

**Interaction of mass media, government bodies of the power and public opinion in crime prevention questions: urgent criminological, political and legal aspects**

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**Abstract:** In the scientific article problem issues, devoted to interaction of mass media and public opinion in crime prevention are considered: actual criminological, political and legal aspects. Analyzing the established practices in the considered area the authors give grounds for the active state regulation of mass media activity and control over the information stream, which produces a negative impact on the society.

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### Introduction

Mass media now, as we know, have a huge impact on the formation of public opinion. Under the conditions of information society formation the role and value of mass media including the Internet resources, in the future, proceeding from an existing tendency, will only increase. This circumstance makes problems of interaction of mass media and public authorities an urgent issue, at which as authors note, the dual role of mass media in the system "the state - mass media - civil society" is accurately traced. On the one hand, mass media owing to their nature, objectively are to a greater or lesser extent included in the administrative mechanism of the state structures. On the other hand, - they are focused on satisfaction of information requirements and interests of both individual character, and all social institutions of civil society ..." (1). Besides, in the system "the state – mass media – civil society" other factors also have an impact on the nature of relationship within the system "the state - mass media - civil society": features of national mentality, feature of a political regime in the state, etc.

Now, the official criminal policy of the state – the Republic of Kazakhstan is directed on ensuring the rights and freedoms of the person, and further democratic development of the society. At legislative level it is fixed, and as a rule, the constitutional principle of a freedom of speech, receiving and information distribution is practically carried out. So according to article 2 of the Law of the Republic of Kazakhstan "About mass media" a freedom of speech,

creativity, expression in printing and other form of the views and belief, receiving and information distributions by any not forbidden by the law way is declared. Government bodies, public associations, officials and mass media are obliged to provide to each citizen an opportunity to study documents, decisions and information sources mentioning his or her rights and interests. At the same time disclosure of the data making the state secrets or other secrets protected by the law, promotion and a justification of extremism or terrorism, distribution of information opening techniques and tactics of anti-terrorist operations in the period of their carrying out, promotion of drugs, psychotropic substances and precursors, and also a cult of cruelty, violence and a pornography aren't allowed. Naturally, there exists as well a ban on use of mass media for commission of administrative offenses or penal acts (2).

Some issues in the considered area are reflected in the research by Borovikova V.V. (3), Dani Allred (4), Erdonmez Erhan (5), Eric Jon (6), Yermolovich G.P. (7), Gololobova Yu.I. (8), Howitt D. (9), Jennifer Michelle (10), Jennifer N. (11), John Joseph (12), Makarova A.S. (13), Tokarev A.I. (14), Tolegen M.A. and Seriev B.A. (15), Vincent F. Sacco (16), Yvonne Jewkes (17).

In the specified basic research of the problems of mass media devoted to criminological aspects in the sphere of fight against crime of the ten-year-ago period, the following key problems were noted:

1) absence of the mass media self-control

mechanism;

2) performance of mass media as an object of crime interests;

3) activity of certain representatives of mass media can be criminal;

4) mass media can have a negative impact on the society and resist to the power;

5) the legislative system regulating the activity of mass media is inefficient and needs improvement;

6) the fact of high-quality determination of mass media from the mechanism of implementation of the power in information power;

7) conclusion about existence of the criminal factors interfering with the transition of mass media into the status of the independent information power.

Modern mass media possess huge opportunities for impact on public opinion. Depending on in what hands they are, they can be used as for objective and expeditious informing on real events, for education, and for a manipulation and "zombiing". The majority of citizens are inclined to trust mass media. Modern mass media are quite capable to provoke a panic among the population, spreading rumors. Unfortunately, many editions of separate mass media, especially news agencies and the Internet portals, had such practice when the main criterion is efficiency, and then existence of a source of information to which if something happens it is possible to refer. Whether this information is truthful or not, at such approach has no value, as well as the question of how this information can reflect in public opinion ... (9).

