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COMMITTEE FOR CIVIC INITIATIVES

## **Concept for Comprehensive Organizational and Managerial Reform of the Law Enforcement Agencies of the RF**

*The Concept for Comprehensive Organizational and Managerial Reform of the Law Enforcement Agencies of the Russian Federation, prepared by the Institute for the Rule of Law at the European University, St. Petersburg, proposes creating interdepartmental systems of mutual oversight, opening up law enforcement agencies to public oversight, and eliminating the incentives and conditions that induce law enforcement personnel to commit illegal actions and apply the law selectively.*

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English translation © 2014 M.E. Sharpe, Inc., from the Russian text, © 2013 Institute for the Rule of Law, European University, St. Petersburg. Komitet grazhdanskikh initsiativ, “Kontseptsiiia kompleksnoi organizatsionno-upravlencheskoi reformy pravookhranitel’nykh organov RF. Available at [http://enforce.spb.ru/images/Issledovanya/IRL\\_KGI\\_Reform\\_final\\_11.13.pdf](http://enforce.spb.ru/images/Issledovanya/IRL_KGI_Reform_final_11.13.pdf). Institute for the Rule of Law, European University, St. Petersburg. Prepared by research associates of the Institute for the Rule of Law, European University, St. Petersburg: Vadim Volkov, Ivan Grigor’ev, Arina Dmitrieva, Ekaterina Moiseeva, Ella Paneiakh, Mikhail Pozdniakov, Kirill Titaev, Irina Chetverikova, and Mariia Shkliaruk. Research leader: Vadim Volkov. Prepared in collaboration with the INDEM Foundation.

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## Executive summary

The law enforcement system is currently a problematic element of the Russian state. Its inadequacy to the general level of development of the economy and society is becoming a brake on economic growth and a source of social instability. The selective registration of crimes, the neglect of complicated cases, the lack of feedback, the use of illegal violence in the performance of nominal functions, the so-called criminal regulation of business—all these special features of law enforcement in Russia need to be corrected.

What is required is the *reorientation* of the law enforcement system *toward the needs of society* and the elimination of the negative consequences of performance of the policing function of the state. Attainment of these goals must precede any increase in the effectiveness of the fight against crime. Many of the measures proposed here, besides humanizing the law enforcement bodies and improving their compliance with law, will also make their work more effective. However, the primary task of the proposed reform is to eliminate the risks to citizens and to society as a whole that arise from current deficiencies in the functioning of the law enforcement system.

This concept for reform of the law enforcement bodies [hereinafter, the Concept] is based on a problem-oriented approach. First the main problems and their systemic causes are investigated and diagnosed, and then a series of measures aimed at eliminating the causes and solving the problems is proposed. A number of problems arise not for internal reasons but in the context of interaction among agencies. The reform of the Ministry of Internal Affairs (MVD) alone will therefore be unable to improve the situation. The Concept envisions serious change in the procuracy and the reorganization of the Investigative Committee of the Russian Federation (SKR) and the Federal Drug Control Service (FSKN).

Despite the obvious fact that the level of real crime is higher in Russia, the Russian law enforcement system registers significantly fewer crimes than its counterparts in the majority of other countries. It has become customary practice in the police and other law enforcement agencies to select cases that are “convenient” to

investigate and sift out cases that are complicated or inconvenient for other reasons. Public trust in the police is at an extremely low level. People do not report crimes to the police or cooperate with them. Due to a lack of feedback channels and public oversight, citizens and civilian authorities are unable to influence the work of the law enforcement bodies or bring to their attention the specific needs of primary communities. As a result, citizens view the police as a source of danger and not of protection.

Research conducted by the Institute for the Rule of Law (IRL) has revealed the following systemic causes of the constant decline in the quality of performance of the law enforcement function:

1. excessive centralization of law enforcement agencies;
2. a predominance of vertical hierarchical coordination;
3. a multiplicity of parallel lines of management;
4. continued use of the “points system” of assessment, which is a consequence of centralized management; and
5. a lack of external oversight and an absence of links with local communities and civilian authorities.

These interacting factors cause further deterioration in police work with every new attempt by the MVD or the procuracy to strengthen supervision. The leadership periodically tries to strengthen supervision without changing the established organizational model or tackling the aforementioned basic problems. The result is growth in the managerial apparatus, which generates new report indicators and increased paperwork, while the work of subordinate units becomes even less transparent to the leadership and to society. Work aimed at optimizing indicators leads to falsification or to the use of illegal methods; target report indicators are based on the results obtained by means of these methods. The danger caused by the deficiencies in police work grows, and sooner or later the leadership becomes aware of the need to strengthen supervision, thereby reactivating the “vicious circle.” Similar mechanisms operate inside the procuracy and the SKR.

According to research conducted by the IRL, the way in which the law enforcement bodies are now organized generates the following effects.

Given the current level of their centralization, each of the law enforcement agencies is so *closed* that it is impervious not only to public oversight but also to any sort of systemic influence on the part of local or federal civilian bodies of state power.

*Work aimed at optimizing indicators—forced orientation toward indicators of the volume of work and not toward results*—flows from lack of feedback and leads to the domination of “points systems” of assessment that create incentives to select only “obvious” and simple cases, exert pressure on suspects, and push cases through court at any price. Law enforcement personnel (from the operative to the procurator) and judges become a single team intent upon selecting “promising” cases and securing convictions in them, without proper mutual oversight.

*Overloading with paperwork*—the constantly increasing demands for formal records of cases—leaves no time for substantive work. One result is the spread of illegal methods of work designed to speed up the process. Another result is that employees of one agency adopt a formalistic approach to their duty to verify the legality of the actions of employees of other agencies.

Substantive work to elucidate the real circumstances of a case and determine guilt is *transferred* to earlier stages of the criminal procedure. Thus, real investigation is transferred from the investigator’s office to the preinvestigative check, in which the suspect has no procedural rights; preparation of the indictment for the court is transferred from the procurator to the investigator; and the verdict is *de facto* decided by the procuracy. The charge against the person concerned is actually made by the operative even before a criminal case is initiated. The investigator prepares the criminal case and the procuracy official who signs the indictment and then the judge merely “check” his work.

A precondition of this situation—in which procurators do not perform their duty to exercise oversight and courts do not “punish” the prosecution for illegally obtained evidence by acquitting defendants whose rights have been violated—is *the weakness of the courts*, their inability to fulfill the role of an arbiter who is obliged to protect the lawful interests of citizens (the victim

and the accused) in criminal proceedings. As a result, information obtained in the course of the preliminary investigation has full priority over circumstances elucidated in court proceedings. This biases criminal justice in favor of the prosecution, discriminates against the defense, and leads to the absence of external judicial oversight of the law enforcement system.

*The central purpose of the reform is the formation of a new structure and new principles for the work of the police*, who bear the largest share of responsibility for maintaining public safety and law and order and who have the most frequent contact with citizens. The reform of other law enforcement agencies is no less important—and in certain aspects more important—than reform of the police. We proceed from an understanding of the close interconnection of all components of the law enforcement system and the corresponding *need for a comprehensive reform*. Given the weakness of the courts, our plan relies mainly on creating systems of mutual oversight, opening up law enforcement agencies to public oversight, and eliminating incentives and conditions within the system that currently induce law enforcement personnel to commit illegal acts and apply the law selectively.

The *goals and tasks* of the reform are defined as follows:

- to adapt law enforcement work to the needs of citizens and specific residential communities (municipalities, raions, regions);
- to make the police more accountable to the public;
- to raise the level of public trust in the law enforcement bodies;
- to eliminate negative consequences and costs of law enforcement work, such as illegal violence, fabrication of cases, corruption, and extortion;
- to eliminate intrasystem barriers to the registration of crimes and reduce the artificial latency of crime to a minimum;
- to shift the center of gravity to prosecution of the most socially dangerous crimes rather than those that are easiest to investigate;
- to eliminate the negative influence of the law enforcement

bodies on the investment climate in Russia, to reduce pressure on business;

- to increase the effectiveness of the work of the police to maintain public order and fight crime;
- to ensure the legality of the methods used in operative and investigative work by means of the mutual oversight of law enforcement bodies;
- to ensure recognition of the right of employees of law enforcement bodies to make honest mistakes and eliminate incentives to conceal mistakes (in particular, an acquittal must not be grounds for punishing the policemen involved in the case, as long as their actions were lawful);
- to create independent sources of information about the level of crime and the effectiveness of the law enforcement bodies.

An advantage of the proposed Concept for reform is that it assumes *the absence of additional funding*. All new bodies and units will be constituted on the material base of various units that are to be abolished (and in many cases using the same personnel); all increases in pay and material support will be covered by cutting other expenditures and reducing numbers of personnel. The transfer of functions to the regional and municipal levels will be accompanied by funding.

Based on our research, we propose the following measures that may not suffice to eliminate the deficiencies listed above but will at least mitigate them over a transition period and make it possible to gradually improve the situation.

### ***To optimize the levels of management of law enforcement agencies***

To create on the basis of the MVD, the SKR, and the FSKN police forces at three levels—municipal, regional, and federal—that will act in a single legal field but be organizationally autonomous of one another and accountable to the civilian authorities at the corresponding level as well as to local communities. The MVD as a separate federal agency will be abolished and its functions redistributed among police forces at different levels and other agencies.

The sphere of responsibility of the *municipal police* will include maintenance of public order in cities and raions, crime prevention, and the registration of all offenses (with crimes transferred to the regional or federal police for investigation).

The sphere of responsibility of the *regional police* will include criminal prosecution for minor crimes and crimes of medium gravity, the guarding of buildings used by bodies of state power of the subject of the Federation, and the regulation of road traffic on all highways within the borders of the region.

The sphere of responsibility of the *federal police* will include criminal prosecution for grave and especially grave crimes committed anywhere in the RF, the fight against international, interregional, and organized crime, and other federal functions. In order to perform these functions, subdivisions of the federal police will be created at the regional and local levels.

A separately created and independent body at the federal level will be responsible for the *fight against bureaucratic malfeasance*. A service for the *collection and analysis of crime statistics* will also be separately created and independent.

Normative-legal regulation at all levels, insofar as it concerns the exercise of federal powers, will be determined by federal legislation. “Framework” laws will be worked out that subjects of the Federation and municipalities can adopt either as they stand or with changes to certain sections. Functions pertaining to the maintenance of public order at the municipal or regional level will be transferred only together with corresponding funding. The procuracy and the courts will ensure the uniform application of criminal and criminal-procedural legislation.

***To free law enforcement agencies of extraneous functions and thereby reduce their size***

Extraneous functions of law enforcement agencies and the units responsible for their performance will be transferred to specialized agencies. This will bring the relative size and per capita funding of the police force down to levels characteristic of the countries of Central and Eastern Europe: 400–450 policemen per 100,000

population and about \$40,000 per policeman per year. The following measures are proposed in order to achieve the transfer of extraneous functions:

- Abolish units for the fight against economic crime, which currently justify their existence by actively seeking out economic crimes and exerting pressure on business. Their functions in assisting investigations based on victims' statements should be transferred to general criminal units of the federal police and of the Federal Service for the Investigation of Malfeasance.
- Change the status of the FSKN and transfer its functions of operative-search work, criminal prosecution, and international coordination of the fight against drug trafficking to police forces with corresponding territorial jurisdictions. Transfer oversight of compliance with legislation on the legal presence of drugs in medical agencies and pharmacies to the Federal Service for Oversight in the Sphere of Protecting Consumers' Rights and Human Welfare (Rospotrebnadzor).
- Remove the Extradepartmental Guards from the police force and turn them into a commercial company under the control of the state or private owners.
- Transfer functions pertaining to the issue of licenses and permits for security and detective work and identity documents for private guards and to oversight of compliance with licensing rules to the Ministry of Justice. Transfer the powers of inspection of Units for Minors' Affairs (PDN) to civilian agencies (guardianship agencies). Transfer powers to grant driving rights to civilian agencies.
- Transfer the internal troops to the Ministry of Defense.

