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SUBJECTS OF COMPUTER CRIME PREVENTION AND THEIR COMPETENCE

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Summary

Author describes different kinds of subjects of computer crime resist and cooperation while fulfillment of their functions. Attention is paid to the coordination of the prophylaxis activities with Computer Crime Research Center and importance of such work.

We also consider the competence of the court as one of the most important subject in crime resist through the fulfillment of its direct task - administration of justice. The emphasis is made on the work of police and other law enforcements having precautionary function. The author also speaks about other government and non-government organizations and institutions also resisting crime in this sphere.

Key words: subjects of computer crime resist, prophylaxis, precautionary activities, Computer Crime Research Center, penalty execution institutions.

Аннотация

Автор рассматривает виды субъектов противодействия преступности в сфере использования компьютерных технологий и их взаимодействие в процессе осуществления своих функций. Обращается внимание на координацию профилактических действий субъектов с Центром исследования компьютерных преступлений и важность такой работы.

Также рассматривается компетенция суда как одного из наиболее важных субъектов противодействия преступности, благодаря выполнению своего непосредственного задания – осуществления правосудия. Делается акцент на работе милиции и прочих правоохранительных органов, которые выполняют предупредительную функцию. Автор говорит и о прочих государственных и негосударственных учреждениях и организациях, которые также противодействуют преступности в данной сфере.

Ключевые слова: субъекты противодействия преступности в сфере компьютерных технологий, профилактика, предохранительные меры, Центр исследования компьютерных преступлений, учреждения исполнения наказания.

Problem Statement. Specially-criminological level of computer crimes resist is called also criminological prophylaxis. It is deliberate action on the targeting factors relating to specific kinds and groups of criminal behavior, for example, violence or economical crime. Such complexes of specific causes and conditions for criminal behavior are terminated or removed in the process of definite subjects. Prophylaxis function for them is fulfillment of their main professional tasks. So it's necessary to clear the activities of the subjects in it's cooperation.

Topicality of Research Subject. According to the state statistics, quantity of computer crimes increased during recent years a lot. We can see several thousands of such crimes a year today from several a year in the beginning of millenium. So the theme of subjects of computer crimes resist now is rather actual and important to clarify methods and ways of precautionary activities.

Research Condition. Subjects of crime (crimes) prevention are bodies,

institutions, organizations, enterprises and officials and individuals having functions and tasks on revelation, removing, reducing and saturation of causes and conditions promoting existing and spreading criminality in general and definite kinds of different crimes according to law. Also they keep people from the change-over to the crimes and provide resocialization of the people inclined to commit crimes (recidivism). That is why now this subjected is explored by O. Dzhuzha, T. Kornjakova, S. Poznysjeva, S. Miroshnychenko, V. Stashys etc.

We tried to describe main subjects of computer crimes resist and show their importance for law enforcement and for crime precautionary. So the **aim and task of the article** is to emphasize on the main competence of the subjects, their cooperation and importance of further development of this sphere.

Main Part of the Article. Activities of all crime prevention subjects must be organized according to the following principles:



- Stable crime prevention fulfillment as a tool;

- Connection with elements of 'horizontal' (interaction) and 'vertical' (subordination) model;

- Strict command fulfillment of the system irregular mechanism;

- Selection of behavior type according to object status of prophylactic effect.

There are several types of prophylactic subjects according to different criteria. For example, according to the place of state and public system the subjects can be classified into:

a) government;

b) non-government (non-state), such as commercial or non-commercial structures, civil groups and specialized units;

c) citizens.

According to the tasks, skills, competence and content of preventive activities the subjects can be:

a) authorities of general competence (their institutions, organizations, enterprises);

b) unspecialized;

c) partially specialized;

d) specialized bodies.

According to the Constitution of Ukraine, provision of legitimacy, legal order, civil security and crime prevention are in the common running of state and its subjects.

Common running is also spread on: environmental protection, general education and nurturing aspects, coordination of health care, family and youth protection, social welfare, administrative, labor, family and other legislation branches, court and law enforcement human resources, lawyers, notaries. These directions of law regulation, organizational and administrative activities are closely related to the prevention of crime.

Representative bodies of the state and its subjects adopt laws and other legislative acts that is the main prophylaxis base. Within its competence self-government authorities adopt legislative acts connected with the crime prevention and prophylaxis, solving local problems concerning civil order protection.

President and Government of Ukraine adopt according to their competence legislative acts (decrees, prescripts instructions) to resist crimes according

to the Constitution of Ukraine and other laws of Ukraine.

Unspecialized subjects of crime resist are business entities, cultural and sport institutions, media, bodies regulating natural resources use, migration and providing employment, pensions, housing and utility bodies, organizations providing services for the leisure and organs that are involved in different spheres of society activities.

