UDC 343.83
DOI 10.31733/2786-491X-2021-117-124

Olha BOHATYROVA©
Dr. of Law,
Senior Research Fellow
(Prosecutor General's Office)

Andrii BOHATYROV©
Dr. of Law,
Professor
of the Department
of Criminal Law,
(*Private Institution «Kharkiv University»*)

LEGAL BASIS FOR PREVENTING PROFESSIONAL DEFORMATION OF PERSONNEL OF CUSTODIAL SETTINGS

Abstract. The authors identify the most significant personal and functional determinants of professional deformation in the staff of places of detention, namely: lack of proper motivation to perform operational and service tasks; features of the microenvironment in which you have to work; psycho-emotional tension; lack of proper social and legal protection, etc. It is established that the staff emotional burnout in places of imprisonment is a form of professional deformation of the subject of professional activity, acquired by him as a result of protective mechanisms on the traumatic impact of working conditions in places of imprisonment of the Ministry of Justice of Ukraine. Responsibilities that require emotional expenditure, as well as the effort to justify it by devaluing the activity and its subject are disscussed.

Keywords: *personnel of custodial settings, professional deformation, determinants, psychological overload, emotional burnout, extremity, prevention*

Introduction. The criminal-executive activities of the personnel of custodial settings are considered from the point of view of the embodiment of the legal reality, which is saturated with socio-psychological phenomena. This is the psychology of communities and groups, and the psychology of the personality, which lives and operates in a certain group, and the system of its relationship with law. Therefore, most of the problems of penitentiary activity can be solved only considering its legal, psychological, and pedagogical support.

In the process of professionalization, the personnel of custodial settings acquire not only specific skills, but also accepts the values, views, rules of behavior inherent in holders of a certain profession, separating them from the rest of society into a certain corporate group. Professional activity more and more absorbs the personality of the personnel of custodial settings, and therefore over time comes the moment of non-return, when the person is no longer able to separate himself from the profession, the view of the world is carried out exclusively through its prism, and identification with it becomes one of the most important steps in the process of self-determination of the person.

Analysis of recent research and publications. In this regard, one should agree with the opinion of foreign scientist I. Sokolov (2005) that long-term occupation

© Bohatyrova O., 2021
ORCID iD: https://orcid.org/0000-0003-4630-4408
30olechka@gmail.com

© Bohatyrov A., 2021
ORCID iD: https://orcid.org/00000003-2707-8978
vanbogatyrov@gmail.com

of the same activity can be complicated by excessive development of individual qualities, as a result of which the personal content of the profession is reassessed; characteristics such as aggressiveness, suspicion, excessive ambition, apathy, indifference to human distress are developing; unreasonable arrogance and reproach of power, false understanding of a sense of duty; rigid professional installations are formed, etc. (p. 32).

By the way, another foreign scientist A. Stolyarenko (1987) is of the opinion that professional activity is introduced into the system of socio-psychological relationships, and the negative product of the incorrect construction of these relationships by a specific employee may be deviant professional behavior (abuse of power, corruption, etc.) and professional deformation of the personality (p. 22).

At the same time, the domestic scientist V. Medvedev (1992), studying professional deformation among employees of penal institutions, proves that it is clearly manifested in the reproduction and multiplication of social experience. The first way is to psychologically represent yourself in other people with whom the personality is associated with the nature of activity and other constant relationships. The second path concerns the reproduction by the individual of deformed ideas about the ways and means of performing activities (p. 34).

That is why the problem of occupational distortion of personnel of custodial settings should be considered in combination with both psychological and legal support, in connection with which it provides for three components: specific activities; special type of work; socio-psychological character.

Among the most important problems related to the professional deformation of personnel in custodial settings are: inadequate legal regulation of legal status and the procedure for service; overtime psychological burden, due to an increase in crime rates in institutions; the negative impact of the environment of both those serving sentences and other already professionally deformed employees.