***To reform the system of assessment and oversight of the work of law enforcement bodies and change organizational structures***

Separate the registration of information about crimes based on citizens' statements both from their investigation and from the



collection of crime statistics that will be used to assess the work of law enforcement bodies.

Bring the investigator's (inquirer's) office and operative services together within the corresponding (regional or federal) police force. In a specific case, the investigator should be responsible for organizing the investigation and directing the check prior to the initiation of a criminal case, supervise the actions of operatives in the case from the very start, and be responsible for the legality of the actions of the entire group. Investigators and operatives who work on cases together should be subject to a common system of work assessment that does not create conflicting incentives.

When criminal cases are initiated on the basis of facts (without a suspect), no deadline will be set for the investigation, as there is no pressure to "prove guilt at any price." When a suspect appears, a firm deadline will be set, aimed at ensuring the soonest possible access of the accused to judicial examination of the case.

The number of indicators used to assess the work of law enforcement personnel will be reduced. The number of acquittals and the number of criminal cases terminated in the course of the investigation on the initiative of the investigator or procurator must not be treated as negative indicators in assessing the work of the police, investigators, or procurators. The number of substantiated complaints concerning illegal actions by law enforcement personnel (including refusals to accept statements) should be a negative indicator, as should a court ruling or procurator's directive to the effect that the rights of citizens have been violated in the course of an investigation.

The defense lawyer should have the right to present evidence and the introduction of such evidence into the case must be guaranteed. The investigator must not have the right to refuse to attach to the case file any material presented by the defense.

The procuracy will be gradually released from the function of unlimited oversight in order to raise the quality of its oversight of the work of the police and investigator's office, and also of its support for the state prosecution in court. At the same time, it is necessary to give legislative and practical guarantees to the right of public organizations to petition the courts in defense of the interests

of an unlimited set of people and transfer powers to represent the interests of unprotected groups in court (in civil and arbitration proceedings) to other bodies (for example, ombudsmen).

The functions of current oversight of investigations, operative-search work, and state prosecutions will be brought together within the procuracy with a view to making procuracy officials more responsible for the quality of evidence and the legality of investigative actions. One and the same assistant procurator should supervise the investigation in a specific case and then present that case in court.

With tighter registration discipline the number of registered offenses will increase by an order of magnitude, and it will then be necessary to choose which cases should be taken to court, on which investigations financial and human resources should be expended. Exactly which cases require criminal prosecution should be decided by the procurator, guided by a comparison of the social dangers posed by different crimes, likely outcomes, and the need to make the most efficient use of available resources.

The system of cassational protests by the procuracy will be changed. A cassational protest will be submitted by a higher-level procurator (for cases initially under the jurisdiction of raion and magistrates' courts—the procurator of the subject of the Federation; for cases initially under the jurisdiction of courts of a subject of the Federation—the general procurator). A case that is appealed and lost at a higher level should be a negative indicator in assessing the work of a procurator, who must not spend state funds appealing cases that are already lost for the sole purpose of “covering” his loss.

In order to prevent recurrence of the “dictatorship of headquarters” and minimize the bureaucratic burden on rank-and-file employees of all units, a departmental prohibition will be imposed on the creation by anyone of additional reporting forms, apart from those established by the autonomous agency for the collection and analysis of crime and police statistics. A prohibition will also be imposed on the vertical transmission of assignments, instructions, or inquiries bypassing the head of the corresponding territorial subdivision.

The proposed organizational changes, with the transfer of some policing functions and the maintenance of law and order to the local level and to the level of subjects of the Federation, will require at

least budgetary and municipal reforms, and also changes in criminal and criminal-procedural legislation.

*The most important tasks of this plan are to create systems of mutual oversight, open up law enforcement agencies to public oversight, and eliminate the incentives and conditions that currently induce law enforcement personnel to commit illegal actions and apply the law selectively.*

\* \* \*

The constitution of the Russian Federation proclaims that the individual and his rights and freedoms are the supreme value and that it is an obligation of the state to recognize, respect, and protect these rights and freedoms (Article 2). Moreover, the rights and freedoms of the individual determine the purpose, content, and application of the laws, and also the activity of the bodies of state power, including the law enforcement bodies and the courts (Article 18).

However, to anyone who is even slightly acquainted with the current condition of the Russian law enforcement system, it is obvious that for this system neither the victim of crime, nor the person suspected or accused of committing it, nor the citizen as such is the supreme value or the measure of the content and outcome of its activity. According to preliminary results of the current Eurobarometer in Russia survey,<sup>1</sup> half of Russian citizens (51 percent) expect illegal actions against them from policemen; the corresponding proportion for residents of large cities (with population over 500,000) was two-thirds (66.5 percent). Of a list of suggested threats, those considered the most real by respondents were the possibility of wrongful arrest (36 percent in the sample as a whole, 51.5 percent for residents of large cities), extortion (33 and 48 percent, respectively), and verbal abuse (33 and 45 percent, respectively). Every fifth respondent (21.5 percent)—in large cities every third respondent (35 percent)—expected to suffer physical violence at the hands of the police.

What needs to be done in order to replace superficial indicators as the focus of the fight against crime by the individual and his rights and freedoms, as required by the constitution of the Russian Federation (Articles 46, 49, 52, 123), protect victims and their right

to compensation for harm inflicted, and guarantee the accused the right to a legal defense and a fair investigation? What needs to be done to comply with the constitution and come closer to achieving the high standards of a state based on law that it embodies?

It is now obvious that this requires a fundamental reform of the law enforcement bodies. The Concept for reform that we propose includes comprehensive and systemic changes in the law enforcement system that will bring it into conformity with the constitution—with both the letter and the spirit of the law.

In contemporary Russia, the work of the police and other law enforcement bodies, their performance of their direct functions is accompanied by so many negative side effects that the danger to citizens posed by the day-by-day operation of the law enforcement system is comparable in scale with the danger presented by the crime against which this system is supposed to fight. We cannot at present talk about a reform inspired by an “ideal image of tomorrow’s police.” The negative effects of the law enforcement system are blocking the country’s economic development and are today the chief problem—a problem more important than the insufficient effectiveness of police work in the fight against crime. Our Concept is aimed at getting out of this obviously negative situation; above all, it specifies the organizational changes that are needed to transform the police.

The complex of measures proposed in the Concept focus primarily on the MVD, the SKR, and the FSKN—law enforcement bodies jointly responsible for examining 97 percent of all communications about crimes,<sup>2</sup> as well as for maintaining public order—and on the procuracy, which oversees their work.

### **Brief diagnosis of the work of the law enforcement bodies of the RF based on the results of a sociological study**

The present Concept was worked out on the basis of the results of a four-year study of the work of the police, other law enforcement bodies, and the courts.<sup>3</sup> In the course of the research, associates of the Institute for the Rule of Law (IRL) conducted and analyzed sixty-seven interviews with employees of the law enforcement

system and twenty-five interviews with judges in courts of general jurisdiction, created and analyzed several databases of court rulings, and conducted a number of sociological surveys. Key respondents were interviewed a second time and consulted on an informal basis. Also analyzed were judicial statistics (both general data collected by the judicial department and sample data based on the texts of published court rulings), formalized questionnaire surveys of judges and employees of law enforcement agencies, and departmental orders, instructions, and material on police methods used to organize the daily work of law enforcement personnel. In addition, the results of empirical studies of the work of the Russian law enforcement and judicial system published by other researchers were taken into account.

One of the starting points of the study was an assessment of objective indicators of the work of the law enforcement system from a comparative perspective. First, despite the obvious fact that the level of real crime is higher in Russia, the Russian law enforcement system registers significantly fewer crimes than its counterparts in the majority of other countries. In 2009, for example, 2,100 crimes per 100,000 population were registered in Russia, as compared with 15,000 in Sweden, 7,400 in Germany, 3,460 in the United States, and 3,000 in Poland.<sup>4</sup> Second, Russia is distinguished by a high official rate of crimes solved (43 percent for crimes against property and 84 percent for crimes against people).<sup>5</sup> Moreover, according to data for 2010, in 92 percent of criminal cases taken to court at the raion level,<sup>6</sup> the suspect has confessed; this suggests that the cases taken on are those that are simple or have a ready suspect. Analysis of empirical data showed that this pattern in the work of the law enforcement system reflects not the crime situation in the country but the practice of selecting cases that are “convenient” to investigate and sifting out cases that are complicated or inconvenient for other reasons. Third, instances of citizens forming detachments or volunteer patrols for self-defense and refusing to interact with employees of law enforcement bodies—instances that have recently become more frequent—are symptoms of the regular police failing to perform or ineffectively performing their functions in the maintenance of law and order on the territory entrusted to

them. A lack of feedback in the context of scandalous incidents of torture and violence on the part of law enforcement personnel leads to even greater public alienation and distrust, further impeding the daily work of the police.

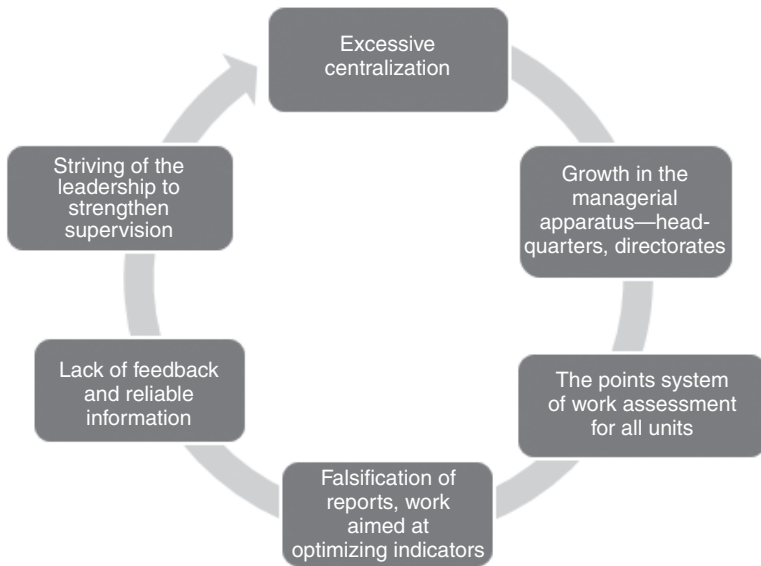
The features of police work described above—selective registration of crimes, unwillingness and inability to work on complicated cases, lack of feedback, use of illegal methods of investigation—are a natural consequence of cumulative systemic problems, primarily connected with the special organizational characteristics of Russia's law enforcement agencies and with the distribution of powers among and within them. Research conducted by the IRL has revealed the following causes of this situation:

1. excessive centralization;
2. the predominance of vertical hierarchical coordination;
3. multiple parallel lines of management;
4. continued use of the “points system” of assessment, which is a consequence of centralized management; and
5. lack of external public oversight.

In practice, these factors are mutually reinforcing. Taken together, they tend to cause further deterioration in police work with each new attempt to improve the situation. The leadership periodically tries to strengthen supervision without changing the established organizational model or tackling the basic problems. This results in a growth of the managerial apparatus, which generates new report indicators and increased paperwork, while the work of subordinate units becomes even less transparent to the leadership and to society. The work aimed at optimizing indicators generates new illegal practices, and sooner or later the leadership becomes aware of the need to strengthen supervision, thereby reactivating the “vicious circle” (see Figure 1).

