

GRNTI 10.77.31

УДК 343.9

DOI: 10.54649/2077-9860-2025-2-96-101

L.F. Tatarinova¹**¹candidate of law sciences, associate professor****Caspian Public University,****Republic of Kazakhstan, Almaty****ORCID: 0000-0001-6857-6821, E-mail: dove_2003@mail.ru**

ANALYSIS OF SPECIAL CRIMINOLOGICAL MEASURES FOR THE PREVENTION OF VIOLENT CRIMES, USING THE EXAMPLE OF WITNESS AND VICTIM PROTECTION

Annotation

The article is devoted to the analysis of special criminological measures for the prevention of violent crimes, using the example of witness and victim protection. Given the broad scope of such measures, the author examines them through the prism of problems related to the protection of these participants. The study analyzes both doctrinal sources and the current legislation of the Republic of Kazakhstan, which made it possible to draw relevant conclusions.

The research is based on the analysis of criminological literature, international experience, and national legislation. Particular attention is paid to practical issues of implementing protective measures and to institutional mechanisms ensuring the safety of participants in criminal proceedings. The article also examines international approaches and assesses their applicability in the national legal system. The findings make it possible to identify key directions for improving preventive measures aimed at reducing violent crimes.

Keywords: criminological, special, measures, prevention, violent, crimes, witness, victim.

Introduction

Special criminological measures for the prevention of violent crimes against witnesses and victims are an essential component of criminological practice aimed at ensuring their protection during criminal proceedings and guaranteeing the safety of participants whose testimony has evidentiary value.

The issue of their safety remains particularly relevant, as the effectiveness of investigation and prosecution largely depends on the willingness of these individuals to provide truthful testimony and cooperate with law enforcement authorities. However, fear of retaliation and psychological pressure often limits their participation in criminal proceedings. In this regard, the development of effective protection mechanisms becomes an important element of criminal policy. Modern approaches include legal, organizational and social measures aimed at minimizing risks, especially in the context of the growing complexity of violent crimes, including those committed by organized groups.

Materials and Methods

The methodological basis of the research is determined by the criminological nature of the problem and the need to study violent crimes against witnesses and victims within both legal regulation and law enforcement practice. The study is based on the analysis of criminological theories on crime prevention and doctrinal approaches to the protection of participants in criminal proceedings. The research employs analytical and comparative approaches to examine the system of witness and victim protection in Kazakhstan in relation to international practice, with particular attention to legal norms regulating state protection measures and their implementation in investigative and judicial activities.

The empirical basis includes criminal case materials, judicial precedents, analytical publications and statistical data, which made it possible to assess the effectiveness of existing measures and identify key institutional and legal problems. In addition, the study considers foreign experience in witness protection programs, allowing identi-

fication of directions for improving the national system of crime prevention and protection of participants in criminal proceedings.

Results and Discussion

From a legal point of view, the need to implement these measures is обусловлена the goals of preventing perjury, ensuring a fair trial, and proper application of criminal law. In accordance with legislation, the protection of witnesses and victims is assigned to state bodies responsible for the safety of participants in criminal proceedings, including national security, internal affairs, military, anti-corruption, and economic investigation agencies. (paragraph 2 of Article 2 of the Law of the Republic of Kazakhstan dated July 5, 2000 No. 72 "On State Security protection of persons involved in criminal proceedings").¹ However, in practice, the activities of these agencies often raise doubts about their integrity, as confirmed by judicial precedents. For example, in 2005 the Kyzylorda court convicted two law enforcement officers of embezzling funds from the witness protection system, indicating corruption and insufficient effectiveness of protection measures.

A.N. Ilyashenko notes that police officers often show insufficient initiative in assisting victims, witnesses and their families, which negatively affects the effectiveness of protection and trust in law enforcement. In particular, recent cases demonstrate pressure on victims, including attempts to induce withdrawal of statements, indicating systemic problems in the implementation of protective measures [1, p. 160]. Additionally, a number of legislative problems exist in regulating the protection of victims and witnesses. Provisions of Articles 26 and 65-1 of the Criminal Procedure Code of the Republic of Kazakhstan establish only procedural rights and obligations, without comprehensive physical and psychological protection measures. In contrast, the Law "On State Protection of Persons Involved in Criminal Proceedings" provides a broader range of security measures, including personal protection, relocation, confidentiality, and change of documents and appearance, which indicates the need for a more systematic approach. It should be noted that such measures as change of residence are rarely applied in practice.

