

Types of Threats to the Criminological Security of Persons Kept in Pretrial Detention

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The threat to criminological security is a very broad concept, and it is recommended to consider several aspects in order to systematically analyze it from a scientific and methodological point of view. First of all, it is necessary to single out the persons who have committed a crime against them as a threat to the criminal safety of the persons detained in the pre-trial detention center, as well as the events and processes that directly harm this safety from the special contingent. Secondly, it is recommended to separately identify and analyze the sources of the emergence of threats that create the necessary conditions for the emergence of threats, even if they do not directly affect security.

In our opinion, the development of theoretical ideas about the essence of criminological security of persons detained in pre-trial detention, as well as issues of assessing the level of security of persons detained in pre-trial detention should be carried out rationally. It is from this point of view that this article contains an attempt to consider traditional questions and problems for the study of penitentiary crimes. First of all, let's clarify the understanding of the nature of the above threat.

The development of criminological security of persons kept in pretrial detention centers should be considered together with the main stages of development of the legal status of the person in the state in general and the legal status of the accused and the convicted in particular. The initial period of the development of legislation on the execution of punishment was characterized by insufficient attention by the state to the issues of ensuring the safety of prisoners, which generally corresponded to the state policy on human and civil rights. A significant increase in the level of criminological security of persons kept in pretrial detention took place during the formation of Russia as a legal state.

Of course, criminality is the main threat to the criminological safety of persons in pretrial detention centers. At the same time, crime in pre-trial detention centers has characteristics characteristic of crime in the criminal punishment system in general, as well as its own characteristics.

In criminology, there is no single opinion about the concept of crime in prisons and pretrial detention centers.

Some authors identify it with the concept of "execution of punishment (penitentiary) crime". The second includes a set of criminal actions committed by convicts while serving their sentence.

Other scholars consider penal (penitentiary) crime as a system of crimes committed by convicts against all types of punishment.

Another group of scholars links crimes in places of deprivation of liberty with crimes committed by prisoners and correctional officers.

Obtaining reliable information about the crimes of the accused in pretrial detention is complicated by a number of factors.

First, there is the influence of the norms and traditions of the criminal world on the behavior of the accused, which directly prohibits any cooperation with the representatives of the administration, and this prohibition leads to the fact that the victims do not always report the crimes committed

against them. This situation creates difficulties in investigating the facts of the accused's illegal actions, because the witnesses of the incident do not testify for fear of reprisal against them.

Secondly, the specific features of the operation of the pre-trial detention center, whose purpose is to separate the accused and prevent the commission of new crimes by the accused and other persons, force such crimes to be hidden at the expense of the pre-trial detention center.

Thirdly, the current practice of evaluating the activity of the pre-trial detention center, which depends on the number of crimes registered here, leads to the formation of the relevant reporting indicators without taking into account real changes in crime, but on the basis of the indicators of the last reporting period, without allowing significant fluctuations in both directions.

The features of the punishment execution (penitentiary) crime are determined by the specific features of the penal system, including the conditions of detention of prisoners, their characteristics, the existence of formal and informal relations between them, and other factors.

The following specific features of penitentiary crime have been noted in scientific studies.

Firstly, violent crimes have a significant part in the general structure of penitentiary crime.

Second, some criminal acts in penal institutions are registered not as crimes, but as violations of the regime of serving the sentence.

Third, prison subculture has a significant impact on penitentiary crime rates. Thus, M. F. Kostyuk notes that "in modern conditions, when the administration of penal institutions tries to organize the process of reconstruction for the new economic relations that have appeared in society, prisoners live according to the rules and traditions of the prison subculture, which is mainly focused on violence."

Fourthly, convicts are subjects of penal institutions.

It should be added that penitentiary (penitentiary) approaches to crime detection are certainly not limited to the listed features.

Also, there is still some debate about some of the signs we have shown. For example, there is currently no agreement among scholars on the subject of penitentiary crimes.

Some authors (Yu.M.Antonyan, A.Ya.Grishko, A.P.Filchenko) refer to the execution of punishment (penitentiary) criminal subjects as administrative staff and independent workers of the correctional institution performing any functions within the designated institution, as well as execution of punishment (penitentiary) include persons visiting institutions.

Other authors disagree. A. B. According to Vaganova, it is impossible to include the employees of correctional institutions as subjects of punishment (penitentiary) crimes, because their actions primarily attack the authority of the state. In addition, the crimes of correctional officers do not have a high public risk, like the crimes of prisoners. And finally, in contrast to the staff of the penal institution, inmates in the commission of a crime oppose the goals of punishment themselves, that is, the whole order of organizing the correction of criminals.

Author penal execution (penitentiary) crime, a set of crimes committed by prisoners in a penal (penitentiary) institution, which creates disorder in the functioning of the penal (penitentiary) system and makes it impossible to correct prisoners and prevent them from committing new crimes (penitentiary) offers to understand it as a recidivist crime.

The problems of ensuring the criminal security of persons detained in pre-trial detention centers are often determined by the simple non-compliance of the conditions of detention in pre-trial detention centers with internationally recognized standards. This is confirmed by the analysis of many decisions of the European Court of Human Rights, according to which the Russian Federation is obliged to pay a large amount of compensation for the damage caused to persons detained in pre-trial detention and harmed by attacks on their security. These decisions stated, inter alia, that the applicants were kept in inhuman and degrading conditions and that they did not have effective internal remedies.