The work of these subjects often helps to prevent crime, but these tasks aren't definite direction of their activities. So the prophylaxis effect is achieved indirectly through appeals to specialized prophylaxis subjects with specific instructions.

Computer Crime Research Center, founded in 2001, is an international, nonprofit, nongovernmental, research organization running on the volunteer principles. Ukrainian and foreign scientists, experts on the cybercrimes resist take part in the work of this Center.

The main direction of the Centre activities is broad public information of key problems and their solutions facing society in Computer Crime resist.

Computer Crime Research Center organizes and takes part in scientific conferences and seminars on computer crime and fraud in the banking sphere resist, educates professionals to investigate and prevent computer crimes, provides methodological, consulting and legislative protection.

Also Computer Crime Research Center functions include organization of information experiences exchange against crime in the sphere of computer technologies on the web-site, against widespreading of child pornography in the Internet and fraud in the bank sphere [3].

Partially specialized bodies are institutions of social services, education, health protection and environmental control, audit organizations.

Such bodies are called partially specialized to establish the frames between them and unspecialized structures that are connected with the crime prophylaxis. They usually fulfill these functions after the application of crime resist bodies and or connected with the law and order protection, providing security among certain category of citizens. One of the main tasks of partially specialized prophylaxis subjects is preventive function.

Specialized subjects of crime prevention is the police. Preventive tasks and functions are main, basic for it. These are the court, prosecutor's office, internal affairs, tax police, public security, justice, customs and border services, internal military forces, research and training specialized law institutions. The system of specialized organs include some specialized non-state civil groups providing security services.

Court bodies solve the tasks of crime resist through various ways and methods. According to the law about court organization, courts must educate people in the spirit of exact and strict law fulfillment, respect for public and private property, labor discipline keeping, respect for human rights, honor and dignity of citizens by their activities.

Preventive effect of court activities is connected with fulfillment of its primary task - the dispense of justice. General and special prevention is provided by a fair decision on criminal cases. Particularly, it makes a contribution to recidivism prevention. Just decision on civil, family, labor, economic cases favor to removing or reduction of the criminal conflict situations, factors which determine criminal motivation and facilitate its implementation.

Preventive effect of court activities is provided by publicity principle in its work, which involves lightning of progress and results of court processes.

Forms of precautionary work of judicial body are rather various: visiting session, public members involvement in the trial, individual decrees, control on the execution of sentences, decrees and determination.

Crime prophylaxis is a problem to be resolved in every direction of the prosecution activities.

Feature characteristics of the prosecution competence, scope of its authority determine the specificity of prosecution as subjects of crime prophylaxis.

Prosecutors not only fulfill their direct functions to prevent crimes, but also superintend execution of state and local-self governments, civil groups and other non-governmental bodies law requirements that justify their activities as for the crime prophylaxis.

Preventive functions are fulfilled during the control of law compliance



by bodies of inquiry and pretrial investigation.

Control on legality in prisons directed to the recidivism prevention in the bodies carrying penalties and measures replaced them, as well as social assistance and control of persons who are serving or have served their sentence.

Preventive activities of prosecutor is realized during his participation in the cognizance. The prosecutor must identify circumstances favoring crimes, clarify the mechanism of their influence on the defendant's behavior.

It is impossible to solve the problem of effective crime prevention displays of any kind including computer crime without proper theoretical justification of main ways to resolve it on the basis of existing experience, without a clear understanding of the object and item of specific research level and understanding of the dichotomous nature of communication 'theory-practice'. That is why special literature emphasizes, that criminological work should be not only a scientific branch, but practical branch, analytical and management activities [4, p. 524].

The question about the criminological context of prosecutors in the precautionary state activities arises because of it. Indeed, existence of all the system of crime prevention is impossible without appropriate level of criminological knowledge for this subject. However, the importance of criminological component of the prosecution is also caused by the fact that, despite of the lack of direct law consolidation for prosecution of crime prevention tool, it (prevention is the integral part of all the spheres of their operations. These bodies are included into state specialized criminological prevention subjects of universal competence [5, p. 6-7].

Its functions are defined as the prosecutor's control for the legality and correct application of laws in different articles. It is the main social and legal nature of its activity [6, p. 14].

For example, O. Bokov affirms that crime prophylaxis has a lot of different functions, such as protective, regulatory, educational etc. [7, p. 151].

Y. Kondratiev and O. Dzhuzha emphasize, that the following functions are:

- 1) protective;
- 2) regulatory;

- 3) educational;
- 4) ideological;
- 5) prognostic;
- 6) preventive [8, p. 142-143].

Sometimes they say about precautionary function of the preventive activity subjects. It is clarifying and removing (neutralizing) of criminogenic circumstances; prophylaxis of possible crimes by certain groups of people; terminating of the committed crimes, clarifying and removing of the reasons and conditions favoring the crimes commitment, recidivism prevention; development and control of the preventive measures implementation [9, p. 15].