In Kazakhstan, problems have been identified in the functioning of the witness and victim protection fund, which mainly focus-

es on financial compensation and does not always ensure comprehensive protection. In addition, ensuring accountability for violent crimes remains a key element of prevention, as almost half of convicted offenders report a sense of impunity, indicating insufficient effectiveness of preventive measures [2].

The materials of the criminal case submitted to the court include evidence of the contract killing of the Almaty crime boss Ospanov, nicknamed Kuba. It should be noted that the victim was shot dead on Manas Street in Almaty with an old—style revolver weapon [3]. Establishing the contract nature of the crime was complicated by the perpetrator's attempts to mislead the investigation out of fear of the заказчик. This indicates a systemic problem — the persistence of impunity within law enforcement practice.

The experience of the United States shows that witness and victim protection is carried out by specialized agencies through structured programs. In addition to personal safety measures, attention is also given to psychosocial support, including counseling with psychologists. Currently, there are more than 2,000 crime victim protection programs in the country, of which 1,422 are supported by the Ministry of Justice. The financing of such programs reaches about \$35 million per year, which makes it possible to ensure their effective operation.

Despite significant funding, the integrity of U.S. law enforcement agencies often raises questions, similar to Kazakhstan. For example, in 2016, David Mooney's case showed that the Federal Witness Protection Program (WITSEC) failed to provide promised guarantees, leaving him without income and exposed to further extortion. For CIS countries, including Kazakhstan, such practices of witness and victim protection remain unfamiliar and, in my opinion, unattractive. Civil society organizations in Kazakhstan lack sufficient capacity to ensure personal safety and the effectiveness of such measures.

Kazakhstan has established various crisis centers and social assistance organizations aimed at protecting and rehabilitating victims of crimes, including domestic violence. For example, the ARASHA crisis center provides psychological and social support to such victims. Similar institutions operate in Aktobe region, where a crisis center rehabilitates victims of domestic violence, and in Zhambyl region, where a social assistance center for such persons operates. In particular, a psychological support specialist working at the

¹ Закон Республики Казахстан «О государственной защите лиц, участвующих в уголовном процессе» от 5 июля 2000 года № 72. В редакции Закона РК от 03.01.2023 № 188-VII // Ведомость Парламента, 2000 г. - № 10. - Ст. 241. (дата обращения 18.06.2025).

Aktau center with the support of the United Nations Children's Fund (UNICEF) notes that traumatized children come to the center and participate in training sessions and game-based techniques that promote psychological recovery [4].

It should be emphasized that these centers are aimed solely at supporting victims of crimes. At the same time, there are no similar institutions in Kazakhstan for witness protection, which indicates an insufficient institutional framework for comprehensive protection of participants in criminal proceedings. In addition to creating protective mechanisms, it is important to counter stereotypes and myths that romanticize the criminal world. This requires informing the public about the real nature of criminals, including their cynicism, selfish motives, and antisocial behavior.

As part of the implementation of these measures, the population, in particular certain categories of citizens, should be purposefully informed about the following aspects:

- the essence, purpose and social and state significance of the justice system, including criminal proceedings;
- the role and significance of the testimony of witnesses and victims for the proper and fair resolution of criminal cases;
- about the legal consequences of knowingly false testimony and evasion of giving them;
- existing legal and organizational measures to ensure the safety of witnesses and victims, as well as new legislation in this area;
- criminal and other liability for acts of violence and unlawful acts against these categories of participants in the process;
- on the state of crime related to violent acts against witnesses and victims, and measures taken to prevent and suppress it [5].

Special criminological measures to prevent violent crimes committed against witnesses and victims should include the above-mentioned areas in order to form an understanding of their rights, eliminate fear, and realize their role in strengthening the rule of law and civil society.

However, in practice, victims and witnesses often do not receive the necessary legal, medical, and psychological assistance, which makes it difficult for them to participate in criminal proceedings. As a result, these individuals are reluctant to report crimes and actively participate in investigative actions and court proceedings. In some cases, this leads to evasion of giving evidence, especially in cases of violent crimes, crimes related to organized crime and corruption, as well as to

the rejection of previously given testimony in accordance with the procedure established by law [6, p.67-79].

