

## Counteraction of juvenile crime in the Republic of Kazakhstan: characteristic of procedural interaction of authorized bodies

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### ABSTRACT

At the present stage of the Kazakhstan society development, under the conditions of the constitutional state and civil society creation, counteraction to juvenile crime is paid special attention. It is necessary to note the special bodies, authorized to carry out fight against crime of minors, including investigation bodies, search bodies, bodies for juvenile affairs, etc. In the present research, authors consider features of procedural interaction of the mentioned above bodies during disclosure, investigation and the prevention of juvenile crime. The emphasis on problem questions of interaction is thus placed.

**KEYWORDS:** juvenile crime, interaction of authorized bodies, crime counteraction.

### INTRODUCTION

Negative tendencies in the sphere of juvenile crime (assuming high-quality and quantitative changes of its characteristics), toughening of ways of the crime committing selected by minors for achievement of their criminal intention, the organized character of crimes, high level of recurrent crime among minors – all these circumstances dictate need of search of new ways of strengthening of counteraction to criminal manifestations among the minors, one of the major aspects of which is the improvement of the interaction organization between investigators, offices of criminal investigation department and divisions for minors' affairs.

It should be noted that, despite policy of the criminal legislation pursued in the Republic of Kazakhstan, a crime rate among minors in RK remains rather stable and doesn't tend to noticeable reduction. Thus, for example, in 2009 the total of brought to trial were 59226 people, among them minors 6651 (minors share 11,2%), in 2010 of all 56383 people, among them minors 6070 (minors made 10,8%) were brought to trial, in 2011 of all was brought to trial 51151 persons, among them minors 6362 (minors share 12,4%), in 2012 in total it was brought to trial 45731 persons, among them minors 5879 (minors made 12,4%), in 2013 of all 50135 people brought to trial, including minors 5311 (minors made 10,6%) (See Figure 1) [1].

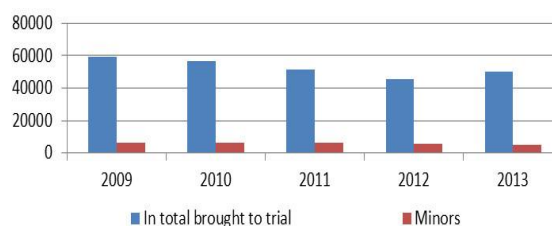


Figure 1

It is necessary to note that, unfortunately, essential weakening of special bodies' activity to which the direct prevention and fight against juvenile crime are assigned now takes place.

Here it is necessary to mention:

- low efficiency of laws performance supervision in education and protection of the younger generation rights;
- insufficient development of specialized service of social protection of minors;
- incompleteness of identification of the minors inclined to offenses, and dysfunctional families;
- inopportuneness and insufficiency of taking measures of influence concerning them;
- incompleteness of registration and inopportuneness of disclosure of crimes.

At the same time in special literature there is a point of view according to which formation of criminogenic motivation and its manifestation in behavior of minors are significantly promoted by shortcomings of organizational and administrative character of right educational and law-enforcement activity [2].

Besides, questioning carried out by the research authors among the representatives of law-enforcement bodies of the Republic of Kazakhstan who are engaged in disclosure and investigation of crimes, committed by minors (in total 235 police officers were interrogated) shows that among the main reasons of absence of positive dynamics in decrease in crime among minors the majority of the interrogated respondents distinguish insufficient interaction of authorized bodies (investigation bodies, bodies of criminal investigation, bodies for minors, etc.) in juvenile crime counteraction.

One of the paramount conditions providing successful disclosure and investigation of crimes, committed by minors, is a well adjusted interaction of investigators with employees of operational

search divisions and divisions for minors' affairs. Each of these subjects of process of investigation possesses a set of the specific means and methods of disclosure of crimes therefore it is important that these opportunities were used in a complex. At the same time it is possible to reach optimum results only by means of a rational combination of the measures inherent in subjects of interaction, and also accurate differentiation of the rights and duties between participants of joint activity. At the same time the specified subjects of interaction are components of uniform system of the law-enforcement bodies, urged to solve the general problem of fight against crime.

Interaction and cooperation questions in crime counteraction were considered earlier by such authors as: Penelope Turnbull [3], Tom R. Tyler and Jeffrey Fagan [4], V.E. Zharsky [5], I.M. Gutkin [6], T.A. Hanov and A.V. Boretsky [7], A.V. Boretsky and S.K. Zhetpisov [8], M.A. Tolegen, A.V. Boretsky and T.T. Balashov [9] and others.

## RESEARCH METHODS

The methodological bases of this study were: the dialectical method of learning of social and legal events, also the systemic-structural, comparative legal, logical-theoretical and separate scientific methods of cognition. In addition, the study used sociological techniques such as questionnaires and interviews. In order to achieve the objective results of the study these methods were applied comprehensively.

