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## Factors Affecting Safe Conditions for Serving Sentences in Economic Maintenance Units of Pre-Trial Detention Facilities

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### Abstract

*Introduction:* deprivation of liberty in the domestic criminal and penal law is the most severe form of punishment for persons who have committed crimes. Institutions of the Federal Penitentiary Service face the task to correct convicts. Formation of law-abiding behavior and respect for generally recognized norms and rules of human community in convicts, restoration and maintenance of social ties is impossible without implementation of state policy aimed at ensuring the rights and legitimate interests of citizens, including in places of forced detention. Pre-trial detention centers perform functions of a correctional institution in relation to a number of convicts. The special mode of functioning of pre-trial detention centers imposes certain difficulties on the process of serving and executing sentences. The article considers factors affecting the security of convicts serving sentences in pre-trial detention facilities of the penal system. *Purpose:* to study various theoretical approaches to classifying factors and their impact on the process of execution and serving of punishment, as well as identify key threats to convicts' vital interests. *Methods:* the methodological basis of this study is a set of methods of scientific cognition, among which the main place is occupied by questionnaires and statistical analysis. *Results:* based on the analysis carried out, the author makes a conclusion about crucial factors affecting safe conditions of serving sentences by convicts of the economic maintenance unit of pre-trial detention centers of the penal system. *Conclusions:* the author emphasizes the need for constant state control over the penal policy implementation in the field of ensuring safety of persons deprived of liberty, as well as continuation of scientific and law enforcement activities to protect the vital interests of those sentenced to imprisonment.

**Keywords:** safety factors; convicts' safety; serving of sentence; socio-psychological climate.

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### Introduction

In the context of the ongoing process to reforming the Russian penal system, the tasks

to ensure human rights in the execution of criminal punishment in the form of deprivation of liberty, personal safety and inviolability of

convicts and persons in custody are priority tasks of correctional institutions and pre-trial detention centers of the Federal Penitentiary Service of the Russian Federation. The Constitution of the Russian Federation, recognizing the rights and freedoms of a person, including those who have committed a criminal act, gives state bodies the duties of recognizing, observing and protecting them.

The data, published by human rights organizations in 2021, on cases of criminal violence against convicts serving sentences in institutions of the Federal Penitentiary Service of Russia, including with participation of employees and personnel of the penal system, seriously undermined public opinion about the domestic penitentiary system, in terms of performing law enforcement functions related to correction of convicts. Revealed serious violations in the field of human rights led not only to personnel changes in the leadership of the Federal Penitentiary Service of Russia and its territorial bodies, but also initiation of criminal cases against convicts and employees of institutions, as well as attracted serious attention of the highest state authorities and President of Russia V.V. Putin to this institution. All this resulted in the President's instructions on strengthening measures of prosecutorial supervision over activities of places of detention, as well as the preparation and introduction of amendments to the penal legislation, in terms of establishing responsibility for torture or other actions, contrary to the will of man.

Despite the proposed and partially adopted measures, unfortunately, it is necessary to recognize the fact that at the highest level practically nothing was said about the causes and conditions of the current negative practice of using illegal methods to correct convicts, as well as factors affecting the process of execution and serving of punishment. This situation indicates insufficient study, including scientific analysis of the problems associated with ensuring convicts' safety, and adoption of effective measures aimed at creating a truly safe environment.

E.V. Martynova, D.V. Uglitskikh, A.V. Zvyagina, A.V. Smirnov, B.B. Kazak, A.V. Shcherbakov, L.V. Lozhkina, A.V. Chugunov, A.M. Sysoev, N.V. Kuz'mina, T.A. Skub, A.N. Zhuravlev, E.K. Panasenko, V.B. Shabanov, A.L. Santashov, A.L. Luk'yanovich, M.A. Gromov,

R.Z. Useev, S.V. Kulakova and others studied factors affecting convicts' safety during execution and serving of punishment. However, this serious theoretical scientific experience still does not find its proper enforcement in practice.

#### *Theoretical foundations*

The research in scientific literature on the topic under consideration shows the presence of different approaches and criteria for classifying factors affecting convicts' safety in the process of serving a sentence. Most scientists associate convicts' safety with the following factors:

- an economic state not only of the penitentiary system, but also of the state as a whole;
- a territorial and geographical location of institutions executing punishment;
- natural-climatic and ecological conditions of the environment of the dislocation of institutions;
- a socio-political state of society;
- a level of crime, a state of the criminogenic environment and other factors affecting the process of execution and serving of punishment.

At the same time, some scientists identify other factors that affect protection of convicts' vital interests, for example, a state of production and economic activity of the correctional facility and a state of the operational-regime situation in the institution.

