

## POLICY IN THE FIELD OF LATENT CRIME REDUCTION

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### Introduction

In the course towards democracy, alongside the obligations and responsibilities of citizens, greater emphasis should be placed on the promotion of their rights and freedom. This is the main strategy for both crime prevention and the reduction of latent crime.

The behaviour of any individual presupposes that his/her behaviour is permitted by law and law-determined, and that he/she does not remain indifferent towards illegal acts on the part of other persons. If the conditions enabling this kind of behaviour are insufficient or lacking, and if the state institutions' response to criminal behaviour is insufficient or absent, this can result in an indifferent attitude towards crime on the part of those who witness or fall victim to an offence. Action will be replaced by passiveness and the individual's legal position will become distorted; instead of actively counteracting crime, he/she will tend not to interfere and fall victim to despair. A growing sense of fear and uncertainty in society for the safety of one's person and property produce negative political, economic, socio-psychological and criminological consequences. As the harmful effects of offences and crimes on society become more apparent, so the law enforcement agencies becomes more aware of the phenomenon.

The reduction in latent crime diminishes, to a considerable extent, the potential of crime and its reproduction.

It is impossible to eliminate latent crime in contemporary society. State interference in a citizen's private life without his/her consent or interest is restricted to a few specific, legally permitted cases. This is equally true for citizens' right to react, in one way or another, to those events that threaten their interests. However, the state must create the necessary conditions for such freedom of choice. Law enforcement agencies representing the state should be interested in punctually receiving as many reports as possible of potential or actually committed crimes. A greater degree of awareness increases the likelihood of crime prevention and clearance. This, in turn, creates the prerequisites for strengthening the citizens' confidence in the state and in its ability to ensure their protection against criminal infringement.

This can be achieved through: the creation of measures aimed at humanising criminal justice policy and criminal and procedural laws; the development of victim support institutions; improved crime detection activities and response by law enforcement agencies to reported offences; and enhanced relationships between the police and the community.

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## Criminal policy

Negative trends in crime growth lead to feelings of panic in society and in the legislative and executive structures, and hence to the temptation to use punitive measures as a response to all types of crime. However, as the history of such methods in Russia and other countries has shown, a non-differentiated increase in the use of punitive policies might only deter crime in the short term.

In the author's opinion, even in present conditions criminal policy should only use harsh measures in cases of serious offences; serious crimes should receive a harsh form of punishment whereas alternative sanctions should be applied for crimes of a less serious nature or which do not represent a major social threat. With respect to the latter group of offences the following general rule could be established: although criminal prosecution should be initiated whenever a victim reports an offence, it should be possible to terminate this at any stage of the process, if so requested by the victim following a reconciliation with the defendant or other form of restoration of the damages. In exceptional cases criminal prosecution may be initiated without a victim's request, for example if the case is of special social significance, if the state's interests have been threatened or if the victim is unable, for specific reasons, to defend his/her own interests.

Russian criminal legislation provides alternatives to criminal proceedings for crimes that do not present a main social threat. Thus, the procedural law allows for the termination of criminal prosecution by taking civil action against the guilty person or by allowing him/her to bail in the working collective; or by transferring the case to a Peers' Court or to a Commission on Juvenile Offenders. According to Article 10 of the Procedural Code, documents related to cases without criminal prosecution may be forwarded to a Peers' Court, or to a Commission on Juvenile Offenders, with the aim of taking measures of a social character, i.e. that go beyond the limits of criminal procedures. However, the reasons for terminating criminal cases and for refusing criminal prosecution provided for by the Procedural Code do not take into account the victim's interests, his/her consent or lack of consent. Nor does it provide alternative procedures for the restitution of the legal rights that have been violated by the offence. Obviously, when applying alternative sanctions, the appropriateness of using these sanctions rather than the correctional measures should be taken into consideration, as well as the victim's interests.

In this respect it is necessary, on the one hand, to put into effect and improve the activities of the peers' courts, community assemblies in rural areas, assemblies of work collectives and other forms of conciliatory procedures in responding to crimes of a minor social threat. On the other hand, the protection, rights and interests of the victims should be guaranteed when developing these alternative forms of social control.

This also applies to witnesses and other persons who are aware of the offence. The existing legislation, with its 31 types of *corpus delicti* stipulating criminal liability for not reporting crimes, does not encourage witnesses or other persons to report crimes and has not proved viable. In our opinion, policy and legislative practice should aim towards: ensuring the support and protection of witnesses; simplifying their involvement in investigative and court proceedings; and morally and materially encourage their socially active behaviour.

## **Assistance and restitution to victims of crime**

Although Russian procedural law regulates issues of civil action when deciding on criminal cases, in effect, even if the plaintiff actually wins the case, actual restitution is often not made or only after several years. The recognition of the inefficiency of such practice has led to the elaboration of a special draft law on restitution to victims of crime which should be adopted in the very near future.

Given the characteristic features of Russia, such development might, in general terms, take the form of a combination of restitution and compensation. In this case restitution would fulfil the function of amending for the damage caused to the victim and would also act as a substitute or supplementary element to the sentence. Compensation means granting financial and other assistance to the victims, especially when restitution from the offender is not possible or in cases when the victims find themselves in a disastrous situation, which corresponds to the major provisions of the European Convention on the Compensation to Victims of Violent Crimes (1983).