In the course of research it was established that not only the police force but the entire law enforcement system has an excessively *centralized* organizational structure, even taking into account the fact that all bodies with a federal status naturally possess a degree of centralization. The typical schema of a Russian law enforcement agency is a linear hierarchy consisting of a federal body, subordinate

Figure 1. **Organizational Logic of Deterioration in the Work of the Law Enforcement Bodies**



subdivisions at the level of subjects of the Federation, and raion-level units that are subordinated to higher-level subdivisions.

Together with the system of strict subordination of lower-level to higher-level organizational units, all these agencies are subject to *parallel lines of management* (the system of “headquarters”); in the police there is also a system of line (specialized) subdivisions that are responsible for a specific area of work, problem, or specialization, and endowed with powers over lower-level units. They have the right to introduce additional reporting forms on a temporary or permanent basis, conduct checks, and give assignments to members of lower-level units without obtaining the consent of the direct superiors of the people concerned. This means that almost any rank-and-file policeman or police officer engaged in performing basic functions depends not only on his direct superior but also on a number of members of higher-level subdivisions who have no responsibility for the overall results of his work (or of the work of his unit) and are concerned only with one specific aspect.

However, despite these multiple lines of management, an employee of one or another law enforcement agency is neither personally nor indirectly accountable for his work to any external actor. Each of the hierarchies is accountable only to its own departmental leadership, which is accountable only at the federal level to a single notionally civilian person—the president of the RF.

Closed as they are to feedback both from society and from civilian authorities below the federal level, the law enforcement agencies are compelled to work out *assessment systems* for their employees based on internal quantitative indicators. For the sake of objectivity these indicators are unified for the whole agency and reflect not final results but numbers of actions performed by employees (crimes solved, fines imposed, checks conducted) and the percentage of “defective output” discovered in those actions (acquittals in investigated cases, negative findings of checks “from above”). Per capita gross indicators are taken as measures of “workload.” Declines in such indicators may lead not only to disciplinary penalties but also to staff reductions in the unit concerned. Indicators are “summed” from the bottom up—that is, the work of a higher-level unit (head) is assessed on a given criterion based on the sum of corresponding indicators for lower-level units (subordinates). This generates top-down pressure and creates additional incentives for the manipulation and falsification of report data and for work aimed at optimizing indicators.

As work is aimed not at results but at optimizing report data, the likelihood that a given action will be taken is determined by the weight it will have in the statistics (if special records are kept for a certain category of crimes, the police will make additional efforts to solve them; if a crime contributes to a “negative” indicator, it will not be registered), and also by the amount of work it entails by comparison with other actions that contribute to the same indicator (thus, within a particular category, crimes will be selected that are easiest to solve). Moreover, the centralized specification of indicators “from above” for all regions makes it difficult for the law enforcement system to respond adequately to the structure of crime and administrative offenses that objectively exists within a specific territory. Intradepartmental assessment and planning of the



work of the law enforcement system, having an exclusively internal focus, cannot—even given the desire to do so—take account of interregional differences and especially differences between types of settlement (for example, between city and countryside). It is impossible to collect objective statistics of the work of the law enforcement bodies, because any data that are collected immediately become an object of assessment and therefore of manipulation if not of falsification. Besides the objective weakness of the existing “points system” in taking account of interregional differences, it cannot cope with the need to take into account differences in the complexity and character of the criminal or administrative cases handled by different employees.

This is the only feasible kind of assessment system in the absence of *feedback mechanisms* that would make it possible to assess the substantive results of subordinates’ work (the real level of safety, the degree of inescapability of punishment for offenders, the real crime rate, public trust in the law enforcement bodies, satisfaction with their work, the degree of humaneness and legality shown by law enforcement personnel in their work, the efficiency of the expenditure of resources). The need to assess the work of employees and units based on records of their actions and not on results (through mechanisms of external oversight and feedback) continually generates new forms of recordkeeping and reporting that are supposed to strengthen internal oversight. Correctly assuming that lack of feedback heightens risks of corruption and creates the temptation to raid businesses, violate legality, and falsify documents, the leadership of law enforcement agencies finds a way out by demanding that every aspect of the work of its subordinates be scrupulously recorded in official documentation. As a result, so many such aspects come to need reporting (for the sake of feedback), recordkeeping (for administrative purposes), and documentary registration (in order to prevent abuses) that each action—from questioning a witness to obtaining gasoline coupons for an official trip—requires the preparation of dozens of documents, each in several copies for insertion in different reporting files. Law enforcement personnel are so overloaded with paperwork that little time remains for real work.

The high degree of centralization, taken together with the impossibility of objectively assessing the substantive work of subordinates and its end result, leads to growth in the bureaucratic apparatus, as someone has to report and answer for every aspect of the work. Thus, in the Investigative Committee of the RF only 45 percent of employees are investigators, while the rest perform bureaucratic functions—and this despite the fact that the SKR is at present the youngest law enforcement body in Russia.

Our study describes the following *consequences of the existing system*.

Given their current degree of centralization, the law enforcement agencies are all so *closed* that they are impervious not only to public oversight but also to any systemic influence from either local or federal civilian bodies of state power.

*Work aimed at optimizing indicators: the forced orientation toward indicators of the volume of work and not toward its result* flows from the lack of feedback and leads to the domination of “points systems” of assessment that create incentives to select only “self-evident” and simple cases, exert pressure on suspects, and push cases through court at any price. Law enforcement personnel—from the operative to the procurator—and judges become a single team, choosing “promising” cases and taking them through to conviction without proper mutual oversight.

*Overloading with paperwork*, constantly increasing demands for the formal documentation of cases leaves no time for substantive work. One result is the spread of illegal methods of work designed to speed up the process. Another is that employees of one agency adopt a formalistic approach to their duty to verify the legality of the actions of employees of other agencies.

Substantive work to elucidate the real circumstances of a case and determine guilt is *transferred* to earlier stages of the process. Thus, real investigation is transferred from the investigator’s office to the preinvestigative check, in which the suspect has no procedural rights; preparation of the indictment for the court is transferred from the procurator to the investigator; and the verdict is de facto decided by the procuracy. The charge against the person concerned is actually made by the operative even before a criminal

case is initiated. The investigator prepares the criminal case and the procuracy official who signs the indictment and then the judge merely “check” his work.

A *precondition of this situation*—in which procurators do not perform their duty to exercise oversight and courts do not “punish” the prosecution for illegally obtained evidence by acquitting defendants whose rights have been violated—is *the weakness of the courts*, their inability to fulfill the role of arbiter who is obliged to protect the lawful interests of citizens (the victim and the accused) in criminal proceedings. As a result, information obtained in the course of the preliminary investigation has full priority over circumstances elucidated in court proceedings. This biases criminal justice in favor of the prosecution, discriminates against the defense, and leads to the absence of external oversight of the law enforcement system, even by other state institutions.

## **The Concept for reform of the law enforcement agencies of the RF**

### ***General goals of the reform***

In light of the aforesaid, the chief goals of the reform of Russia’s law enforcement system are to *reorient it toward the needs of society*, to *humanize* it, and to eliminate the negative consequences of execution of the policing function of the state. Making the fight against crime *more effective* is a necessary goal, but only after the aforementioned goals have already been achieved, at least in part. Many of our proposed measures, besides humanizing the law enforcement bodies and improving their compliance with law, will make their work more effective.

The first priority of the proposed reform is to eliminate the risks to citizens and to society as a whole that are connected with the current functioning of the law enforcement system. This is precisely what accounts for the radical nature of some of the measures proposed: in order to fully reorient the purpose and goals of the work of several of the country’s largest enforcement agencies it is necessary to carry out a fundamental reform—one capable of

changing deeply rooted negative practices. As the attempt at reform in 2011 shows, “cosmetic” measures will at best be sabotaged; at worst they will further strengthen negative tendencies.

*The focus of the reform is the formation of a new structure and new principles for the work of the police, who bear the greater part of the responsibility for ensuring public safety and maintaining law and order and who have the most frequent contact with the public. Reform of other law enforcement bodies must be geared to reform of the police as the final goal of reform. Here we proceed from our understanding of the close interconnection among all components of the law enforcement system, which requires a comprehensive reform.*

It is anticipated that the following main parameters will be attained as a result of the reform:

- The relative size and per capita funding of the police force will be reduced to levels characteristic of the countries of Central and Eastern Europe: 400–450 policemen per 100,000 population and about \$40,000 per policeman per year.<sup>7</sup>
- Intrasystem barriers to the registration of crimes will be eliminated and the artificial latency of crime reduced to a minimum. Information about the level of crime and about the level of activity of the law enforcement bodies will come from a number of independent sources, including specialized independent questionnaire surveys.
- Priority in the investigation of crimes will be given not to those cases that are the easiest to investigate but to those that represent the greatest danger to society.
- Civil society and independent experts will participate in setting tasks for the law enforcement bodies. Citizens will know their precinct policeman and be willing to cooperate with him.
- The legality of methods used in operative work and in investigating cases will be ensured through oversight of law enforcement bodies by other law enforcement bodies and by an independent judiciary.

- A citizen who is placed in pretrial detention and whose guilt is not then confirmed will receive apologies and be paid compensation. The right of a policeman to make an honest mistake will be recognized, as long as his actions are lawful. Incentives to conceal mistakes will be eliminated.

### *Tasks of the reform*

Based on this understanding of the general goals of the reform, it is possible to formulate more specific tasks:

- to adapt law enforcement work to the needs of citizens and specific residential communities (municipalities, raions, regions);
- to make the police more accountable to the public;
- to raise the level of public trust in the law enforcement bodies;
- to eliminate negative consequences and costs of law enforcement work (refusals to investigate cases, violence, miscarriages of justice, corruption, and extortion);
- to eliminate the negative influence of the law enforcement bodies on the investment climate in Russia, to reduce pressure on business; and
- to make the work of the police in maintaining public order and fighting crime more effective.

### *Content of the reform*

#### *Comprehensive character of the reform*

It is important to note the comprehensive character of the proposed reform: the implementation of specific measures in isolation from the overall logic of the reform may prove not just futile but even dangerous. Thus, the tightening of discipline with regard to the registration of crimes may lead to further abuses and the fabrication of cases if it is not connected with reform of the “points system” of reporting, which currently requires that all registered crimes

be solved, and with change in the system of oversight in the law enforcement agencies and reform of the procuracy, which is at present unable to block the initiation of a criminal case on the grounds that it is of too little social significance to be worth pursuing, that evidence is insufficient, or that the prospects of a conviction are poor. Another example: a closer organizational link between operative and investigative work will be beneficial only if at the same time the procuracy becomes more concerned with the quality of the investigation and the role of the defense in the process is enhanced. If these tasks are not tackled simultaneously, then a closer link between the two kinds of work—instead of enhancing oversight of the operative and making the investigator more responsible for observing the rights of the suspect during his preinvestigation inquiry actions—may lead to even greater falsifications in the course of the investigation.

### *Funding*

The public demand and political will required for radical reform of the law enforcement system will hardly arise under ideal, economically favorable conditions. *An advantage of the proposed Concept is that it does not presuppose additional financial expenditure:* organizational measures envisioned in the detailed plan for the reform will be funded out of existing budgetary allocations. All new bodies and units will be formed on the material base of other units slated for abolition (and in many cases using the same personnel); planned increases in pay and improvements in material provision will be funded solely by cutting other expenditures and reducing staff. The transfer of functions to the regional and municipal levels will be accompanied by funding.

### *Public and expert discussion*

Many of our proposed measures will require substantial changes in legislation, reform of the Criminal Code and Criminal Procedure Code, or the adoption of new laws. We assume that the specific content

of these laws, like the specific “roadmap” of the reform, will be discussed at the expert level. In proposing general principles for change, for the time being, we leave aside the question of their legal expression and offer no plan of specific actions for their introduction—such a plan will depend, *inter alia*, on the social conditions under which the reform may be implemented. Broad public and expert discussion should change the tendency to pass laws “in a single day without explanation,” constitute a serious step toward dialogue between law enforcement agencies and the public, and make the reform more acceptable to law enforcement personnel themselves.