This opinion is shared by E.V. Martynova, D.V. Uglitskikh, A.V. Zvyagina, A.N. Zhuravlev, E.K. Panasenko.

So, E.V. Martynova, in addition to the main factors, identifies conditions affecting convicts' security level, according to the strength of their manifestation and the extent of possible harm:

- the presence of prohibited items in a correctional facility, including alcoholic beverages and narcotic drugs;
- the organization and provision of medical care;
- material and household support of convicts;
- convicts' illegal behavior aimed at infringing on the rights and freedoms of the individual, associated with encroachment on vital interests [10].

In his study, D.V. Uglitskikh pointed out that the following factors influence safe conditions of serving a sentence by convicts:

- staffing of a correctional facility;
- effective interaction of all structural divisions of the institution to ensure supervision;
- a state of the operational situation and decision-making when it changes;
- a state of law and order in a correctional facility, as well as logistical support for supervision organization [15].

According to A.V. Zvyagina, labor adaptation is one of the important conditions to ensure convicts' safety. The author identifies production and non-production factors. Production factors relate to able-bodied convicts' involvement in labor activity, a lack of demand for most occupations mastered by convicts in the process of serving their sentences, and obsolescence of the material and technical base of the production sector. Non-production factors include economic, organizational, psychophysiological, socio-psychological, cultural and household [4].

A.N. Zhuravlev, considering issues of ensuring security in places of deprivation of liberty through indicators of the state of the operational situation in a correctional facility, suggests the following classification of negative factors:

- shortcomings in the organization of execution of punishment related to the organization of penal institution activities;
- a state of crime both inside and outside the correctional facility;
- a political situation in the country and actions of popular disobedience associated with it;
- convicts' negative reaction to changes in the external and internal environment;
- emergencies arising in a correctional facility (fires, accidents, explosions, destruction);
- the instability of the correctional facility functioning;
- employees' non-fulfillment of official duties, security measures and rules of service, as well as their unprofessional actions, etc. [3].

E.K. Panasenko presents the following classification of factors, dividing them into groups related to:

- organizational and managerial activities of the correctional facility administration;
- labor use of convicts;
- a state of supervision over convicts' behavior;
- a sphere of execution and serving of imprisonment [11].

A.M. Smirnov, considering issues to ensure security of penal institutions, proposes to single out a separate type of convict security – victimological security, characterized as a state of protection from illegal (negative) actions and encroachments. The probability of becoming a victim of an unlawful assault or crime, according to the author, depends on the following factors:

- personal characteristics of the convicted person;
- a nature of the crime committed;
- a psychological environment of convicts;
- a state of law and order in the process of execution of punishment;
- convict's social status [13].

B.B. Kazak, A.V. Shcherbakov, L.V. Lozhkina, A.V. Chugunov, A.M. Sysoev, N.V. Kuz'mina, T.A. Skub associate the state of security of convicts with the stated factors.

B.B. Kazak and A.V. Shcherbakov in their research came to the conclusion that security of a correctional facility also depends on the specifics of penitentiary crime, which includes:

- penitentiary relations;
- a subject composition of criminals;
- specifics of the psycho-emotional side of criminal manifestations;
- increased latency.

According to the scale of prevalence of threats and dangers, scientists divide factors into global, regional and local [5].

L.V. Lozhkina and A.V. Chugunov, among other factors, associate convicts' safety in a correctional facility with:

- a state of crime in the country;
- a change in the qualitative characteristics of convicts for the worse, high level of crimes against the person committed in a correctional facility;
- insufficient preventive work to prevent crimes;
- a difficult financial situation of the penitentiary system itself, etc. [9].

Studying issues of countering extremism in places of detention, A.M. Sysoev connected a level of personal security with the following characteristics of a correctional facility:

- social isolation;
- a priority of antisocial relations among convicts;
- aggressive behavior of a large number of convicts;

- a high percentage of people suffering from mental disorders;
- “overcrowding” of penitentiary institutions;
- convicts’ life monotony;
- a strictly regulated process of criminal punishment execution [14].

N.V. Kuzmina and T.A. Skub rightly point out that the factors that have a direct impact on the process of serving a sentence can be both various changes concerning society and the state of crime in the country. They are as such:

- organizational, legal and criminogenic processes occurring in a correctional facility;
- a social environment;
- a criminal ideology;
- shortcomings in the activities of a correctional facility;
- gaps in the legislation;
- drawbacks of a criminal, psychological, organizational and managerial nature [7].

