of the Federal Penitentiary Service of Russia, Vladimir, Russia, oper72.kum@mail.ru, https://orcid.org/0000-0001-5326-9757

ANTON A. SHIKOV – Senior Lecturer of the Department of Operational Investigative Activities of the Faculty of Law of the Vladimir Law Institute of the Federal Penitentiary Service of Russia, Vladimir, Russia, antonshikov@mail.ru, https://orcid.org/0000-0002-2442-7434

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Israel Prison Service: Traditions and Perspectives

IRINA F. KOLONTAEVSKAYA
Jewish University, Moscow, Russia
S.Y. Witte Moscow University, Moscow, Russia
kolont@bk.ru, https://orcid.org/0000-0002-0234-3901

Abstract

Introduction: the article addresses problems of organizing, functioning and developing the Israel Prison Service in the context of maximum proximity to national realities and appropriate terminology. *Purpose:* on the basis of analysis of the current state and results of the Israel Prison Service activities, to identify and describe its structural and functional features, current problems of administrative management and further development prospects. *Methods:* comparative legal, formal legal, empirical interpretation methods. Results: the analysis of Israeli penitentiary system development has shown that its functioning is in line with the so-called evidence-based policy. This science-based policy is focused on managing activities of the department on the basis of identified and scientifically proved patterns. It is possible to work out an effective strategy for fulfilling the functions assigned to the department, resist modern challenges and threats, and determine ways to improve and develop the country's penal system. *Conclusions:* the modern Israel Prison Service is in the stage of development and transformation. Changing expectations and demands of society determine cyclical changes in penitentiary and legal policy, and as a result, a deep public reassessment of the role that the Prison Service plays in the Jewish state. Solution of the tasks, such as raising the status and authority of the Prison Service, as well as purposeful creation of an attractive and socially respected image of civil servants (employees) of the penitentiary system has become an urgent necessity. The conclusion is made that nowadays in Israel cooperation of Israel Prison Service and fundamental science has ensured development of departmental penitentiary science that reasonably determines prospects and trends in the development of the Prison Service.

Keywords: Ministry of Public Security; Israel Prison Service; prison department; evidence-based policy; penitentiary science; administrative management.

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Introduction

Considering the Israeli Prison Service, it is necessary, first of all, to introduce some terminological certainty. Due to the fact that the official language of Israel – Hebrew – belongs to the Semitic lexical family and is fundamentally different from languages of the Romano-Germanic group. The widespread English language has been widely used in various spheres of life of this state, including in covering activities of state bodies, digital environment, various branches of scientific knowledge, and the media. Therefore, a Russian researcher who has to read original Israeli scientific literature and the press, use websites of Israeli law enforcement agencies, deals with specifics of translating terms and notions.

As a rule, names of Israeli law enforcement agencies and security forces are abbreviated ones in Hebrew. For example, the Israel Prison Service in this language is called Sherut Batei HaSohar, or SHABAS for short. At the same time, the English version of the Israel Prison Service (IPS) is actively used. At an inexperienced glance, it may seem that SHABAS and IPS are different departments. In many Russian-language scientific papers, the Israel Prison Service is translated as "Israel Prison Administration" or "Israel Prison and Penitentiary Administration" [8], which is essentially semantically true, since this is the agency (service) that manages prisons.

The problem of translation also lies in the fact that Israeli state bodies, including law enforcement, are not always similar in purpose to Russian structures with similar names. For example, the Ministry of Public Security is often translated into Russian as the Ministry of Internal Security, which makes it comparable to the Ministry of Internal Affairs (MIA). However, the Ministry of the Interior in Israel performs other functions than the Ministry of Internal Affairs in Russia.

It should be noted that in this article, following the established Russian terminology, the concepts of "Israel Prison Service", "Israeli Prison Department" and "Israeli Prison Administration" are used as synonymous, which does not contradict the Israeli counterpart. A "penitentiary system", "prison system" and "penal enforcement system" are terminologically identical to each other in this context.

We find it important to consider the Israel Prison Service, as at present the penitentiary system of this country, as well as Russia, besides addressing urgent issues, requires systematic, consistent and scientifically based administrative upgrade. Law enforcement departments of our countries solve similar tasks in many ways and confront common challenges and threats of our time. Israel's experience is important and useful in terms of scientific developments and practical methods in the field of various aspects of prison activities [2]. In accordance with Section 21 of the Concept for development of the law enforcement system of the Russian Federation for the period up to 2030, approved by the RF Government Decree No. 1138-r of April 29, 2021, study and implementation of international experience of penitentiary systems in the penal system is one of the critical tasks in the process of further improving activities of the Federal Penitentiary Service of Russia.

Russian authors, such as A.M. Bobrov, S.A. Borsuchenko, E.S. Ilyushina, V.I. Katsuba, A.V. Stepanov, A.M. Sysoev, E.A. Timofeeva, M.A. Yavorskii, devoted their research to various aspects of the Israeli penal system functioning. As for foreign studies, David Weisburd and Badi Hasisi's paper "The Winding Road to Evidence-Based Policy in Corrections: a Case Study of the Israel Prison Service" is of great interest [28]. At the same time, it should be noted that the overwhelming number of scientific works by Israeli authors, such as D. Walk, I. Davidesco, Sh. Mizrahi, O. Tal, T. Jonathan-Zamir and others6 are currently not translated from Hebrew into other languages, which creates additional communication barriers to penitentiary scholars.

The modern Israel Prison Service (SHABAS, ISP), a state body for the execution of punishments and detention, manages 32 prisons with a total population of 22,000 prisoners. In addition, this department is responsible for various alternatives to imprisonment – community service and house arrest, it carries out electronic monitoring and supervision of criminals previously convicted of sexual crimes. Its key activity areas include the following:

1. Safe custody – supervision of convicts inside and outside prisons in order to prevent escapes and protect them from physical violence.

2. Proper maintenance – enhancement of convicts' living conditions through reasonable use of available resources and alternatives to imprisonment.

3. Correction – provision of medical and psychological assistance to convicts for successful social rehabilitation.

4. Prevention – minimization of prison crimes and recidivism.

5. Professionalism – perception of the entire staff of the prison department as the basis for improving efficiency of its activities in the most complex, constantly changing prison environment and, accordingly, continuous improvement of staff training quality.

6. Technologization – use of cutting-edge, including digital, technologies to improve the work of the Israel prison service.

As of the beginning of 2022, the IPS staff accounted for 9,500 employees. The head of the service is called the Israel Prison Service Commissioner with the rank of Lieutenant General [11].

According to the Prisons Ordinance (New Version), 1971, the penitentiary Service of Israel is under jurisdiction of the Ministry of Public Security. The legal basis for activities of the Israel Prison Service is the Penal Code, 1977; Prison Ordinance, 1971; Prison Regulations, 1978; Proceedings Directive (Arrest and Search), Granting Powers of Arrest to Prison Officers, 1983; Prisons Regulations, (Establishments of IPS Units), 1982; Prisons Regulations, (Proceedings of Disciplinary Hearings), 1989; Prisons Regulations, (Prison Officer Ranks, as amended in 2007), 1990; Commissioner's Resolutions and other relevant norms, rules and regulations [7].

Results. Each society addresses the task not only to fight crime, but also boost effectiveness of execution of punishment for a particular illegal act. Imprisonment is one of the most severe one. According to the authoritative Britain researcher Michael Von Tangen Page, the key goals of the prison are execution of punishment, prevention of harm to society by distancing prisoners by keeping them in custody, satisfaction of their basic needs and rehabilitation [25]. Besides, in accordance with the instructions posted on the official website of the Ministry of Public Security of Israel, maintenance of detainees and prisoners in custody should be safe and decent; include respect for human dignity, necessary means and opportunities to return to a law-abiding life [11].

