

On the Importance of Operational-search Activities in Ensuring the Tasks of Penitentiary Prevention

Valeriy Aleksandrovich Zhabskiy¹, Olga Aleksandrovna Zigmunt², Arkady Ivanovich Kochkarev³
and Igor Alekseevich Uvarov⁴

¹*Department of Criminal Law, Kuban State Agrarian University named after I.T. Trubilin, Russia*

²*Faculty of Educational and Social Sciences of the University of Vechta, Vechta, Germany*

³*Department of Administrative Law and Administrative Activity, Ryazan branch of the Moscow University of the Ministry of Internal Affairs of the Russian Federation named after V.Ya. Kikot, Russia*

⁴*Department of Criminal Law and Criminology, Stavropol branch of the Krasnodar University of the Ministry of Internal Affairs of Russia, Russia*

Keywords: Operational-search activity, penitentiary prevention, penitentiary criminology.

Abstract: In the context of the complication of socio-economic relations that have taken place in recent years in our country, there is a significant aggravation of penitentiary contradictions in places of deprivation of liberty. This state of affairs urgently requires additional efforts from the penitentiary system to strengthen law and order in the assigned units. This problem becomes especially acute due to the fact that the load on the relevant subjects of penitentiary prophylaxis increases many times over. In this regard, it becomes urgent to determine other, qualitative priorities in the distribution of the functions of educational and preventive influence on convicts. One of such subjects is the operational-search divisions of correctional institutions. The specific arsenal of preventive action available to them can be used to ensure the tasks of penitentiary prevention in the new socio-economic conditions. The current state of penitentiary prophylaxis requires a special study of the capabilities of operational-search means, and therefore the purpose of the study was formulated as follows - to identify problems associated with the use of operational-search activities to solve the problems of penitentiary prevention. To achieve this goal, it was necessary to solve organizational and methodological problems, and first of all: to define theoretical and methodological approaches to the use of operational-search activities in the implementation of penitentiary prevention; to characterize the specifics of the use of operational-search activities in the implementation of penitentiary prevention; to determine the educational and preventive value of the use of operational-search activities in the penal system. In the course of the study, specific mechanisms for the use of operational-search activities in the process of implementing the goals of penitentiary prevention were established. The results obtained in the course of the research may be of great practical importance for penitentiary science.

1 INTRODUCTION

The activity of correctional institutions in recent years has been taking place in rather difficult socio-economic conditions. This significantly complicates the process of reforming convicts. One of the specific factors that significantly reduce the correctional potential of the domestic penal system is the illegal activities of the convicts themselves. Despite the fact that statistics record a relatively small number of crimes committed by convicts during the period of serving their sentences, their negative impact on the implementation of penitentiary prevention is extremely destructive. According to the reasonable

statement of N.S. Artemiev, the presence of criminality in places of deprivation of liberty testifies to their increased social danger, thereby undermining the basis of the existence of institutions and bodies executing criminal punishments (Artemyev, 2007). Even isolated facts of crimes committed in correctional institutions form a negative attitude among citizens not only towards the domestic penitentiary system, but also towards the punishment applied in general. Citizens stop believing in the protective function of the law, which contributes to the spread of legal nihilism. Most negatively, it affects the qualitative assessment of the correctional

process in the minds of persons serving a sentence of imprisonment.

Such facts can not leave aside the consciousness of the representatives of the administration. They have a destructive effect on the staff of correctional institutions, reducing the quality potential of educational and preventive influence. They give rise to insecurity not only in their own safety, but also in the safety of their loved ones.

The illegal activity of convicts during the period of serving a criminal sentence is a fairly well-studied phenomenon, which suggests that the arsenal of means for countering it has been developed quite a long time ago. In this regard, the question of how much this potential can be realized in modern socio-economic conditions is quite natural.

2 MATERIALS AND METHODS

Content analysis and longitudinal studies of the normative and value characteristics of correctional staff were identified as a methodological basis capable of solving the tasks set before the study.

Content analysis was aimed at studying text documents performed by correctional officers in the performance of their professional functions. The use of this method was due to the fact that in the course of their professional activities, employees of correctional institutions, as a rule, perform the same type of documents (only those documents were used that have no restrictions on use). This enables tracing the variability of the approach to their implementation.