A.V. Shcherbakov connects the state of convicts’ security with negative processes and social phenomena. The author rightly refers to processes and phenomena, such as rejuvenation of crime and deterioration of criminological characteristics of convicts, as well as the problem associated with organization of socially useful employment of convicts serving sentences in a correctional facility and adoption of measures for their re-socialization [18].

In their research, V.B. Shabanov, A.L. Santashov, and A.L. Lukyanovich, having considered the state of internal processes of the social environment in the process of execution and serving of a criminal sentence in the form of imprisonment, the specifics of the social sphere of the correctional facility, as well as shortcomings in various areas of the penitentiary system, concluded that convicts’ safety also depends on:

- a level of social crime control;
- scientific research, legislative initiative and law enforcement activities in the field of human rights protection;
- the specifics of places of deprivation of liberty;
- the presence of criminal norms and traditions of psychological contact;
- a state of public control over activities of the penal system;

- the effectiveness of activities of control and supervisory bodies [17].

The most important task in this sphere, according to S.V. Kulakova, is to prevent any incidents with convicts’ participation and associated psychological readiness of employees for these actions. As the author notes, all the factors affecting employees’ psychological readiness to ensure safety of penitentiary institutions can be divided into organizational, logistical, psychological and criminogenic-situational, including:

- organizational issues of penitentiary institutions and readiness to act in case of emergency;
- engineering and technical support for service activities;
- a system of personal and professional characteristics of employees [8].

M.A. Gromov, dividing all the factors affecting convicts’ safety into external and internal, pays special attention to:

- moral characteristics of society, affecting spiritual security of the country;
- demographic processes and the structure of population;
- a geographical location of penal institutions;
- activities of international organizations;
- a state of criminal culture among convicts;
- a state of production and economic activity of a correctional facility;
- a state of the correctional process, etc. [1].

R.Z. Useev associates the state of protection of convicts’ vital interests with:

- the influence of natural, environmental, man-made and social hazards;
- a special status of the penitentiary system;
- a state of social and legal protection of the service in the UIS;
- a level of official discipline, criminality among employees of the penal system and a degree of its corruption;
- imperfection of the penal legislation;
- the non-compliance of domestic and international legislation in the field of penitentiary law, etc. [16].

#### *Results*

Having considered the classification of factors proposed by penitentiary scientists, we can single out key factors affecting convicts’ safety:



- conditions of serving sentences;
- criminal environment of serving a sentence;
- criminological characteristics of convicts;
- staffing of correctional facilities and social security of UIS employees;
- effective supervision of convicts;
- a state of the operational situation and decision-making when it changes;
- material and technical support of the organization of supervision;
- labor adaptation of convicts;
- moral and psychological climate;
- a state of law and order;
- specifics of penitentiary crime;
- a criminogenic situation in the country;
- a financial position of a correctional facility;
- social isolation, antisocial relations among convicts;
- a strictly regulated process of execution of criminal punishment;
- educational work with convicts and their resocialization;
- state, judicial, public control and supervision over correctional facility activities;
- activities of international organizations;
- a level of convict subculture development;
- a state and application of the norms of domestic and international penal legislation.

Let us consider the impact of the above factors on the state of protection of person's vital interests, respect for the rights and legitimate interests of convicts serving sentences in pre-detention centers.

In accordance with the Penal Code of the Russian Federation, a pre-trial detention center is a correctional facility for several categories of convicts. The most significant category of convicts in a pre-trial detention center are persons who are held in the institution to perform household work. Convicts serve their sentences in the conditions that are established in general regime correctional facilities, but with significant, in our opinion, features that in most cases positively affect the punishment execution process.

Taking into account the fact that all convicts serving sentences in a pre-trial detention center are employed and have permanent earnings not lower than the established subsistence minimum, issues of labor adap-

tation do not have a proper impact on the process of ensuring security. Moreover, financial security of convicts does not depend on the economic situation in the region, where the pre-trial detention center is located, economic and production activities of the institution, as well as other factors related to convicts' employment. These circumstances ensure involvement in the work of convicts who have claims in criminal and civil cases, which in turn guarantees the adoption of appropriate measures to repay them.

The work performed by convicts in pre-trial detention centers is mostly not of a production nature, with the exception of convicts involved in cooking and washing bed linen. In turn, it is fair to note that the level of occupational injuries among convicts of this category is quite insignificant. As a rule, convicts' injuries are of a domestic nature and do not lead to serious consequences.

Taking into account the fact that persons serving sentences in pre-trial detention centers are mostly positively characterized, have not previously served a sentence in the form of imprisonment, there is an insignificant number of cases of infringement on life. A low criminality level is also due to the fact that those persons who do not want to serve their sentences in a general regime correctional facility remain to serve their sentences in an economic maintenance unit. There may be several reasons for this. To begin with, people fear the criminal environment present in general regime correctional facilities. Besides, they have adapted to conditions of the pre-trial detention center and do not want to relive the stress associated with transfer to another institution.