## RESULTS AND DISCUSSION

The concept of the juvenile crime investigation organization is considered by us in this research not simply as an organizational structure in statics, but as the organizational process consisting of certain stages and including the following basic elements:

- formulation of the purposes and the tasks facing each of participants of preliminary investigation;
- information support which forms base for promotion of criminalistic versions and investigation planning;
- implementation of interaction and coordination of subjects of disclosure and investigation of crimes;
- studying of the identity of the criminal and forecasting of the suspect or the accused behavior (especially when selecting a restraint measure) and the coordinated planning of investigative and operational search actions between participants of preliminary investigation;
- process of real implementation of specific objectives and realization of the planned actions;
- entering of amendments into plans on the basis of an assessment of efficiency of results and new requirements of practice;
- legal support of crimes investigation;

- procedural control of interaction and procedural management of interaction;
- departmental control of law-enforcement bodies heads at republican and local levels;
- public prosecutor's supervision and judicial control in the course of interaction during performance of laws by its participants;
- the resource provision including the solution of personnel, financial and economic, material, and other questions to create conditions for normal functioning of crimes investigation system.

The listed elements of the juvenile crimes investigation organization process, certainly, don't settle all its traditional characteristics and features, and even their sequence is sufficiently conditional, however in their total they are the center and indispensable attributes of activity implementation on investigation and disclosure of the crimes committed by minors.

The analysis of the maintenance of separate elements of the crimes investigation organization process allows drawing a conclusion that one of the paramount conditions providing successful disclosure and investigation of crimes, committed by minors, is a well adjusted interaction between appropriate subjects. And as each of divisions (investigative, operational search, preventive, and operational criminalistic) as participants of criminal trial possesses its own specific means and methods of crimes disclosure, it is important to ensure complex use of these opportunities in crimes disclosure and investigation.

In relation to investigation of crimes under interaction, as a rule, the coordinated activity of investigation subjects is understood, directed on fast and full disclosure of crimes [5; 6; 10].

Main objectives and problems of the specified interaction for the prevention and disclosure of juvenile crimes, are defined:

- in the Laws "About the Rights of the Child in the Republic of Kazakhstan" [11], "About prevention of offenses among minors and the prevention of children's neglect and homelessness" [12];
  - in Decrees of the President of the Republic of Kazakhstan: "The concept of system of juvenile justice in the Republic of Kazakhstan for 2009-2011" [13], etc., Government resolutions: "The provision on the interdepartmental commission on affairs of minors and protection of their rights at the Government of the Republic of Kazakhstan" [14]; "Standard provision on the commission on affairs of minors and protection of their rights" [15].
  - in departmental regulations of the Ministry of Internal Affairs of the Republic of Kazakhstan, the Ministry of Education and Science of the Republic of Kazakhstan, the General prosecutor of the Republic of Kazakhstan.
- Considering specifics of the present research, relevant and important, in our opinion, are the questions of interaction of investigators with the

staff of divisions for minors' affairs who aren't included either into the system of operational search services, or criminalistic divisions. At the same time employees of divisions for minors' affairs carry out check of materials according to the registered statements and messages on the crimes committed by minors before initiation of legal proceedings, in fact carrying out functions of inquiry bodies in criminal trial.

Need of interaction between them (subjects) is defined by requirement of use of means and methods available to operational divisions as specific forces inherent only in them.

The organization of interaction assumes coherence of actions on the purposes, a place and time within the competence as independently, so together with other services of law-enforcement bodies. Considering the special procedural status of the investigator in criminal trial and depending on subjects of interaction it is possible to speak about two types of interaction:

First, it is interaction between equal (in conditional degree) subjects, i.e. the staff of divisions for minors' affairs and the staff of operational search divisions (both can carry out functions of inquiry body, and are obliged to execute owing to Art. 65, 200 of the Criminal Procedure Code of RK written orders of the investigator about carrying out operational search actions, and also about production of various investigative actions, etc.) [16].

Secondly, it is necessary to allocate interaction between investigators and the staff of divisions for minors' affairs (this type of interaction differs from the first, first of all, in the special relations of subordination where the investigator possesses a role of the head (organizer) of investigative task force, whose written instructions are obligatory for execution by inquiry bodies).

It is necessary to stop in more detail on the features of each characteristic inherent in each of interaction types.

In a broad sense it is the organization of continuous business contacts between operational search divisions of Department of Internal Affairs and divisions for minors' affairs in fight against the considered crimes, providing:

- joint activities for elaboration of strategy of fight against crime of teenagers;
- carrying out joint meetings at the different levels directed on increase of efficiency of mutual informing, use of powers of subjects of interaction in actions for expeditious check of materials and development of the minors suspected of crimes commission, carrying out quick and preventive operations;
- regular exchange of experience of fight against juvenile crime;

- use in fight against juvenile crime opportunities of other government bodies and non-state establishments and organizations;

- joint measures, directed on elimination of the circumstances promoting juvenile crime.