In Kazakhstan projects of the legal system modernization, legislation reforming are in great need of criminological information without which speaking about what has to be the legislation, is useless and even harmful. One more problem that exists is a political component of criminology. In the scientific research criminologists are compelled to reckon with the political moments. But having been fond of political and tactical theoretical development, criminologists ceased to be on the advanced positions in the real fight against crime. Therefore criminology turns into political science. The criminology has to open "ulcers" of the modern society, comprehend changes occurring in the country, both positive, and negative and to express the opinion to society. Efforts directed to that the relevant information was led up to the persons making decisions are thus necessary, for them to be considered and realized. Without criminological judgment of reality no successes in crime prevention will exist. The criminological analysis of a situation, development of methodology of its drawing up separately on regions and as a whole on the republic (18) is necessary.

Taking into account the above opinions, in the

present article we suggest a scientific analysis of some main problems and features of interaction of mass media, government bodies and public opinion in crime prevention issues.

### Materials and 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. In order to achieve the objective results of the study these methods were applied comprehensively.

For carrying out our research we used the materials of electronic mass media, to be exact the Internet site representing legal information – <http://www.zakon.kz> as an informative base, as here all main daily messages of printing editions, TV and radio channels of Kazakhstan, having legal character are reflected and announced. As an example on the basis of which it would be possible to make it, the news materials which have filled an information field of the country in connection with so-called "Chelakh's case", connected with massacre of frontier guards on the Kazakhstan-Chinese frontier are specially chosen.

### Results and discussion

According to the Ministry of Culture and Information of the Republic of Kazakhstan, now in the country there are more than 9 million Internet users, which is caused by the rapid development and promoting active formation of information society (19).

News about this serious crime had a shocking effect on consciousness of all population of Kazakhstan and a number of the states of the Commonwealth of Independent States (CIS). It has produced an extremely great impact on public opinion in questions of state security and protection of the rights of the personality, transferring them to the political relations – on trust questions to capacity and competence of public authorities. Thus, that huge volume of information material of the news character, proceeding from different sources in connection with an extraordinary public response the bared character of the relations of a triangle of forces – mass media, society and the state, in our opinion, can promote more objective research of difficult questions of their interaction.

For achievement of the objectives of the present research it is necessary to stop on the details of the first information messages submitting data on the above crime. Thus, in news materials the following information was submitted. "In the morning on May 31, 2012 the Kazakhstan television agency (KazTAG) reported that on a frontier post in Almaty area bodies of 15 frontier guards are found. In some hours a border service of the Committee of national security of the

Republic of Kazakhstan (further – CNS RK) officially reported about detection of remains of 13 people on a boundary post. "The scorched remains of 13 people, including a body of the huntsman of game husbandry, close to the post are at present found", - the first deputy director of a border service T. Stambekov at a briefing in Astana reported. In turn, the vice-chairman of CNS RK G. Amrin noted that in the house of the huntsman located near the post, his body is revealed. According to the preliminary data, the man had been killed 2 days before. The regular number of the burned-down frontier post of "Arkankergen" consisted of 15 people: 1 officer, 3 servicemen of contract service and 11 regular soldiers. The frontier post where victims had served, is mobile and is exposed for the summer period for prevention of state border transitions by the Chinese collectors of medicative herbs. Later the frontier service declared that almost all gone weapon of frontier guards was revealed, and two more bodies on June 1 were found. The official consequence originally nominated two versions - attack to a frontier post and the non-statutory relations. Bodies were transported to Astana for genetic examination" (20).

In some days after this message some non-state mass media sounded, the estimated versions differing from the official: "For the evening on May 31, the conflict between soldiers from different regions of Kazakhstan was the estimated version. However in process of detection of other soldiers, this version is now called into question. With a big share of confidence it is possible to consider the version of attack of group of the armed persons on a frontier post. The question is, whether the attacking people were trying to get into or out of Kazakhstan. The version of the attack provides two accessories of the attacking: people known by those serving on the post (locals, smugglers, herbalists from the Kazakhstan party) or the professional fighters who have chosen evening hours of the professional Day of the Frontier Guard (on May 28) to take the armed soldiers unaware. Military experts consider that reserved destruction of a frontier post requires not less than 6 people, knowledge of the district and situation, and in some cases special devices for radio signal suppression. The armed group around a frontier post could be for two reasons: raid of special troops of one of neighboring countries or the strengthened maintenance of important freight through the Kazakhstan-Chinese border (the weapon, drugs). According to some information, frontier guards moved forward to the area and took place on May 28. From this it is possible to draw a conclusion that the exposed mobile post could become a surprise for those who had planned to pass in the specified area. In any of options the group of well armed and skilled fighters worked. In the radius of action of the special investigation group (500-700 km) there are bases of three large states. The

closest site of border is used for transportation of illegal freights by criminal structures ...." (20).