As a rule, among convicts serving sentences in a pre-trial detention center, criminal subculture is poorly developed, relationships are mostly benevolent, the level of violations and crimes, as well as the criminogenic environment influence are minimal.

As for victimological safety of convicts serving sentences in pre-trial detention centers, the probability of becoming a victim of the crime while serving a sentence is insignificant. Positive personal characteristics of convicts, a weakly expressed criminal subculture, absence of convicts of a negative orientation, increased tolerance to the nature of the criminal act committed, moral and psychological

climate among convicts, maintenance of law and order at the proper level, the status of convicts as “those who have not previously served their sentences”, and a lack of experience in deprivation of liberty minimize negative security threats and practically exclude commission of crimes against the person.

The factors related to the execution process also have a positive impact on ensuring convicts’ safety in pre-trial detention centers. They are the following:

- a high degree of supervision over prisoners and its logistical support;
- a high level of application of integrated security systems in pre-trial detention centers;
- increased requirements for isolation of various categories of persons held in pre-trial detention;
- cell detention of prisoners capable of having a negative impact on convicts, etc.

It should also be noted that units for economic maintenance of pre-trial detention centers, as a rule, are not crowded, their quantitative composition depends on the actual occupancy of the institution. In accordance with the design rules of pre-trial detention centers, the number of convicts performing household work cannot exceed 7% of the occupancy rate [12]. Under these conditions, more efficient work can be conducted to correct convicts, encourage development of their positive qualities and respect for the norms of human community and the rights to personal integrity, life and health, and form a healthy moral and psychological climate, thereby reducing dependence of the process of serving a sentence on social isolation of convicts, antisocial relationships among themselves, convicts’ life, problems of organizing socially useful employment of convicts and measures for their re-socialization.

Territorial and geographical conditions of the functioning of the institution do not have a significant negative impact on convicts’ safety. Basically, pre-trial detention centers are geographically located in large settlements. As a rule, in the locations of pre-trial detention centers there are other state authorities and law enforcement agencies, which ensure judicial, public and departmental control of their activities, as well as constant prosecutor’s supervision. In these circumstances,

the issues of ensuring the rights of convicts, including personal security, are under closer supervision than in correctional facilities located outside large territorial entities.

However, it is fair to note that in addition to the positive aspects associated with serving a sentence in a pre-trial detention center, there are also negative ones. The financial and economic situation of the penitentiary system, as well as professional activities of employees, can have a real impact on the state of protection of vital interests of convicts.

In the information and analytical reference based on the results of the study of the socio-psychological situation among convicts (the Instruction of the Federal Penitentiary Service of Russia for the Perm Oblast, 2021, the document was not published), problematic moments characteristic of most pre-trial detention facilities were identified from the point of view of convicts’ subjective assessment. The convicts mentioned problematic issues, such as:

- organization of the medical unit work;
- wage violations related to the lack of compensation for overtime, work on weekends and holidays;
- provision of shops at pre-trial detention centers with food and basic necessities;
- utilities and household living conditions;
- meetings with relatives and friends, a criminal defense lawyer;
- organization of the correctional process;
- a low level of justice in relations with employees, and a high level of conflict [2].

Current pain points in the process of serving a sentence, in most cases, are objective in nature and related to the specifics of functioning of pre-trial detention centers as institutions executing a court sentence.

We will highlight objective threats to the vital interests of convicts associated with the nature of activities of the pre-trial detention center.

1. Specifics of pre-trial detention center activities.

Pre-trial detention centers are designed primarily for detaining the suspected and the accused of committing crimes. For this purpose, a detention regime is established in pre-trial detention centers, aimed, inter alia, at ensuring the rights and legitimate interests of persons in custody. Pre-trial detention

centers perform two tasks that are different in content, but the same in degree of responsibility:

- keeping in custody of persons in respect of whom a preventive measure in the form of detention is chosen;
- execution of criminal punishment in the form of imprisonment in relation to convicted persons, including the household maintenance unit.

At the same time, the fulfillment of the first task is considered as its priority activity. Hence, as a rule, less attention is paid to issues of ensuring convicts' rights and legitimate interests. It should be noted that the increased conflict between convicts and employees of the institution, in most cases, is not associated with a low level of legality in the process of criminal punishment execution, and does not entail the use of means to correct convicts not provided for by penal legislation, but is a consequence of high loads, a large volume of tasks performed by employees and staff of pre-trial detention centers.