In this regard, it is necessary to emphasize that a key component of special crime prevention measures is targeted work with the public and law enforcement agencies. Such activities may include seminars, training sessions, and meetings with specialists and representatives of victim protection organizations. Although law enforcement work is complex and humanitarian aspects may recede, it is essential to consider the crisis situations of witnesses and victims and take appropriate protective measures.

As part of the general preventive direction, V.D. Malkova emphasizes that in the context of further democratization of society, the role of public organizations, labor collectives and citizens in strengthening the rule of law, protecting individual rights and educating the population in a spirit of respect for the law is increasing [7, p. 131].

Nevertheless, the effectiveness of general social methods of crime prevention continues to arouse debate: K.I. Jayanbayev noted that in modern conditions, countering crime through public measures has become impossible, meaningless or ineffective. There is an opinion among some criminologists that due to negative socio-economic processes that complicate the development of society and raise the standard of living of the general population, the level of public crime prevention has significantly decreased [8, p. 100].

Law enforcement agencies can analyze criminal actors in order to determine individual preventive measures, such as:

- identification of persons whose behavior indicates a possible propensity to commit crimes, for example, the presence of aggressive manifestations, hatred, and attacks on victims and witnesses;
- study of the sources of negative impact on these individuals in order to identify those who are in danger;
- carrying out personality correction measures to change antisocial behavior to law-abiding;
- predicting the behavior of individuals in order to assess the potential threat to witnesses and victims;
- preventive registration of persons released on parole if there is a risk of a threat to their lives, health or safety of family members of victims and witnesses; for this, it is necessary to create a unified database and record the relevant fact in it;

- development and implementation of individual preventive measures, including their improvement;
- direct preventive effect at the place of residence or activity of persons who pose a threat;
- control over the behavior and lifestyle of registered persons;
- systematic verification of the effectiveness of implemented preventive measures.

At the pre-trial stage, it is necessary to implement measures to ensure the safety of witnesses and victims. In particular, access to information about them must be restricted to unauthorized persons, along with the implementation of additional protective actions.

If necessary, the investigator has the right to send official inquiries to the information and reference funds with the requirement to ensure the confidentiality of information about the identity of the accused, witnesses and victims. In such requests, it is necessary to clearly indicate which specific information should be seized, where it is stored, and whom to inform in case of written or oral requests from legal entities and individuals regarding addresses, phone numbers, and other data related to protected persons [9, p.33].

When responding to requests from other authorities, disclosure of information about witnesses and victims should be minimized and limited to authorized persons. A clear procedure must ensure that all information on the investigation is transmitted only to the investigator or head of the investigative team. Communication with the media should be carried out solely by authorized persons within strict limits to prevent information leakage.

It is necessary to plan and implement measures in advance to prevent uncoordinated actions by officials involved in criminal proceedings, which may lead to the disclosure of information concerning witnesses and victims [10, p. 73].

In cases of crimes against witnesses and victims, illegal actions aimed at obstructing justice are often used. These include threats, intimidation, violence, and even murder to coerce testimony or silence individuals. Such actions create an atmosphere of fear that disrupts the functioning of the judicial system. As a result, witnesses and victims may refuse to participate or give false evidence, leading to violations of justice and unlawful decisions.

Thus, witnesses and victims occupy a key position in the criminal justice system. Their participation significantly affects the effectiveness of in-

vestigations and judicial proceedings, while lack of cooperation complicates establishing the truth and delivering a fair sentence. They provide essential information for identifying the perpetrator, establishing guilt, and ensuring a lawful judicial decision. As part of preventive measures, particular importance is given to the social rehabilitation of victims, including the creation of specialized funds for psychological, social and legal support at regional and national levels; the introduction of legal clinics at universities to provide free assistance and counseling to victims and witnesses; as well as the establishment of "helplines" and other means of operational interaction.

Conclusion

Crimes against witnesses and victims cause long-term harm not only to individuals but also to public interests, including law and order and justice. Their prevention requires an integrated approach combining legal and psychological measures. Effective protection depends on a comprehensive system with well-trained law enforcement personnel. Improving technology and legislation will help reduce threats and ensure the safety of participants in criminal proceedings. The training of law enforcement officers should be integrative, combining legal and psychological aspects to ensure effective assessment, communication, and protection of witnesses and victims. The implementation of such programs will enhance investigative effectiveness and strengthen public trust in the justice system.

