

Using the Social-psychological Characteristics of the Convicted Persons with Suspended Service of Sentence in the Course of Criminal Intelligence and Surveillance Operations regarding Them

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Abstract: The article contains an analysis of the state of control over the convicted persons with suspended service of sentence, including the conduct of investigative measures regarding them, as well as research on issues related to the provision of social and psychological assistance to this category of the convicted persons. The purpose of the study was to obtain a holistic and realistic picture of the use of the suspended service of sentence in Russia in 2020, to identify difficulties and determine the opportunities for improving the existing law enforcement practice for the considered criminal justice measure. The judicial statistical data, statements and reports on the activities of the criminal enforcement inspectorates, as well as the results of a sample survey of 100 employees of these institutions, were analyzed. The statistical data analysis showed that as of the end of 2020, 7240 convicted persons of the study category were on the records of the criminal enforcement inspectorates of Russia, among them, 85 % were females and 15 % - males. As of 01/01/2021, 0.5% of the convicted persons on the records were wanted for, and the criminal intelligence operations were conducted regarding 0.2%. On the basis of the sample survey of the criminal enforcement servants, this category of the convicted persons was characterized, the social-psychological work conducted with them was highlighted; the psychological support technology was noted as the most effective form of support. The disadvantages and difficulties in the work with the convicted persons with suspended service of sentence which elimination will promote for prevention of repeated crimes and inadmissibility of their hiding out of the place of residence are provided; the areas of improvement of three main aspects of the use of suspended service of sentence - control over the convicted persons, provision of social and psychological support for them, and their detection - are offered.


1 INTRODUCTION


A criminal act, prosecution for its commitment, and criminal sentencing do not always mean the direction of the guilty person to the places of confinement. Due to certain life circumstances of the convicted person or his/her physical features, the sentence enforcement can be delayed for an indefinite period.


The suspended service of sentence as provided by Article 82 of the Criminal Code of the Russian Federation is used in such cases (hereinafter - Art. 82 of the CC of the RF).

The suspended service of sentence is one of the kinds of relief from punishment. It consists not in bringing certain categories of the convicted persons to real sentence enforcement due to its inexpediency

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and impossibility to have the required positive effect at the given moment.

The suspended service of sentence is based on the goals set: maintaining the socially useful relations with the family, observing its interests and upbringing the children of the convicted persons. A law-maker supposes that by imprisoning an offender, it may encroach on interests of the members of his immediate circle who need his support, of child upbringing, of financial support, etc.

To achieve these goals, the effective implementation of the principle of humanity regarding some categories of the convicted persons requires solving the problem of control both over their behavior in society, and over the persons offending against the law.

The scientific researches conducted for the last five years show that the criminalists and criminologists discuss the place of suspended imprisonment in the Russian legislation (Balashova A.Yu., 2018; Sayadan S.G., 2016) in relation to the criteria of correctness of criminal law standards (Denisova A.V., 2017; Dyadyun K.V., 2017); raise the question of peculiarities of enforcing this measure of punishment (Kopylova O.P. and Medvedeva S.V., 2019; Krasilnikova M.S., 2015; Kuznetsov A.I. and Novikov R.V., 2020). The reasonability, peculiarities and effectiveness of the use of the suspended service of sentence when implementing particular kinds of punishment are also discussed (Olkhovik N.V., 2018; Rakhmatulin Z.R., Rumyantsev N.V., Shamsunov S.Kh, 2019).

Not only the criminal, but also penal aspects of using this measure come in sight of the scientists (Skobeleva N.G., 2019; Elinsky V.I., Fedorov R.V., Zhiron R.M., 2020). An active scientific search for the ways of improving the effectiveness of various actions implemented in the work with the convicted persons with suspended service of sentence for the purposes of decrease in recidivism is observed in this area (Zhuk O.D., Fedorov R.V., Zhiron R.M., 2020; Zvonov A.V. and Savin A.A., 2020; Sukhodolov A.P., Marenko V.A., Bychkova A. M., 2019; Filippova O.V., 2019; Tsvetkova N.A., 2019, etc.).