Despite the trend to minimize punishment in the form of imprisonment in some countries (Finland [6], Spain [9]) this type of punishment still remains the only way to ensure public safety in certain cases. For Israel and a number of other countries, including Russia, this issue is especially relevant in connection with permanent threat of terrorism and extremism, and growth in drug and arms trafficking. In Israel, this was clearly manifested during the anti-terrorist operation "Guardian of the Walls" (May 2021), resulted in elimination of 232 gunmen and detention of a significant number of terrorists and their further imprisonment [22]. However, in September 2021, the image of the Israel Prison Service was seriously undermined due to the escape of 6 particularly dangerous prisoners from the Gilboa Prison. They had dug a tunnel for several months with the help of spoons, plates, metal hangers, construction debris [15]. And although the fugitives, after a two-week search, were detained by the joint efforts of army units, special services, border and prison departments, the incident raised the question of failures in the security system, which led to the escape from one of the most guarded prisons [13]. The Gilboa Prison break, called the most disastrous event in the history of the Israeli penitentiary service, revealed a number of flaws, including inability to learn lessons from previous escape attempts and promptly correct mistakes; placing prisoners with a high risk of escape in one cell; lack of vigilance during duty; irregular searches, and roll calls; "deserted" watchtowers due to a lack of personnel. This can also include rather free behavior of prisoners with the knowledge or connivance of prison staff. In its defense, the Israel Prison Service stated that the escaped prisoners had been sentenced to life sentences and had had nothing to lose. The Head of the IPS Planning Department Ch. Markovich com-

mented that “these and other prisoners in a similar situation take pains to plan their escape. It is a battle of wits between prisoners and prison staff. In this case, we lost, but we became stronger” [18]. The resonant event has been widely discussed, including in the media, conclusions have been made. The architectural design of the prison with unacceptable construction and technological flaws has also been criticized.

In addition to the escape, the Gilboa prison was shaken by another reputational scandal connected with coercion of female soldiers serving here to provide sexual services to prisoners [24]. Similar problems occur in other penitentiary institutions, which allowed the Israeli media to conclude that today Israeli prisons have become both interest clubs and military headquarters for terrorists, from where they continue to direct military operations and terrorist acts [10].

The most important problem of constructive development of the penitentiary system in Israel, according to both experts and Israelis themselves, is that service in the IPS has never been respectful in society. From the first days of its existence, the State of Israel had been facing serious external existential threats, the predominant solution of which largely hindered and hinders focusing on internal security affairs, in particular, on penitentiary service functioning. All these years, three titans of the Israeli security apparatus enjoyed respect and authority, such as Israel Defense Forces (IDF) – Tzahal, the Israeli Secret Intelligence Service – MOSSAD, Israel Security Agency – SHABAK, which is a counterpart of the FBI of the USA or the FSB of Russia. So, the IDF soldiers were and are icons of courage and security. The image of a Jewish military fighter was successfully introduced into the mass consciousness of Israeli citizens, but, by no means, that of a Jewish policeman or an employee of the prison department. Politicians, journalists, representatives of art and mass culture showed little interest in such issues as law enforcement, policing, and the prison system. Consequently, the police and the prison department are not highly respected in the Israeli society at the present time [14]. This is also facilitated by the extreme closed nature of these departments, in particular the prison service. No doubt, activities of the penitentiary system involve a significant amount of secrecy in order not to disclose confidential information affecting national security. At the same time, this should not hinder establishment of mutual trust and respect between society and the penitentiary system.

The situation began to change in connection with the COVID-19 pandemic, when the police and the prison department found themselves in the very center of Israeli society’s attention. If for the police, increased interest in it, one way or another, was triggered by the coronavirus crisis (anti-covid restrictions that caused widespread clashes between citizens and the police, Balfour protests [3], Meron disaster [5]), then for the Israel Prison System the covid factor was just a coincidence. Problems of various kinds had been brewing for a long time and, apparently, reached a critical mass, and therefore the Israeli authorities, politicians, the media, and the Prison Service leadership contemplated on conducting the administrative reform of the penitentiary system, including creating an attractive image of an employee of the prison system. At the same time, the following questions were proposed to a wide discussion of the public: correlation of Jewish values and work in prison; education of Jewish children in the spirit of understanding and respect for penitentiary system activities; means and methods of establishing trust between the prison department and society. For the same purpose, Israeli television launched dramatic talk shows “Maniac” and “Pasta”, demonstrating work of the police and prison personnel [14].

In many ways, the penitentiary service is unpopular not only in Israel, but also in other countries, as the very word “prison” causes almost all extremely negative associations. Still, the word “war” is perceived no less, or even more negatively. At the same time, warriors – defenders of the Motherland, fighters for independence are revered by all peoples as genuine heroes. Prison in a certain context can also become a bright, positive symbol, such as the storming of the Bastille – the central event of the 1789 Great French Revolution and the national holiday of the French Republic, celebrated annually on July 14 since 1880.

The Acre Prison break is called the Israeli Bastille; it was the operation to organize the escape of Israeli rebels from the British prison the spring of 1947 (during the British mandate in Palestine), which had a strong moral impact on the Yishuv (Jewish population), raising it to fight for the foundation of the State of Israel [1]. In other words, image specialists and communication technologies have something to think about [12].

Undoubtedly, creating an attractive image of an employee of the prison department, raising the status and authority of penitentiary activities are not the only ways to solve problems. Leaders and specialists in the field of public security in Israel already at the beginning of the 21st century expressed the opinion that development of the penitentiary service requires serious scientific support. Since the penitentiary policy of any state is determined by the national legal system, socio-economic, institutional and cultural environment, not only practitioners, but also representatives of fundamental and applied science should be involved in determining prospects for prison department development. After a long search for the most optimal strategic paradigm, the so-called evidence-based policy was taken as the scientific and theoretical basis for improving law enforcement, including penitentiary activities. This policy is focused on managing activities of the department on the basis of scientifically proven facts and patterns, thus making it possible to develop an effective and efficient strategy for functioning and development. Its key component is recognition of scientific values by law enforcement agencies [20], with academic freedom in the production of scientific knowledge being one of them. Despite the substantial amount of classified information in the field of public security, science should be as transparent and open as possible. However, it was the principle of academic freedom that caused the greatest concern to the Ministry of Public Security, whose chief researcher demanded the right to additional censorship of scientific materials, which could significantly affect quality of scientific results [27].

The policy based on factual, evidence-based data requires fundamental and applied research be taken into account when making decisions in the field of criminal justice, law enforcement and penitentiary activities. This requirement is due to the fact that large-scale special and correctional programs cannot be fruitfully implemented without convincing scientific evidence of their expediency and profitability. In addition, the implemented programs should regularly undergo a multilevel assessment for effectiveness and compliance with the IPS goals [4, pp. 117–120].

Basic principles of the penitentiary policy based on scientifically proven data were presented in 2018 by researchers from the Hebrew University of Jerusalem D. Weisburd and B. Hasisi in their Scientific Report [28]. The scientific and methodological basis of the mentioned research was the theory of the American criminologist Lawrence William Sherman, who in the scientific search for the best methods of police work in 1998 for the first time presented a definition of “evidence-based policing”, and then developed its principles [23]. While conducting the study, he widely used statistical analysis of empirical studies (randomized controlled trials) that reduce likelihood of system errors, as well as testing, analysis and tracking of police resources in conditions of budget cuts and public control, monitoring of the implementation and measurement of key results, cost and benefit analysis of implemented results, etc. At the same time, traditional research methods were applied as well.

The Head of the Israel Prison Service Benny Kaniak in 2007–2011 played a key role in promoting evidence-based policy in penitentiary activities. Despite some resistance from the Ministry of Public Security, he considered this policy as an important tool for promoting penitentiary practice, relying on science. B. Kaniak invited Professor D. Weisburd of the Hebrew University in Jerusalem to discuss how evidence-based science could be better integrated into activities of the prison service. In turn, D. Weisburd made a proposal to create the Academic Advisory Council of SHABAS, consisting of scientists from universities and colleges in Israel. Commissioner Kaniak accepted this recommendation, and the first meeting of the Academic Advisory Council was convened on November 15, 2009. Further, a special research unit was created in

the structure of the Prison Service, headed by PhD Dror Walcom. The department served as a guide to the strategy of evidence-based policy and a link between science and penitentiary practice.