### *Accompanying reforms*

One important cause of the problems of the law enforcement system is that the judiciary in Russia is insufficiently independent and traditionally close to the procuracy. We put forward a number of proposals aimed at weakening the incentives for judges to accept uncritically the arguments of the prosecution. However, real independence of the judiciary cannot be achieved quickly. While organizational reform of the law enforcement agencies can be carried out in a year or two, it will take a much longer time to change the attitudes and principles that guide judges in their work. Here we assume that the law enforcement system—at least during the reform and for some time after it—will have to function in a situation in which the courts will be unable to provide effective oversight of the quality of its work and the compliance of its personnel with law.

In addition, the proposed organizational changes, entailing the transfer of certain policing functions and the maintenance of law and order to the local and regional levels, require at least a budgetary and a municipal reform, and also—as noted above—changes in criminal legislation.

*Thus, it is very important to create interdepartmental systems of mutual oversight, open up law enforcement agencies to public oversight, and eliminate incentives and conditions within the system that currently induce law enforcement personnel to commit illegal acts and apply the law selectively.*

***Main areas of implementation of the Concept for reform of the law enforcement agencies***

Our Concept develops three main themes:

1. Optimizing levels of management of the law enforcement agencies;
2. Freeing the law enforcement agencies of extraneous functions, thereby reducing personnel; and
3. Reforming the systems for assessing and overseeing the work of the law enforcement bodies.

Superfluous levels of management will be eliminated in spheres that do not require day-by-day regulation at the federal—or in some cases at the regional—level. This will substantially reduce the time spent by rank-and-file personnel on extraneous paperwork generated by bureaucratic pressure from higher-level structures. At the same time, it will free up personnel, funds, and material resources for increasing the number of units working with registered statements by citizens, which will become more numerous in the course of implementation of the reform.

The transfer of extraneous functions to other agencies will prevent policemen from being diverted to tasks that have nothing to do with police work, focus the responsibility of police chiefs directly on the maintenance of law and order, and in certain cases create reserves for funding the reform.

Decentralization will simultaneously eliminate the duplication of functions and organizational conflicts. In place of several law enforcement bodies with overlapping functions there will be an easily understandable system with clearly demarcated spheres of responsibility. This will eliminate the conflicts that occur when, for example, employees of the SKR work with operatives of the MVD to solve murders but also have the duty to examine statements about instances of violence or bribe-taking on the part of these same operatives. The procuracy will no longer depend on the results of the “fight against crime” in the raions; this will make it more objective in its assessment of investigatory material and should influence the composition of the cases sent to court. Information



about the crime situation will be gathered by a statistical agency that is not subordinate to any structure involved in the pursuit of criminal prosecutions. The opportunities for the police themselves to influence input data will be substantially reduced.

Our proposed mechanism for working out new, flexible, and locally relevant principles for assessing the effectiveness of police work will lead to the true abolition of the “points system.” The formation of a system in which information about the crime situation is treated as the basis for a comprehensive policy of crime control and not as indicators for the categorical assessment of police work will eliminate incentives to falsify report data, seek out easy and self-evident cases, and refuse to register statements.

Accountability to lower levels of state authority, openness of information (including information about the crime situation and police work with criminal cases), and change in the methods used in work with will gradually lead to greater public trust in the police while at the same time creating independent channels through which higher levels can obtain objective information about police work. The alternative character of these channels will prevent the appearance of artificial forms of reporting and render ineffective, overcentralized control redundant.

*Optimizing levels of management of the law enforcement agencies; adapting the function of maintaining public order to the interests of municipalities and subjects of the Federation; making the police more accountable to the public*

Decentralization of the police is becoming the dominant tendency in the contemporary world. The majority of countries have implemented the principles of dividing the police into a central (federal) force and local forces (in conformity with the division of the country concerned into territorial-administrative units) and separating the functions of fighting crime and maintaining public order. In almost all countries, irrespective of the degree of centralization of other police work, municipal police forces exist that are accountable to the population of cities or raions. The functions of these forces are

determined by the needs and problems of specific settlements and their citizens.

As a result of the policy of centralization of the law enforcement system conducted over the past decade in Russia, the police have lost their ties with the public (local communities) and even with the local civilian authorities; as a result, they have also lost the trust of the public. Citizens are increasingly relying on their own efforts to fight crime and maintain order (the conflicts in Sagra [a village in the Urals where locals clashed with a gang of criminals—Trans.] and Rostov oblast, the creation of Cossack patrols in Krasnodar krai and local forces in Dagestan, the large-scale hiring of private security firms by societies of residential property owners to perform policing functions, and so on) and in certain regions such groups even enter into conflict with the police. Recent years have seen the emergence of patrols and self-defense groups to fill the vacuum in policing at the local level. This is an objective tendency: self-defense groups will be created in any case because the police are not satisfying the public demand for safety and law and order at the local level, and with the development of society this demand is growing just as rapidly as the ability of the overcentralized police force to satisfy it is declining. It is necessary to fill the vacuum before this tendency leads to arbitrary behavior on the part of such self-defense groups and to armed conflicts among them and between them and police forces.

The essence of the proposed decentralization of the police is the optimization of the federal system of powers and the elimination of superfluous horizontal and vertical managerial links.

*In order to implement this area of reform in Russia, we propose to create police forces at three levels—federal, regional, and municipal, each with its own powers and duties and accountable to the corresponding authorities.*

In this Concept, the concepts “municipal (regional, federal) level of management of the police” and “the municipal (regional, federal) police” are used as synonyms.

The sphere of responsibility of the *municipal police* will include maintenance of public order in cities and raions, crime prevention, and the registration of all offenses<sup>8</sup> (with crimes transferred to the regional or federal police for investigation).

The sphere of responsibility of the *regional police*<sup>9</sup> will include criminal prosecution for minor crimes and crimes of medium gravity, the guarding of buildings used by bodies of state power of the subject of the Federation, and the regulation of road traffic on all highways within the borders of the region.

The sphere of responsibility of the *federal police* will include criminal prosecution for grave and especially grave crimes committed anywhere in the RF and the fight against international, interregional, and organized crime. An *independent body at the federal level* will be created separately for the fight against malfeasance within the law enforcement agencies. (Its functions may be expanded in the future to encompass the fight against malfeasance in all state bodies, but anticorruption policy falls outside the scope of this work and merits a special study.)

Police forces at different levels will be autonomous—that is, the federal police will have their own units at the regional and local levels and the regional police will have their own units at the raion (or municipal) level. The functions of these subsidiary units will not overlap with those of other subsidiary units or with those of the municipal police, nor will the municipal police be subordinated to them. The arrangements for interaction among police forces at different levels will be described in the law “On the Police” and will include: assistance with regard to police methods without the right to require the submission of reporting forms; the mobilization of lower-level by higher-level police forces with temporary subordination in an emergency situation, natural disaster, or other special case (a closed list of such special cases to be specified in the law); and rules for transmitting communications about incidents in accordance with jurisdiction.

Basic principles of decentralization:

1. Preservation of the federal character of the law enforcement function. Normative-legal regulation at all levels, insofar as it concerns the exercise of federal powers, will be determined by federal legislation.
2. Alternatives and readymade variants. “Framework” laws will be worked out that subjects of the Federation and municipalities

can adopt either as they stand or with changes to certain sections. Municipalities and regions should have the option of choosing “readymade” solutions.

3. Function + budgetary funds. Functions pertaining to the maintenance of public order at the municipal level or to inquiry at the regional level will be transferred only together with the funding previously envisioned for the performance of these functions.
4. Criminal prosecution in court in the name of the state will be conducted by the procuracy. Criminal cases will be resolved on merits by the courts.

The procuracy and the courts will ensure the uniform application of criminal and criminal-procedural legislation. Sentences will be established only by the courts. Decisions to terminate cases against persons on nonrehabilitative grounds (that is, grounds that leave the person with the formal status of “a person held to criminal liability”) will be made by procurators.

*Transferring extraneous functions and units, thereby reducing personnel while increasing per capita funding*

In Russia today there are 547 policemen for every 100,000 inhabitants. In the developed countries (Western Europe and the United States) the number of policemen per 100,000 inhabitants lies within the range 155–370. For countries at a medium level of development (Southern and Central Europe) the range is 200–450 policemen per 100,000 inhabitants. Only Belarus has a police force more numerous relative to population than that of Russia (813 policemen per 100,000 inhabitants). The worldwide average is 300 policemen per 100,000 inhabitants.

Annual budgetary expenditure per policeman in Russia is \$20,400. For purposes of comparison: in developed countries this indicator ranges from \$74,200 in France to \$247,200 in Norway; in countries at a medium level of development it ranges from \$25,300 in Bulgaria to \$80,200 in Estonia. Russia spends up to 3 percent of its GNP on law enforcement.<sup>10</sup> In countries at a high

or medium level of development this indicator ranges from 0.5 percent to 1.6 percent.

Compared with other countries, the Russian police force today is almost the most numerous relative to population; it is poorly funded in per capita terms (and therefore poorly equipped) but expensive for the national economy. A comparison of the effectiveness of the police in different countries—measured in terms of the number of grave crimes, trust in the police, and international indexes of order and safety—places the Russian police among the least effective. Taken together with the large size of the Russian force and the relatively heavy burden that it imposes on the economy, this shows the extremely low level of efficiency of the Russian law enforcement bodies. In Russia, for example, only slightly over one criminal per year is caught for each police employee—one of the lowest indicators in the world.<sup>11</sup>

The predominant pattern in the developed countries is a small but capital-intensive police force that nonetheless uses up a much smaller share of public resources. In countries at a medium level of development the police are less capital-intensive and more labor-intensive but not burdensome for the economy. In Russia the police are extremely labor-intensive and at the same time burdensome for the economy. This is a result of the extensive growth in police forces over the past decade, and also of their overcentralization, which has generated such an expansion of the managerial apparatus that over half of existing employees are engaged in administrative tasks.

*Our Concept for reform aims to bring the Russian law enforcement bodies closer to a model that presupposes a smaller and better-funded police force than in the majority of countries at a medium level of development.* Further development of the law enforcement system should be intensive in character, entailing structural transformations that make it possible to increase per capita spending while reducing the size of the force at the expense of managerial structures that are extraneous to the performance of policing functions. In other words, the quality of law enforcement work will be improved by deploying fewer but better-equipped and better-trained policemen who will no longer be burdened by extraneous tasks and excessive paperwork.

The size of the police and other law enforcement bodies (the procuracy, the investigative bodies, the FSKN) will be reduced by abolishing extraneous functions and managerial structures while at the same time cutting corresponding personnel or removing them from the staff. These cuts are described and explained in greater detail below.

*Changing the organizational structure of law enforcement agencies and the systems for assessing their work and ensuring answerability and civilian oversight*

This Concept is based on the view that the negative elements in the work of the law enforcement bodies (such as concealing crimes or refusing to register them, fabricating report data, corruption, exceeding official powers, and violence) are largely consequences of a poor organizational structure, managerial system, and reporting system. These are precisely the factors that create perverse incentives, inducing employees of the law enforcement bodies to behave in ways that diverge from their direct obligations.