Even after leaving discussion about the rise of ideological and educational process in the prosecution, it's necessary to note that pedagogical and ideological components are in any part of preventive prosecution activities. At least, they must be present. They hardly penetrate all other forms of criminological function [10, p. 231-239].

Government policy of the resist against crime includes a set of measures of social, economical, political, legal, organizational, cultural and educational nature having a great role. This policy is in close relationship with the specific conditions of social and political development of society, general way of life of the state, economy conditions, moral, ethical and philosophical views specific for one or another epoch, as well as corresponding stereotypes in a particular society in definite time.

S. Poznyshva states that criminal penalty must have a goal to prevent and resist crime by mechanic's lien of criminals and mental resist against crime by other members of society [11, p.260-264].

As for the general prevention in the context of punishment goals, we'll note that it is so when it's addressed to all citizens and aimed to retain them from the crimes commitment under threat (fear of) penalty and stigmatization the broadest sense of the word connected with it.

The purpose of prevention can be achieved in several ways:

- a) loss of the convicted of physical capabilities to commit a crime;
- b) threats of penalty for the offense;
- c) prevention while serving the sentence;
- d) mental influence on the convicted

person and people having illegal deviations in behavior [12, p. 47-48].

Penalty makes a preventive effect not itself, but in combination with other criminal law norms and institutions, as well as factors of social, psychological, moral and other nature. At the same time penalty isn't a panacea for criminal aggression in the broad sense of the word. That is why it can't provide absolute preventive effect. Indeed, it has significant, but still supporting, addition role together with other components of crime prevention [13, p. 167-173].

Preventing of crimes fulfills in various forms and by different ways and methods. Prosecutor's ways are: protesting against illegal act or actions of officials; submitting of proposals to terminate violations, making the decree to institute criminal case, disciplinary process or process on administrative offence.

Police Act of Ukraine, adopted on December 20, 1990, called the crime and other offenses prevention main responsibilities of the police. Artical 10 of this Act emphasizes, that the police must prevent and terminate crimes, identify favorable conditions for them and take measures to remove them. The Ministry of Internal Affairs of Ukraine adopted Instruction about police units to prevent crime activities.

Police in the prevention activities have a right to:

- hold discussion;
- apply measures of administrative and legal effect;
- provide victimological prevention;
- remove stuff, objects, substances prohibited for public circulation or stored without corresponding permission;
- control storage and use of weapons, ammunition and explosives;
- demand obligatory inspections, inventories and revisions of industrial, economic, financial and trading activities;
- carry evidentially purchase, extraction and research of the raw materials and product samples [2].

Characteristic feature of the precautionary work in the police is carrying special investigative techniques together with publicity methods of data gathering, educational activities and legal measures.

We distinguish the main stages of precautionary police work:



1) development and realization of general direction prophylaxis by analyzing the level, structure and dynamics of crime;

2) specification of general directions to the level of concrete tasks on criminally dangerous areas and national economy objects, particularly, collective enterprises, institutions and organizations;

3) individual educational work with people who are on prophylactic list in law enforcement agencies;

4) prevention of crime from the people criminal intends of which became known;

5) crime detection, resist of criminal activities in order to prevent the crime commitments and to prevent further crimes;

6) work with individuals who have been previously convicted in order to prevent further crimes.

In September, 2009 the Ministry of Internal Affairs of Ukraine has created the Department on Cybercrime Resist. The problems of crime with the use of information technologies prevention are becoming more and more important for the state.

This department is responsible for formation and realization of state politics in the sphere of law enforcement activities, development of guidelines on crime resist of this category, organization of international cooperation in cases of computer crimes, designing and making appropriate changes in the existing national legislation.

Department on Cybercrime Resist will detect and document transnational and regional groups specialized in crimes using high technology and telecommunication systems.

Once more important subject of crime prophylaxis is penalty execution institutions.

Important preventive functions are performed by institutions that execute a sentence of imprisonment, and institutions that organize penitentiary. Their activities have preventive nature and resist commitments of the new crime.

Specificity of prophylaxis work with convicted depends on the type of penalty and operational requirements. Particularly important things for the recidivism prevention is work in prisons to prepare convicted people to release, interaction with the local law-enforcement bodies, social protection authorities about the problems related to social adaptation of

this category persons, labor and domestic arrangement, control over their behavior between adaptation etc.

Conclusions. According to the all above, we can say that question of subjects of computer crime resist is rather complicated and important. There are a lot of kinds of these subjects, but their main task is to favor the crime prevention and prophylaxis. So this notion demands more researches. If we define the exact spheres of cooperation between government, non-government, commercial organizations and individuals and their areas of interrelation, it'll be a good position to improve precautionary methods and ways for all of the subjects.

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