Scientists believe that successful implementation of such a policy in penitentiary activities depends on fulfilment of 3 main conditions. First, the prison department should appreciate scientific achievements and be committed to its values. Second, the department and its employees should be familiar with science and its methodological approaches. At the same time, it is not enough to involve only external researchers: the Prison Service should encourage its scientists, develop internal knowledge and capabilities that would allow evaluating the quality and processes of research used to make sensible decisions. At the same time, evidence-based policies should not be imposed on the Department from the outside; on the contrary, the department itself should become a key player and co-owner of the scientific process. Third, the department and practitioners should participate more actively in scientific life, take part in scientific events, meet with colleagues from universities and research centers, and publish research results [21, pp. 15–20; 29].

The SHABAS research unit focused on strengthening a social mission of the Prison Service by developing rehabilitation programs for prisoners. In order to transform the formal role of prison, consisting in isolating convicts from society, special emphasis was placed on their treatment, psychological assistance, educational activities, participation of convicts in labor, increasing their ability to integrate into society after release. Already in 2009, there were 276 formal education classes in the penitentiary system, 4,300 prisoners were engaged in the programs (more than a third of their total number in 2009 – 12,000 people). In 2010, about 2,200 prisoners were covered by vocational training and work programs. In addition, about 3,000 prisoners performed daily economic and technical work in prisons, and 2,300 worked at 54 enterprises subordinate to the Prison Service. Medical and psychological rehabilitation programs included treatment for drug addiction, alcoholism and other types of addiction, consequences of domestic violence and sexual crimes.

Religious rehabilitation programs based on positive criminology principles were of particular importance. They were aimed at transforming spirituality of prisoners, provoking personal changes, and encouraging repentance, thereby attracting them to a non-criminal lifestyle and facilitating their return to society [19, p. 154].

At the same time, due to a lack of scientifically-based methods, effectiveness of the implemented measures was evaluated irregularly, which violated one of the basic principles of the evidence-based policy of penitentiary activities. In this regard, in December 2010, the Prison Department announced a call for proposals to develop a methodology for evaluating correctional and rehabilitation programs. Funding in the amount of 1 million shekels was awarded to a group of researchers from the Hebrew University of Jerusalem and a team from the Ashkelon Academic College. A 5-year study began in 2012. In its conclusions, the research group emphasized that its work was not to assess and criticize activities of the Prison Department, but to provide scientifically sound information that could be used in the development of stronger and more effective programs, and could also help the IPS determine its budget requests to the Government of Israel.

In implementation of the evidence-based strategic policy, the Human Agency occupies a decisive place, which, first of all, is manifested in the importance of the role of key persons of the department. IPS Commissioners are key figures in it. At the same time, the human factor implies the role of personality of a leader, his “ability to justify his functioning and influence the course of events by his actions” [26, pp. 371, 373–375]. It is the influence and charisma of key individuals that determines whether the department will be in a state of “holidays or hunger” [16]. Commissioner Kaniak was a key figure in the creation of an evidence-based strategy for the Israel Prison Department. Without him and his decision to work with high-ranking academicians, the evidence-based policy would not have appeared at that time. There is a high rotation of managers in the Israel Prison Ser-

vice, with 2–4 year-service, as a rule. Therefore, it was very important that Commissioner Aaron Franco (2011–2015) pursued the policy initiated by his predecessor. They had been colleagues in the Israeli police, and Kaniak convinced Franco of the need to continue implementing a new strategic project and a new approach to the prison service. It is obvious that the human factor also played a certain role; the policy under consideration was applied on a regular basis.

A firm statement of the Prison Service's commitment to an evidence-based, science-oriented policy was also made by another IPS Commissioner, Ofra Klinger (2015–2018), who appointed Doctor of Criminology Catherine Ben Zvi, initially participated in this project, to the post of head of the Prison Department's research unit [28].

Nowadays, the Israel Prison Service (IPS) continues its evidence-based policy by detailing processes and working out a large-scale research program in the Prison Department and the Israeli penal enforcement system as a whole. So, in October 2017, for the first time in world practice, Bar-Ilan University in Ramat Gan concluded an agreement with the Ministry of Public Security to use the Rimonim Prison northeast of Tel Aviv as an object of scientific research. The aim of the study was to help prisoners in rehabilitation and reduce their sentences in prison.

For the first time, the prison administration co-authored the study. Prison guards not only collected and studied the data, but also published results on a par with university professors. Some employees of the Rimonim Prison were given the opportunity to obtain a degree in accordance with their education and the right to teach at the university. Many foreign universities have shown interest in this program [30].

Employees of the Israel Prison Service conduct scientific research not only in social and managerial sciences, but also achieve high results in the field of digital technologies. Development of electronic devices for the needs of the Israeli Prison Department, conducted by the SHABAS Technological Development Department, is aimed at promoting public safety and creating a safe environment for prisoners. At the same time, laws and human rights are strictly observed, human dignity is respected. Thus, a group of scientists from the Prison Department and the Technion University of Technology in Haifa realized a project to create an innovative device "Electronic Nose" that recognizes foreign objects inside the convict's body by his/her breathing. If earlier an aggressive and humiliating invasive procedure with medical intervention was required to detect drugs, miniature mobile phones and other prohibited items inside the body of a convict or his/her visitors, then the "Electronic Nose" helps to accurately, quickly and painlessly (by person's breathing) confirm or deny the presence of a foreign object [11].

One of the most important elements of the modern strategy for the penitentiary system development is to increase attention to the human factor and human resources. The structural unit of the Israel Prison Service, the Department of Human Resources and Training, had long been called the "Department of Labor Forces", reflecting an outdated, impersonal and technocratic approach to working with people. According to the Minister of Public Security Omer Bar-Lev (appointed June 13,2021), at present, human resources are precisely the main condition for achieving success in the field of public security. In order to implement this fundamental policy, processes of thoughtful strategic reorganization are necessary, the main principles of which are prioritizing employees' needs and understanding the specifics of work in penitentiary institutions. This approach is a real breakthrough for the power structure with a staff of more than 9,500 people in various positions, allowing each employee to be trained with an emphasis on their specialization [17].

Promotion of women to leadership positions is a characteristic feature of the modern personnel policy of the Prison Service. In 2021 Katy Perry, who had had a wide experience in the Israeli army, special services and the penitentiary system, was appointed the Commissioner of the Prison Department. In fact, women had already been appointed to this leadership post. The first female Commissioner of the Israel Prison Service was Orit Adato (2000–2003). In 2015–2018, the Prison Department was headed by Ofra Klinger.

In 2021, an indisputable authority on personnel work, Brigadier General Frumit Cohen, was appointed the Head of the Human Resources and Training Branch. Her appointment is not just management transition, but a symbol of changes that, according to the leadership of the Ministry of Public Security, will be proved over time [30].

Conclusions. Summarizing the above, we can conclude that the modern Israel Prison Service (SHABAS) is in the stage of development and transformation. Changing expectations and demands of society determine cyclical changes in penitentiary and legal policy. The time has come for deep organizational and social reassessment of the role of the police and prison service in the Jewish State. The solution of such tasks as raising the status and authority of the Prison Service, as well as purposeful creation of its attractive and respected image in society, has become an urgent necessity.

Taking into account modern challenges and threats, the Israeli Prison Department, along with traditional tasks such as ensuring public order by executing sentences in accordance with the law, preventing public danger by isolating prisoners and keeping them in custody, meeting their basic needs and rehabilitation, faces the need to boost effectiveness of correctional and rehabilitation programs aimed at social rehabilitation and adaptation of released convicts.