In this area we envision changing the organizational structure of the main law enforcement agencies (the police, the investigative bodies, the procuracy) in order to reduce the burden of reporting and administration and eliminate organizational incentives that conflict with basic functions. Proposed organizational measures aim: *to change the relationship between operative and investigative work; to separate the registration of information about crimes in accordance with citizens' statements (a function of the municipal police)<sup>12</sup> from their investigation (a function of higher-level police forces); to strengthen the procuracy's oversight of the investigative process; to strengthen the role of the defense lawyer; and to create an independent Federal Agency for Crime Statistics for the collection, analysis, and publication of information about the work of the law enforcement bodies.*<sup>13</sup>

We also propose further reform of the "points system"—that is, the creation in the police and other law enforcement bodies of *systems of assessment differentiated by types of work and by*

*level.* The findings of surveys of residents on their experience as victims of crime and on their trust in the police and satisfaction with police work, conducted by organizations independent of the MVD, will be incorporated into assessment of the work of the police as independent indicators of the level of crime and of police conduct. The municipal police should also be accountable to the local authorities, and the regional police to the civilian authorities of the corresponding subject of the Federation. Target indicators and criteria for assessing the work of police forces must be determined by local civil society and adapted flexibly to social needs.

Openness is necessary for the independent expert and civic assessment of the work of the law enforcement bodies. One means of making the law enforcement bodies more transparent and accountable will be the installation of video observation equipment in police stations. Free access will be provided to information about the work of law enforcement bodies, except for information that is secret or intended for official use. Reports of sociological surveys, departmental statistics, and internal orders and instructions must be published in the open media and on the Internet.

### *Social guarantees for employees of the law enforcement bodies*

In the course of the reform, the question will undoubtedly arise of social guarantees for employees of law enforcement agencies who in the context of transformations are dismissed, transferred to another agency, subdivision, or unit, or have their status in the system changed (raised or lowered). It is necessary to avoid situations in which employees who are dismissed or demoted to a lower post not on grounds of professional unsuitability but as a result of structural reform lose social guarantees that they previously possessed. We therefore propose the following arrangements:

- The social benefits package will remain unchanged for employees of all police forces in conformity with the existing law on social guarantees for police employees, and for procuracy officials in conformity with the existing law

on the procuracy. With the large-scale transfer of personnel to municipal and regional police forces, this will require a corresponding redistribution of funds within the framework of a budgetary reform. Social benefits packages for the employees of new agencies will be determined by corresponding laws.

- Those employees who in the course of the reform move from one agency to another or are transferred to a new place of service must be allowed to choose whether to keep, for another two years, the social benefits package that they possessed in their old post at the time of transfer or to switch immediately to the package to which they are entitled in their new post.
- Those employees who are dismissed as a result of cuts in personnel should keep their social benefits package for up to another year.

## **Optimizing the policing function of the state**

### ***Solving the problem of overcentralized management***

The argument in favor of giving greater autonomy to local units of the police is that these units have stronger ties with local communities. Local communities will be able to set target parameters for the work of the police and assess the degree to which they have been met. Closer contact with a local community will enable the police to better understand the situation and to more effectively perform their functions in the local context.

On the other hand, the arguments in favor of preserving a centralized police force should not be overlooked. The question arises of how well a decentralized police force will be able to fight terrorism and organized crime. Another argument against a decentralized police force may be the impossibility of funding it in the absence of a comprehensive reform of the organization and funding of local self-government.

The measures proposed below are designed to create a police structure that balances these divergent interests and takes into account the arguments against autonomy.



### ***Incompleteness of the reform and the attempt to create a municipal militia***

Since 2003, it has been a guiding principle in the Russian Federation that organization of the maintenance of public order belongs to the sphere of competence of the municipal unit. This presupposes the existence of a municipal militia, as it was then called. This principle is embodied in Federal Law No. 131-FZ of October 6, 2003, “On the General Principles of the Organization of Local Self-Government in the Russian Federation.”<sup>14</sup> The reason that this requirement has still not been satisfied is a provision in paragraph 2 of part 3 of Article 83 of the same law, according to which the creation of a municipal militia, like the transfer of the function of maintaining public order to the sphere of competence of the municipalities, will be possible only after the passage of a federal law “on the municipal militia.” As no such law has been passed over the past nine years, a completely different concept is being implemented—a centralized federal police system.

It is necessary to return to the discussion of this problem and draft a law “on the municipal police” that would bring the structure of the law enforcement bodies into conformity with the basic principles of governance in the RF.

### ***The three levels of the police and their functions***

The basic measure of police reform (including the reform of the MVD, the SKR and the FSKN) is the division of the police into three autonomous levels, each with a separate policing organization (see Figure 2):

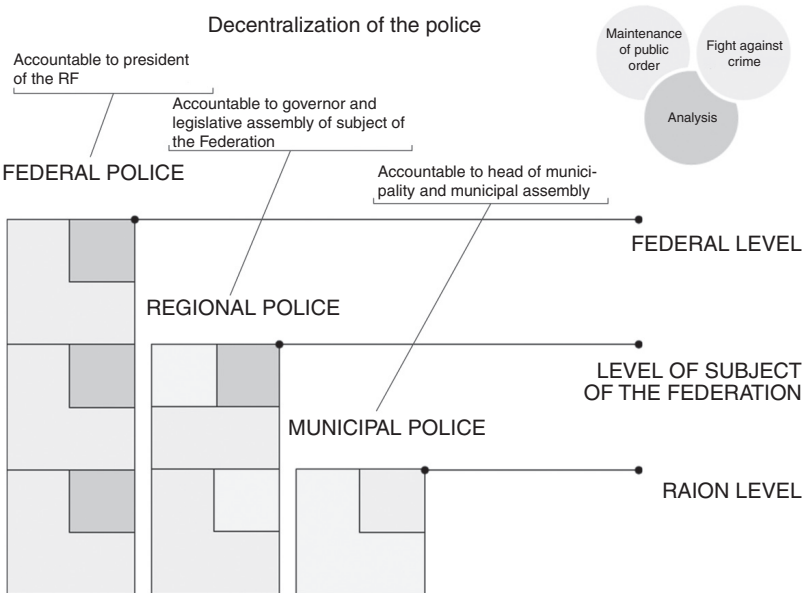
- municipal or intermunicipal at the raion level;\*
- regional; and
- federal.

The federal police force will have its own structures at the federal,

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\*Serving either a single municipality or a number of neighboring municipalities.—  
Trans.]

Figure 2. **Three Levels of Police to Be Created**



regional, and raion levels, while a regional police force will have its own structures at the level of subject of the Federation and at the raion level. A municipal police force will have structures and operate only at the level of municipalities and raions (or at the interraion level). *The work of police forces at all levels will be regulated by federal law.* Local authorities will adopt regulations concerning the work of their police forces that do not conflict with federal law, and will independently set target indicators and priorities and establish systems of assessment for them.

*The municipal police*

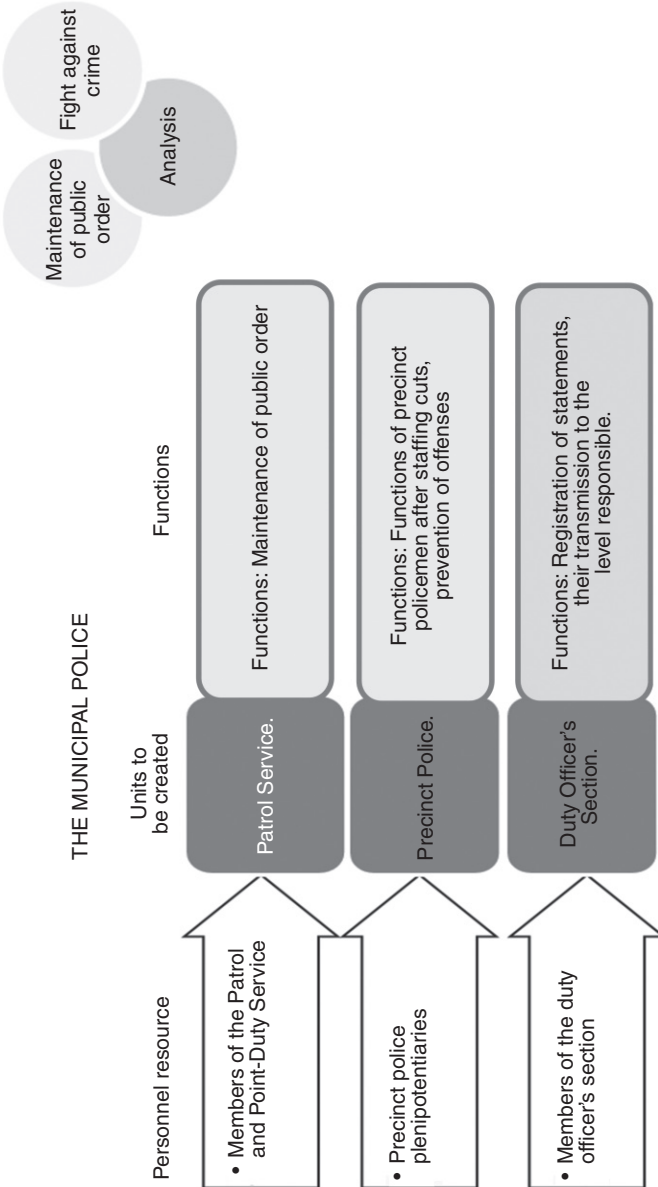
The *municipal level of the police* (hereinafter, the municipal police) is responsible for the maintenance of public order on the territory under its jurisdiction and for the initial response to all communications from the public, with their registration and in case of necessity the subsequent involvement of other law enforcement

agencies (see Figure 3). Correspondingly, patrol services, precinct police, duty officers' sections, and sections for the application of administrative legislation to physical persons will be transferred to the municipal level. Municipal police forces will be established at the level of municipal raions (in sparsely populated areas they may be established at the interraion level). It is important that the duty officer's section should be independent of higher-level police forces (of those who will have to investigate crimes and who may have an interest in certain communications being registered and others not being registered) and responsible for receiving initial information about crimes and transmitting it to the independent body for the collection and analysis of statistics of law enforcement work. This matter is examined in detail in the section "Registration of crimes"; here it is necessary to note that the duty officer's section is the main but not the only place where the police receive information about crime.

Effective police work requires the interaction of duty officers' sections, precinct police, and other units with higher-level police forces. However, it is important to understand that even now, duty officers' sections and—for instance—precinct policemen effectively interact within the necessary limits with other bodies (the SKR, the FSKN, the Ministry of Emergency Situations, and so on). In this sense it will suffice simply to preserve existing mechanisms of interaction and assess new possibilities in pilot regions.

One of the arguments usually made against decentralizing the police is that municipal police forces may merge with the local criminal milieu. This is not a significant danger. The municipal police at the raion level will possess only powers that are very difficult to use for unlawful pressure. Any attempt at creating a local "police mafia" will therefore be able to rely only on the modest resources of the local police, and residents will be able to protect themselves against it by bringing in the regional or federal police with their broad operative and procedural powers. By and large, it is precisely the centralized character of the police that makes possible the existence of bands like the one that emerged in the Kushchevskaja village: you only have to "domesticate" a local police force and the entire might of the law enforcement system is at your disposal.

Figure 3. Structure and Functions of the Municipal Police



Decentralization, by contrast, creates a system of multiple subordination: police forces subordinate to federal, regional, and local authorities operate in the same territory. A municipal police force will be accountable primarily to local residents and to municipal bodies of power; if abuses arise, however, residents will be able to turn to the regional or federal police, whose official obligation it will be to investigate and terminate them.

A *chief of municipal police* will be appointed by the body of local self-government at the second level (the municipal raion) and undergo professional certification in the police force of a subject of the Federation. Working regulations for the municipal police will be adopted by the body of local self-government of the municipality in accordance with a framework law titled “On the Municipal Police” or “On the Police” and registered by the Ministry of Justice after verification of their conformity with federal law.

It is obvious that a great variety of municipal units exists in Russia and that not all of them are in a position to form and maintain a police force. It would be very hard to say that the municipal police will be organized in the same way everywhere. In cities (apart from cities of federal importance) the municipal police force will function as a simple municipal structure, while in smaller municipalities police structures may be created at the level of a municipal raion or even at the level of a group of raions. In territories that are sparsely populated and difficult to reach, municipal police powers may be transferred to a special unit of the regional police. Detailed elaboration of this issue, based on a review of possible situations and the design of standard variants, is a matter for a separate study that would touch upon broader aspects of municipal reform.