By summarizing this review of the scientific and theoretical prerequisites for this research, with some degree of conventionality, we distinguished three most important aspects for the use of the suspended service of sentence in the national criminal enforcement system; these are a) control over the convicted persons; b) support to the convicted persons; c) detection of the evading convicted persons.

These aspects have been the subject of our analysis, which purpose is to obtain a holistic and realistic picture of the use of the suspended service of sentence in Russia in 2020, to identify difficulties and determine the opportunities for improving the existing law enforcement practice, to consider peculiarities of the criminal intelligence and surveillance operations regarding this category of the convicted persons.

2 MATERIALS AND METHODS

The following study methods were used: a) analysis of statistical materials (judicial statistical data, statements and reports on the activities of the criminal enforcement inspectorates (hereinafter referred to as the CEI); b) sample survey of the CEI employees (100 randomly selected people took part in it); c) analysis of methodological literature on this issue.

3 RESULTS AND DISCUSSION

Analysis results of control over the convicted persons with suspended service of sentence.

According to the statistical data provided by the Federal Penitentiary Service as of the end of 2020, 7240 convicted persons having a child at the age under fourteen years old and whom the suspended service of sentence was granted according to Art. 82 of the CC of the RF were on the records of the criminal enforcement inspectorates of the Federal Penitentiary Service of Russia (hereinafter referred to as the CEI) ("Characteristics of persons being on the records of the criminal enforcement inspectorates, 2021"), among whom (Characteristics of persons being on the records of the criminal enforcement inspectorates):

- 85 % were females;
- 15 % were males;
- less than 1 % of minors.

The sample survey of the CEI employees showed that the convicted persons had the following socio-demographic characteristics: these are primarily females at the age from 30 to 45 years old; more often, the divorced or those having the informal marriage: upbringing from 2 to 4 minor children; as a rule, previously unconvicted. About half of the convicted persons have permanent work - 45.8%, are satisfied with temporary earnings - 43.7%, live at the expense of the husband (partner) or live and depend on social benefits - 10.5%. Often, the convicted persons have

special secondary education, and rarer - higher education. Most of them live in own residential facilities, a few of the convicted persons live in the rented rooms.

Their living standard tends towards low for a number of reasons, including due to that they are mostly interested in social benefits and pension fees, in very rare cases, they want to work individually and legally.

They are characterized by such features as tendency to impulsion, anxiety, emotional vulnerability, demonstrativeness, avoidance of responsibility, underdevelopment and defects in the communicative sphere, clinging to the object of affection, tendency to gambles. They have hobby on rare occasions, and mostly, they are prone to alcohol drinking.

It should be noted that the convicted persons may live in the neighborhood with the persons tending to sustained criminal behavior, antisocial behavior who served sentence in the places of confinement that forms preconditions for criminal behavior. Having summarized the data, we can see the following "profile" of a convicted person with suspended service of sentence:

- 45.8% of the convicted persons of this group live antisocial life and do nothing in upbringing and taking care of the child;
- 29.1% of the convicted persons leave their child to relatives or other persons;
- 18.7% of the convicted persons take other actions evidencing their avoidance of upbringing the child;
- 6.4% of the convicted persons abscond the CEI.

At this, the respondents note an important role of the CEI interaction with the regional child protection services as additional subjects on prevention of repeated crimes in the control over the convicted persons with suspended service of sentence. Their joint work is implemented in the form of visits to the convicted persons in the place of residents, inspection of family and domestic conditions, drawing up the living conditions, conducting awareness-raising work with the interested persons, providing character reference on the place of residents. On the CEI's inquiry, the information on inadequate upbringing (maintenance) of the child. These forms of activities were regularly conducted during 2020.