It can be argued that today, thanks to Israel Prison Service–fundamental science cooperation, along with strengthening of human resources, there has evolved departmental penitentiary science, which justifiably determines prospects and trends in the Prison Service development. It is evidenced by the following facts:

– taking as a basis for improving penitentiary activities the so-called evidence-based policy, focused on managing the department's activities on the basis of scientifically proven facts and patterns to work out an effective and efficient strategy for functioning and development of SHABAS;

– decision-making in the field of criminal justice, law enforcement and penitentiary activities with regard to results of fundamental and applied research;

– involvement of not only external researchers in scientific projects, but also SHABAS practitioners, encouraged by the leadership to research activities (systematically take part in scientific events, meet with colleagues from universities and research centers, introduce scientific research results into practical work of the Department).

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INFORMATION ABOUT THE AUTHOR

IRINA F. KOLONTAEVSKAYA – Doctor of Sciences (Pedagogy), Candidate of Sciences (Law), Professor, Head of the Department of Legal Disciplines of the Jewish University, Moscow, Russian Federation, professor of the Department of Civil Law and Procedure of S.Y. Witte Moscow University, Moscow, Russia, kolont@bk.ru, https://orcid.org/0000-0002-0234-3901

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Impact of Criminal Subculture on Social Interaction of Juvenile Offenders

KIRILL V. ZLOKAZOV
Ural State Pedagogical University, Yekaterinburg, Russia, zkirvit@yandex.ru, https://orcid.org/0000-0002-0664-8444

Abstract

Study relevance: significance of social environment of a minor for adaptation and overcoming difficult life situations is substantiated. It is shown that social environment exerts a psychosocial influence, forming minors' ideas of themselves and their self-esteem. The role of minors' social environment in various areas of social interaction is studied and importance of criminals' social ties for inducing crime and forming criminal ideology is shown. Besides, the impact of social ties on prevention and suppression of adolescents' crimes is proven. At the same time, the influence of a criminal subculture on establishment of relations with social environment remains insufficiently studied. In particular, the subculture impact on changing minors' ideas about interaction with other people and social groups is unclear. Understanding this will allow us to assess a degree of negative influence of a criminal subculture on minors. *Study purpose:* to identify social ties of juvenile offenders who share criminal subculture values, including by comparing with similar characteristics of law-abiding minors. *Methods:* the method of data collection is a questionnaire describing parameters of social relations, such as volume, stability, homogeneity, subordination and reference. Procedures of descriptive statistics and a nonparametric analogue of one-way analysis of variance (Kraskel-Wallis H-test) are used as methods for processing acquired results. The study sample consists of 229 people aged 13–17, 64.6% of whom are male, 91 of the surveyed are either convicted of crimes or are attending specialized institutions. The rest of the sample (138 people) is characterized by law-abiding behavior; during the survey period they are not suspected or accused. *Results and novelty:* new data on the specifics of social ties of the delinquent youth are received, in particular, small volume of relations, homogeneity of participants, low reference of social environment; prospects for studying social ties under conditions of social regulation of interaction with regard to gender and socio-cultural specifics are determined.

Keywords: crime prevention; social environment; criminal subculture; social isolation; self-esteem.

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Relevance of the research is substantiated by the necessity to improve effectiveness of programs to counter criminalization of minors. The efforts currently taken by law enforcement officers and educational organizations contribute to reducing the level of juvenile delinquency [10]. However, along with this, the public danger of crimes is growing, cases of the use of weapons against peers and teachers are becoming more frequent.

In order to reduce criminalization, it is advisable to improve psychological and pedagogical violence prevention programs that harmonize minors' interaction with social environment. Effectiveness of such programs has already been noted in specialized literature [11]. They are based on scientific ideas about age-related specifics of adolescence: pursuit of emancipation, desire to oppose oneself to adults, reactions of grouping with peers, focus on self-development and self-determination. These programs are aimed at forming a value-motivational sphere, self-concept and self-esteem of a teenager. At the same time, it is not only formed personal qualities that can reduce violence risks.

The socio-psychological direction is an alternative direction to prevent minors' criminalization. It is aimed at forming interaction of minors with the people around them. Social environment plays an essential role in the life of a minor, performing resource-supporting, protective, educational, expert and other types of functions. The ability to form social relationships that provide support and assistance is a significant condition for the life and psychological well-being of a minor. Believing that adolescents from disadvantaged families are more likely to experience difficulties with satisfying their own needs, it is justified to consider them a target category for the formation of such skills. At the same time, researchers point to the insufficient level of social competence and difficulties of social interaction of this category of minors [3; 13].

Considering that the disrupted interaction may be caused by distorted ideas, attitudes and values of adolescents, we assume that subculture is one of the reasons for their formation. In this study, we consider the influence of a criminal subculture on social interaction of minors, assessing its impact on perceptions, attitudes and values. As part of the study, this assumption is subjected to empirical testing on a sample of juvenile offenders.

The purpose of the research presented in the article is to determine the impact of a criminal subculture on juvenile offenders' subjective attitudes to their peers.

The idea of the study is to consider the impact of socio-psychological effects that a criminal subculture has on its followers. We assume that a criminal subculture forms juvenile offenders' perception of social interaction. Being under it influence, juvenile offenders have to comply with certain rules and follow the norms of behavior prescribed by it [12]. As a result, juvenile delinquents' idea of social environment may be distorted by the subculture, and their attitude to a certain extent reflects this impact.

Practical significance of the research lies in the study of the subculture impact on the content of minors' perception of people who make up their social environment. By studying formation of social ties and juvenile delinquents' attitude to others, it is possible to assess a degree of its negative impact on personality and social interaction.

The problem is considered in terms of generalizing socio-psychological knowledge about the influence of subculture on its followers and studying parameters and char-

acteristics of minor's social environment. By comparing three groups of minors living in different conditions of social interaction regulation, differences in the organization of social environment are revealed, then the level of conviction in criminal ideology is determined. The differences caused by the measure of support for criminal ideology are characterized. The conclusion is drawn about the impact of criminal ideology on minors' perception of social environment.

Theoretical foundations of the study. Characterizing significance of minors' social environment, we should mention a great number of works showing its role in formation and development of personality and social qualities of a teenager. Studies of social environment touch upon various aspects of human life, reveal influence of social ties and people's relationships. Social environment has a multifaceted impact on people [23], including their psychological state and life satisfaction [19], as well as their ability to overcome life difficulties [24]. Current scientific concepts describe social environment as an environment that performs protective and supporting functions and mediate interaction between a minor and the world.

The structure of juvenile offenders' social environment is considered in the context of sociological and socio-psychological research. It includes groups of family and close relatives, educational and professional teams, peer groups forming an informal environment. It is established that such features of social environment, as incomplete family or its absence, violations of interaction with peers, etc. negatively affect social development and self-esteem of a minor. As a rule, these problems are reflected in social regulation of behavior.

In general, the influence of these groups on minors, their decisions and actions is not ambiguous. For a minor social environment differs in reference [14]. Peers, in particular, friends, brothers and sisters, are characterized by the greatest reference, while parents and teachers – by a lower one [6]. Variations in reference are due to development of the subject. Reference persons and groups change noticeably, when a person gets older and acquires other life priorities [18].

The role of minors' social environment is analyzed in the context of age development and socialization, and in relation to juvenile offenders – in the context of other people's influence on illegal behavior formation. The research records a role of close relatives, friends and peers in inducing to various types of crimes (for example, theft and murder [21], distribution of narcotic drugs [16], etc.). In particular, foreign researchers state that the majority of crimes were discussed by minors with the people closest to them [17]. Persons from among the social environment have the most significant influence on minors. Thus, studying delinquent behavior of adolescents, D.J. Shoemaker finds out that most often teenagers follow the behavior pattern of adults [22]. Social environment has a significant impact on alcohol abuse, smoking, drug use and other types of addictive behavior [15].

Thus, social environment of a teenager is an essential factor determining adherence to antisocial destructive and criminal influences. Environment can enhance and aggravate this impact, or, on the contrary, act as a deterrent and protect from a negative environment.

To develop the issue of environment influence on a minor, it is necessary to address the question of the meaning and nature of subculture influence.

Socio-psychological impact of a criminal subculture on a minor. Considering the subculture as a social phenomenon, it should be noted that scientific definitions of this phenomenon suggest singling out functional and structural meanings [5].