We suggest to create the municipal police in three stages. At the first stage, experiments will be conducted in municipal units with various characteristics, leading to selection of the most successful variants and elimination of the defects uncovered in the initial designs. At the second stage, municipalities will be able to create police forces on their own initiative. In those cases where a municipal unit is “not ready” to assume these functions, they will continue—until the third stage—to be performed by the regional police. At the third stage, the formation of a municipal level of the

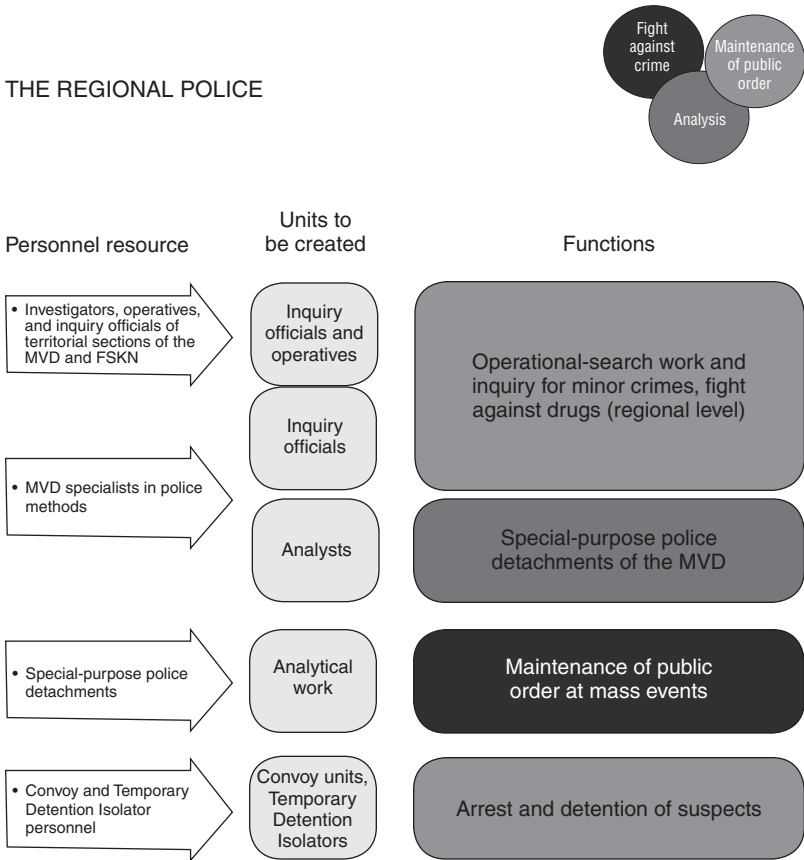
police will be obligatory. Such a strategy will allow for gradual implementation of this part of reform, in parallel with municipal reform and growth in the influence of the municipalities, while avoiding snags and, at the third stage, using already developed schemas for the transfer of functions and budgetary funds.

### *The regional police*

The regional level of the police (hereinafter, the regional police or the police of an oblast, krai, or republic) will be built on the base of sections and directorates of the MVD and personnel of the FSKN (see Figure 4). The chief task of the regional police is the fight against minor crimes and crimes of medium gravity. In view of the anticipated increase in the registration of crimes, we can expect change in the existing classification of crimes by degree of gravity. Its goal will be to concentrate under the investigative jurisdiction of the federal police only the gravest and most complicated crimes of an organized and interregional character.<sup>15</sup> Thus, the regional police will end up with a large share of “self-evident” crimes (most of which are currently investigated by the entire law enforcement system) and a large number of unsolved cases.

The regional police will absorb most of the operative police services, inquiry officials of the MVD and FSKN, and investigators of the MVD. At the level of the regional police, crimes will be investigated in the form of inquiries, under the supervision of the procuracy (see below on heightening the interest of the procuracy in ensuring that cases are investigated in full conformity with the law).<sup>16</sup> Part of the law enforcement agencies (special-purpose police detachments) will be transferred to the regional police. The regional police will also be responsible for maintaining public order at mass events and at special objects of local and regional importance. They will organize the conveying of detainees and the work of Temporary Detention Isolators, provide advice on police methods to municipal police structures, and possibly hold retraining courses for them. The functions of the State Inspectorate for Road Traffic Safety (GIBBD) and the Road Patrol Service will also be transferred to the regional level together with the correspond-

Figure 4. **Structure and Functions of the Regional Police**



ing units. They will be responsible for safety on all highways and roads in the region (subject of the Federation) concerned. Creation of the regional level is necessary for the effective gathering of information on the structure of crime, for the documentation of needed information on unsolved crimes, and for the control of self-evident crime.

*The federal police*

The *federal level of management of the police* (hereinafter, the federal police) will be built on the base of the Investigative Committee of the RF and the corresponding operative services (the best qualified operatives from the MVD and the FSKN, currently working in specialized units and engaged in the operative development of especially complicated cases) (see Figure 5). It will be responsible for investigating and solving grave and especially grave crimes as well as crimes committed at the interregional or international level, for uncovering crimes committed by employees of other law enforcement agencies in the course of exercising their powers (with subsequent transfer for investigation to the independent body responsible for the fight against offenses within the law enforcement bodies), for the fight against organized crime, and for international cooperation. Units of the SKR and MVD investigators currently working in investigative directorates in subjects of the Federation will be incorporated into the federal police. Subdivisions of the federal police will operate at the regional and interraion level.

It should be especially emphasized that at the same time the federal police will be the chief body in the fight against organized crime (incidents like those that occurred at Kushchevskaja will lie within their sphere of competence).

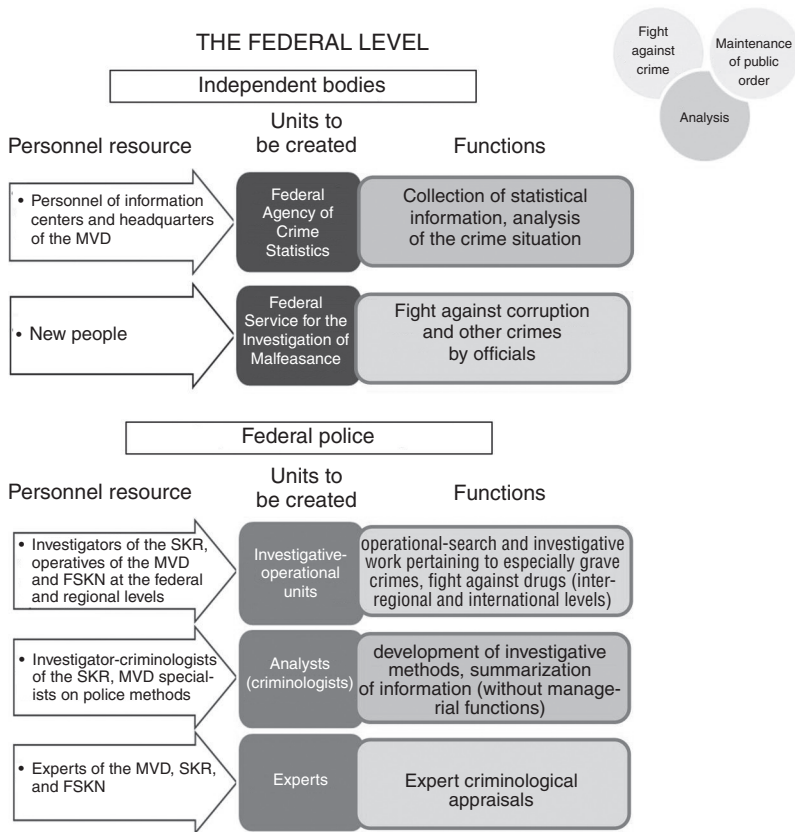
The transport police and the military police will remain as separate federal structures.

***Oversight of law enforcement work: The Federal Service for the Investigation of Malfeasance***

There are two main approaches to organizing a system for combating corruption and criminal activity inside the police and other law enforcement bodies. The first approach relies on intradepartmental internal security services, the second on an independent agency that possesses broad powers and is completely separate from other law enforcement bodies. The most significant practical successes in the fight against corruption have been achieved by countries (and individual regions) that have taken the second approach.<sup>17</sup>



Figure 5. **Structure and Functions of the Federal Police and Specialized Federal Bodies**



There are also two options for the creation of an anticorruption agency. The first option is to combine all aspects of anticorruption policy, including education and prevention, with the investigative function in a single body. The second option is to form a separate body for anticorruption policy, including policy development, coordination of policy implementation, anticorruption education, resolution of conflicts of interest, and preventative measures. This body has a clearly marked civilian (not quasi-military) character. A different body is created within the structure of the law enforce-

ment bodies to investigate crimes committed by officials. In order to function successfully it must be separated from the executive branch of state power.

In our Concept, we choose this second option. However, we consider it necessary to note that both options are possible and that the choice between them, like the specific structure of the body for the investigation of malfeasance, depends on general anticorruption policy.

For a special agency of this kind to be able to accomplish its tasks effectively, it must possess the independent capability to carry out operative work, conduct investigations, and support state prosecutions in court in the corresponding categories of cases. In addition, it is this agency that must serve as the “single window” for the reception of statements about violations in the work of officials.<sup>18</sup> It should also cooperate with public and human rights organizations.

It is necessary to give an independent federal agency for the fight against corruption and police crime the function of state prosecution in order to overcome the departmental interests that prevent the procuracy from taking cases “against our own people” to court; otherwise investigated cases may remain indefinitely at the stage of investigation and never reach court. Besides possessing broad powers, it is a very important requirement that such an agency or bureau be independent of the bodies of executive power and also of the law enforcement bodies.

For this purpose, the Federal Service for the Investigation of Malfeasance will be created. Its function will be to fight corruption, abuses of official position, and offenses committed by state employees—above all, by members of the law enforcement agencies—in the course of performing their duties. This body will act independently of the federal police and of all ministries and be accountable to the State Duma. Its head must be appointed by the parliament. A number of permanent commissions with nonoverlapping spheres of oversight will be created to supervise the work of the agency. The new structure will use the material base that formerly belonged to the FSKN at the regional and federal levels (however, there will be no transfer of personnel from the FSKN to the new body).

At the first stage, the new agency will take over the investigation of crimes committed by officials and by “special subjects” (Article 447 of the Criminal Procedure Code of the RF) from the abolished SKR. The lists of crimes that will be investigated by the new agency and that will continue to be investigated by the police must be prepared in advance. The guiding principle should be demarcation by the subject of the crime: the agency must be empowered to act only against state employees who have committed crimes with the aid of their official powers. Moreover, crimes committed by low-level officials may be investigated either by the new agency or by the police.

The creation of a separate strong and independent agency for the investigation of malfeasance is necessary primarily in order to overcome corruption and widespread crude violations of the law in the police and other law enforcement bodies. In addition, the creation of such an agency and its real functioning under conditions of openness, with the results of investigations made public, may significantly increase public support for the reform. Crimes committed by employees of this agency will be investigated by the federal police and state prosecutions supported by the procuracy; provision must be made for a procedure to obtain the consent of a commission of the State Duma or of a court to an indictment.

A separate and independent agency for the *collection and analysis of crime statistics* will also be created (Federal Agency for Crime Statistics [FACS]).

### ***Accountability and interaction within the three-level police structure***

The creation of a three-level police structure will make it possible to solve several fundamental problems. First, the police will become transparent and accountable to local residents. A chief of municipal police will be appointed by a municipal or intermunicipal body. Before being appointed he will take a qualifying examination and undergo a check under the aegis of the regional or federal police.<sup>19</sup> A chief of regional police will be nominated by the governor of the region and confirmed in office by the regional legislative body in

accordance with a procedure adopted by the regional legislative body. The federal police will also check whether the candidate satisfies the qualifying requirements for the post of chief of regional police.