Further, for general idea processed (collecting, the analysis, classification and systematization) the information volume from mass media during the period from May 31 to August 21, 2012 (83 days) we consider it expedient to give below in chronological sequence headings of information messages of several days.

News messages from the site – <http://www.zakon.kz>:

*May 31, 2012.*

09:49. On frontier post in Almaty area bodies of 15 servicemen are found;

10:00. On a frontier post bodies of 13 people are found in Kazakhstan;

11:36. CNS of Kazakhstan establishes a death toll during incident on a frontier post;

13:26. Bodies of 13 people on a frontier post are found in Almaty area;

14:19. Deputies of Mazhilis called death of the Kazakhstan frontier guards resonant incident;

15:40. The weapons of the frontier guards which had been lost on the frontier post "Argkankergen" is were found.

*June 1, 2012.*

12:15. The crime investigation considers two main versions of the tragedy on the frontier post in Almaty area;

14:38. On the crime site at "Arkankergen's" boundary post remains of two more people now have been found;

17:48. The head of state held a meeting in connection with the incident on "Arkankergen's" boundary post.

*June 2, 2012.*

09:11. Parents of two Zhambyl residednts who were lost on the boundary post of "Arkankergen", are in Astana on their sons' bodies identification;

09:19. The name of the commander of the frontier guards, victims on "Arkankergen's" post became known;

09:31. Kazakhstan strengthened border protection with the People's Republic of China after death of the 14 frontier guards;

09:36. Kazakhstan grieves on the lost frontier guards;

09:38. Regions became known, from where the lost frontier guards had been called;

09:53. President Almazbek Atambayev expressed condolences to Nursultan Nazarbayev;

10:34. Deputies of Mazhilis of Parliament will list an one-day salary for the aid to families of the lost frontier guards;

10:43. Public men offer to found a day of memory of the police officers who have been lost in Kazakhstan at execution of their job duties;

11:19. The government of Kazakhstan observed a minute of silence for memory of the lost frontier guards;

11:25. Director of a border service of CNS: frontier guards of the post of "Arkankergen" could have been killed in a dream.

*June 3, 2012.*

10:21. Examination didn't find alcohol traces in remains of victims on the frontier post in Almaty area;

19:00. Murder of frontier guards. Facts and versions.

*June 4, 2012.*

09:25. The destiny of the fifteenth frontier guard is unknown – CNS RK frontier service;

13:55. Search of the body of the last frontier guard of the post "Arkankergen" proceed;

15:55. Due to the death of frontier guards in Kazakhstan the national mourning is declared;

17:19. Tomorrow the mourning will be declared in all diplomatic missions abroad – RK Ministry of Foreign Affairs.

*June 5, 2012.*

11:50. The frontier guard suspected of participation in death of colleagues on the post "Arkankergen" in Almaty area is detained;

12:05. Alexander Lukashenko sent condolences to the President of Kazakhstan Nursultan Nazarbayev;

12:38. Relatives of the frontier guards lost on "Arkankergen's" post who had been called from Atyrau, returned from Astana;

12:44. In Atyrau the mourning actions devoted to the memory of the frontier guards lost on the post "Arkankergen" began;

12:58. Names of five victims on "Arkankergen's" post of frontier guards became known.