Within the framework of our research, a functionalist approach is used, which provides for identification of the function that a subculture performs for its adherents. Besides, a significant part of the research is carried out in relation to deviant urban communities (unemployed, homeless, criminals). A deviant subculture was considered an alternative way of self-realization. According to R. Merton, a subculture emerges due to urban slums residents' inability to achieve the goals declared by mass culture [2]. and its existence has legitimized antisocial ways of achieving material well-being and high social status [8]. Thus, the functionalist approach to

the definition of a criminal subculture allows us to present it as a mechanism that provides minors with the opportunity to achieve socially set goals in a criminal way.

Domestic and foreign cultural studies show that Russian criminal subculture corresponds to this definition in a number of ways. It proclaims a hedonistic way of life, legitimizing violence and cruelty as methods of achieving and retaining it, devalues the culture of work and social order [1].

Popularization of a criminal subculture in Russian youth environment is provided by a number of factors: first, by simplifying the social success strategy and declaring the possibility of using violence to gain it; second, by recognizing acceptable social deviations – alcoholism, drug addiction, prostitution; third, by victimization of certain categories of the population (persons without a fixed place of residence, migrants leading an antisocial lifestyle, etc.), contributing to the primary experience of criminal influence [12].

In the context of current social conditions, a criminal subculture can help minors meet life and social needs, contributing to their recognition of values, attitudes and models of criminal behavior, and be used to organize informal communities. As modern research shows, a criminal subculture contains a number of norms and regulations that limit social interaction [12; 13]. These may include prohibitions on contacting law enforcement agencies, distorted perception of certain categories of the population (for example, devaluation of law enforcement officers, persons without a fixed place of residence), subordination of criminal community members to each other depending on the hierarchy, possible violence to lower-status members of the group and likelihood of being subjected to violence by higher-status members of the group, cruelty of punishments for violating certain norms and rules of the criminal subculture, etc. [7]. Besides, employment and vocational training are reprehensible in certain criminal groups.

Summarizing, it can be concluded that a criminal subculture hinders and limits interaction of minors with social institutions, and provokes a hostile attitude towards law enforcement agencies and certain categories of the population. At the same time, the influence of criminal subcultures on establishment and maintenance of social contacts, formation of relationships with other people, as well as characteristics of the system of relations with social environment is not fully studied. Thus, it is advisable to study organization of interaction between juvenile offenders with different levels of exposure to the criminal subculture and their social environment.

Empirical research. The research purpose was to identify relations between juvenile offenders and their social environment.

The tasks were to study characteristics of social ties and relationships with others; compare characteristics of social ties in samples of minors with different levels of criminal involvement.

The assumption about different characteristics of social ties of minors with different levels of criminal involvement was a study hypothesis.

Methods. Two groups of methods were used in the study, in particular, data collection methods and methods of their statistical analysis.

Data collection was carried out by means of a specially designed questionnaire reflecting basic ideas about characteristics of the interaction between a minor and social environment [25]. The questionnaire included questions describing characteristics of social ties: (1) volume (“How many people do you communicate with during the day?”; (2) stability (“How often do you form new relationships while ending old ones?”) (3) homogeneity (“Are people you communicate with during the day similar to each other?”; (4) subordination (“How many people influence you during the day?”); (5) reference (“How many people from your environment are important to you?”).

To measure the characteristics of volume, barriers to interaction and reference, we used a one-dimensional five-point scale, where the minimum value symbolized the interviewee him/herself. To identify characteristics of homogeneity and proneness to conflict, we used a two-dimensional scale, in which opposite values represented alternative options in meaning (for example: they will conflict – they will be able to be friends).

Assessment of the susceptibility to a criminal subculture was carried out by interviewing with the help of the methodology proposed by M.I. Koshenova and E.A.Krayushkina [4]. Interviewees' attitude to the subculture was revealed with the help of the questionnaire "Notion of the criminal world". Based on the answers, the respondents were divided into three groups: "positive", "neutral" and "negative" attitude to the criminal subculture (Table 1).

Table 1

Indicators of attitudes towards the criminal subculture

No.	Attitude to the criminal subculture	Group of offenders		Group of law-abiding people	
		respondents	% of the sample	respondents	% of the sample
1	Positive attitude	68	74.7%	9	6.5%
2	Neutral attitude	18	19.8%	17	12.3%
3	Negative attitude	5	5.5%	112	81.2%

Based on the survey, a study sample was formed. It was composed of delinquent minors who expressed a positive and neutral attitude to the criminal subculture (86 people), as well as minors with law-abiding behavior who expressed a negative attitude to the criminal subculture (112 people).

Descriptive statistics measures are methods of data analysis. Statistical differences between the groups were evaluated using Kraskel-Wallis H-test.

All the sample included 229 people divided into two groups: juvenile delinquents and minors with law-abiding behavior.

Initially the group of juvenile offenders included 91 people (average age = 15.4 years, SD = 1.5 years, 74.7% – male). After measuring the attitude to the criminal subculture by the method of M.I. Koshenova and E.A. Krayushkina, 5 people who had a negative attitude to the criminal subculture were excluded from the group.

As a result, 86 juvenile offenders participated in the study. These were persons on the watch list of juvenile affairs inspectorates, as well as those sentenced to imprisonment, studying in specialized educational institutions in Saint Petersburg and the Leningrad Oblast, Yekaterinburg and the Sverdlovsk Oblast. 60.5% of respondents committed theft (48.4 of them were convicted), 19.3% – plunder and robbery.

The group of minors with law-abiding behavior initially included 138 people (average age = 15.9 years, SD = 1.43 years, 54.3% – male). After revealing the attitude to the criminal subculture, the persons who displayed a positive (9 people) and neutral (17 people) attitude were excluded from it. As a result, 112 law-abiding minors with a negative attitude to the criminal subculture participated in the study. All the subjects studied in secondary schools in Saint Petersburg, Yekaterinburg, at the time of the survey did not commit offenses (crimes), were not on the watch list of juvenile affairs inspectorates.

Study results. The results are described sequentially: at the beginning we present values of indicators of social ties, and then statistical differences between groups of offenders and law–abiding minors.

1. Descriptive characteristics of the social communication system are presented in Table 2.

Table 2

Differences in subjective characteristics of social ties in groups of delinquent and law-abiding minors

Indicator	Delinquent (n=86)			Law-abiding (n=112)		
	Mean	SD	Median	Mean	SD	Median
Volume	2.1	1.7	2	5.9	1.9	5
Stability	4.1	0.7	4	4.5	0.6	4
Homogeneity	4.4	1.2	4	2.5	1.9	3
Subordination	2.1	1.3	2	2.4	1.2	2
Reference	2.3	1.4	2	5.1	1.1	5

Note: Mean is a mean value, SD is a standard deviation.

2. Comparison of delinquent and law-abiding minors' perception of social ties showed statistical differences in the characteristics of: a) volume (H crit. = 94.7; p=0.001, $\varepsilon^2 = 0.13$); b) homogeneity (H crit. =14.65, p=0.001, $\varepsilon^2 = 0.05$), conflict (H crit. = 15.4; p=0.001, $\varepsilon^2 = 0.05$) and reference (H crit. =12.02, p =0.001, $\varepsilon^2 = 0.05$).

Indicators of stability of social ties and subordination do not statistically differ in groups of offenders and law-abiding minors (H crit. = 1.29; p=0.28 and H crit.=1.17; p=0.28) due to the specifics of age and social development common to both groups of subjects.

Results discussion. The research is aimed at the empirical study of delinquent youth's social ties as an important element of building a social space of personality. Its results generally confirm the hypothesis of specific differences in delinquent and law-abiding youth's ideas about social ties.

The volume of interaction with others among the delinquent youth is limited to a small group of people for 77.5% of the surveyed and to dyads and triads for 37.9% of them. 14.2% speak about loneliness and only 6.5% – interaction with several groups. These data are confirmed in the longitudinal study of convicted minors' social ties, carried out by N.A. Zwecker and co-authors. They indicate that criminals' social ties are small and closed, the average volume is only 1.8 people [26].