The purpose of our article is to formulate the legal basis for preventing professional deformation of personnel of custodial settings, which are reflected in the explanation of its essence, the negative impact on the effectiveness of the prison system in general and its personnel in particular, as well as the identification of the determinants of this negative phenomenon in order to develop appropriate preventive measures.

In order to get an idea of the extent of professional deformation of personnel in custodial settings over the past five years, we analyzed statistics that, unfortunately, are not due to all the canons of statistical generalization, since far from all blocks of information we were able to access. However, thanks to the existing data, we were able to analyze some of the modern reasons for the manifestation of professional deformation among the personnel of custodial settings.

Formulation of the main material. We have established that such reasons include: unfavorable individual psychological features; conflict situations in the service and in the family; improper control over the conduct of the employee in the performance of operational tasks and outside the service; Failure by the authorities of all levels of the Ministry of Justice of Ukraine to take preventive psychological and preventive measures (A. Bohatyryov, & V. Medvedev (ed), 2016, p. 89).

The scientific school «Intelligence» in 2017 conducted an independent survey of convicts in correctional colonies of the Kiev, Odessa, Kherson, Cherkasy and Chernihiv regions about the violation by personnel of custodial settings of their rights and legitimate interests, in particular: torture, violence, humiliation of their honor and dignity. The main reasons, according to respondents, are: (1) impunity and, as a result, permissiveness of the personnel of custodial settings, which use illegal methods in work (58%); 2) low professional and cultural level of personnel of custodial settings (26%); 3) improper selection of candidates for work with convicts, in connection with which persons with a tendency to violence (41%) fall to the personnel of custodial settings (I. Bohatyryov, A. Bohatyryov, & M. Puzyryov, 2017, p. 24).

ISSN 2786-491X (Print)

It is appropriate to note that the personnel of custodial settings is forced to communicate with all kinds of criminals – persons with anti-social type of deformed consciousness and low morality. Thus, in order to predict the possible convict behavior the employee needs not only to know him perfectly, but to be constantly in the environment of the criminal element for a long time, to feel his condition, partially reproducing his vital activity.

Such a process of living in the role of a convict necessarily imprints the employee himself, his individual development as a person. Indeed, often some correctional colony officers do not psychologically differ from convicts. This phenomenon is mainly observed in colonies remote from cultural centers, due to the lack of psychological recreation through moral and cultural diversity. Therefore, the long Meager communication with people from other spheres of society contributes to the manifestation of signs of professional personality deformation.

Considering research we may combine featres of professional deformation into 2 groups:

1) personal, due to the socio-psychological characteristics of the personnel of custodial settings. By the way, the appropriateness of this group is supported by foreign scientists who believe that the main reason for professional deformation is the discrepancy of individual psychological characteristics of the person with the level of requirements imposed by professional activity (I. Bohatyryov, A. Bohatyryov, & M. Puzyryov, 2017, p. 26), which increases the importance of professional psychological selection (D. Day, & S. Silverman, 1989, p. 111);

2) professional, due to the socio-psychological nature of professional activity, the specifics of personnel work in custodial settings and emotional burnout. This group is also supported by foreign scientists (N. Rizvi, 1985, p. 84; A. Furnham, & T. Miller, 1992, p. 226; R. Lasarus, 1974, p. 326). At the same time, by the specifics of professional activity, scientists understand, as a rule, the negative features of its content, organization and conditions, as well as the repeated repetition of typical service and psychological situations.

We emphasize that it is advisable to consider them in detail in order to expand their essence for a deeper understanding the professional deformation among the personnel of custodial settings.

Thus, the first group is characterized by the normative nature of personality behavior and determines the effectiveness of its social identification, self-actualization and activity. Therefore, in the context of professional activities of personnel of custodial settings, such basic regulatory systems of regulation of behavior as morality and law take on significant importance. The phylogenetic integration of these systems is revealed through their functional cognitive-evaluation, regulatory and value-orientation unity.

Compliance by the personnel with the standards of custodial settings is based not only on the external impact of the performance of their duties, but can also be an internal side of their activities. The possibility of internal assimilation of morality and law as imperatives are due precisely to the fact that they are generally accepted values.