A key aspect of preventing violent crimes against witnesses and victims is the active participation of society in promoting law, order, and security as a norm. The involvement of public organizations and civil initiatives can serve as an effective tool for reducing violence and strengthening the rule of law.

The analysis shows that the effectiveness of special criminological measures to prevent violent crimes against witnesses and victims largely depends on the coherence of legal regulation and its practical implementation. Ensuring their safety requires not only legislative guarantees but also effective institutional structures. Further improvement should include strengthening cooperation between law enforcement agencies, expanding social and psychological support, and introducing modern organizational approaches. The development of a comprehensive system of protective measures will strengthen the rule of law and increase public confidence in the justice system.

Bibliography:

1. Ильяшенко А.Н. Борьба с насильственной преступностью в семье: Монография. – М.: ВНИИ МВД России, 2003, - 188 с.
2. Вербицкий Н.П. Профилактика тяжких насильственных преступлений против личности // Гомельский государственный университет имени Франциска Скорины / <http://catalog.gsu.by/opac/app/webroot/index.php?url=/notices/index/IdNotice:89171/Source:default>
3. Полицейские растранили фонд защиты свидетелей // ИПС «Параграф» / https://online.zakon.kz/Document/?doc_id=30026586&pos=5;-118#pos=5;-118
4. Кто заботится о жертвах преступлений в РК? // Информационно-аналитический портал «NewTime» / <https://newtimes.kz/eksklyuziv/105697-kto-zabotitsia-o-zhertvakh-prestuplenii-v-kazakhstane>
5. Зайцев О.А. Государственная защита участников уголовного процесса. - М.: Экзамен, 2021. – 512 с.
6. Олейник В.И. Законодательные меры по дальнейшему усилению правовой защиты потерпевших и свидетелей в Республике Казахстан // Право. – 2021. - № 4 (104). – С. 67 – 79.
7. Криминология: Учебное издание. Учебник для вузов / Под ред. проф. В.Д. Малкова. – М.: Юстицинформ, 2017. – 267 с.
8. Джаянбаев К.И. Криминология: Учебное пособие. – Бишкек, 2001. - 212 с.
9. Левченко О.В. Обеспечение личной безопасности обвиняемому, содействующему уголовному судопроизводству // Российский следователь. – 2007. - № 15. – С. 30-35.
10. Бобраков И.А., Волошина О.П. Криминологическое изучение и предупреждение насильственных преступлений против правосудия, совершаемых в отношении свидетелей и потерпевших: Монография. – Саратов: Вузовское образование, 2019. – 141 с.

References:

1. Il'jashenko A.N. Bor'ba s nasil'stennoj prestupnost'ju v sem'e: Monografija. – M.: VNII MVD Rossii, 2003, - 188 s.
2. Verbickij N.P. Profilaktika tjazhkih nasil'stvennyh prestuplenij protiv lichnosti // Gomeľ'skij gosudarstvennyj universitet imeni Franciska Skoriny / <http://catalog.gsu.by/opac/app/webroot/index.php?url=/notices/index/IdNotice:89171/Source:default>
3. Policejskie rastranzhirili fond zashhity svidetelej // IPS «Paragraf» / https://online.zakon.kz/Document/?doc_id=30026586&pos=5;-118#pos=5;-118
4. Kto zabotitsja o zhertvah prestuplenij v RK? // Informacionno-analiticheskij portal «NewTime» / <https://newtimes.kz/eksklyuziv/105697-kto-zabotitsia-o-zhertvakh-prestuplenii-v-kazakhstane>
5. Zajcev O.A. Gosudarstvennaja zashhita uchastnikov ugovnogo processa. - M.: Jekzamen, 2021. – 512 s.
6. Olejnik V.I. Zakonodatel'nye mery po dal'nejshemu usileniju pravovoj zashhity poterpevshih i svidetelej v Respublike Kazahstan // Pravo. – 2021. - № 4 (104). – S. 67 – 79.
7. Kriminologija: Uchebnoe izdanie. Uchebnik dlja vuzov / Pod red. prof. V.D. Malkova. – M.: Justicinform, 2017. – 267 s.
8. Dzhajanbaev K.I. Kriminologija: Uchebnoe posobie. – Bishkek, 2001. - 212 s.
9. Levchenko O.V. Obespechenie lichnoj bezopasnosti obvinjaemomu, sodejstvujushhemu ugovnomu sudoproizvodstvu // Rossijskij sledovatel'. – 2007. - № 15. – S. 30-35.
10. Bobrakov I.A., Voloshina O.P. Kriminologicheskoe izuchenie i preduprezhdenie nasil'stvennyh prestuplenij protiv pravosudija, sovershaemyh v otnoshenii svidetelej i poterpevshih: Monografiya. – Saratov: Vuzovskoe obrazovanie, 2019. – 141 s.

