

Significance of Criminal Intelligence Activities in Crime Prevention

Aydarkan Baydekovich Skakov¹ ^a

¹*Al-Farabi Kazakh National University, Almaty, Republic of Kazakhstan*

Keywords: Criminal intelligence operations, agent intelligence activities, subjects of criminal intelligence activities, employees and confidential subjects of criminal intelligence activities, counteraction to national and transnational organized crime.

Abstract: In this article, the author examines the significance of the implementation of criminal intelligence operations to ensure national security and ways to increase their effectiveness. The research work notes the importance of implementing agent intelligence activities in counteraction to national and transnational organized crime, elements of corruption. The author analyzes the content of Article 35 of the Criminal Code of Kazakhstan “The Implementation of criminal intelligence, counter-intelligence operations or covert investigative actions”, which provides legal protection of officers and confidential subjects of criminal intelligence activities. The novelty of the work is determined by the range of analyzed problems. The purpose of the study is to develop proposals for improving legislation and increasing the efficiency of bodies carrying out criminal intelligence activities. The objectives of the research work are to analyze the legislation in the field of study; analyze of scientific resources on the considered topic. The results of the work were concrete proposals for improving the activities of officers carrying out criminal intelligence operations and the current regulatory framework. The significance of the study is that it expands the theoretical understanding of the legal support of criminal intelligence activities in crime prevention.

1 INTRODUCTION

The difficult socio-economic situation in the country and the massive impoverishment of the vast majority of the population caused by the economic crisis of overproduction and the coronavirus pandemic, as well as the geopolitical position of Kazakhstan with “hot spots” (for example, the terrorist organization Islamic State of Iraq and the Levant relocated to Afghanistan) and other circumstances require taking urgent measures to improve the efficiency of law enforcement agencies. First of all, in our opinion, this requirement applies to the criminal intelligence and agent intelligence activities carried out by the units of the law enforcement agencies of our country. The growth of the crime rate, the low level of crime detection, the outflow of funds to offshore zones and other trends indicate the need for new, modern and effective methods of criminal intelligence and agent intelligence activities to counter existing threats. In this regard, the Concept of Legal Policy of the Republic of Kazakhstan for 2020-2030 has outlined the main directions of development of law

enforcement agencies and special services in this activity. It seems that the concentration of efforts of all power structures to achieve this goal, as well as conducting scientific research in the field of criminal intelligence science will improve the socio-economic situation in the country, significantly reduce the level of the crime situation.

The relevance of this work is also determined by the presence of gaps and collisions in the organization system of the legal protection of law enforcement officers and special services, which negatively affects the effectiveness of their activities.

The purpose of this work is to develop recommendations and proposals for improving legislation and increasing the efficiency of investigative activities of law enforcement agencies and special services in the implementation of criminal intelligence operations to prevent crimes.

To achieve this goal, the following tasks were set:

1. to analyze the legislation in the field of study;
2. to study a special legal literature about the indicated problem;

^a  <https://orcid.org/0000-0003-4199-5473>

3. to develop recommendations and proposals for improving legislation and increasing the efficiency of investigative activities of law enforcement agencies and special services in the implementation of criminal intelligence operations to prevent crimes.

2 MATERIALS AND METHODS

The methodological basis of this work is based on the general scientific dialectical method of cognition of social phenomena, methods of analysis, synthesis, formal-logical method that contribute to the identification and solution of problems associated with the implementation of agent operational measures in relation to objects of investigative interest.

3 RESULTS AND DISCUSSION

In our opinion, while improving criminal intelligence activities in the field of crime prevention, the following circumstances should be taken into account:

firstly, an objective, scientifically grounded characterization of crime in general and its individual types (for example, corruption crimes, criminal offenses of an extremist and terrorist orientation). It is thanks to the scientifically grounded and reliable analysis of the complex of parameters of criminal law, criminal procedure, criminal executive, criminological, forensic, and other characteristics that shows the real picture of the state of crime in the country, its slightest changes. It will allow the law enforcement authorities, within the framework of their competence, to quickly establish both positive and negative results of the application of certain methods of criminal intelligence and agent intelligence activities, to identify the determinants of various types of crime, and, accordingly, to develop and implement appropriate measures to neutralize, eliminate, and prevent them;

secondly, the different level of financial and material security of the activities of the country's law enforcement system, that naturally affects the effectiveness of their operations, measured by the detection of the types of crimes within their competence, the amount of damage caused by the criminal act, etc.;

thirdly, the social and legal state in society, the level of legal nihilism in it, the ability of citizens to

support the investigative activities of the country's law enforcement system, first of all, the subjects of the criminal intelligence activities, the qualifications, morale, and level of legal awareness of their employees;

fourthly, the nature and validity of the tasks set by the country's leadership, aimed at ensuring the national, economic, political, and other security of the state's life.

These circumstances make it possible to objectively assess the current criminal legal situation in the country during a process of making strategic decisions.