The text of the first message of June 5, 2012 (11.50) looks as follows: On June 5 in mountains of Almaty area near the Kazakhstan-Chinese border the serviceman of frontier service CNS RK suspected of participation in death of colleagues on the post "Arkankergen" is detained, reported KazTAG in law enforcement agencies on Tuesday. "Yes, the frontier guard from "Arkankergen's" post is detained, - reported sources on Tuesday. According to a source, the frontier guard was detained on wintering near the post. There was a gun with him. Now he is in military prosecutor's office where he gives evidences. The frontier guard detained on Tuesday from "Arkankergen's" post of Almaty area appeared the recruit from the Karaganda region – 19-year-old Vladislav Chelakh. "To Vladislav Chelakh's parents representatives of law enforcement agencies today came and reported that their son had remained live on the post, and he is detained today", - reported a source. V. Chelakh was born in Karaganda on October 8, 1992. In 2009 he ended 9 classes of school No. 54 in Karaganda. Then he continued training in the professional lyceum No. 21 where he received the specialty "assistant driver of the 3rd category". On November 23, 2011 he was called in frontier service. According to the messages of mass media, V. Chelakh was in an inadequate condition and couldn't tell about what had happened distinctly. Later in mass media there was information that Chelakh allegedly admitted (20) murder of the colleagues.

Analysed by us from the criminological point of view information messages (messages) of various subjects during the period from May 31, 2012 to August 21, 2012 (83 days) are presented in the form of the following tables.

**Table 1 "A".** The table is characterizing total of news messages of various subjects of the information sphere, directed lighting and interpretation in mass media of circumstances of the crime used as an example (it is made on the basis of materials the Internet site – [www.zakon.kz](http://www.zakon.kz)).

Officials of bodies of prosecutor's office of RK	Officials of the RK Ministry of Internal Affairs Officials	Committee of national security of RK and border service Officials	Officials of the supreme government bodies	Political and public people	Journalists, the mass media editors, and also sources which in concrete mass media aren't called (are specified)	Lawyers, the family of the accused	Representatives of the public RK organizations and people acting as experts	the General quantity of messages
11	11	6	10	10	105	69	16	238
Time period – 83 days (from May 31 to August 21, 2012)								

**Table 1 "B".** The table is characterizing number of news messages of various subjects of the information sphere, directed to lighting and interpretation in mass media of circumstances of the crime used as an example, having neutral character (it is made on the basis of the Internet site materials– <http://www.zakon.kz>).

Officials of bodies of prosecutor's office of RK	Officials of the RK Ministry of Internal Affairs Officials	Committee of national security of RK and border service Officials	Officials of the supreme government bodies	Political and public people	Journalists, the mass media editors, and also sources which in concrete mass media aren't called (are specified)	Lawyers, the family of the accused	Representatives of the public RK organizations and people acting as experts	the General quantity of messages
11	11	4	9	9	78	47	8	177
Time period – 83 days (from May 31 to August 21, 2012)								

**Table 1 "C".** The table is characterizing number of news messages (messages) of various subjects of the information sphere, directed lighting and interpretation in the mass media of circumstances of the crime having the purpose to confirm the official version of the investigation on criminal case used as an example (it is made on the basis of the Internet site materials– <http://www.zakon.kz>).

Officials of bodies of prosecutor's office of RK	Officials of the RK Ministry of Internal Affairs Officials	Committee of national security of RK and border service Officials	Officials of the supreme government bodies	Political and public people	Journalists, the mass media editors, and also sources which in concrete mass media aren't called (are specified)	Lawyers, the family of the accused	Representatives of the public RK organizations and people acting as experts	the General quantity of messages
0	0	2	1	1	3	1	2	10
Time period – 83 days (from May 31 to August 21, 2012)								

**Table 1 "D".** The table characterizing number of news messages of various subjects of the information sphere, directed to lighting and interpretation in mass media of the crime circumstances of with signs of violation of the principles of criminal trial (the Art. of Art. 10-31 of the Criminal Procedure Code of RK) and other abuses of the principle of the freedom of speech (it is made on the basis of materials of the Internet site – [www.zakon.kz](http://www.zakon.kz)).

Officials of bodies of prosecutor's office of RK	Officials of the RK Ministry of Internal Affairs Officials	Committee of national security of RK and border service Officials	Officials of the supreme government bodies	Political and public people	Journalists, the mass media editors, and also sources which in concrete mass media aren't called (are specified)	Lawyers, the family of the accused	Representatives of the public RK organizations and people acting as experts	the General quantity of messages
0	0	2	0	0	24	21	6	53
Time period – 83 days (from May 31 to August 21, 2012)								

**Table 2.** Contradictions in pursued interests at interaction of mass media, government bodies and public opinion in the crime prevention sphere as a factor promoting violation of the principles of criminal trial (the Art. of Art. 10-31 of the Criminal Procedure Code of RK) and to other abuses of the principle of a freedom of speech (it is made on the basis of the Internet site materials– [www.zakon.kz](http://www.zakon.kz)).