The division of the police into three independent levels will facilitate the efficient distribution of tasks. For example, it will no longer be possible to constantly divert operatives and investigators to assist in tasks pertaining to the maintenance of public order. By reducing the total size of each police force, with corresponding simplification of the managerial apparatus, this reorganization will eliminate the excessive burden of paperwork imposed on units responsible for investigating and solving crimes. The division does not mean that the federal and regional police will have no operatives on the spot. For example, operatives who have previously specialized in solving murders and other grave crimes against the person will join the federal police but remain in their home districts.

At the same time a system of oversight will arise that—unlike the current system—does not depend on superordinate police officers exposing crimes committed by their subordinates, for which they themselves bear responsibility. Thus, today a regional police chief who has discovered abuses in one of his local police stations is forced to cover up for his subordinates and try “not to wash dirty linen in public,” because he can be held liable for their actions. In the proposed model, by contrast, it is the police at a higher level who will be responsible for suppressing unlawful activity on the part of policemen at a lower level: they will have no organizational connection with the lower-level force and therefore no interest in concealing crimes that have come to light there. The presence of an agency for the investigation of malfeasance that is external to the system of police forces will contribute to the same result. Thus, the main levels of the existing police hierarchy that are involved in unlawful activity—namely, those engaged in maintaining public order and in investigating minor crimes—will find themselves under the constant oversight of regional and federal police structures, respectively. Nor will the federal or regional police have any opportunity to exert unlawful pressure

on lower-level police forces, inasmuch as the cases they discover will be forwarded for investigation by the Federal Service for the Investigation of Malfeasance, which is equally independent of all police structures.

This does not rule out coordinated work by police units at the same level. Where necessitated by the interregional or interraion character of offenses, the federal police will assume tasks usually performed by regional or municipal police structures. In emergency situations, the federal or regional police will be able to mobilize municipal police forces to assist in shared tasks (for example, if there is a natural disaster, epidemic, or major public event<sup>20</sup> during which the demand for personnel to maintain public order substantially exceeds the capacity of a regional police force). The mobilization procedure should be specified in the law. In cases of necessity, the federal police will coordinate current work in the fight against crime. Disputes between police forces at different levels concerning who should investigate a given case or other procedural matters will be resolved by the procurators of the corresponding raions or subjects of the Federation.

Depending on the size of the region and the special characteristics of its municipal police forces, a regional police force will be able to set up its own duty officers' sections in individual raions or in the regional center (just as the federal police will possess at least duty officers' sections at the regional level) and deploy an operative duty officer in a raion who will be responsible for coordinating raion units of the regional police, receiving citizens, and interacting with municipal police forces and the federal police.

The reporting requirements imposed on municipal and regional police forces will be linked to local tasks and not to a single federal standard. A special body will be convened once a year to set tasks and adjust assessment indicators; the guiding principles of its work are described in the following sections.

*Example:* In order to explain the principles that will guide interaction between police forces at different levels, it is helpful to model a number of standard situations in which information about a crime first reaches a body other than the body that has the duty

to investigate it. We shall show that the proposed model of interaction is no more complicated than the current model and that it is quite realistic. Let us consider the most widespread of the crimes encountered in contemporary practice.

*Burglary:* A call comes in on the “02” telephone line from a citizen reporting the burglary of an apartment. The duty officer’s section of the municipal police instructs a patrol car or a precinct policeman (depending on who is nearer to the scene of the crime) to check the report. Based on the results of the check, the duty officer’s section is informed whether or not the information has been confirmed and whether urgent measures of any kind are necessary (such as hot pursuit). If necessary, the municipal police take these measures and also place a guard at the scene. At the same time, the duty officer’s section transmits information about the incident to the representative of the regional police in the raion, and the regional police send out a brigade consisting of inquiry officials, operatives, and experts. After their arrival, the municipal police turn over the scene of the crime to them and report the urgent measures taken to them. The case then enters the sphere of competence of the regional police. If in the course of the investigation it becomes clear that the crime is of a graver character (for instance, objects of great cultural-historical value have been stolen), then an inquiry official of the regional police issues an order to hand the case over (at any stage) for investigation by the federal police, and the raion section of the federal police and the procurator are notified accordingly. If the federal police or the procurator does not agree that the crime is sufficiently grave for the case to be handed over, then the procurator—either independently or based on a written request from an investigator of the federal police—may annul the order of the inquiry official and return the case to the regional police.

*Theft:* A citizen personally comes to the duty officer’s section to make a statement about a theft. The duty officer’s section registers his statement and summons an operative or inquiry official of the regional police, who conducts a check of the statement and makes the corresponding procedural decision. The fact that the citizen has made a statement has already been registered (not making entries in the Incident Reports Registration Book is currently one of the

main methods used to falsify report data). The regional police take the corresponding operative-search and investigative actions. If grounds for doing so come to light (for instance, the interregional character of the thief's actions), then the inquiry official issues an order to hand the case over to an investigator of the federal police, and notifies the procurator accordingly.

*Murder:* A team of the Road Patrol Service of a regional police force discover while out on patrol a corpse with traces of violence lying by the side of the roadway. The team notifies the operative duty officer of the regional police, who registers the report and ensures that urgent actions are taken (hot pursuit if necessary, safeguarding the scene of the incident, etc.). The duty officer of the regional police notifies the federal police, who in turn send an investigative-operative group out to the scene of the incident. This group takes over the scene of the incident from the regional policemen who discovered the corpse.

As will be clear from this account, the schema closely resembles existing mechanisms for interaction among patrol and precinct police units and operative and investigative bodies of the MVD and the SKR.

### ***Reducing personnel and increasing per capita funding***

By comparison with the majority of countries at a high or medium level of development, Russia has a significantly larger police force (in terms of the number of policemen per 100,000 population) that is less well funded (in terms of funding per policeman)—that is, less well equipped and less highly paid. At the same time, the Russian police use up a larger proportion of the resources of the national economy (in terms of expenditure on the police as a share of gross national product [GNP]). Our Concept for reform envisions transformations that will make the Russian police less labor-intensive and more capital-intensive while maintaining at the previous level or reducing the burden of police spending on the economy. In order to bring the parameters of size relative to population and per capita funding down to levels typical of the countries of Southern and Eastern Europe, it is necessary to further

reduce the size of police forces while at the same time increasing investment in equipment, training, and social provision using the funds freed up by the reduction in size.

In the proposed Concept for reform, the task of reducing the size of the police is linked to the task of eliminating extraneous functions and units: the elimination of functions and units will lead to a corresponding reduction in size. This is more effective than the previous practice of reducing size by a simple target indicator (by 20 percent, for instance). This left the police agency with the right to determine the structure of cuts, with the result that they either remained on paper or led to cuts in necessary but low-prestige services (such as the precinct police) and not in the managerial apparatus.

The effectiveness of the police will be increased by defining functions in a more rational manner and by reducing the burden of excessive work on the preparation of report forms imposed on local personnel by the inflated managerial apparatus of the MVD and of the Chief Directorates of Internal Affairs in the regions. Despite its smaller size, the reformed police will cope better with the tasks assigned to it thanks to the reduced bureaucratic and managerial burden and better training and technical equipment.

### *Areas of discussion*

As the reform is elaborated in greater detail, questions will undoubtedly arise that can be answered in the course of expert discussion and further research (including, for example, the modeling and analysis of new interlevel and interdepartmental streams of information about crimes and offenses<sup>21</sup>). The participation of representatives of the law enforcement agencies as well as experts independent of those agencies will be essential to the success of such discussion and research.

Here we merely cite examples of the kinds of issues that will have to be resolved in order to transform our Concept into a program of reform. What should be the immediate reaction of police patrolmen—both municipal patrolmen and policemen from the regional GIBBD or special-purpose detachments—to crimes? Should measures of administrative and criminal compulsion be demarcated or merged? To



what extent is it permissible for duty officers' sections and municipal policemen to use their own discretion in setting the initial minimal requirement for an action to be treated as a crime or offense? Under the new conditions, how can work on statements about crimes and incidents be effectively demarcated?<sup>22</sup>

The overall logic of reforming the law enforcement bodies in relation to the functions currently performed is represented schematically in Figure 6.

## **Transferring extraneous functions**

### ***The Extradepartmental Guards***

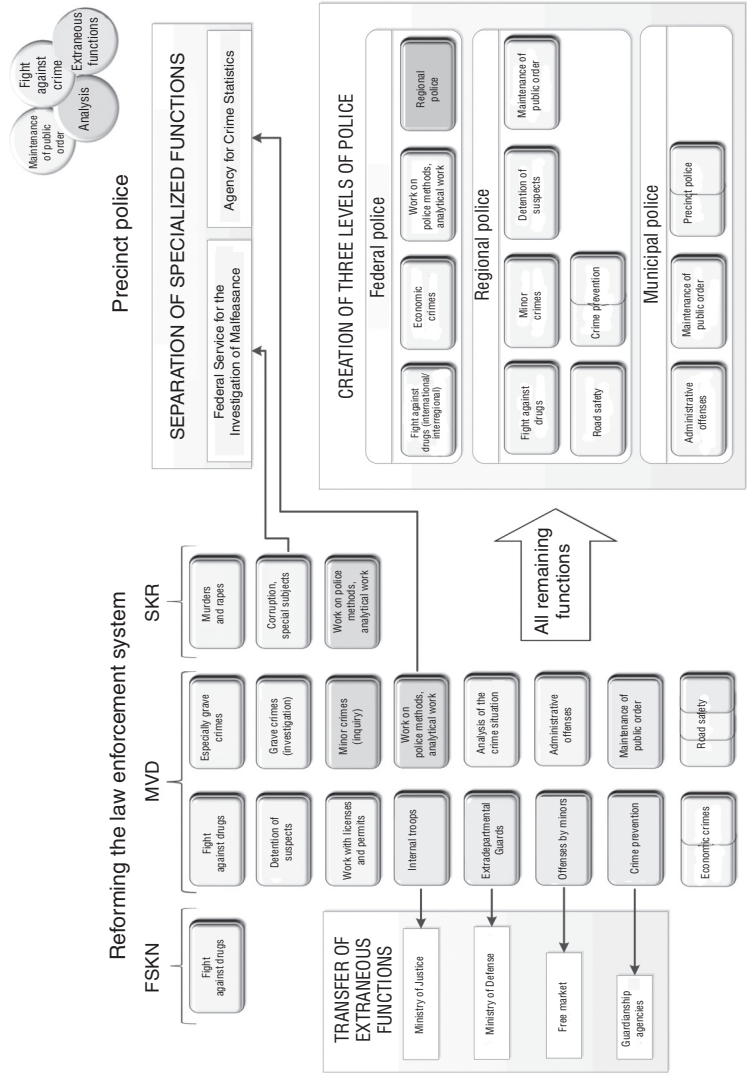
The most obvious measure to eliminate extraneous functions and thereby reduce the size of the police is to remove the Extradepartmental Guards from state bodies of internal affairs and turn them into a commercial company under the control of the state or private owners. Before the reform of 2010 the Extradepartmental Guards Directorate (EGD) employed 157,000 people. As a result of the reform, by 2012, 125,000 remained.<sup>23</sup>

The EGD does not cover its own costs. In 2006–7, its costs exceeded revenue by just 3 percent, but by 2011 the gap between revenue and costs had widened to over 20 percent. The claim that the EGD contributes money to the state budget is therefore incorrect.

Together with the Federal State Unitary Enterprise Okhrana, the EGD enjoys a monopoly in many local markets, as shown by the numerous suits filed against them by the Federal Antimonopoly Service.