In narrow sense, it means the relations of operational workers and the staff of divisions for the minors' affairs, arising in connection with carrying out concrete actions (from receiving and assessment of initial information till material and operating-technical support of collected data implementation).

The organization of interaction of the specified divisions can be classified by the following bases:

- according to nature of communications they can be direct and mediated. Direct interaction assumes establishment of direct connections between operational devices and divisions for minors' affairs. Such interaction includes, for example, activity as a part of investigative task force or at disclosure of crimes on "hot scents" where there are sufficient bases to believe that they are committed by minors. At the mediated interaction joint activity is carried out, as a rule, at the request of a higher body;

- in accord with implementation time, interaction can be constant and temporary. Continuous interaction is carried out, for example, in the course of disclosure of a concrete crime. Temporary interaction is directed, as a rule, on the solution of small on volume tasks;

- according to the contents it can be internal and external. Internal interaction is carried out with the services entering into structure of law-enforcement body, external – with other services of system of the Ministry of Internal Affairs and other law enforcement agencies.

In the course of interaction its subjects within their competence carry out the following actions:

a) operational divisions:

- reveal, warn, stop and solve crimes of minors, and also reveal persons, preparing crime, committing or having committed it;
- reveal minor offenders, group of such people, and also the minors entering organized criminal groups or in criminal communities (the criminal organizations), and take measures for the prevention of commission of crimes by them;
- carry out measures for counteraction of participation of minors in illicit trafficking in drugs, psychotropic substances and their precursors;
- reveal the persons involving minors in commission of crimes, antisocial actions and (or) in criminal group, and apply to them influences considered by the legislation of the Republic of Kazakhstan;
- take part in search of minors, the missing persons or those who have disappeared from bodies of inquiry, or court and evading from serving of punishment or coercive measures of educational

influence; those who made escapes from establishments of criminal and executive system or self-willingly left their families, or special teaching and educational establishments or the centers of law-enforcement bodies for minor offenders temporary isolation;

b) divisions for minor regional, city departments (managements) of internal affairs, departments (managements) of internal affairs of other administrative units, departments (managements) of internal affairs of the closed administrative-territorial establishments, departments (managements) of internal affairs on transport:

– at detection of signs of preparation of a crime by minors or with their participation carry out together with field services, operational search actions for documenting of these illegal actions;

– together with other services and divisions of law-enforcement bodies take measures to elimination of the conditions promoting preparation of a concrete crime;

– provide increase of level of operational awareness on minor offenders and carry out on this basis purposeful actions for identification and exposure of criminal groups of teenagers;

– inform workers of criminal investigation on the revealed teenagers with steady illegal behavior for implementing measures of influence provided by the law;

– reveal the persons involving minors in criminal activity, consumption of drugs, medicinal and other stupefying means, and also the persons making dissolute actions concerning children and teenagers, take on these facts measures according to the current legislation;

– carry out individual scheduled preventive work concerning minor offenders;

– reveal parents of minors or their lawful representatives and the officials who aren't fulfilling or inadequately fulfilling their duties on education, training and the maintenance of minors, and in accordance with the established procedure make offers on application to them of the measures provided by the current legislation;

– carry out within their competence measures for identification of the minors put on the wanted list, and also the minors needing the help of the state, and in accordance with the established procedure send such persons to appropriate authorities or other establishments of minors' neglect and offenses prevention system;

– consider in accordance with the established procedure statements and messages on administrative offenses by minors, as well as socially dangerous acts of the teenagers who haven't reached the criminal liability age, and also about non-execution or inadequate execution by their parents or other persons of duties on education, training and the maintenance of minors;

– participate in preparation of materials concerning the persons sent to special teaching and educational establishments.

Interaction as based on the law and subordinate regulations joint or coordinated activity of investigators with employees of search services, and also oprational and criminalistic divisions and other services of the law-enforcement bodies, carried out for successful disclosure, investigation and prevention of crimes is based on certain principles:

1) respecting the rule of law;

2) complex use of forces and means of law-enforcement bodies;

3) organizing and leading role of the investigator in the interaction organization at investigation of crimes;

4) independence of inquiry bodies in their choice within the current legislation of methods of the activity;

5) planned character and interaction continuity.

In more detail these principles are concretized in standards of the Criminal Procedure Code, national laws, and also in the provisions of departmental orders of the Ministry of Internal Affairs regulating professional activity of specified divisions and the organization of interaction of divisions and services of Department of Internal Affairs in investigation and disclosure of crimes.

## CONCLUSIONS

Thus, it is necessary to tell that implementation of appropriate interaction between the specified services of law-enforcement bodies of the Republic of Kazakhstan, and also realization of all above principles allows to reach the most effective results during the investigation of the crimes committed by minors, and will provide prevention of commission of new crimes by them. Thus it is necessary to note that it is quite difficult to carry out rigid differentiation of interaction subjects competence in this direction represented as work on the prevention and disclosure of the crimes committed by minors, on their volume, contents, and direction represents a many-sided process.

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