Structure of public opinion	Types of mass media		The pursued interests	Contradictions area	Pursued interests		Government bodies of the power and officials
Opinions of officials of government bodies of the power	Mainly state mass media	→	Support of the official version of the criminal case investigation	+	Ensuring public safety, population tranquility	←	Head of state
Opinions of political and public figures	Any kinds of mass media	→	Extraction of the political dividends	↔	Mainly performance in support of the official version	←	Parliament (including separate deputies)
Opinions of oppositional institutes and people	Mainly oppositional mass media	→	Critic of actions of bodies of the government	↔	Implementation of effective supervision of law execution	←	Officials bodies of prosecutor's office
Opinions of journalists, mass media editors (as professional community)	All types of mass media	→	Lighting and interpretation of socially significant events (objective on condition of lack of influence on them)	↔	Realization of tasks and the principles of criminal trial	←	Officials the Ministries of Internal Affairs, including bodies conducting criminal trial
The opinion of representatives of other professional communities (experts in various fields of knowledge)	Any kinds of mass media	→	Mainly neutral (objective) covering of events provided that them isn't used by interested persons	↔	Performance in support of the official version on the condition of security of departmental interests	←	Officials of the Committee of national security of RK and border service
Narrow-minded opinions (average citizen, separate social groups)	Mainly electronic mass media (The Internet resources)	→	Expression of participation in occurring events (commenting)	↔	Performance in support of the official version on condition of security of departmental interests	←	Officials of other government bodies of the power

On the basis of the analysis of materials from the above-stated tables we pay attention to the following important points.

The first is that information messages confirming the official version of the investigation proceeded from government bodies of the power which used all available types of mass media and first of all the state. At the same time journalists, editors of non-state mass media, and also public organizations and experts were sources of messages disproving or calling into question the official version in most cases. Thus as one (it is conditional – the states), and at other party (it is conditional – civil society) had the same main

objective of information messages is a rendering a greater influence on a condition of public opinion. Our vision of the reasons of such opposite positions of the considered parties, is presented in table 2.

Secondly, the analysis of the contents of information messages carried out by us allows to say that in their considerable quantities signs of violation of the principles of criminal trial (the Art. of Art. 10-31 of the Criminal Procedure Code of RK) (21) are observed. Here it should be noted that such signs are observed not only in messages of journalists and the mass media editors, but also in those of officials of public authorities. Striking example of violation of the

principles of criminal trial by the journalist by impact on public opinion with use of mass media for confirmation of the official version of the investigation is article in the "Vremya" ("Time") newspaper with heading "Slaughter on Border" (22) by a famous in Kazakhstan journalist G. Benditsky in which he describes in detail all circumstances of the crime, including motives of its commission. As example of obvious violation of the principles of criminal trial on the part of officials of public authorities is the interview of the former commander by border troops of CNS RK. In it he dares to humiliate publicly honor and personality of the accused, spreads the information on his private life for belief of the public that morally he had been capable of and inclined to commission of this crime, and also the official in advance finds the accused guilty (23).

The analysis shows that the principles of criminal trial enshrined in the following articles Criminal Procedure Code RK were generally broken:

- respect of honor and dignity of the personality (Art. 13);
- inviolability of private life; secret of correspondence, telephone negotiations, post, cable and other messages (Art. 16);
- presumption of innocence (Art. 19).

Also, the research showed that in practical reality there are also other types of violations of the law about mass media (which will be designated below).

Thirdly, based on the materials presented in table 2, as the main factors promoting violation of the principles of criminal trial, we designated contradictions (in certain cases – collisions) pursued interests at interaction of mass media, government bodies and public opinion in the crime prevention sphere.

Fourthly, so far, all messages with signs of violation of the principles of criminal trial are disregarded, that is they are left without involvement of perpetrators to legal responsibility from law enforcement agencies of the state. Though the sufficient legislative base for this purpose is available.