These circumstances determine the need to objectively, comprehensively, scientifically and reliably assess the state of crime in the country, the identity of the criminals, the revealed causes and conditions assisting in the commission of illegal, criminally punishable acts and developed preventive measures.

It should be noted that the above mentioned assessment of the criminal legal situation in the country should also contribute to the improvement of legislation in the field of regulation of combating crime. This is due to the fact that sometimes there are circumstances in which the presence of a criminal law norm (mainly of a prohibitive nature) hinders the further development of social relations, which is also not permissible for the progressive development of the state.

It is necessary to note that a number of significant changes have been made to the national legislation. Thus, the Criminal Code of the Republic of Kazakhstan includes Art. 35 "The Implementation of criminal intelligence, counter-intelligence operations or covert investigative actions", which essentially increased the efficiency of criminal intelligence operations carried out by the subjects of these activities. This situation, in our opinion, is explained by the fact that this provision protects officers and confidants of law enforcement agencies and special services from criminal prosecution when they commit acts that would otherwise be considered criminal. The name of the considered article suggests that it regulates the lawfulness of causing harm during any investigative operations, the implementation of which may entail negative changes in the objects of criminal law protection. This norm contains the conditions for the exclusion of the crime of causing harm while conducting criminal intelligence operations or secret investigative actions.

They include the purposes of causing harm. In particular, it is the prevention, detection, solving and investigation of criminal offenses. The goal is also

highlighted – the exposure of the guilty. According to G.S. Shkabin, it is a very controversial position, so the exposure of the perpetrators is an integral part of the crime solving activities. In addition, the abundance of goals of lawful behavior can lead to difficulties in law enforcement practice (Shkabin, 2018). It is worth agreeing with this position.

For carrying out certain criminal intelligence operations is optimal to limit the actions of the subjects in the range of *corpus delicti*, in respect of which operations can be performed that harm the interests of law. They include crimes committed by a group of persons, a group of persons in a preliminary conspiracy, or a criminal group. In accordance with Part 3 of Art. 31 of the Criminal Code of the Republic of Kazakhstan, a crime is recognized as committed by a criminal group if it was committed by an organized group, criminal organization, criminal community, transnational organized group, transnational criminal organization, transnational criminal community, terrorist group, extremist group, gang or illegal paramilitary group.

In our opinion, one of the most important points in the considered norm is the provision concerning the correlation of the harm caused to the prevented harm. According to Part 1 of Art. 35 of the Criminal Code of the Republic of Kazakhstan, the harm caused to law-protected interests should be less significant than the harm caused by criminal offenses.

At the same time, the legislator provides for the circumstances in which the above mentioned provisions do not apply. So, in Part 2 of the analyzed article, it is said that the exclusion of criminal liability "does not apply to persons who have committed acts associated with a threat to human life or health, environmental disaster, social disaster or other grave consequences". I think it is quite fair. This provision will protect zealous officers and confidants of law enforcement agencies and special services from excessive actions and rash decisions.

It should be noted that similar provisions are known in the criminal legislation of other countries (Murphy, 2021; Kruisbergen, 2021; Kowalczyk, Sharps, 2017). In this regard, Art. 35 of the Criminal Code of the Republic of Kazakhstan is a good example for the Russian legislator.

Another important problem is the further development of the intelligence apparatus with an increase in its numerical strength with the involvement of highly qualified specialists in various spheres of the state's life, for example, in the field of managing an object of law enforcement interest. Our opponents may object to the need to expand the number of employees, confidants and persons who

provide assistance to the subjects of criminal intelligence activities. At the same time, the current state and results of the fight against crime, the predatory plundering of the people's wealth, indicate the need for radical, urgent measures. Otherwise, the negative consequences of non-implementation of these measures will significantly worsen the socio-political situation in the country. In addition, it is necessary to improve the material security of the subjects of criminal intelligence activities to create a structure for covering and use of existing economic and production facilities in order to successfully implement by agents, confidants and persons assisting the subjects of the criminal intelligence activities, the tasks assigned to them to obtain information and other data that should be subjected to a comprehensive, thorough analysis in order to develop proposals and recommendations to eliminate the causes and conditions assisting in the commission of crimes.

It is also necessary to modernize the resource support of the preventive activities of law enforcement agencies and special services within their competence by introducing modern devices and technology, computer modeling and design, etc. in order to apply adequate preventive measures for modern threats.

Further speaking about the effective fight against crime, we should pay attention to the moral image of the employees of the subjects of the criminal intelligence activities. The author means careful selection and placement of personnel. Taking into account the high level of corruption of state authorities, the penetration of structures of transnational organized crime into all spheres of life of the state, it is difficult not to assume that the leaders of the criminal elite will refuse to infiltrate their representatives to obtain useful information into law enforcement agencies and special services. In this regard, it is necessary to conduct a more thorough check of persons entering the service. In addition, it is necessary to toughen the responsibility of those people who recommended candidates for service in order to prevent corruption and other manifestations. Moreover, all movements to a higher position in the service should be accompanied by a check for compliance with it.