The reverse side of control over the convicted persons with suspended service of sentence is assistance of various forms. To organize such assistance means to control the situation. The better the assistance system is organized, the more controllable will be the situation. This phenomenon is

scientifically grounded and well-known to the CEI psychologists.

In 2020, almost 100% of the convicted persons with suspended service of sentence who needed assistance got it, including:

- employment - 3.38% of the assistance provided;
- material - 4.13% of the assistance provided;
- medical - 2.23 % of the assistance provided;
- psychological - 88.68% of the assistance provided. The individual consultations, as well as psychocorrective activities were conducted with the convicted persons (including 86% - individual, 14% - group). The social-psychological work with the convicted persons was based on the "Methodological guidelines on organization of psychological work with the convicted persons being on the records of the criminal enforcement inspectorates with the support algorithm of the convicted persons being on the records of the criminal enforcement inspectorates" (according to the most of the interviewed CEI psychologists, the optimal option for working with this category of the convicted persons was the social-psychological support technology);
- in executing documents – 71 convicted persons (or 1.54 % of the assistance provided);
- in acquiring a profession – 5 convicted persons (or 0.11 % of the assistance provided);
- in solving housing problems – 37 convicted persons (or 0.8 % of the assistance provided);
- in organizing leisure time (participation in contests, sport events, excursions) – 345 convicted persons (or 7.47 % of the assistance provided);
- other – 850 convicted persons (or 18.4 % of the assistance provided).

It is important to note the social work with the convicted persons with suspended service of sentence organized in close cooperation with nonprofit organizations and social rehabilitation centers in the regions is also aimed at preventing the repeated crimes, evasion and detection.

According to the criminal legislation, the convicted persons with suspended service of sentence as provided by Art. 85 of the CC of the RF should duly treat their children, maintain and upbringing, ensure good housing conditions for them. However, there are the cases on the CEI practice when such mandatory requirements are not observed. The negative aspect can be ignoring the discharge of parental duties, conducted psychological work with the convicted person that leads to the violation of the procedure and

conditions for the suspended service of sentence, including if the place of location of the convicted person has become unknown. The latter circumstances invoke the criminal intelligence and surveillance operations with regard to the convicted person, and then to the detection. And here, the third aspect of the suspended service of sentence we study appears - detection of the convicted persons.

In 2020, the criminal intelligence and surveillance operations were carried out with regard to 1-1.2% of the convicted persons with suspended service of sentence as provided by Art. 82 of the CC of the RF. Less than 1% of such convicted persons were wanted for. 60% of the convicted persons absconded the CEI were detected 2020.

As of 01/01/2021, 0.5% of the convicted persons on the CEI records were wanted for, and the criminal intelligence operations were conducted regarding 0.2%.

It is important to note that absconding the law-enforcement authorities for the category of the convicted persons whom this criminal law measure is applied to is inadmissible. This is virtually always related to non-observance of the most critical condition for suspension - maintenance and upbringing of the minor child.

The promptness of the criminal intelligence operations and the detection of the convicted persons are directly related to upbringing, maintenance of the minor child, ensuring adequate material and housing conditions, education, etc. The situation becomes even more dangerous when the child was not left to the relatives, and stays with the convicted person whose location is not known, since there is a real threat to life and health of such minor child and his/her potential involvement in criminal environment.

There are also other grounds for the criminal intelligence operations and putting this category of the convicted persons on the wanted list in the CEI practice. Up to 15% of the convicted persons with suspended service of sentence is made up by the convicts returned due to application of Art. 82 of the CC of the RF.

According to the legislation of the Russian Federation, in case of non-arrival of the convicted person to the chosen place of residence after announcement of ruling on suspended service of sentence and deinstitutionalization, the criminal intelligence operations shall be applied with regard to him/her, and if such operations failed, the convicted person shall be put on the wanted list. Of course, in these circumstances, the territory of detection of the convicted person will considerably expand. It is

important to understand that the servant involved in the criminal intelligence operations must be competent both in the communication, and psychological spheres. We agree with A.V. Shakhmatov, G.A. Fedoseev, who state in their work "The communication efficiency is expressed in the ability to establish a contact and organize psychological microclimate in the course of communication, to find optimal style and tone of interrelations considering age, emotional-volitional and individual features of a personality".