Of course, in absolute terms, our results differ, since in the foreign sample 20% of the surveyed are single or have friendly relations with only one person. In addition, in the group under study the majority indicates relations with peers, and the foreign study participants – with family members. Despite differences in the qualities of participants in social relations, their small volume is noted in similar studies [21]. Comparison of groups of delinquent and law-abiding minors shows that the volume of interaction is statistically different (Kruskal-Wallis H-test: H crit. =94.7, p=0.001, $^2 = 0.05$). 75.8% of the surveyed law-abiding adolescents and young people indicate the volume of two or three small groups, and only 1.2 of the respondents talk about loneliness. Micro-group interaction is characteristic only of 22.7% of the surveyed, in contrast to 37.9% of the offenders.

Homogeneity. The indicator of social environment homogeneity describes the perceived measure of closeness, similarity of people with whom a minor interacts. High homogeneity is attributed to people with similar goals, values and attitudes, and low homogeneity (i.e. heterogeneity) is attributed to people with absolutely different ones. Inconsistency of views and ideas in social environment is an additional characteristic of homogeneity. Its increase leads to proneness to conflict of social environment. The characteristics were calculated on the basis of assessed similarity of offenders' environment and likelihood of contradictions between them (the evaluation indicators are satisfactory: -Kronbach =0.55, the correlation between them is significant ($r=0.38$, $p<0.05$).).

Social environment is perceived by juvenile offenders as predominantly homogeneous, as reported by 60.4% of the respondents. 23.1% indicate strong differences between people of their daily communication, and 14% note complete dissimilarity. These results correspond to the conclusions of D.L. Haynie, made in 2002 based on the results of studies of social environment of American juvenile delinquents [20]. Her work assessed the role of social environment of delinquent and law-abiding adolescents in inducing criminal behavior. According to the research, delinquent adolescents make up half of the total number of social connections of future offenders, forming an ideologically consistent environment that forms criminal beliefs.

Proneness to conflict. The study of proneness to conflict consisted in assessing contradictions in values and beliefs of the persons who make up the social circle.

Among offenders, the level of conflict of beliefs is low in social environment, as reported by 72.8% of the surveyed. Only 27% consider their social circle as potentially conflictual, anticipating contradictions between its participants. These views determine significance of statistical differences between groups of delinquent and law-abiding minors (Kruskal-Wallis H-test: H crit.=14.65, p =0.001, $\varepsilon^2 = 0.05$).

The majority of law-abiding teenagers deny the possibility of conflicts in their social environment (96.1% of the surveyed), only 3.1%

assume contradictions between views of people they know. So, differences within social environment of law-abiding adolescents do not lead to conflicts between them due to: a) absence of the subject of contradictions, b) ability to resolve contradictions in a non-conflict way [9]. Hence, social environment of offenders is more conflictual.

Reference. The results obtained show that the volume of reference persons of 69.3% of the surveyed offenders is limited to a small group. Only 3.6% speaks about more than one middle-size group.

It can be concluded that the volume of reference persons roughly corresponds to the volume of relationships between minors and, as a rule, is focused on close people. This is evidenced by the indicator of interest in the opinion of other people. It is weak for 43.2% of the surveyed and completely absent for 11.2%. Only 36.7% of the surveyed consider it useful to know what other people think about them.

The study of reference in the group of law-abiding minors indicates statistical differences in attribution of reference with the group of offenders (Kruskal-Wallis H-test: H crit.=16.97, p=0.001, 2 = 0.05). Law-abiding people mention a larger number of people whose opinion is interesting to them – on average, the volume of the reference group is close to 15 persons, while for offenders it is 5 or less persons.

Conclusions. Summing up, we will note that the study showed differences in juvenile offenders' perception. The results received demonstrate criminal subculture impact on social interaction in terms of minimized volume, homogeneity of social environment, increased conflict and reduced reference. The reason for it is psychological features of relations with persons who make up social environment of juvenile offenders.

Thus, minimization of volume is due to person's mindset on a limited social interaction. Undoubtedly, such a restriction reduces delinquent minors' ability to receive help and support from people, unlike law-abiding persons who do not limit their interaction.

Revealed homogeneity of social environment is derived from a decrease in the volume of social contacts. It can be concluded that a juvenile offender's communication circle consists of persons with similar values and beliefs, while law-abiding minors' social environment is characterized by a variety of orientations and values. As a result, offenders find themselves in a homogeneous information space containing similar ideas, values and meanings. In the case when they have an antisocial, criminal orientation, it is difficult for a teenager to realize their wrongness, since the people who form his/her social environment support these ideas without offering new ones.

Increased proneness to conflict in social environment of juvenile offenders established in the study, in our opinion, reflects value attitudes of criminal subcultures. Members of such groups consider violence to be an acceptable and justified way to achieve necessary goals, defend interests, and demonstrate their status. Thus, competition within such groups is either absent, being blocked by fear, or manifests itself in the form of violence.

Decreased reference of social environment is due to neglect of people who adhere to traditional culture values. Propaganda of a hedonistic lifestyle, which is part of the criminal ideology, downgrades professional work, education, family and social order. It is a good luck and criminal community's support that is considered as a value [3].

Thus, influence of criminal subcultures on social interaction of juvenile delinquents can be recognized as socially destructive. This, in our opinion, is evidenced by the following socio-psychological features:

– regulation of social interaction by assigning its subjects to different categories (for example, "friends–strangers", "criminals–victims-), prescribing an appropriate attitude towards them;

– homogenization of social environment by excluding persons with prosocial values and beliefs, purposefully maintaining relationships with criminals;

– increased hostility due to recognition of violence as an acceptable form of interaction with other people;

– formation of a hedonistic orientation of interaction by promoting the idea of quick wealth accumulation, including by committing a crime.

Criminal subcultures limit interaction, distorting perception of its participants, provoke manifestation of selfishness and neglect of other people. Being an outwardly attractive way to raise the status of a minor in the eyes of others, criminal subcultures significantly limit his/her social opportunities, primarily by reducing social resources, such as help and support of people. Triggering competition with peers, opposition to adults, flaunting their proximity to the criminal world, criminal subculture is no longer able to increase social self-esteem of a teenager. Along with this, it has the ability to distort the worldview, romanticizing the world of criminals and creating alternative strategies for gaining well-being.

Supporting expediency of criminal prosecution of persons promoting criminal ideology, we note that the measures to prevent criminalization of minors and the youth should be not only of a punitive, but also an involving orientation. Countering the spread of criminal subcultures should be based on the opportunities provided by widen social interaction, such as increasing a number of social ties and promoting self-realization of minors through joint, socially useful activities. Active involvement of teenagers in various socially useful initiatives can form a socially valuable worldview and social orientation of the younger generation.

Conclusion.

The study disclosed features of social interaction of juvenile offenders involved in criminal subculture. The features of their social interaction are determined and the destructive role of criminal subculture on social interaction is shown. The findings of the study show prospects for studying social ties of delinquent adolescents and young people in order to prevent their criminalization.