Thus, measures of the state coercion and responsibility in case of violation by mass media of the current legislation are fixed in the Law of the Republic of Kazakhstan on mass media, in the Code of the Republic of Kazakhstan about administrative offenses (further – CaAO RK) and in the Criminal Code of the Republic of Kazakhstan (further – CC RK). Chapter 1-1 "State regulation in the field of mass media" the law on mass media contains some norms: state regulation in the field of mass media (Art. 4-1); state control (Art. 4-5); stay and termination of release of mass media or distribution of production of mass media (Art. 13); right to a denial (Art. 19). The norms which are directly providing the bases of responsibility for violation of the

legislation on mass media (Art. 25); cases of release from responsibility for distribution of the data, untrue (Art. 26) (2).

CaAO RK in chapter 10 devoted to offenses, encroaching on the rights of the personality, contains norm – distribution of data on guilt in commission of crime (Art. 86), and also special chapter 23 "Administrative offenses in the field of the press and information". In relation to questions investigated by us the following norms are enshrined in this chapter: violation of the law of the Republic of Kazakhstan about mass media (Art. 342); giving permission to the publication in mass media of the materials directed on incitement of national hostility (Art. 343); impact on court mass media (Art. 346); making obviously false data and materials to mass media (Art. 347); hindrance of lawful professional activity of the journalist (Art. 352) (24).

CC RK provides structures of the following penal acts: slander (Art. 129); insult (Art. 130); violation of inviolability of private life (Art. 142); illegal violation of secret of correspondence, telephone negotiations, post, cable or other messages (Art. 143); hindrance of lawful professional activity of the journalist (Art. 155); excitement of social, national, patrimonial, racial or religious hatred (Art. 164) (25).

The reason of lack of reaction to offenses from mass media, at our subjective view, consists that the severity of public prosecutor's supervision of strict observance of requirements of the legislation was consciously weakened not to create excessive opposition between the state and the population in the conditions of the political situation which has developed at that time in the country. Probably, as pursued interests of public authorities in this case the aspiration to achievement of the benefit more the highest order – ensuring public safety and tranquility of the population acted. However, at other reasons of lack of any reaction of law enforcement agencies on violations of the law about mass media and standards of the Criminal Procedure Code of RK, such facts can be considered as a frank indicator of weakness of the state control over illegal activity of mass media.

Thus, the above acts in the information sphere encroach on the vital public relations, and information transmitted thus through mass media, has high degree of public danger. Therefore they are qualified by the current legislation as offenses and for their commission different types of legal responsibility are established. The task of the supreme bodies of the government has to consist in development of political will on law and order and legality establishment in coverage of mass media (in relation to our subject – in fight against crime questions). The task of law enforcement agencies (generally bodies of prosecutor's office) has to consist in implementation of effective supervision over

observance of requirements of the current legislation and immediate and proper response to similar violations.

In the scientific plan, it is necessary to develop reasonable criteria of a legal assessment of abuses of the principle of a freedom of speech, responsibility for which commission directly in the criminal or administrative legislation isn't provided or owing to the various reasons they remain unpunished. In our opinion, it is possible to carry to that:

- information messages with distortion and incorrect interpretation of sense of events and the real conditions connected with commission of crimes;

- information messages about circumstances and consequences of the committed crimes with unreliable information from not checked sources;

- information messages with conscious disclosure of data of preliminary investigation;

- information messages about circumstances and consequences of the committed crimes with the purpose to have impact through public opinion on decisions and actions of bodies and the persons which are carrying out criminal trial;

- information messages with use of circumstances of the committed crimes and interpretation of their consequences with the purpose to displease the population actions of authorities;

- information messages with use of circumstances of the committed crimes and interpretation of their consequences for creation of conflict situations with the purpose to discredit public authorities by undermining trust of the population to them and others.

Thus, as appears from materials of performance of participants of a scientific and practical seminar "Social safety and mass media": "each inhabitant has to receive accurate information that taken measures are directed, first of all, on protection of his interests" and "all of us want to live in the strong and stable state, to be confident in unity of the law for all" (26).

### Conclusion

On the whole they conducted research shows that during the forming and practical realization of problems of criminal policy there is a need of implementation of active state regulation of activity of mass media and control over the information stream making negative impact on the society.

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