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OPERATIONAL-SEARCH PREVENTION OF CRIME BY CRIMINAL POLICE UNITS: SCIENTIFIC INTERPRETATION OF CONCEPT

Сташчак М., Шендрик В. ОПЕРАТИВНО-РОЗШУКОВА ПРЕВЕНЦІЯ ЗЛОЧИННОСТІ ПІДРОЗДІЛАМИ КРИМІНАЛЬНОЇ ПОЛІЦІЇ: НАУКОВА ІНТЕРПРЕТАЦІЯ КОНЦЕПТУ. Проаналізовано інтерпретації термінів, близьких за змістом і завданнями («профілактика», «попередження», «запобігання» та «припинення»), які протягом тривалого часу уже увійшли до термінологічного обігу науковців і практичних працівників. Констатовано, що в основному науковці у зміст профілактики закладають діяльність або систему заходів, які вживаються уповноваженими підрозділами з метою виявлення умов та причин, що підштовхують осіб на вчинення злочину, а деякі до цього додають ще й виявлення осіб, від яких можливо очікувати вчинення злочину.

Ключові слова: оперативно-розшукова превенція, злочинність, підрозділи кримінальної поліції, профілактика, попередження, запобігання, припинення.

Formulation of the problem. One of the controversial issues in the operational-search activity (OSA) theory over a long period of time is the delineation of concepts such as prevention, prevention, suppression and prevention of crime. Until now, there is no coherent imagination regarding the correlation of these concepts, the features that distinguish them are not definitively identified. Although these criterion attributes are linked together at the same time, they are used alongside them, defining similar content and tasks of the units of the criminal police. At the same time, the research showed that one of the reasons for the lack of a unanimous opinion among scientists over the above-mentioned terms is the availability of a number of alternative positions [1, p.169]. Therefore, the purpose of the article is to analyze the existing opinions of lawyers on the content of the definition of "operational-search prevention" and the concepts derived from it, as well as the formulation of the author's vision of the interpretation of the concept "operational-search crime prevention by units of the criminal police".

The analysis of recent researches and publications, in which the solution of this problem started. The purpose of the article. In recent years, a number of works have been published that reveal some of the fundamental theoretical and applied provisions of preventive activities of law enforcement agencies. Among the domestic and foreign scientists who were engaged in the problems we are studying, we can distinguish K.V. Antonov, O.M. Bandurka, B.I. Baranenko, S.M. Gusarov, E.O. Didorenko, O.F. Dolzhenkov, V.P. Zakharov, A.M. Kyslyy, D.Yo. Nikiforchuk, Yu.Yu. Orlov, V.D. Pcholkin, M.A. Pogoretsky, I.F. Kharaberyush, O.O. Yuhno and others. At the same time, it should be noted that by this time the definition of "operational-search crime prevention by units of the criminal police" and its components remain insufficiently developed or controversial, the proposed definitions are controversial and do not find unanimous support among scholars and practitioners, especially taking into account the latest changes in the criminal procedural and operational-search laws.

In order to determine the content of the concept of "operational-search crime prevention by units of the criminal police" it is first of all to analyze the interpretation of terms close to the content and objectives ("prevention", "prevention", "prevention" and "termination"), which during for a long time already entered the terminology of the treatment of scientists and practical workers. For convenience, it is expedient to consider all the definitions of scientists related

to the interpretation of the concepts of "prevention", "prevention", "prevention" and "termination", divided into groups depending on the content that each group of scientists invests in them. The first group includes the judgment of representatives of the Soviet school OSA - E.I. Brodylovsky, V.G. Samoilov and B.P. Sgagorinsky - regarding the fact that operational-search prevention should be understood as the activities of operational units, which is aimed at individual prevention measures [2, p.110; 3, p.26; 4, p.46].

The second group form judgments of scholars of the Soviet and modern periods. So, in the dictionary of terms with OSA, sponsored by B. E. Bogdanov, I.P. Kozachenko V.A. Lukashov et al., Soviet scientists, crime prevention is considered as "the activities of state bodies and public organizations in implementing a system of measures aimed at identifying, eliminating the causes of crime and the conditions conducive to their commission" [5, p.111].