However, in these conditions, another negative moment may arise, associated with the presence of non-official relationships of employees and staff of the pre-trial detention center with convicts. In conditions of a shortage of personnel and a large volume of official tasks performed, it is not uncommon for convicts to be involved in performing unusual tasks.

2. A special environment for serving a sentence.

It is generally believed that the penal system begins with a pre-trial detention center. Persons, in respect of whom the court has chosen a preventive measure in the form of detention, arrive there. In the first days of their stay in pre-trial detention centers, the suspected and the accused undergo a necessary medical examination, fluorographic and laboratory tests, the results of which often reveal infectious, socially significant and very dangerous diseases (tuberculosis, hepatitis, syphilis, scabies, HIV infection, etc.). Considering that convicts serving sentences in a pre-trial detention center directly and constantly perform maintenance work at all premises and facilities, are constantly in the risk zone, the threat of their infection with these diseases is too high.

3. Quantitative and qualitative composition of convicts.

An economic maintenance unit is composed of the convicts who have not previously served their sentence, are positively characterized, do not want to serve their sentence in a correctional facility of general regime, as well as those who have applied to the head of a pre-trial detention center with a corresponding request.

According to K.V. Korsakov and I.A. Zhilko, convicts of this category "are always characterized by the absence of a pronounced anti-social attitude and significantly less susceptible to various kinds of criminogenic factors reproducing criminal behavior compared to other categories of convicts" [6]

Convicts' relatives often want the convicted to be kept in economic maintenance units, because of the inability to visit them in a remotely located correctional facility or some other personal circumstances. In these circumstances, convicts have to accept all conditions of serving their sentence, including negative ones, realizing that in case of disagreement with the requirements, they can be transferred to a general regime correctional facility. Considering that the capacity limit of an economic maintenance unit depends on the occupancy rate, the actual number of convicts cannot be increased without any serious grounds. An insufficient number of convicts performing maintenance work leads to the violation of labor legislation requirements in the process of serving a sentence by convicts:

- provision of a proper number of days off;
- compliance with a 40-hour working week;
- payment of overtime hours, as well as work on weekends and holidays;
- provision and holding of annual vacations, etc.

The administration of a pre-trial detention center in most cases supports convicts when they submit requests for changing the type of a correctional facility or replacing part of the sentence not served with a milder kind, as well as parole.

Considering that pre-trial detention centers are not designed for serving sentences in strict conditions stipulated by the Penal Code of the Russian Federation, convicts who have committed malicious violations, as well as

those who do not want to serve their sentence in a pre-trial detention center, are transferred to general regime correctional facilities.

We believe that in these circumstances, convicts are forced to accept appropriate conditions for serving their sentences in a pre-trial detention center, undergo restrictions on their rights and legitimate interests, in the hope of an early release.

#### 4. A state of financial and economic support.

Pre-trial detention centers, performing functions of correctional facilities, do not conduct any production and economic activities. In most cases, there is no possibility to carry out extra-budgetary activities there, which leads to a lack of additional funds.

#### Conclusion.

It is fair to note that despite the existing negative factors affecting the process of execution and serving of sentences in a pre-trial detention center, it is safer there than in correctional facilities. There are practically no crimes committed in the economic maintenance units of the pre-trial detention center, and the level of offenses is minimal.

Despite the fact that pre-trial detention centers are characterized by a positive moral and psychological climate among convicts and safer conditions for serving sentences, we propose the following measures to reduce the negative impact of the process of serving sentences on the state of convicts' vital interests:

– to control a state of security of penitentiary institutions; work out the Concept for

security of the penal system, fixing measures aimed at ensuring safety of the suspected, accused and convicted persons in places of deprivation of liberty;

– to strengthen the role of public organizations, including human rights organizations, in protecting the rights of convicts, which will undoubtedly increase the level of public trust in activities of the penitentiary service; expand the possibility of involving civil public organizations (institutions, associations) in solving issues related to providing medical, social, psychological and other assistance to convicts;

– to continue scientific research in the field of penal law and timely implement scientific achievements in practical activities of institutions and bodies of the penal system of the Russian Federation; fix the concept of security of convicts and persons in custody in the Penal Code of the Russian Federation and the Federal Law "On detention of suspects and the accused of committing crimes" and determine criteria, limits, forces and means to ensure it.

Sharing the opinion of foreign scientists, we should note that deprivation of liberty has a long-term impact on positive life of offenders. In this connection, it is recommended to make coordinated efforts to reintegrate former offenders and make every effort to ensure that former convicts can get paid work after returning to freedom and give up committing crimes [19].

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