According to the researches of V. Boyko, there are moral defects and disorientation of the person that is a prerequisite for professional deformation. The moral defect is due to the inability to include such moral categories as conscience, virtue, integrity, honesty, respect for the rights and dignity of another person, while the formation of emotional burnout is facilitated. The probability of indifference to the subject of activity and apathy to the performed duties increases (V. Boyko, 1996, p. 107).

Moral and legal consciousness are knowledges about moral and legal norms, principles, practice of moral and legal relations. In the field of morality, knowledge of norms is mandatory, since only in this case they act as a prerequisite for the moral responsibility of the individual both to morality (society) and to their own

conscience. Moreover, conscience is an exponent, a manifestation of moral and psychological self-regulation, self-determination of personality behavior.

So, the personnel of custodial settings in modern society constantly assimilates legal and moral norms through socialization, forms an attitude to legal or moral requirements, accepts or rejects them, passing through their consciousness, that is, evaluates, applying in practice those of them that they consider priority from the point of view of their significance. Therefore, the evaluation function is common to all elements of the legal and moral system.

One of the reasons for the negative changes in the legal awareness of the personnel of custodial settings, which further contributes to the emergence of professional deformation, the domestic scientist-practitioner E. Barash (2011) calls everyday contacts with convicts, as well as the traditions and moods of «other life», which are cultivated in some groups of employees of penal institutions (p. 15). Such circumstances give rise to falsifications and violations of the requirements of the current legislation, hide shortcomings in the performance of official duties. In our opinion, the personnel of custodial settings are the most vulnerable, since the circle of influence of such negative factors on it is wide.

One of the signs of professional deformation in the personnel of custodial settings is his subjective interpretation of law-abiding behavior – the legal legislature, which consists in the fact that the personnel of custodial settings considers it normal to deliberately or unknowingly violate the requirements of the current legislation, excluding criminal intent. Such influence, according to the foreign scientist V. Beschastny (2005), is carried out in psychological, material, physical forms and has a wide range from outright intimidation and threats to elegant, formally convincing admiration and various temptations (p. 342).

It should be noted that violations of the regulatory regulation of performance are quite diverse. One of the characteristic violations in the daily activities of the personnel of custodial settings is legal nihilism, the most dangerous and widespread phenomenon in the legal space. Legal nihilism indicates an extremely negative attitude towards any generally accepted socially important values.

Moral standards seem to be no less important than legal standards in the activities of non-freedom personnel. It can even be argued that the implementation of legal norms necessarily involves the analysis of a legal fact through the appropriate moral system of the constructs of the individual. This is determined by the fact that the right is ethical in essence, and the content of legal norms through universality necessarily implies its moral and value aspect of interpretation.

From the point of view of positive law, if there is a real threat to the life of the personnel of custodial settings, he has the opportunity to use special means (rubber batons, tear substance, handcuffs, etc.) against the attacker. The ethical content of the exercise of this right involves taking measures to avoid the use of special means (with full legal opportunity), is not provided for by law, but is provided for by its own understanding of a certain effectiveness of the situation and the value of someone else's life and health.

Thus, each area of legal practice has specific characteristics of enforcement and accordingly must contain a specific system of ethical standards. We believe that with the help of law and morality, a certain order is maintained among the personnel of custodial settings, guaranteed security of both personnel and convicts is ensured.

Summarizing the group of personal reasons for professional deformation among the personnel of custodial settings, it should be noted that they consist in insufficient education of moral imperatives in the training of personnel; low legal culture; hypertrophy of official authority; The identity of the interpretation of the law by employees, given that they deal mainly with violations of laws, various social anomalies, criminals.

The second group is characterized, first of all, by the working conditions

 ISSN 2786-491X (Print)

of the personnel of custodial settings, associated with the influence of extremely unfavorable factors – excessive tension, stress, extremality, psychological overload. Unfortunately, these factors occur among the personnel of custodial settings constantly and are mainly associated with violation of the established procedure for serving a sentence by convicts.