Speaking about ensuring economic security and, in this regard, about the further development of the law enforcement system in Kazakhstan, it should be noted that the President adopted a decree on the establishment of the Financial Monitoring Agency. It is a new, specialized body to study the economic state of the country. Taking into account the outflow of

capital to offshore zones outside the country, in our opinion, it is necessary to delegate to this Agency the functions of economic intelligence and counterintelligence with subordination directly to the President of the country. In this case, this body will have the opportunity to penetrate criminal structures, including transnational ones, to obtain information, identify illegal financial “flows” and suppress them. It seems that the existence of this Agency will undoubtedly have a positive effect on the law enforcement practice of ensuring the country’s economic security.

Another important task for law enforcement agencies is to determine the effectiveness of their activities. The previously existing indicators of the law enforcement practice of these state bodies do not fully meet modern requirements. There is a need to develop new criteria for assessing the activities of the law enforcement agencies in accordance with their functions. It seems that it is impossible to create uniform indicators of this assessment due to their performance of various tasks.

And the last thing. Law enforcement units and subdivisions of the criminal executive (penitentiary) system should actively involve the leaders of criminal communities, persons convicted of economic and official crimes, and other persons with a criminal intelligence interest in the work of confidants and persons assisting the subjects of the criminal intelligence activities. At the same time, of course, it is necessary to provide them with benefits corresponding to the law, up to complete release from punishment, the provision of state protection, etc. So, in the case of involving criminal authorities in this work, it will ensure the reliability of infiltration into a criminal organization of law enforcement interest. It should be noted that, in general, the implementation of criminal security measures is greatly facilitated by the possibility of widespread involvement of representatives of the special squads. It is due to the striving of the last ones to facilitate their existence in isolation, as well as the desire to be released on parole. In this regard, the role of law enforcement units is to comprehensively study convicts in a correctional institution for the selection of candidates for work with these units of the penal system (penitentiary system), but also for other subjects of the criminal intelligence and agent intelligence activities (Ministry of Internal Affairs, KNB (in Russia – FSB), the Anti-Corruption Agency, the Financial Monitoring Agency, etc.).

4 CONCLUSIONS

Thus, summarizing the above mentioned information, we can make some suggestions and recommendations to improve the effectiveness of the fight against various types of crime:

1. the implementation of preventive measures to identify, neutralize, and eliminate the causes and conditions assisting in the commission of criminal offenses should be carried out on the basis of a comprehensive analysis of the results of monitoring dynamic changes in the investigative practice of law enforcement agencies and other information obtained as a result of criminal intelligence activities, including open data (in the media, on the Internet, etc. – the author’s footnote);

2. improving the work of the intelligence apparatus should be carried out both intensively and extensively, that is, through the wide involvement of highly qualified specialists, criminal leaders and others as confidants, increasing its number, as well as the active use of modern criminal intelligence and agent intelligence measures, advanced public and special equipment, cover structures and the creation of new and many other methods;

3. taking into account the high social significance of the development of its economic base for the country’s life, it is necessary to strengthen the fight against economic crime. The solution of this problem, in our opinion, is impossible without the development of criminal intelligence and agent intelligence measures. In this regard, the existence of the Anti-Corruption Agency and the creation of a new body – the Financial Monitoring Agency, subordinate directly to the Head of State, will undoubtedly have a positive effect in the fight against economic crime.

REFERENCES

- Demidov, Yu. N., 2004. Problemy bor'by s prestupnost'yu v sotsial'no-byudzhethnoy sfere.
- Kowalczyk, D., Sharps, M. J., 2017. Consequences of Undercover Operations in Law Enforcement: a Review of Challenges and Best Practices. *In Police Criminal Psychology*. 32. pp. 197-202.
- Kratcoski, P. C., 2018. Fraud and Corruption in the Healthcare Sector in the United States. *Fraud and Corruption*.
- Kruisbergen, E.W., 2021. When Other Methods Fail: Infiltrating Organized Crime Groups in the Netherlands. *Contemporary Organized Crime. In Studies of Organized Crime*. 18.

- Murphy, B. The Rise of Risk in Australian Federal Legislation. Regulating Undercover Law Enforcement: The Australian Experience.
- Repetskaya, A. L., 2005. Transnational organized crime.
- Shkabin, G. S., 2018. Criminal law support of operational and investigative activities: theoretical applicable and legislative aspects.
- Skakov, A. B., Zhalmagambetov, A. M., 2005. Combating Transnational Organized Crime: History, Practical Experience, Criminological and Organizational and Legal Aspects: Scientific Review. pp. 455-456.
- Voronin, Yu. A., 1997. Transnational organized crime.

