

Counteraction of Minors Crime in the Republic of Kazakhstan: Political and Legal Aspects of Authorized Bodies Procedural

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Abstract: At the present stage of the Kazakhstan society development, in the conditions of creating the constitutional state and civil society, the special attention is paid to counteraction of a teenage crime. It is necessary to distinguish bodies of investigation, search bodies, bodies for affairs of minors from the special bodies authorized to carry out crime control of minors, etc. In the real research, features of procedural interaction of data of bodies are considered by researchers during disclosure, investigation and crime prevention of minors. At the same time the emphasis on problematic issues of interaction is placed.

Key words: Right, policy, political and legal aspects of legal interaction of authorized bodies minors crime, interaction of authorized bodies, crime counteraction

INTRODUCTION

Negative tendencies in the sphere of minors crime (the assuming high-quality and quantitative changes of its characteristics), toughening of the ways of a crime elected by minors for achievement of a felonious intent, organized character of crimes, high level of a recurrent teenage crime all these circumstances dictate need of search of new ways of strengthening of counteraction to criminal manifestations among minors, one of the most important aspects of which is improvement of the organization of interaction between investigators, offices of criminal investigation department and divisions for minors.

It should be noted that despite the policy of the criminal legislation pursued in the Republic of Kazakhstan, crime rate among minors in RK remains rather stable and does not tend to noticeable reduction. So, for example, in 2011 all it was brought to trial of 59226 people, from them minors 6651 (specific weight of minors made 11,2%), in 2012 all 56383 persons, from them minors 6070 (specific weight of minors made 10,8%) were brought to trial, in 2013 all it was brought to trial 51151 persons, from them minors 6362 (specific weight of minors made 12,4%), in 2014 all it was brought to trial 45731 persons, from them minors 5879 (specific weight of minors made 12,4%), in 2015 all it was brought to trial of 50135 people, from them minors 5311 (specific weight of minors made 10.6%).

It is necessary to notice that, unfortunately, essential weakening of activity of special bodies to which the direct prevention and crime control of minors are assigned takes place now.

Here it is necessary to carry:

- Small efficiency of supervision of performance of laws on education and protection of the rights of younger generation
- Insufficient development of specialized service of social protection of minors
- Incompleteness of identification of the minors inclined to offenses and dysfunctional families
- In-opportuneness and insufficiency of taking measures of influence concerning them
- Incompleteness of registration and in-opportuneness 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 significantly are promoted by shortcomings of organizational and administrative character of right educational and law-enforcement activity.

Besides, the questioning which is carried out by researchers of a research among representatives of the law-enforcement bodies of the Republic of Kazakhstan which are engaged in disclosure and investigation of the

crimes committed by minors (all 235 police officers were interviewed) shows that in decrease in a teenage crime most of the interviewed respondents distinguish insufficient interaction of authorized bodies from the main reasons of lack of positive dynamics (bodies of investigation, bodies of criminal investigation, bodies for affairs of minors, etc) in counteraction of a teenage crime.

One of the paramount conditions providing successful disclosure and investigation of the crimes committed by minors is well established cooperation of investigators with employees of operational search divisions and divisions for minors. 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 achieve 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 the components of uniform system of law-enforcement bodies designed to solve the general problem of crime control.

Questions of interaction and cooperation in crime counteraction were considered earlier by such researchers as: Penelope (Turnbull, 1997; Tyler, 2008; Zharsky, 1976; Gutkin, 1967; Khanov and Boretsky, 2012; Boretsky and Zhetpisov, 2013; Adilbekovich *et al.*, 2013) and others.

MATERIALS AND METHODS

The methodological bases of this research were: dialectic method of acquisition of knowledge of social and legal events, also system and structural, comparative legal, logical and theoretical and separate scientific methods of knowledge. Besides, the research used sociological methods, such as questionnaires and an interview. To achieve objective results of a research, these methods were applied comprehensively.

RESULTS AND DISCUSSION

The concept of the organization of investigation of crimes of minors is considered by us in this research not just as organizational structure in a statics and as the organizational process consisting of certain stages and including the following basic elements:

- A formulation of the purposes and tasks facing each of participants of preliminary investigation
- Information support which forms base for promotion of criminalistic versions and planning of investigation

- Implementation of interaction and coordination of subjects of disclosure and investigation of crimes
- Studying of the identity of the criminal and forecasting of behavior of the suspect, defendant (especially when electing a measure of restraint) 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 assessment of efficiency of results and new requirements of practice
- Legal support of investigation of crimes
- Procedural control of interaction and procedural leadership in interaction
- Departmental control of heads of law-enforcement bodies republican and local levels, etc
- Public prosecutor's supervision and judicial control in the course of interaction of performance of laws by its participants
- The resource providing including the solution of personnel financial and economic, material and other questions on creating conditions for normal functioning of system of investigation of crimes

The listed elements of process of the organization of investigation of the crimes committed by minors, certainly, do not exhaust all its traditional characteristics and features and even the sequence of their transfer is sufficiently conditional, however in the set they are the center and indispensable attributes of implementation of activities for investigation and disclosure of the crimes committed by minors.

The analysis of maintenance of separate elements of process of the organization of investigation of crimes, allows to draw a conclusion that one of the paramount conditions providing successful disclosure and investigation of the crimes committed by minors is well established cooperation between appropriate subjects. And as each of divisions (investigative, operational search, preventive, quick and criminalistic) as participants of criminal procedure possess specific means and methods of disclosure of crimes, in disclosure and investigation of crimes complex use of these opportunities is important.