Their presence among young personnel during the period of adaptation to conditions working in custodial settings significantly affects their physical and mental health. Although this influence decreases with the increase in the length of service, the accumulation of proper experience in relations with convicts, however, this does not reduce the gradual accumulation of mental tension in the personnel member's personality structure, and at some stage leads to more serious consequences than temporary loss of ability to work. Among them, researchers note significant changes in the nature of professional motivation, the level of efficiency, narrowing communication links with others, and the like.

Also, the mental tension of the personnel of custodial settings affects the nature of interpersonal relations among the personnel, and in general the socio-psychological situation in the team. In turn, an unfavorable, conflicting environment increases the stress on employees.

There is an influence on the professional deformation of the psychologically heavy contingent (special contingent). So, a foreign scientist A. Lebedkin (1995), on the basis of a socio-psychological study, found that the increase in the number of violations of the established procedure for serving a sentence by convicts is directly proportional to the number of violations in the personnel of the penitentiary institution (alcohol abuse, violations of disciplinary norms, etc.). At the same time, the officers point to an increase in negative psychological pressure on the part of convicts and individuals who are members of organized criminal groups in the penal institution and beyond (p. 114).

It is appropriate to note that the personnel of custodial settings in the process of their professional activity is forced to communicate with all convicts, that is, persons with anti-social psyche, deformed consciousness and low morality. This process also involves predicting the probable behavior of the convicted person, and therefore the employee often does not have enough knowledge of the identity of the offender alone; in order to carry out his task successfully, he must feel the environment of the criminal element. Accordingly, such processes necessarily put a negative imprint on the employee himself, his individual development as a person.

In addition to these, there are social factors that negatively affect certain elements of the professional competence of employees. Among them, one should first highlight the low assessment of the activities of personnel of custodial settings by society, individual social strata; its inadequate legal protection; The traditionally established social type of personnel member working in the penitentiary system.

Separately, it is worth paying attention to the problem of emotional burnout of the personnel of custodial settings based on the fact that, according to modern ideas, the phenomenon of emotional burnout is inherent in people working in the social sphere, it is produced as a person's reaction to constant stressful stimuli in a situation of professional communication.

Burnout is a syndrome, that is, a collection of individual symptoms. Among them, in addition to emotional disorders, in the personnel of custodial settings, the majority are manifestations of a decrease in self-actualization indicators, leading to deformation, primarily of their personal and professional significance.

Therefore, in a broad sense, emotional burnout is manifested not only as fatigue from professional communication, but rather as a remedy produced by the subject of labor, subjectively allows you to maintain the status of «on the other side of the law» before the convict; not to take a very negative reality; Maintain their own positive personal and professional self-esteem; it is economical to spend your own resources and the like. Moreover, the more the employee is

formed, the less the manifestation of burnout, probably through an understanding of the illusory, fallacy of these effects, awareness of his own responsibility for the events of his life.

Thus, emotional burnout in personnel of custodial settings is a form of professional deformation of a subject of professional activity, acquired by him as a result of the action of protective mechanisms on the psycho-traumatic influence of working conditions in custodial settings of the Ministry of Justice of Ukraine, identified a decrease in emotional return, in an effort to reduce professional responsibilities, which require emotional costs, as well as in an effort to justify this by devaluing activities and their subject matter.

Currently, psychological support for the performance of personnel in custodial settings is becoming more and more relevant. The fact is that the formation of the penal system is accompanied by a number of difficulties. These include: the unstable socio-economic situation in Ukraine, the humanization of the punitive process, the allocation of the State Penitentiary Service of Ukraine as a separate executive body, new criminal procedural legislation based on the application of international standards, a high criminogenic level of crime, specific conditions of service of personnel of custodial settings. These difficult conditions are a constant source of stress on personnel.

Therefore, any extraordinary events regarding the prestige of the penal system cause a negative resonance in society, and this ultimately negatively affects the authority of the entire law enforcement system.