Longitudinal studies were performed on the basis of the faculty of vocational training and additional vocational education of the Academy of the Federal Penitentiary Service of Russia, among employees who underwent advanced training pursuant to the nature of their professional activities. The array consists of 102 employees of various structural divisions of correctional institutions (n = 102 with operational experience). Work experience of at least five years.

3 RESULTS AND DISCUSSION

The key problem of criminality sentenced to imprisonment is its high latency. Moreover, in the conditions of penitentiary institutions, this feature is of a purely specific - objective nature. The fact is that the convicted person is not only in a position isolated

from society, but also under the constant supervision of the staff. Hence, natural is the statement of I.I. Karpets that "crime in places of deprivation of liberty... is large in scale ... considering the fact that, it seems, there should be no crime in these places" (Karpets, 1992). This kind of approach is the basis for justified criticism of the administration of correctional institutions, which, in pursuit of a positive assessment of the quality of their work, resorts to various tricks that allow many crimes to be "transferred" into the category of disciplinary offenses (Titanov, 2016).

The acts that, by their nature, have a negative impact on the functioning of correctional institutions are of particular danger to penitentiary prevention. In this regard, it is quite relevant to identify in the system of statistical accounting of the illegal activities of convicts of such a category of crimes as - "especially considered" (Ministry of Justice of the Russian Federation, 2008). Thus, pursuant to the Federal Penitentiary Service of Russia, the level of especially considered crimes in correctional institutions (per 1000 convicts) is 0.35%. This indicator is significantly lower in pre-trial detention centers and prisons - 0.10% (Ministry of Justice of the Russian Federation, 2011). Indicators of this kind are often the justification for better conditions for the confinement of convicts in cells (Sorokin and Sorokina, 2013). The confinement in cells significantly facilitates the supervision of convicts, which makes it possible to better solve the problems of penitentiary prevention. This gives grounds to individual authors to propose to reorganize correctional colonies into prisons. (Utkin et al., 2018)

By virtue of the tasks solved by the penal system, a special place in the system of special subjects of penitentiary prevention is given to operational units of correctional institutions. In the special literature, it is even proposed to use a special concept - "operational-search prevention" (Solodovnikov, 2004). Extrapolating this kind of prevention to the activities of correctional institutions, N.A. Artemiev believes that "one of the indispensable conditions for solving problems in the fight against penitentiary crime is to increase the efficiency of operational-search activities" (Artemyev, 1998).

From the point of view of legal regulation of the preventive work of correctional institutions, operational-search activity should be aimed at ensuring the prevention of crimes. This is evidenced by the Federal Law "On Operational Investigative Activities", which defines the tasks (Art. 2) and principles (Art. 3), regulates many issues that determine the specifics of this activity.

In Art. 84 of the RF PEC specifies the tasks of operational-search activities in correctional institutions, the general significance of which, in our opinion, can be defined as related to the direct provision of criminal proceedings. In other words, the main task is to ensure not so much the fight against the illegal activities of convicts during the period of serving their sentence, but rather the creation of conditions for ensuring the correctional process. We agree with the opinion of those authors who propose to consider the very fact of the presence of operational units in correctional institutions as the implementation of early crime prevention (Nazarov, 2002).

Among the factors that determine the preventive value of the activities of operational units of the penal system, we tend to single out:

- awareness of those sentenced to imprisonment about the methods of work of operational units (this is especially true for persons who have previously served a sentence of imprisonment);
- a permanent state of a penitentiary, and in some cases of a penitentiary conflict (often in the literature they are mistakenly defined as contradictions arising between the staff of correctional institutions and convicts (Detkov, 2011);
- the ability of convicts to carefully hide their criminogenic nature;
- the latent nature of the unlawful views and aspirations of the convicts, realized during the period of serving the sentence;
- the presence of a certain criminal qualification (this factor, in connection with the development of communication means, is inherent not only to convicts who have previously served a sentence of imprisonment).

