

Права та свободи людини в системі кримінальної юстиції в Україні

AS FOR DETERMINATION OF CERTAIN STAGES OF PREVENTIVE FORENSIC EXPERT ACTIVITY

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Identifying the causes and conditions of crimes while expert research is the basis of preventive activities of forensic institutions of Ukraine providing a number of laws and regulations, determining the legal status of forensic subjects of forensic activity, including forensic institutions; others devoted to the direct regulation of certain areas and forms of preventive activities. At the same time, preventive work of a forensic expert should not be limited to the establishment of criminogenic factors that are in causal connection with the criminal case under investigation. In order to minimize criminal influence, it is necessary to identify in the case all circumstances that have preventive significance, regardless of whether they contributed to the crime commission or can contribute to the commission of a similar or any other.

This issue was not the subject of detailed study and analysis, some aspects of it were partially raised and covered in research papers of I. A. Aliyev, O. M. Bandurka, R. S. Belkin, I. M. Danshin, O. M. Litvinov, V. P. Kolmakov, G. M. Minkovskyi, P. P. Mikhailenko, V. V. Sabadash, F. P. Fursova, O. V. Shesler, G. A. Khan and other scientists. However, taking into account complexity of the issue under research, it remains very relevant. The need to identify the causes and conditions of crimes, provided for in laws and regulations, in the vast majority of cases is defined as a task, a duty, and sometimes, as the right of subjects engaged in preventive activities. In addition, the issue regarding groups/species of causes and conditions of crime is debatable and therefore open. In addition, in special professional literature there is a substitution of one concept for another.

In the theory of legal sciences while considering issues of preventive activity, such terms as *causes*, *conditions*, *determinants* are usually used, as well as the terms: *circumstances that contributed to the crime* and *factors that determine crime* are used.

In criminology, the causes of a particular crime are interpreted differently. Some scientists understand particular crime causes as such circumstances, phenomena and procedures that as a result of their influence gave rise to anti-social views of the person guilty of the crime [1, p. 22; 2, p. 226; 3, p. 49; 4, p. 212-213]. Others believe that specific criminal behavior is the result of interaction of anti-social personality traits and the crime situation. In this case, anti-social personality traits, especially criminogenic motivation, are the cause of criminal behavior, because motivation is the main source of criminal activity of an individual (according to V. M. Kudryavtsev, circumstances of this group are objective life circumstances directly affecting individual behavior currently and merge with the specific situation) [5, p. 38]. The third group of experts believes that causes of offenses are all influencing the decision to commit an offense and what contributes to the decision, the result achievement: conditions [6, p. 33]. Other scientists consider them in a complex (set), i.e. without identifying separately the causes and conditions of crime [7].

Thus, the causes and conditions of crime are a compound set of criminogenic circumstances that in varying degrees in interaction with the offender identity and other factors determine the commission of crimes. Criminology significant is the differentiation of crime factors depending on their nature into objective and subjective; external and internal; political, economic, organizational and managerial, socio-psychological, legal and ideological. Accordingly, measures to prevent crime should be aimed at overcoming its causes and conditions, taking into account the specifics of their formation and action, as well as the level of interaction with other factors of crime.

From the point of view of theoretical nature of our research, it should be emphasized that task of experts in various areas of forensic science is to assist pre-trial investigation bodies, based on specific expertise identify determinants of crimes contributing to crime and develop preventive recommendations to their eliminating.

Methods of expert work as for identifying the causes and conditions contributing to crime commission and the development of preventive measures to their eliminating, largely depends on the specific area of expertise in which preventive activities are carried out. However, it is possible to note some general provisions [8, c. 17-19]. Methodologically correct work of an expert on identification of reasons and conditions promoting commission of crimes, provides a number of stages:

1. Definition of expert task, study of material evidence, other objects and materials of the case and their assessment from the preventive point of view. If the expert is asked a special question of preventive nature, then specific wording should understand its essence. The task, formulated in general form, requires an analysis of all material evidence and other content in the case related to the issue.

2. Preliminary development of directions of preventive activity, criminogenic factors to that it is necessary to pay attention first of all at establishment of the reasons and conditions promoting crime commission.

3. Study of regulations, guidelines, professional sources, information on criminogenic factors previously registered in the expert institution, content of

previously conducted expert studies that are directly relevant to solving a specific preventive task.

4. Research on of separately studied objects and circumstances contributing to the crime commission . When an expert performs a multi-object research; it is advisable to record common circumstances that in the expert opinion, determine the crimes that will allow them to be grouped accordingly in the future. At the same stage, data indicating the need for comparative researches are recorded.

5. Conducting comparative researches to establish a fact that has preventive value. For example, conducting a comparative research on signatures on behalf of different recipients of money on the payroll in order to establish the fact of execution of these signatures by one person.

6. Apply for additional materials if the examination is ordered by a court or pre-trial investigation body or to get acquainted with the case content related to the subject of forensic examination (for example, samples, information about case circumstances, instructional materials, etc.) and consulting other experts.

7. Synthesis and analysis in conjunction with other circumstances of information obtained about the causes and conditions contributing to crime commission.

8. Registration of preventive research results performed as a final stage. They should be set out quite clearly, clearly, understandably, fully and objectively. This means the maximum possible specification of those objective factors and circumstances that determine the commission of crimes, as well as the individualization of persons involved in emergence of criminogenic factors.

Summarizing the above, we would like to note that assistance of pre-trial investigation bodies in identifying and eliminating/minimizing the causes and conditions of crimes while expert research will contribute to the further intensification of preventive activities.