The third group includes the opinions of Ukrainian scholars (V.I. Vasilinchuk, T.V. Myronyuk and S.V. Pogrebnyak) who consider operational-search prevention as an activity of authorized divisions whose purpose is to neutralize, eliminate causes, negative phenomena and processes that generate or facilitate the commission of crimes and prevent the emergence of conditions conducive to the commission of crimes, as well as the identification of persons from whom one can expect the commission of crimes and the prophylactic effect on them [6, p.497; 7, p.6].

The fourth group is formed by research results V.P. Yevtushok, Ya.Yu. Kondratiyev, S.S. Maligin, A.G. Markushin and A.Ye.Chechetin, which include operational-search prevention in one of the forms of OSA [8, pp. 76-77; 3, p. 27; 9, p.93; 10, p.18].

Presenting the main content. Thus, summing up, it can be stated that mainly scientists in the content of prevention lay the activities or system of measures taken by the authorized units in order to identify the conditions and reasons that prompted individuals to commit a crime, and some add to it the identification of individuals from which one can expect to commit a crime.

Continuing the research of terminological diversity in the field of preventive activities of law enforcement agencies, we will dwell on the study of the content of the concepts of "crime prevention" and "stopping crimes." Thus, the analysis of scientific literature showed that the given terms should be considered together, since in their content the scientists laid very close content components. In the dictionary of operative-search terms, prevention and suppression of crimes are considered as forms of preventive action. Prevention is aimed at identifying those who intend or prepare a crime with the appropriate use of measures to prevent the development of intentions into illegal activities and, accordingly, preparatory actions - a crime. Activities on the cessation of crime are considered only at the stage of a crime that has begun but not yet completed [5, p.13].

S.S. Malugin and A.E. Chechetin define crime prevention as identifying those who are at the stage of forming a plot to commit a crime in order to prevent the implementation of their plan. The termination of the crime, in their opinion, is the discovery of individuals who are already trying to commit a crime [9, p.83].

O. Klyuev under the prevention of crime understands the taking of necessary measures to prevent the commission of offenses, the establishment of persons trying to commit an offense, and the adoption of certain measures against them in order to prevent the implementation of their unlawful intentions [11, p.12-13].

According to Ya.Yu. Kondratiyev, termination is a stage of prevention of a crime, which is carried out using operational capabilities to terminate already initiated wrongful acts [3, p.28].

A separate opinion about the studied concepts expresses V.V. Golina, who, in the framework of his doctoral dissertation on the topic "Special Criminological Crime Prevention (theory and practice)," concluded that crime prevention is an independent specific part of a special criminological warning consisting of a set of measures aimed at separate groups and specific persons who commit criminal intent, contemplate the commission of crimes and are positively perceived as a criminal way of life, with the aim of discrediting criminal behavior, obtaining refusal from criminal motivation and intention, or continued criminal activity. The content of the cessation of crimes, according to V.V. Golina, is a combination of activities aimed at stopping the onset of crime by developing and implementing special measures [12, p. 22-23].

Consequently, we can state that the main objectives of prevention and suppression of crime is to prevent the implementation of criminal intent, causing damage to the object of the

attack, as well as preventing the onset of socially dangerous consequences. At the same time, it should be emphasized that the prevention of a crime occurs at such a stage of crime as preparation for it (Article 14 of the Criminal Code of Ukraine), and the cessation of a crime is committed at such a stage of crime as an attempt to commit a crime (Article 15 of the Criminal Code of Ukraine) [13]. Therefore, the question arises as to the need to rethink the position of scientists in the area of OSA about the prevention and suppression of crimes in the stages of operational and investigative prevention, since these actions, in accordance with the current Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine, should already be investigated as an unfinished crime, which has not been brought to an end for reasons that were not dependent on the will of the perpetrator, but not in any way documented within the scope of operational-search prevention during the operational investigation.