All of the above factors indicate that the implementation of "latentization of criminogenic processes in conditions of isolation of convicts from society" (Uvarov, 2020), is characterized by the fact that it is possible to identify them and actively resist them only with the help of the means of operational-search activity. This is due to the possibility of using open and discrete forms of preventive work. This makes it possible to single out at least two specific areas:

- independent implementation of measures, primarily individual prevention, in relation to certain categories of convicts (as a rule, these are persons prone to committing various types of offenses);
- the use of criminologically significant information obtained by operational means to

concretize the measures of direct and individual preventive work.

It is very important to understand here that if in the first case, the convicts are aware that the administration has the necessary information about their illegal intentions, then in the second case, the information is purely confidential, which makes it possible to adjust the measures of individual prevention. The ability to use confidential information about a convict in individual preventive work allows one to single out operational units in the system of special subjects of penitentiary prevention. They have, in comparison with other subjects of prevention, wider opportunities in the educational and preventive work. Hence, the assertion of individual authors that operational-search activity is the only means of effective influence on criminogenic phenomena and processes in places of deprivation of liberty (Obraztsov, 2008).

The features of operational-search activity in ensuring the tasks of penitentiary prevention include:

- the main part of preventive measures is performed through the secret collection of information, in connection with which, one cannot exclude a significant share of subjectivity among convicts who preface it;
- all measures performed by operational units are aimed at eliminating the causes and conditions conducive to the commission of unlawful acts by convicts (in some cases, such measures are also performed in relation to the personnel of correctional institutions);
- territorial limitation of the activities of operational units (only in some cases - it can extend to the adjacent territory).

In our opinion, it is obvious here that the implementation of all of the above features is determined by the specific functions of the operational units. Only they are empowered to perform operational-search activities in relation to convicts and personnel. This right puts them in a separate position in the system of specialized subjects of penitentiary prevention. The availability of special opportunities for the use of covert measures makes it possible to identify in a timely manner the persons from whom the commission of illegal acts can be expected. Without disclosing this information, specialized subjects of penitentiary prophylaxis adjust measures of educational and preventive influence in relation to a particular convict or group. Herewith, operational units can continue to perform covert control over the nature of the response to ongoing educational and preventive measures.

In this context, it can be stated that operational-search activity is performed not only in order to prevent the illegal activities of convicts, but also to solve a wider range of preventive tasks. Taking into account the foregoing, operational-search activities aimed at providing penitentiary prevention can be considered in two aspects:

- a) in a broad sense - as part of a specialized form of influence on convicts in order to achieve their correction. Here, the peculiarity of the work of specialized subjects of penitentiary prevention is fully manifested;
- b) in the narrow sense - as part of the criminological prevention of the crime of convicts. Here the tasks set forth in Art. 2 of the Federal Law "On Operational Investigative Activities" and Art. 84 of the RF PEC.

4 CONCLUSIONS

Thus, the operational-search activity of the operational units of the penal system to ensure the tasks of penitentiary prevention is performed in the following directions:

- overt and covert influence on the personality of convicts capable of manifesting various forms of destructive behavior (Filippova, 2020), (Kachurova and Suturin, 2018);
- monitoring of internal negative processes occurring in the ongoing in the penitentiary society (Filimonov, 2019), (Utkin, 2019);
- elimination of the existing shortcomings in the organization of the correctional process by operational-search means (Peremolotova, 2017), (Uvarov, 2021).

The basis for the implementation of all of the above directions should be a fundamental change in the penal policy of our country (Seliverstov, 2016). Herewith, understanding the complexity of the use of operational-search activities in the implementation of penitentiary prevention, it is necessary to take into account the requirement to respect the rights and legitimate interests of those sentenced to imprisonment (Grishko, 2015).