Л.Ф.Татарина¹

¹к.ю.н., ассоциированный профессор,
Каспийский общественный университет,
Республика Казахстан, г. Алматы

ORCID: 0000-0001-6857-6821, E-mail: dove_2003@mail.ru

АНАЛИЗ СПЕЦИАЛЬНО-КРИМИНОЛОГИЧЕСКИХ МЕР ПРЕДУПРЕЖДЕНИЯ НАСИЛЬСТВЕННЫХ ПРЕСТУПЛЕНИЙ, НА ПРИМЕРЕ ЗАЩИТЫ СВИДЕТЕЛЕЙ И ПОТЕРПЕВШИХ

Аннотация

Представленная статья посвящена анализу специально-криминологических мер предупреждения насильственных преступлений на примере защиты свидетелей и потерпевших. Учитывая широкий характер таких мер, автор рассматривает их через призму проблем защиты указанных участников процесса. В работе проанализированы доктринальные источники и нормы действующего законодательства Республики Казахстан, что позволило сформулировать соответствующие выводы.

Исследование основано на анализе криминологической литературы, международного опыта защиты свидетелей и потерпевших, а также национального законодательства. Особое внимание уделено практическим проблемам реализации защитных мер и институциональным механизмам обеспечения безопасности участников уголовного процесса. Рассматриваются международные подходы и оценивается их применимость в национальной правовой системе. Полученные результаты позволяют определить основные направления совершенствования профилактических мер, направленных на снижение уровня насильственных преступлений.

Ключевые слова: криминологические, специальные, меры, предупреждение, насильственные, преступления, свидетель, потерпевший.

Л.Ф.Татарина¹

¹з.ғ.к., қауымдастырылған профессор
Каспий қоғамдық университеті,
Қазақстан Республикасы, Алматы қ.

ORCID: 0000-0001-6857-6821, E-mail: dove_2003@mail.ru

КУӘГЕРЛЕР МЕН ЖӘБІРЛЕНУШІЛЕРДІ ҚОРҒАУ МЫСАЛЫНДАҒЫ ЗОРЛЫҚ-ЗОМБЫЛЫҚТЫҢ АЛДЫН АЛУДЫҢ АРНАЙЫ КРИМИНОЛОГИЯЛЫҚ ШАРАЛАРЫНА ТАЛДАУ

Аңдатпа

Ұсынылған мақала куәгерлер мен жәбірленушілерді қорғау мысалында зорлық-зомбылықтың алдын алудың арнайы криминологиялық шараларын талдауға арналған. Бұл шаралардың ауқымдылығын ескере отырып, автор оларды аталған субъектілерді қорғау проблемалары арқылы қарастырады. Жұмыста доктриналық дереккөздер мен Қазақстан Республикасының қолданыстағы заңнамасы талданып, тиісті қорытындылар жасалған.

Зерттеу криминологиялық әдебиеттерді, халықаралық тәжірибені және ұлттық заңнаманы талдауға негізделген. Мақалада қорғау шараларын іске асырудың практикалық мәселелері мен қылмыстық процеске қатысушылардың қауіпсіздігін қамтамасыз ететін институционалдық тетіктер қарастырылады. Сонымен қатар халықаралық тәсілдер зерттеліп, олардың ұлттық құқықтық жүйеде қолданылу мүмкіндігі бағаланады. Зерттеу нәтижелері зорлық-зомбылық қылмыстарының алдын алуға бағытталған шараларды жетілдірудің негізгі бағыттарын айқындауға мүмкіндік береді.

Түйінді сөздер: криминологиялық, арнайы, шаралар, ескерту, зорлық-зомбылық, қылмыс, куә, жәбірленуші.