Conclusions. Based on the results of the study of the legal framework for preventing professional deformation of personnel of custodial settings, we propose taking such measures to prevent this negative phenomenon as: improving the system of training, education and advanced training; to create and maintain a sense of security, confidence in the usefulness and fairness of their work; careful selection of personnel, taking into account the personnel member's business and especially moral qualities; Improving management skills in the application of progressive forms and methods of work through scientific management; creation of an effective organization of labor, working hours of employees in order to reduce overload, physical and psychological overwork, as well as improving the personal qualities of employees, creating a friendly atmosphere in the team; To establish interaction with public organizations, the population, convicts and prisoners, taking into account the norms and principles of professional ethics and the like.

At the same time, during the reserch, we found that we have found such a factor of professional deformation as the stay of a young employee who has not yet managed to professionally deform, in the team of already professionally deformed personnel of custodial settings. In our opinion, it is this factor that should be considered in the first place, since in fact it is the other employees of the institution who are the source of creating the negative phenomenon being studied, its stimulation and fixation as an element of the personality of a young employee, in particular, by imposing certain negative traditions and habits (for example, constant alcohol consumption after daily duty). We consider such a vector of research not disclosed and quite promising in the field of preventing professional deformation of personnel of custodial settings.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

References

Barash, Ye. Yu. (2010). Organizational and legal paths for professional deformation of the professional deformation of the penitentiary system. *Theses of the round table Prevention of professional deformation to the personnel was established by a question of punishment, Bila*

Tserkva, September 9, 2010, pp. 13-17 [in Ukrainian].
Bezchasnyy, V. M. (2005). Work with personnel. Moscow Academy of the Ministry of Internal Affairs of Russia [in Russian].
Bohatyryov, A. I., & Medvedev, V. S. (ed) (2016). Prevention of professional deformation in the staff of places of imprisonment. VD «Dakor». [in Ukrainian].
Bohatyryov, I. H., Bohatyryov, A. I., & Puzyryov M. S. (2017). *Materials of generalization of scientific achievements of school «Intellect».* VD «Dakor» [in Ukrainian].
Boyko, V. V. (1996). Energy of emotions in communication: a look at oneself and others. Filin. [in Russian].
Day, D., & Silverman, S. (1989). Personality and job performance: Evidence of incremental validity. Personnel Psychology, 42, pp. 25–36.
Furnham, A., & Miller, T. (1992). Personality of work. Routledge.
Lasarus, R.S. (1974) Psychological stress and coping in adaptation and illness. Intern. J. Psychiat. Med., 5, pp. 321–333.
Lebyodkin, A. M. (1995). The role of psychological service in the activities of the penitentiary system. *Psikhopedagogika v pravookhranitel'nykh organakh,* 1, pp. 112–115 [in Russian].
Medvedev, V. S. (1992). Professional deformation of correctional-labor institutions staff: problem analysis. Improving the educational activities of bodies executing punishment, pp. 33–40 [in Russian].
Rizvi, N. H. (1985). Critique of the models to study stress. *Journal Social Science and Human*, vol. 1–2, pp. 103–123.
Sokolov, I. I. (ed), Sysoyev, A. M., & Gornostayev, S. V. (2005). Professional personality deformation of penal system staff: emergence, development, prevention. *Academy of Law and Management of the Ministry of Justice of Russia* [in Russian].
Stolyarenko, A. M. (1987). Psychological training of internal affairs staff. *Academy of the Ministry of Internal Affairs of the USSR* [in Russian].

Ольга Богатирьова, Андрій Богатирьов

ПРАВОВІ ЗАСАДИ ЗАПОБІГАННЯ ПРОФЕСІЙНІЙ ДЕФОРМАЦІЇ СЕРЕД ПЕРСОНАЛУ МІСЦЬ НЕСВОБОДИ

Анотація. У статті визначено найбільш значущі особистісні та функціональні детермінанти професійної деформації у персоналу місць несвободи, а саме: відсутність належної мотивації до виконання оперативно-службових завдань; особливості мікросередовища, в якому доводиться працювати; психоемоційну напруженість; відсутність належного соціально-правового захисту та ін.