REFERENCES

Artemyev, N. S., 2007. Ensuring the rule of law and observance of human rights in correctional institutions. *In Modern penal legislation: problems of theory and practice. Materials of the international academic and*

- research conference.* RYAZAN: FSIN OF RUSSIA ACADEMY. pp. 7-11.
- Karpets, I. I., 1992. *Crime: illusions and reality.* M.: RUS. LAW. p. 432.
- Titanov, M. Yu., 2016. The influence of latent crime on the correction of convicts in places of imprisonment. *In Socio-political sciences.* 3. pp. 45-49.
- Order of the Ministry of Justice of the Russian Federation of August 28, 2008. 189. On approval of the forms of statistical reporting of the Ministry of Justice of the Russian Federation on state registration of acts of civil status. SPS "CONSULTANTPLUS".
- Order of the Ministry of Justice of the Russian Federation of February 28, 2011. 59. On approval of the report on the activities of the Federal Service for the Execution of Punishments for 2010, the Work Plan and Performance Indicators of the Federal Service for the Execution of Punishments for 2011. SPS "CONSULTANTPLUS".
- Sorokin, M. V., Sorokina, O. E., 2013. Topical issues of preventive accounting in pre-trial detention centers and prisons of the penitentiary system. *In Fighting penitentiary crime: experience, problems, prospects: materials of the interuniversity scientific-practical conference.* VLADIMIR: VYUI FSIN OF RUSSIA. pp. 155-161.
- Utkin, V. A., Kiselyov, M. V., Savushkin, S. M., 2018. "Hybrid" and "multi-mode" penitentiary institutions: advantages and risks. *In Bulletin of the Tomsk State University. Law.* 29. pp. 103-113.
- Solodovnikov, S. A., 2004. Operational-search prevention: concept, features, sphere of functioning. *In Bulletin of the Moscow University of the Ministry of Internal Affairs of Russia.* 4. pp. 77-79.
- Artemyev, N. S., 1998. *Prevention of recurrent crime. (Issues of theory and practice).* p. 45.
- Nazarov, S. V., 2002. Operational-search prevention of the order of serving the sentence. *In Response to crime: concepts, law, practice.* M.: RUS. CRIMINOLOGIST ASSOCIATION. p. 120-122.
- Detkov, A. P., 2011. Methods of conducting educational work with convicts serving a criminal sentence to prevent conflicts. *In Bulletin of the Altai Academy of Economics and Law.* 1(19). pp. 148-150.
- Uvarov, I. A., 2020. Value orientations of prisoners sentenced to imprisonment as a sociological problem. *In Theory and practice of social development.* 11(153). pp. 61-64.
- Obraztsov, S. V., 2008. Features of general and individual operational-search prevention of crimes against life and health in a correctional colony. *In Problems and prospects for the development of the penal system as an element of the law enforcement system in Russia and foreign countries: Materials of the International academic and research conference.* SAMARA: SYUI FSIN OF RUSSIA PUBLISHING HOUSE. pp. 67-71.
- Filippova, O. V., 2020. Criminological characteristic of recurrent crime. *In Bulletin of the Tomsk state university. Law.* 38. pp. 87-100.
- Kachurova, E. S., Suturin, M. A., 2018. On the issue of the possibility of implementing a mechanism for correcting

- persons repeatedly (interactively) sentenced to imprisonment. In *Bulletin of the Tomsk State University. Law.* 29. pp. 91-102.
- Filimonov, V. D., 2019. Grounds and types of individualization of punishment during its execution. In *Bulletin of the Tomsk State University. Law.* 34. pp. 138-147.
- Utkin, V. A., 2019. Progressive system of execution of punishment in the form of imprisonment in Russia at the turn of the XIX-XX centuries. In *Bulletin of the Tomsk state university. Law.* 33. pp. 153-159.
- Peremolotova, L. Yu., 2017. Problematic aspects of resocialization of the convict's personality. In *Bulletin of the Tomsk State University. Law.* 24. pp. 52-58.
- Uvarov, I. A., 2021. Criminological features of the functioning of informal norms of behavior in conditions of isolation from society. In *Russian investigator.* 3. pp. 60-63.
- Seliverstov, V. I., 2016. Changes in criminal executive policy and criminal executive legislation in the sphere of imprisonment enforcement. In *Bulletin of the Tomsk State University. Law.* 2(20). pp. 69-81.
- Grishko, A. Ya., 2015. Preventive function of the norms of criminal executive law and the legitimate interests of the convicted person. In *Bulletin of the Tomsk State University. Law.* 3(17). pp. 12-23.