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INFORMATION ABOUT THE AUTHOR

KIRILL V. ZLOKAZOV – Candidate of Sciences (Psychology), Associate Professor, Doctoral Candidate of the Ural State Pedagogical University, Yekaterinburg, Russia, zkirvit@yandex.ru, https://orcid.org/0000-0002-0664-8444

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Specifics of Psychological Defense of Persons Serving Sentences in Places of Imprisonment for Crimes against the Person and Correctional and Educational Work with Them

EL'VIRA V. ZAUTOROVA
Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia
Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia, elvira-song@mail.ru, https://orcid.org/0000-0002-1334-2654

FAINA I. KEVLYA
Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia, fkevlya@mail.ru, https://orcid.org/0000-0001-9603-6523

Abstract

Introduction: the article is devoted to the specifics of psychological defense of convicts who are serving sentences in prison for crimes against the person. Psychological defense helps a person to maintain inner peace, create conditions for self-justification, thereby reducing the influence of social control. *Purpose:* on the basis of the study to determine features of psychological defense of convicts serving imprisonment for the first time and repeatedly for crimes against the person, to give recommendations on correctional and educational work with this category of convicts. *Methods:* theoretical analysis of literature; methods of synthesis and generalization; projective method: test "Drawing a non-existent animal"; method of statistical data processing: the Fisher transformation of the sample correlation coefficient. *Results:* the convicts serving imprisonment for recurrent crimes against the person differ from those serving sentence for the first time by using types of psychological defense, such as denial, displacement and projection. Recidivists try to protect themselves from all the reality surrounding them, cannot open up to natural communication due to constant fear for their emotional peace. They do not want to admit their antisocial actions, which are repressed into the unconscious or denied. With the recurrence of crimes, convicts again resort to these types of psychological defense to feel safe. The revealed features of psychological defense of persons serving sentences for crimes against the person for the first time and repeatedly have supplemented the characteristics of persons in this category and should be taken into account when organizing correctional and educational work with them in places of deprivation of liberty. *Conclusions:* when determining a direction of correctional

and educational work with convicts of this category, it is important to take into account features of their psychological defense, identify whether convicts have overcome selfishness, stubbornness and individualistic attitude towards people, whether they have learned to analyze their actions and admit mistakes. It is crucial to encourage the ability to see positive traits and moral qualities in each person.

K e y w o r d s : places of deprivation of liberty; correctional process; convicted for the first time; convicts serving imprisonment for recurrent crimes; crimes against the person; psychological defense; specifics of psychological defense; correctional and educational work.

5.8.1. General pedagogy, history of pedagogy and education.

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Introduction

In conditions of humanization and improvement of legislation persons serving sentence have expanded rights. Receiving psychological assistance in places of deprivation of liberty is directed on studying and considering individual characteristics of criminals of various categories [7]. Each category of convicts has general and specific psychological and pedagogical characteristics [20]. It is relevant to study personality characteristics of convicts who have committed crimes against the person. This type of crime is a criminal act that encroaches on safety of life, health, honor and dignity, as well as on sexual inviolability of the individual and his/her constitutional rights, human and civil freedoms, interests of minors and the family [6].

Nowadays, statistical data indicate a decrease in the number of registered crimes against the person [10]. At the same time, the issue of execution of punishment in relation to convicts who have committed crimes against the person is critical. Convicted persons serving sentence for crimes of this category, especially repeated offenders, are socially dangerous persons with stable antisocial views, skills and misconduct [12]. They blame other people for their failures in life, justifying and defending themselves, do not repent of the criminal acts committed, etc. [19]. Their notions and ideas are difficult to correct. Convicts of this category react badly to preventive measures and psychological and pedagogical influence. The greatest number of conflicts and cases of regime violation is observed precisely among these convicts [18]. In this regard, it is necessary for penitentiary institution employees to constantly monitor their behavior.

Gradual repentance of those convicted of their crimes is crucial for correction of persons of this category. This can be achieved by studying features of their psychological defense, which aims to reduce or minimize experiences that traumatize a person (the mechanisms of psychological defense are denial, suppression, repression, rationalization, reactive education, substitution, sublimation, identification, depersonalization [8]).

The problem of psychological defense in foreign psychology is studied by the researchers, such as A. Adler, G. Glezer, E. Johnson, D. Ikhilevich, W. Reich, A. Freud, S. Freud, C. Jung, etc. S. Freud introduced concepts of “psychological defense”, “protective mechanisms of the psyche” into the psychological thesaurus (work “The Defense Neuropsychoses”, 1894). Then they were transformed, revised, interpreted and modernized by researchers and psychotherapists of different generations [5]. So, A. Freud studied affect, which includes protective mechanisms, such as fear, anxiety, etc. [15].

In Russian psychology F.V. Bassin was the first to formulate the problem of psychological defense, followed by I.Ya. Bereznaya, F.E. Vasilyuk, R.M. Granovskaya, B.D. Karvasarsky, V.K. Myager, V.A. Talashov, etc. In literature the concept of psychological defense is

defined rather inconsistently; at the moment there is no generally accepted classification. F.V. Bassin considers psychological defense as the moment of fruitful expansion, development of the motivational structure of the personality [1]. O.S. Savenko and F.E. Vasilyuk claim that protective mechanisms appear in the process of self-actualization of the individual, in the "situations of impossibility" [2]. R.M. Granovskaya defines psychological defense and its functions as follows: "the action of psychological defense mechanisms is aimed at maintaining internal balance by displacing from consciousness everything that seriously threatens the person's value system and at the same time his/her inner world" [3; 11].

Psychological defense helps a person to maintain inner quietness, create conditions for self-justification, easing a person of remorse and guilt in the crime committed, thereby reducing the influence of social control [9]. If this justification and this psychological defense are not destroyed, then a convict is unlikely to be able to embark on the path of changing his/her personality, correction. Over-persuasion seems expedient, which is considered as a radical breakdown, restructuring of views and beliefs of a convicted person, replacing them with opposite ones [16].

Erroneous views and beliefs of convicts are very different and may have completely different reasons [4]. In this regard, we conducted a study to identify characteristics of convicts' psychological defenses.

Organizing research in convicts' psychological defense.

The research was multi-staged. At the first stage, the procedure for studying personal files was carried out. The main purpose of this stage was to select subjects and determine two groups (experimental and control). The purpose of the second stage was to identify types of psychological defenses of convicts serving imprisonment for repeated crimes against the person and serving sentences for the first time. At the third stage, the results of the study of 2 groups were compared.

The empirical study was conducted at the Correctional Facility No. 4 of the Federal Penitentiary Service of Russia in the Vologda Oblast (February–March, 2021). This correctional institution is a special regime colony, where male convicts (especially dangerous recidivists) and persons sentenced to life imprisonment serve their sentences.

The experimental group (hereinafter referred to as the EG) included convicts (30 men) serving imprisonment for recurred crimes against the person. Information about the nature of committed offenses was obtained from personal files of the convicts. The control group (hereinafter – CG) included 30 men serving imprisonment for crimes against the person for the first time. All respondents were 30–45 years old, the average level of education was compulsory.

Analysis of data received due to a "Drawing a non-existent animal" test

This test was used to identify subconscious personality traits by analyzing the subject's drawing [13]. The test attracted our attention by the fact that it is intended for practical study of some elements of personal defense. By nature, it refers to projective methods, is not subject to statistical verification or standardization. In this regard, the analysis of drawings was performed similarly to the "Free drawing" test. The analysis results are presented in descriptive forms.

The test is indicative, according to the data composition. Therefore, it cannot be used as the only research method, but only in combination with other methods. Beforehand we applied a method of diagnosing typologies of psychological defense (designed by R. Plutchik, adapted by L.I. Wasserman, O.F. Yeryshev, E.B. Klubova).

Analysis of the data obtained due to the "Drawing a non-existent animal" test

Based on the data of the diagnostic methodology of typologies of psychological defense of convicts carried out earlier [7], we find out that convicts serving imprisonment for repeated crimes against the person are trying to protect themselves from all the reality surrounding them, cannot open up to natural communication due to constant fear for their emotional calm. They cannot and do not want to give up constant concealment of feelings, drives, and actions that contradict social life norms. The EG convicts refuse to admit their antisocial actions, which are repressed into the unconscious or denied. With the re-

currence of crimes, they again resort to these types of psychological defense, preserving their dignity.

Besides, the CG convicts differ significantly by psychological defense types, such as displacement, compensation and projection. Thus, the hypothesis is confirmed that repeated offenders differ from first-time convicted persons by the use of psychological defense types, such as denial, displacement and projection.

To further confirm the findings, psychological defense was assessed by interpreting characteristics of the drawing. Psychological characteristics of the drawings in the EG are presented in Table 1.