The main problematic issue in this aspect is that the criminal enforcement inspectorates are not the subject of the criminal intelligence and surveillance operations, consequently, the highly valuable time can be lost in the course of the criminal intelligence operations due to non-receipt of information materials being unavailable for the servants.

4 CONCLUSIONS

The conducted research made it possible to formulate the conclusions regarding improvement of the three most important aspects of the use of the suspended service of sentence in the domestic criminal enforcement system: control over the convicted persons; assistance to them; detection.

1. The existing regulatory base provides sufficient opportunities for organization and implementation of the work with the convicted persons with suspended service of sentence as provided by Art. 82 of the CC of the RF. However, the implementation of these opportunities is limited by a number of difficulties. To weaken or level them, the following actions are required:

- the decision to grant suspension on the basis of Art. 82 of the CC of the RF must be justified from a legal point of view, it should not be a chance for a convicted person to commit new illegal acts. But today the practical use by courts of the decision on suspended service of sentence may contain facts evidencing insufficient readiness of convicted person for a law-abiding lifestyle without isolation from society, namely: there are the cases of criminal intelligence operations with regard to this category of the convicted persons in the CEI practice;
- detailed study of the personality of the convict, conducting a complex of psychological trainings taking into account the specialized methods before making the decision on suspended service of sentence may be an

additional confirmation of the rationality of the decision taken by the court.

2. For the purposes of the most efficient control and prevention of the criminal intelligence and surveillance operations with regard to the convicted persons with suspended service of sentence, there is a need in establishing certain obligations for them, for example:

- to arrive for registration at the criminal enforcement inspectorates at the place of residence;
- obligatory employment to a child up to the age of three years.

3. According to our research, the activities to improve the psychological work with the convicted persons can be:

- improvement of material base of the CEI Department of Psychology;
- growth of the personnel of the CEI Department of Psychology;
- obligation “to appear for the work (conversation) with the psychologist” imposed by the court that will ensure regularity of practicing the programs and methods;
- the social-psychological work with the convicted persons should be generally organized in close cooperation with nonprofit organizations, medical, preschool and school institutions;

4. It is necessary to implement assistance to the convicted persons with suspended service of sentence to a child up to the age of three years. It may be done by signing an employment agreement with the employment centers in the framework of the municipal programs for social support of vulnerable population and prevention of recidivism.

5. The social-psychological assistant to the convicted person should provide for the formation of such personal qualities that exclude probability of his/her susceptibility to influence of criminals, absconding the CEI that will make no need in criminal intelligence operations with regard to this category.

6. Knowing the psychological patterns and using the adapted psychological techniques in the process of the criminal intelligence and surveillance operations contribute to establishing and developing the psychological contact and other processes that occur when communicating with persons of intelligence interest. If this affects the interests of a minor, then the importance of knowledge in the field of such psychological patterns and applications is not questioned.

7. If it is identified that the convicted person live with the persons tending to criminal behavior, it is necessary to conduct criminal intelligence operations for excluding the probability of influence of these persons on the convicted person with suspended service of sentence, his/her child, and extreme absconding the CEI: hiding from the place of residence and non-fulfillment of obligations on upbringing the minor child.

8. To study the personality of the convicted person before release is a prerequisite for his/her preparation for changing conditions and should be organized with due regard to division of the persons into the groups:

- persons having positive life attitudes;
- antisocial elements.

The development of the algorithm (instruction) for preparation of the convicted person to release in the conditions of the correction facility can be considered as the work on preparation of the universal document containing the basis criteria of readiness of the convicted person for application of the decision on suspended service of sentence and inadmissibility of criminal intelligence operations with regard to him/her in future.

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