Also, the distress and frustration experienced by the applicant as a result of the inhumane conditions of transportation and detention, when the ability to give instructions and consult a lawyer, affected his ability to concentrate and use his mental faculties intensively in the run-up to the hearings. The cumulative effect of these circumstances and the inadequacy of the available tools, especially since he was unable to access the file or camera recordings, made it impossible for the applicant to prepare his defense. Meanwhile, within the framework of this study, among other types of criminological security, the issue of general aspects and characteristics of criminological security of persons in custody is worthy of attention.

In modern criminological studies, specific features of the crime in the pre-trial detention center are noted, which allows to distinguish it from the crime of execution of punishment (penitentiary).

In our opinion, when dividing crimes committed in pretrial detention into separate groups, it is necessary to be based primarily on their object. Thus, violent crimes may, on the one hand, be directed against other prisoners and have a domestic motive, and on the other hand, when an employee of a pre-trial detention center becomes the object of an attack, they may have an attack on the organization of the activities of the pre-trial detention center. It can be seen that these examples differ in the variety of threats to the criminological safety of persons kept in pretrial detention.

The most serious harm, of course, is caused by criminal actions aimed at regulating the activities of the pre-trial detention center, disrupting their normal activities. Attacks by prisoners on government officials in pre-trial detention can lead to a decrease in the reputation of the staff of the penal institution, deterioration of the operational situation and, as a result, a decrease in the level of criminological security of all persons kept in this pre-trial detention center.

This, in turn, can lead to the use of hostages as a means of later resolution of the conflict situation. The social danger of this crime is also determined by the fact that it can turn into public riots in the conditions of pre-trial detention.

The suspect or the accused enters the detention facilities and experiences a strong psychological shock from the fact of isolation and the social environment in which he falls. This is especially acute when a person is in a state of severe psychological stress during the period of adaptation to new conditions. This situation depends on the subject's personal psychological characteristics, his level of education and intellectual development, criminality, physical condition, etc. The change in social and role status of a person due to arrest, preliminary investigation, trial, being among criminals and being exposed to a system of restrictions, sometimes discrimination, has a huge impact on all levels of his personality.

For those who are in prison for the first time, the "moment of truth" comes: it is at this time that his future fate and his position in the prison hierarchy are determined. And it doesn't matter if he is sentenced or released from the courtroom, he will never forget the time he spent in prison. Based

on his practical observations, the author points out that no matter how morally strong a person is, he obeys the general trend and lives strictly according to prison laws, the violation of which causes him a lot of suffering, which is often worse than administrative or criminal sanctions.

Currently, the detention of prisoners in the pre-trial detention center is carried out in unfavorable social, psychological and sanitary conditions. According to a number of authors, the antisocial mood of the majority of prisoners violates the values, often leads to mutual responsibility, violence, parasitism, and the desire to oppose the administration of the detention center. Suspects and defendants have different backgrounds.

This varies according to age, prison "experience", education, intelligence, level of social risk, anti-social behavior, physical condition, social protection, etc.

The complex of measures for the general prevention of crimes in pre-trial detention is characterized by its own characteristics, in comparison with the measures for the prevention of crimes in general (penitentiary), not using corrective measures against the accused as the only measure, as well as the short period of the accused's stay in the pre-trial detention.

Factors that contribute to distorting the criminological indicators of the accused can be divided into several groups.

The first group is historical, they are primarily associated with the practice of hiding crimes from accounting, common in the days when crime was understood as a phenomenon of temporary survival, which naturally "disappears" as it moves towards a brighter future.

1. The second group of factors that arise due to the desire to reduce the criminality of the accused in order to strengthen the rule of law in the pretrial detention center, increase the effectiveness of preventive measures, and generally improve the conditions of detention are considered political. This is required, in particular, by a number of obligations of Russia to the European Community upon joining the Council of Europe. As a result, there is some adjustment in the level of crimes recorded in pretrial detention centers.
2. The third group - the bodies and institutions of the criminal punishment system, including the material factors resulting from the insufficient funding of the operational investigative activities aimed at determining the criminality of the accused.
3. The fourth group is personnel factors related to physical and professional incapacity to effectively perform the tasks assigned to these institutions.
4. Review of the criminological characteristics of crime in correctional institutions allows us to describe the identity of criminals as subjects who threaten the criminological safety of persons detained before trial.
5. Thus, the following is proposed as a conclusion on the second paragraph:
6. Threats to the criminological security of persons detained in pretrial detention include criminogenic events and processes in pretrial detention that significantly affect the vital and other important interests of persons who have committed crimes against the accused and suspects detained in pretrial detention.
7. The crime in the pretrial detention center, which is part of the crime of execution of the sentence, is characterized by features common to it, as well as specific features of the conditions of detention of suspects and accused persons, and features determined by their legal status. Common features are that crimes are committed in a strictly limited area of institutions

of the criminal penal system. The specific features of the crime in the pretrial detention center are manifested in the conditions of temporary accommodation of prisoners.

8. Violent crimes predominate in pretrial detention crimes. At the same time, they cause the greatest damage to the criminological security of persons detained before trial.
9. Criminality in pretrial detention is characterized by a high level of latency due to various factors of internal and external characteristics compared to pretrial detention.