Table 1

Psychological characteristics of the "Drawing a non-existent animal" test in the experimental group

Drawing characteristics	Interpretation	Representation of characteristics in the EG convict's drawing, %
Selected upper contour of the shape	Defense against persons in authority, exercising coercion	40
Selected lower contour of the shape	Defense against ridicule, fear of condemnation of the younger	17
Emphasized side contours of the shape	Readiness for self-defense (any)	43
Doubling on the body of the animal itself on the right side	Defense in the process of real activity	3
Doubling on the body of the animal itself on the left side	Protecting thoughts, beliefs from other people	40
Mouth with teeth	Defensive verbal aggression	30
Horns (especially in combination with claws, bristles)	Protection from aggression (defensive and reactive in nature)	27
Tail pointing downwards	Dissatisfaction with oneself, constant criticism of one's actions (as a way of defense)	23

Table 1 shows that self-defense is characteristic of more than one third of convicts serving imprisonment for repeated crimes against the person. In other words, in any worrisome situation they are ready for defensive behavior, using one or another protective mechanism.

An alarm situation can be caused by states of anxiety, threat, external or internal restrictions on the part of any phenomenon or object. Perhaps, due to a long time spent by the EG convicts in places of deprivation of liberty, they constantly feel this nervous situation and are unconsciously ready to battle it. Also, more than one third of the EG convicts are subject to constant protection from a superior person who actually has the opportunity to impose a ban, restrict, and enforce. These may be heads of the detachment, employees and representatives of the administration of the correctional facility.

Along with the data indicated in Table 1, we observe that convicts always protect their thoughts, beliefs, attitudes from other people. This defense can be implemented through the use of such mechanisms as "denial", i.e. convicts deny existence of another opinion or belief on a certain issue and recognize only their own opinion.

The EG convicts also defense themselves by showing verbal aggression. This can be expressed in the form of shouting, obscene language, rude expressions, insults, etc. This may be caused by the way of life and socio-psychological atmosphere of places of deprivation of liberty. There is also aggression in response to aggression, dictated most often by the conditions of survival in such facilities. Repeat offenders show defense against non-recognition, lack of authority, ridicule; they are not afraid of condemning other people.

Therefore, the convicts of this group are constantly ready for self-defense on any occasion, including against persons in authority and those entitled to prohibit certain actions, as well as protect their thoughts and beliefs from other people. We do not record such a

way of defense as criticism of one's own actions, emotions, etc.

Psychological characteristics of the drawings in the CG are presented in Table 2.

Table 2

Psychological characteristics of the "Drawing a non-existent animal" test in the control group

Drawing characteristics	Interpretation	Representation of characteristics in the EG convict's drawing, %
Selected upper contour of the shape	Defense against persons in authority, exercising coercion	27
Selected lower contour of the shape	Defense against ridicule, fear of condemnation of the younger	7
Emphasized side contours of the shape	Readiness for self-defense (any)	33
Doubling on the body of the animal itself on the right side	Defense in the process of real activity	0
Doubling on the body of the animal itself on the left side	Protecting thoughts, beliefs from other people	3
Mouth with teeth	Defensive verbal aggression	17
Horns (especially in combination with claws, bristles)	Protection from aggression (defensive and reactive in nature)	27
Tail pointing downwards	Dissatisfaction with oneself, constant criticism of one's actions (as a way of defense)	20

Table 2 indicates that more than one third of the CG convicts are characterized by self-defense, constant response to any negative situation. This may be provoked by fear for their lives, physical and moral integrity of convicts serving their first criminal sentence and not adapting to imprisonment conditions. Also in this group, defense is manifested against persons in authority exercising coercion. Those serving imprisonment for crimes against the person for the first time show a defensive response to aggression. Probably, this is a condition for survival and existence in places of deprivation of liberty.

The CG convicts, to a lesser extent than the EG convicts, use means of verbal aggression as a defense when defending their thoughts and beliefs; they are characterized mainly by readiness for self-defense, and protection from aggression is most often defensive and reactive in nature.

We will compare the values obtained during the "Drawing a non-existent animal" test in the EG and the CG using the Fisher transformation [14] (Table 3).

Table 3

Psychological characteristics of the "Non-existent animal" drawing in the experimental and control groups

Drawing characteristics	Interpretation	EG %	CG %	Significance of differences
Selected upper contour of the shape	Defense against persons in authority, exercising coercion	40	27	-
Selected lower contour of the shape	Defense against ridicule, fear of condemnation of the younger	17	7	-
Emphasized side contours of the shape	Readiness for self-defense (any)	43	33	-
Doubling on the body of the animal itself on the right side	Defense in the process of real activity	3	0	-
Doubling on the body of the animal itself on the left side	Protecting thoughts, beliefs from other people	40	3	0.01
Mouth with teeth	Defensive verbal aggression	30	17	-
Horns (especially in combination with claws, bristles)	Protection from aggression (defensive and reactive in nature)	27	27	-
Tail pointing downwards	Dissatisfaction with oneself, constant criticism of one's actions (as a way of defense)	23	20	-

As can be seen from Table 3, there are significant differences between experimental and control groups in protecting their thoughts and beliefs from other people. This may be due to the fact that convicts serving imprisonment for recurred crimes against the person are more cautious, since for them this is already a way of existence in this environment. This is due to a long time spent in places of deprivation of liberty, unformed moral and legal consciousness, distorted value orientations, lack of self-criticism, selfishness, etc.

Results. Thus, convicts serving sentences for repeated crimes against the person, unlike convicts serving their first sentences for these crimes, are characterized by a more aggressive form of protecting their thoughts and beliefs from other people. Thus, the hypothesis was confirmed that repeat offenders differ from convicts serving their imprisonment for crimes against the person by a wider use of psychological defense, such as denial, displacement and projection.

The revealed features of psychological defenses of convicts serving sentences for crimes against the person for the first time and repeatedly supplemented characteristics of persons in this category and this should be taken into account when organizing correctional and educational work with them in places of deprivation of liberty. It is important to establish how much convicts have overcome the individualistic, egoistic attitude towards other persons, whether a respectful attitude towards a person has been developed. The priority areas are to correct aggressiveness, form skills for managing aggressive emotions and partner communication in persons who have committed violent acts. This work can be carried out in four directions: 1) teaching how to express anger in an acceptable form; 2) teaching of self-regulation and self-control; 3) practicing communication skills; 4) forming positive personality traits.

Among the measures to reduce aggressiveness in male convicts, it is extremely important to introduce a system for monitoring the specifics of their personality transformation and socio-psychological phenomena among convicts in a correctional facility and implement a set of measures of a general preventive and special preventive nature.

Conclusion

We have analyzed features of psychological defenses of convicts serving sentences for crimes against the person committed for the first time and repeatedly. Psychological defense helps a person to maintain inner quietness, create conditions for self-justification, and if this justification and this psychological defense are not destroyed, then the convicted person will not be able to change and the correction process will be ineffective.

When determining the direction for correctional and educational work with convicts of this category, it is important, first of all, to establish how much they have overcome their individualistic, egoistic attitude towards other persons, whether a respectful attitude towards people has been developed. It is crucial to teach convicts to think more about consequences of their actions, cultivate respect for people, consciously comply with regime requirements, and strive to eradicate such qualities as rudeness, cruelty, indifference to the fate of other people.

Correctional and educational work with convicts sentenced for crimes against the person requires a comprehensive approach and, consequently, high professionalism of the correctional institution staff, as these convicts have a low moral and educational level. A correctional facility solves tasks of forming a system of moral values, harmonizing convicts' inner world, improving their ability to interact in a team and family and tolerant attitude to others.

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INFORMATION ABOUT THE AUTHORS

EL'VIRA V. ZAUTOROVA – Doctor of Sciences (Pedagogy), Professor, Corresponding Member of the International Academy of Sciences of Pedagogical Education, professor of the Department of Legal Psychology and Pedagogy of the Faculty of Psychology of the Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, Leading Researcher of the Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia, elvira-song@mail.ru, https://orcid.org/0000-0002-1334-2654

FAINA I. KEVLYA – Doctor of Sciences (Pedagogy), Professor, Chief Researcher of the Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia, fkevlya@mail.ru, https://orcid.org/0000-0001-9603-6523

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