In the theory and practice of the OSA, in addition to the terms "crime prevention", "crime prevention" and "the cessation of crime", the definition of "crime prevention" is widely used, to the content of which scientists include somewhat other intrinsic features. In view of the fact that there are plenty of scientists' opinions about the above mentioned term, it is expedient to combine them into groups based on the similarity of content content. Thus, the first group of scientists (A.F. Zelinsky, A.G. Lekar, Ya.Yu.Kondratiyev, M.V. Krestinsky, A.B. Sakharov, etc.) defines the content of the operative-search alert as an activity to identify individuals, who intend to commit a crime, in order to prevent the overgrowth of these intentions in criminal acts.

The second group forms the thoughts of S. B. Alimov, Yu.M. Antonyan, S.P. Buzinov, O.M. Dzhuzha, V.K. Zvirbul, A.E. Zhalinsky, O.G. Kalman, O.M. Litvak, V.J. Negodchenkj, M.G. Sorochinsky, V.F. Ushchapovsky, O.O. Cherehnenko et al., which are the key components in the content of the crime prevention process, distinguish activities (some insist that this is a complex of measures) to identify and neutralize the causes of crime and the conditions that contribute to it.

The third group, which includes L.V. Barinov, B.E. Bogdanov, I.P. Kozachenko, V.A. Lukashov, R.N. Marchenko, E.I. Petrov et al., fully supports the opinion of scientists from the previous group and complements it as a component, such as the identification of persons from whom it is possible to expect the commission of a crime.

From the standpoint of V.V. Golinf, Yu.G. Ponomarenko and O.M. Sura, which forms the fourth group, crime prevention is one of the areas of government action against crime.

In addition to the interpretations of the concept of "crime prevention", developed at the theoretical level, there is a normative definition of this concept. Thus, in item 1.1 of the Guidelines on the activities of the bodies and units of the Ministry of Internal Affairs of Ukraine on the prevention of crime, it is noted that "crime prevention is a type of activity of the employees of the bodies and departments of internal affairs in identifying, diminishing the influence and neutralizing of the causes and conditions that contribute to their commission, taking measures for individuals whose behavior indicates a high probability of committing a crime" [14]. Such a definition of "crime prevention" is imperfect and no longer corresponds to the realities of the present.

Continuing consideration of the subject of the article, we note that, taking into account the current unsatisfactory state of combating crime, its high technical equipment, mobility, the extensive system of corruption links, secrecy, an effective system of countermeasures in order to prevent it from penetrating it from the outside and to constantly check its "continuing trends in informatization of the society and increasing the share of online communication of different age groups of the population, there is a justified necessity not only "resuscitation" of the operative-search system of the prevent its crime, but also its adaptation to new socio-political, socio-economic and normative realities of the present. To this end, further scientific development of the content of operational-search crime prevention is necessary, which will help increase its effectiveness in general.

To solve the problem, one must find out the semantics of the word "prevention". An overview of interpretative dictionaries has shown that the term "prevention", as a rule, means: 1) a set of measures that contribute to neutralizing the causes of the commission of crimes; 2) actions aimed at preventing something, preventing for some reason [15-17].

In addition, we note that in the English-speaking countries, the term "prevention" (from the Latin *praeventio* - warning) is used to denote preemptive criminal activity [18, p.602].

In the English translation, the word "prevent" means: 1) prevent, warn; 2) interfere with, prevent, hinder [19, p.476].

Analysis of scientific works A.I. Bogatyryova, K.A. Guseva, L.M. Davidenko, M.L. Davydenko, I.I. Ivanov, O.M. Litvak, O.M. Litvinov, O.A. Martynenko, M.O. Svirin, M.G. Sorochinsky, O.V. Timchenko, O.O. Yukhno et al., who are specialists in the field of criminal law, criminology, criminal procedure, legal psychology, etc., testifies that the word "prevention" has long been included in the scientific circulation of the above branches of law. Recently (for ten years) the term under investigation has begun to penetrate into operational-search science, which is confirmed by D.Yo. Nikiforchuk, O.S. Tarasenko, T.V. Mironyuk and V.V. Shendrik.