Обґрунтовується важливість правосвідомості та моральності для виконання оперативно-службової діяльності, виправлення та ресоціалізації засуджених. Доведено, що професійно деформований співробітник знає правові та моральні норми, але суб'єктивно та довільно виконує їх, виправдовуючи свої дії різними обставинами, пов'язаними зі специфікою психології та поведінки засуджених.

Виокремлено групу особистісних детермінант, пов'язаних із соціально-психологічним характером професійної діяльності та специфікою роботи у місцях несвободи. Зазначено, що умови роботи персоналу місць несвободи пов'язані із впливом вкрай несприятливих чинників, а саме: неадекватні професійні установки; випереджаюче формування трудових умінь і навичок щодо професійно значущих якостей особистості; психологічне перевантаження; постійний негативний вплив з боку засуджених; екстремальність; стале емоційне напруження; брак позитивного підкріплення; невелика престижність професії та нерозуміння важливості роботи з боку суспільства тощо. Доведено, що психоемоційна напруженість суттєво впливає на виникнення професійної деформації у персоналу місць несвободи.

Окреслено, що персонал місць несвободи в сучасному соціумі постійно засвоює правові та моральні норми шляхом соціалізації, формує ставлення до правових або моральних вимог, приймає або відкидає їх, пропускаючи через свою свідомість, тобто оцінює, застосовуючи на практиці ті з них, які вважає пріоритетними з огляду на їх значущість.

Встановлено, що емоційне вигорання у персоналу місць несвободи – це форма професійної деформації суб'єкту професійної діяльності, набута ним у результаті дії захисних механізмів на психотравмуючий вплив умов роботи у місцях несвободи Міністерства юстиції України, виявлених у собі зниження емоційної віддачі, у прагненні скоротити професійні

обов'язки, які вимагають емоційних витрат, а також у прагненні виправдати це шляхом знецінення діяльності та її предмета.

Ключові слова: *персонал місць несвободи, професійна деформація, детермінанти, психологічне перевантаження, емоційне вигорання, екстремальність, запобігання*

Submitted: 12.10.2020
Revised: 22.12.2020
Accepted: 15.02.2021

UDC 331.1
DOI 10.31733/2786-491X-2021-124-133

Alina VARIANYCHENKO©
advocate's trainee
(Warsaw Bar Association, Warsaw, Poland)

Svitlana TIUTCHENKO©
Lecturer
(Dnipropetrovsk State University of Internal Affairs)

MONITORING OF EMPLOYEES' WORK EMAILS AS A MEANS OF INFORMATION SECURITY OF A POLISH ENTERPRISE

Abstract. In the given article, the problem information security of Polish enterprises is researched. One of the directives of the given information security is the control over the employees' work emails. In the article, the legal obligations of the enterprises as for the work email monitoring and the right for personal life respect are analyzed. The issue of sanctions for confidentiality correspondence violation and the right to respect for the private life are dealt with.

Keywords: *information security, privacy, sanctions, European Court, law, Labor Code*

Introduction. Relevance for studying different aspects of information security is connected to the process of globalization, when the significance of information is constantly increasing. Information poses as an important element for the state functioning, democratic development of the society, the relationship between the state, citizens and society. The human information rights are considered an integral part of civil rights.

Therefore, the enterprises face the problem of ensuring information security. Every employer is obliged to develop and implement a set of measures which aims at securing information from an unauthorized access, ensuring its confidentiality, accessibility and integrity.

Nowadays, almost every enterprise either creates or demands from its employees to create a so-called work email. As a rule, it is an email connected with the domain of the enterprise, which can help to identify the employees with the company when working with other enterprises. Unfortunately, this email address may be used not only for performing the company's activity but also for other private purposes, which may lead to the negative repercussions for the company.

© Varianychenko A., 2021
k_inf@dduvs.in.ua

© Tiutchenko S., 2021
ORCID iD: https://orcid.org/0000-0001-8480-6519
k_inf@dduvs.in.ua