In relation to investigation of crimes under interaction as a rule understand the coordinated activity of subjects of investigation directed to bystry and full disclosure of crimes (Zharsky, 1976). Main objectives and problems of the specified interaction for the prevention and disclosure of crimes of minors are defined:

- In the laws “about the rights of the child in the Republic of Kazakhstan”, “about prevention of offenses among minors and the prevention of children’s neglect and homelessness”
- In presidential decrees of the Republic of Kazakhstan; “the concept of system of juvenile justice in the Republic of Kazakhstan for 2010-2015” (Anonymous, 2015), etc., government resolutions; “provision on the interdepartmental commission on affairs of minors and protection of their rights at (The Government of the Republic of Kazakhstan, 2001)”, “the standard provision on the commission on affairs of minors and protection of their rights (The law of the Republic of Kazakhstan, 2002, 2004)”
- 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 Attorney-General of the Republic of Kazakhstan

Considering specifics of the real research, urgent and important in our opinion, questions of interaction of investigators with the staff of divisions for minors which are not a part of the system of either operational search services or quick and criminalistic divisions are represented. At the same time employees of data of divisions carry out check of materials according to the arrived statements and messages on the crimes committed by minors before initiation of legal proceedings, performing functions of bodies of inquiry in criminal procedure.

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

The organization of interaction assumes coherence of actions on the purposes, the place and time within the competence as independently and together with other services of law-enforcement bodies. Considering the special procedural status of the investigator in criminal procedure 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 and the staff of operational search divisions (both those and others, can perform functions of body of inquiry and are obliged to execute owing to Art. 65, 200 of the Code of Criminal Procedure of RK written orders of the investigator about conducting investigation and search operations and also about production of various investigative actions, etc) (Anonymous, 1997).

Secondly, it is necessary to allocate interaction between investigators and the staff of divisions for minors (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 operational-investigations group whose written instructions are obligatory for execution of inquiry by bodies).

The features on which characteristic it is necessary to stop in more detail are inherent in each of types of interaction. In a broad sense it is the organization of continuous business contacts between operational search divisions of Department of Internal Affairs and divisions for the minors in fight against the considered crimes providing:

- Joint activities for elaboration of strategy of crime control of teenagers
- Holding joint meetings at the different levels directed to increase in efficiency of mutual informing, use of forces of subjects of interaction in actions for expeditious check of materials and development of the minors suspected of commission of crimes, carrying out quick and preventive operations
- Regular exchange of experience of crime control of minors
- Use in crime control of minor opportunities of other public authorities and non-state institutions and organizations
- Joint taking measures, the circumstances directed to elimination promoting minors crime

In narrow sense, it the relations of quick workers and staff of divisions for minors arising in connection with holding concrete actions (from receiving and assessment of initial information before material and operating-technical security of implementation of collected data). The organization of interaction of the specified divisions can be classified by the following bases:

- On the nature of communications can be direct and mediated. Direct interaction assumes establishment of direct connections between operational devices and divisions for minors. Such interaction includes, for example, activity as a part of operational-investigations group or at disclosure of crimes without delay where there are sufficient bases to believe that they are made by minors. At the mediated interaction joint activity is carried out, as a rule, at the request of higher body

- On 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, to the solution of small tasks on volume
- According to 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 his subjects within the competence carry out the following events

Operational divisions:

- Reveal, warn, stop and solve crimes of minors and also identify the persons preparing them, making or who made
- Reveal minor offenders, groups of such persons and also the minors entering into organized criminal groups or in criminal societies (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 drug trafficking, 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 the corrective actions provided by the legislation of the Republic of Kazakhstan

Take part in search of minors, the missing persons who disappeared from the bodies of inquiry, investigation or court evading from serving sentence or enforcement powers of educational influence, made escapes the from institutions of a penal correction system or which self-willedly left families, special teaching and educational facilities or the centers of temporary isolation for minor offenders of law-enforcement bodies.

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 formations, departments (managements) of internal affairs on transport:

- At detection of signs of preparation of a crime by minors or with their participation conduct together with field services, investigation and search operations on 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 in level of operational awareness on minor offenders and carry out purposeful actions for identification and exposure of criminal groups of teenagers on this basis
- Inform workers of criminal investigation on the revealed teenagers with steady illegal behavior for acceptance to them the corrective actions provided by the law
- Reveal the persons involving minors in criminal activity, consumption of drugs, the 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 maintenance concerning minor offenders

Reveal parents of the minors or their lawful representatives and public officials which are not fulfilling or an inadequate image fulfilling the duties on education, training and keeping 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 the 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 institutions of system of prevention of neglect and offenses of minors. Consider in accordance with the established procedure applications and messages on administrative offenses minor, socially dangerous acts of the teenagers who did not reach age from which there comes criminal liability and also about non-execution or inadequate execution by their parents or other persons of obligations for education, training and keeping of minors, Participate in preparation of materials concerning the persons sent to special teaching and educational facilities.

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

- Respecting the rule of law
- Complex use of forces and means of law-enforcement bodies
- The organizing and leading role of the investigator in the organization of interaction at investigation of crimes

- Independence of bodies of inquiry in the choice within the current legislation of methods of the activity
- Planned character and continuity of interaction

In more detail these principles are specified in norms of the criminal procedure code, national laws and also in provisions of the departmental orders of the Ministry of Internal Affairs regulating professional activity of the specified divisions and the organization of interaction of divisions and services of Department of Internal Affairs in investigation and disclosure of crimes.

CONCLUSION

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-stated principles allows to achieve the most effective results during the investigation of the crimes committed by minors and will provide prevention of commission of new crimes by them. At the same time it is necessary to notice that to carry out rigid differentiation of competence of subjects of interaction of this direction it is represented quite difficult as work on the prevention and disclosure of the crimes committed by minors on the volume, contents, the direction represents many-sided process.

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