It should also be noted that as a result of the analysis of the national legislation, it has been established that the term "prevention" in various interpretations is gradually included in the terminological circulation of the legislator, which is confirmed by the provisions of the Laws of Ukraine "On Prevention of Corruption" (2014), "On the National Police" (2015) and the order of the Ministry of Internal Affairs of Ukraine, the General Prosecutor's Office of Ukraine, the Security Service of Ukraine of 08/26/2014, No. 872/88/537 "On Approval of the Instruction on the Procedure for Preventive Detention in the Area of the Anti-Terrorist Operation of Persons Involved in terrorist activity, and a special regime of pre-trial investigation in the conditions of a martial law, state of emergency or in the area of the anti-terrorist operation".

Consequently, based on the above, it is concluded that there is, firstly, one of the tendencies of modern domestic legal science and national legislation to use the term "crime prevention" and derivative terms. Secondly, the realities of the present require scholars and practitioners to further scientific and applied development, rethinking and clarifying the modern paradigm of operational-search crime prevention. Thirdly, among scientists to this day there is no single point of view regarding the hierarchy of concepts "operational-search criminality prevention", "operational-search crime prevention", "operational-search crime warning", and "operational-search stopping of crimes".

Conclusion. In this regard, and taking into account the results of the study of empirical material, we consider it necessary to express the following views and proposals: 1) today the formation of a new ideology and practice of operational-search crime prevention by units of the criminal police; 2) operational-search crime prevention is a general, generic concept for such terms of preventive orientation as "operational-search criminality prevention", "operational-search crime prevention", and "operative-wanted crime stopping"; 3) Under the operational-search prevention units of the criminal police of crime should be understood organizational and tactical form of operational-search activity, which is carried out in the process of operational-intelligence forecasting and crime prevention through the use of operational-search capabilities (measures, means and forces) permitted by national legislation.

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Summary

The article explores the state of scientific and applied development of the content of the concept of «operatively-investigative crime prevention by units of the criminal police». For this purpose, interpretations of terms close in content and tasks («prevention», «warning», «prevention» and «termination»), which have long been included in the terminological treatment of scientists and practitioners.

It has been established that mainly the scientists in the prevention content lay down the activity or the system of measures taken by the authorized units in order to identify the conditions and reasons that prompt people to commit a crime, and some of them also add to the identification of persons from whom it is possible to expect the commission of a crime.

It is argued that the main tasks of preventing and suppressing crimes are preventing the realization of criminal intent, causing harm to the object of encroachment, as well as preventing the onset of socially dangerous consequences. At the same time, it is noted that the prevention of crime occurs at such a stage of the crime as preparation for it (Article 14 of the Criminal Code of Ukraine), and the termination of the crime is carried out at such a stage of the crime as an attempt on a crime (Article 15 of the Criminal Code of Ukraine). The need for a rethinking of the position of scientists in the field of the RDD on including prevention and suppression of the crimes of the stages of operational search is grounded, since these actions, according to the current Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine, should already be investigated as an unfinished crime, not brought to completion for reasons not depending on the will of the guilty, but not to be documented as part of the operative-search prevention in the course of the operational-search process.

Keywords: *operational-search prevention, crime, criminal police units, prevention.*

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MODERN WAYS OF ILLEGAL TAKING POSSESSION OF A CAR COMMITTED WITH OVERCOMING PROTECTION SYSTEMS

Цибенко О. СПОСОБИ НЕЗАКОННОГО ЗАВОЛОДІННЯ ТРАНСПОРТНИМ ЗАСОБОМ, ВЧИНЕНОГО З ПОДОЛАННЯМ СИСТЕМ ЗАХИСТУ. Досліджено особливості способів незаконного заволодіння автомобілем, учиненого з подоланням систем захисту.

В результаті аналізу наукової літератури, узагальнення правозастосовної діяльності слідчих та оперативних підрозділів МВС України, автор приходить до висновку, що незаконні заволодіння автомобілями, які вчинюються з подоланням систем захисту, характеризується повноструктурним складом з елементами підготовки й приховування злочину. Визначено особливості підготовки до учинення кримінального правопорушення. Доведено, що встановлення способу заволодіння автомобілем дозволяє слідчому вирішити низку завдань, що мають значення для провадження, зокрема: визначити слідову картину злочину; встановити особу злочинця;