These provisions should contribute to the improvement of crime reporting, since restitution and compensation presuppose the need to report crimes, as well as co-operation with the law enforcement system. This should increase control over "the passage" of reports of crimes through the system. Moreover, the state should pay greater attention to crime prevention measures as a means of reducing compensation expenditures.

The actual implementation of the compensation policy might be carried out by victim assistance associations, provided they receive the necessary support from the state and commercial structures, in particular through the establishment of a foundation of assistance to victims of crime.

At the same time we should take into account frequent cases of criminal events which are connected with the so-called "guilt" of the victims; i.e. provocative behaviour, failure to take elementary measures of personal property protection etc. In this connection it is appropriate to discuss the elaboration of minimum rules for ensuring personal and property safety and of liability for their non-observance (i.e. reprimand on behalf of the state, loss of the right to compensation and similar measures).

## **Improving the police-community relationship**

Appeals to the community to co-operate with the police will only be effective if accompanied by specific factors and mechanisms which encourage such co-operation.

One such factor is the degree of the community's access to the police. Unfortunately, in Russia, some organisational decisions made in the past, as well as certain present trends, have tended to widen the gap between the police and the community rather than close it. Thus, the centralisation process which has given rise to bureaucracy has placed increasing barriers between the police and the community. This has led to an increased tendency of the police to work towards solving the tasks of the administrative authorities and in their own interest rather in the interests of the community. Police activities are mainly assessed according to the criterion of internal efficiency, and not external criteria such as guaranteeing

citizens' personal and property safety, and law enforcement. In other words, the social formations which were effectively involved in the process of law enforcement have disintegrated. The increase in crime and the shortage of police personnel have resulted in a steadily decreasing clearance rate, which in turn has led to a drop in the population's confidence in the police.

The development of law enforcement agencies (i.e. manpower, premises and their location, organisational facilities, etc.) should aim towards improving their function of serving the community within the limits of the competence stipulated by the law. Thus, for example, they should be located in areas that are easily reached on foot (the radius of the operative area being 2-3 km), as in the case of other daily service centres. It would be appropriate to decentralise certain police services or their structural units. Although this might create some complications in terms of management, it would make the police more accessible to the community and, consequently, they would be more informed about potential or committed crimes.

Police awareness of offences and crimes are also vital in the context of private commercial enterprises, which often prefer to deal with criminal events themselves without addressing the law enforcement agencies. These enterprises have often established their own security services, leading to the development of a system of private detective and security co-operatives. Nowadays around 300 companies and entities exist that specialise in such activities (and these do not include the companies' own security services and protection system). The decree of the Government of Russia, dated 14 August 1992, provides a minimum list of those entities that must use state protection, whereas a part of the state-owned enterprises, and all private enterprises, resort to private security services to guarantee the protection of their property. The rational and operational procedures of these private firms are regulated by the Law of the Russian Federation on "The Private Detective and Security Activities in the Russian Federation" (adopted in 1992). However, problems related to the reporting to the police agencies of offences that have become known to these private services have usually been solved in an informal way. It is evident therefore that some form of supplementary by-laws must be introduced in this field, as well as new forms of co-operation.

### **Recording and registration**

According to Article 10 of the Law of the Russian Federation "On the Militia" the militia bodies should receive and record reports, messages and other relevant information about crimes, administrative offences and events which pose a threat to personal safety or social security. At present, even in the interior bodies, the records of criminal events are largely unco-ordinated (and decentralised). The recording of information referring to *corpus delicti* received from the detective and investigative agencies depend totally, in fact, on the discretion of officials of the interior bodies.

We believe that all data reported to the interior bodies should be reported and registered in a single service, according to a uniform procedure and using unified forms. This should include reports of a criminal character submitted to the prosecution office and to the courts.

A similar procedure should be established, in a uniform system, for integrating reports and other crime-related data existing in medical institutions, social insurance companies, private detective agencies and other entities. By this we

mean the uniform procedure of recording all data related to crimes whether or not the militia decide to take action against them.

## **Responding to reports of criminal events**

A person's decision as to whether or not to report an offence is influenced by several factors. These include the seriousness of the effects of the action, the victim's behaviour during the act, gender, age, social status, etc. For some people addressing the police authorities is no more than a formal act, for example to obtain a document confirming the occurrence of the offence, which is needed for insurance purposes. Whether or not the guilty person is punished is of minor importance to them. Others, on the contrary, insist on criminal prosecution and punishment of the offender despite the minor character of the offence. In both cases the plaintiff should be satisfied. The yearly increase in the number of complaints against the militia for not reacting to reports submitted to the Ministry of the Interior, to the regional departments of the Ministry of the Interior and to other authorities is, to a considerable extent, an indication of victims' dissatisfaction with the efficiency of the police.

Police agencies should be able to provide victims with as much information as possible on how to get in contact with victim assistance agencies and should develop close ties with those bodies and entities which provide social services to citizens apart from criminal proceedings. If the victims' needs are provided for they will be more sympathetic towards decisions to refuse criminal prosecution.

The accomplishment of these recommendations might contribute towards a reduction in latent crime and consequently to an improvement in the criminological situation. It would guarantee the citizens' safety, as well as respect of their rights and legal interests.