Despite the considerable size of the EGD (it accounts for 16 percent of the total personnel of the reformed police force), the number of cases that its employees bring to court or in which they identify accused people is rather modest—3.99 percent of all solved crimes. It may be argued that solving crimes is the job of other subdivisions of the police, while the role of the EGD is solely preventative in character. The main function of the EGD is to protect the property of citizens and legal persons on a contractual basis. In other words, it does not serve the same goals as the rest of the

Figure 6. The Logic of Reforming the Law Enforcement System



police. Rather, it performs the same tasks as the private security sector throughout the world—preventing crimes and barring the access of undesirable people to guarded property.

It is necessary to carry out partial privatization of the commercial functions of the police and transfer patrolling to the municipal level.<sup>24</sup> This can be achieved by converting sections of the EGD into state-owned shareholdings and then gradually privatizing them based on the principles set out in Federal Law No. 178-FZ of December 21, 2001, “On the Privatization of State and Municipal Property.”

***Changing the status of the Federal Drug Control Service with transfer of the policing functions of operative-search work and criminal prosecution***

The Federal Drug Control Service (FSKN) was created as a structure that would assume the bulk of work for the suppression of drug-related crime. The past years have shown that most work in this field is still done by the MVD bodies. Of the 215,000 drug-related crimes registered in 2011, for example, only 84,000 were registered by the FSKN. Of the 142,000 drug-related crimes that were investigated, only 53,000 were investigated by the FSKN. Of the 109,000 individuals charged with drug-related crimes, just 36,000 were charged by the FSKN. Furthermore, according to expert appraisals, it cannot be said that the FSKN works only on cases involving graver crimes or crimes committed on a larger scale; the tendency to reduce charges in order to get cases through the courts more easily also exists in the FSKN. On the other hand, implementation of the function of supervising the legal trade in narcotics has led to “witch hunts” in medicine and in the pharmaceuticals and food industries.

At present, moreover, the FSKN (despite the logic guiding the division of bodies of executive power) both monitors compliance with legislation in the field of drug trafficking and works out state policy in this sphere; it also coordinates international cooperation on this issue and exercises a number of other, less important powers. Thus, a single body combines operative, investigative, and analytical structures as well as a considerable number of civilian

services—responsible, for instance, for working out a coordinated antidrug policy for the post-Soviet space.

In this connection, the principle of placing a reasonable limit on the number of organizations that have the right to apply state violence suggests that powers pertaining to the fight against illegal drug trafficking by penal means should be returned to the police. These measures would affect the operative-search and investigative departments and also the Department of Special and Forensic Support and territorial bodies of the FSKN. At the level of the federal police it is necessary to resolve the problem of ensuring cooperation with foreign and international law enforcement agencies in the investigation of specific cases and in operative work (but not in the development of international policy in this sphere).

Oversight of compliance with legislation on the legal trade in narcotics in medical institutions and pharmacies, exercised also at the territorial level, will be transferred to the Federal Service for Oversight in the Sphere of the Protection of Consumers' Rights and Human Welfare (Rospotrebnadzor).

As a result of reorganization at the federal level, the FSKN will be preserved as a civilian central office—the federal body of executive power responsible for working out state policy in the sphere of drug control. The apparatus of the State Antidrug Committee<sup>25</sup> may be retained with a new status. The reorganized FSKN will be based on the existing International-Legal Department and sharply reduced auxiliary departments.

The material-technical base of the FSKN at the regional level (with the exception of educational agencies and sanatoria, whose future requires separate consideration) may be used to equip the Federal Service for the Investigation of Malfeasance.

### ***Abolishing the Department for the Fight Against Economic Crimes***

At present, charges of economic crime arise in one of two ways—either based on a statement by the victim or as a result of operative measures. Correspondingly, operatives engage in one of two kinds of work: they either conduct operative measures to expose

economic crimes or carry out assignments of an investigator within the framework of a preinvestigation inquiry check or the investigation of a criminal case. Experience shows that the initiation of criminal cases in the economic sphere without a victim's statement (as a result of operative-search measures) has become the key mechanism of corrupt activity on the part of members of units for the fight against economic crimes. The damage inflicted on the economy by this "fight" exceeds the damage inflicted by economic crime itself. Thus, on December 10, 2012, Federal Law No. 207-FZ of November 29, 2012, came into force, changing the procedure for the bringing of criminal charges under certain economic Articles: if a crime envisioned by Article 159 (Parts 1–6), 160, or 165 of the Criminal Code was committed in the course of entrepreneurial activity, then charges can be brought only on the basis of a victim's statement. This innovation must be accompanied by organizational transformations.

It is therefore necessary to abolish units for the fight against economic crime that now justify their existence by their active search for economic crimes and exert pressure on business. Their functions in support of investigative actions based on victims' statements should be transferred to general criminal units of the federal police and of the Federal Service for the Investigation of Malfeasance that possess corresponding capabilities. Responsibility for exposing economic and financial crimes in which the state is the victim should be assigned to the Audit Chamber, the Federal Service for Financial Monitoring (Rosfinmonitoring), the Federal Tax Service, and the Federal Service for Financial-Budgetary Oversight (Rosfinnadzor). These agencies should present material for the initiation and investigation of criminal cases to the federal police or to the Federal Service for the Investigation of Malfeasance, depending on the status of the suspects.

### ***Transferring work with licenses and permits to the Ministry of Justice***

At present, in almost no developed countries in the world do the bodies of internal affairs (the police) issue licenses for security and

detective work or identification documents for private bodyguards and detectives. In the majority of cases, such work with licenses and permits is done either by a body of the Ministry of Justice or by a body whose sphere of competence includes the protection of consumers' rights and the issue of licenses for many other kinds of professional work. In Russia the licensing of private detective and security work and oversight of compliance with licensing rules are the responsibility of units for work with licenses and permits in departments of internal affairs at the regional and territorial levels. As this function is not specific to the police, the results are poor regulation of this sphere and a conflict of interests arising from the fact that the Extradepartmental Guards Directorate, which has become the chief player in the market for private security services, is part of the MVD.

Among the negative effects are opportunities to exert indirect influence on business—arising, for instance, out of the obligation of security firms to inform territorial departments of internal affairs concerning objects taken under guard, on the one hand, and the ability of those territorial departments to suspend licenses, on the other. Moreover, the circumstance that many former policemen find jobs in private security firms and detective agencies undermines the mutual independence of the police and businesses of this sort. Unless there are grounds for suspecting criminal activity or trafficking in weapons or special means, the rendering of private security and detective services (like any other lawful kind of entrepreneurial activity) should not fall under the direct supervision of the police, whose tasks should be confined to the maintenance of public order and the fight against crime.

In order to make the police more controllable and the market in security and detective services more transparent, it is necessary to transfer the oversight of private detective and security work, including licensing powers, to a special agency subordinate to the Ministry of Justice. The corresponding units in the MVD must be disbanded.

This reform will raise the quality of state policy toward private security and detective work, which plays a prominent role in ensuring the security of business in general and the safeguarding of

property in particular, thereby exerting a positive influence on the economic and investment climate in the country.

### *Transferring internal troops to the Ministry of Defense*

One of the five main tasks of the Ministry of Internal Affairs specified in a recent presidential decree is to administer the internal troops.<sup>26</sup> At the same time, coordination of the activity of troops falls within the sphere of competence of the Ministry of Defense.<sup>27</sup> According to Article 1 of Federal Law No. 27-FZ of February 6, 1997, “On the Internal Troops of the Ministry of Internal Affairs of the Russian Federation,” the internal troops are part of the general system for the armed defense of the state.<sup>28</sup> Thus, there are no legislative obstacles to the incorporation of the internal troops into the system of the Ministry of Defense. And this is no coincidence, because in terms of their structure and purpose the internal troops belong to the system of armed forces. The sole reason why the internal troops are within the system of the MVD is their artificial exclusion from the Armed Forces. Moreover, this configuration did not take shape all at once, but developed throughout the Soviet period as a result of lengthy transformations. While this symbiosis may have seemed quite logical in the Soviet period, today it is increasingly open to question.

The new legal doctrine highlights not the law enforcement function but the policing function. The internal troops were created in conformity with a broad understanding of the law enforcement function. However, this debate still continues. As a result, the issue of transferring the internal troops to the Ministry of Defense has not reached the stage of practical implementation. It has been repeatedly proposed that a national guard should be created on the base of the internal troops and at the same time reassigned to the Armed Forces.<sup>29</sup>

At present there are two threads in the discussion about the future of the internal troops. The first boils down to the thesis that it is necessary to preserve the status quo, and the war in Chechnya is offered as an argument. To see that this argument is invalid, it suffices to recall that in all engagements in Chechnya that were at all serious, units of the Armed Forces were brought into play, while internal troops

were either ineffective or incorporated into army groups. The second thread in the discussion is connected with the proposal to create a national guard. The National Guard of the United States, to which reference is usually made, consists of irregular formations analogous to Russian civil defense units and units belonging to the Ministry of Emergency Situations, which go into action in emergencies and constitute a reserve for mobilization.

Given the absence of well-grounded arguments in favor of keeping the internal troops within the MVD system, this issue may be considered a marker of the quality of a concept for the reform of the law enforcement bodies. The transition to an understanding of the purpose of the law enforcement agencies that is clearer and more adequate to contemporary tasks unavoidably raises the question of demarcating the policing function, removing the internal troops from the MVD system, and subordinating them to the Ministry of Defense. Units of the internal troops will be transferred to the Armed Forces together with their property, personnel, and command staff, and will provide the base for the subsequent formation of ordinary combined arms brigades (or other units considered expedient by the General Staff of the Armed Forces). The sole substantive function of the internal troops—the guarding of military stores and special objects—should also be transferred to the Ministry of Defense.<sup>30</sup>

Units of the internal troops that are deployed in cities of federal importance (or in other cities) and whose main function is to maintain public order in the city during mass events (for example, Unit 5402 of the Internal Troops) will be transferred to the federal or regional police and their status changed to that of police units.

### *Transferring powers to grant special driving license to civilian agencies*

One obvious problem today is the procedure for obtaining a driving license. Despite changes in the rules for undergoing technical inspection and a legislative attempt to deprive the bodies of internal affairs of their monopoly over the conduct of inspections, the area of obtaining a driving license has remained practically untouched



by reform. However, anyone who has ever had to obtain a driving license will acknowledge the urgent need for such reform. The real mechanism for obtaining a driving license, involving close ties between the driving schools and the inspectors of the GIBDD who conduct the examinations, is a constant source of corruption, which is practically a routine part of the process. Besides making the procedure itself simpler and more automatic, one very important step in any reform must be to transfer powers to grant a driving license to a special civilian agency. Judging by the experience of other countries, an agency of this kind is usually established under the aegis of the Ministry of Transportation. Positive effects will undoubtedly include a significant reduction in the frequency of negative interactions between the public and the police and in the level of corruption within the police. These measures are also a continuation of the effort to bring police powers into conformity with contemporary standards by eliminating another function that is not specific to the police—the granting of a driving license.

***Transferring the powers of inspection of Units for Minors' Affairs to civilian agencies (guardianship agencies)***

At present, the police perform work aimed at preventing crime among minors while at the same time protecting minors against cruel treatment within the family. In practice, the prevention of juvenile crime means that an adolescent who has come to the notice of the police is registered as a potential lawbreaker and the task of monitoring his behavior is assigned to the same police employee who works with minors who have received suspended sentences or already served time. “Placement on the register” in itself constitutes extrajudicial repression, stigmatizes an adolescent who has found himself in a difficult situation, and does nothing to help him onto the right track. Police employees have neither the training nor the resources needed to give competent help to an adolescent in a difficult situation, let alone to his family. However, “difficult” children need not police supervision but the competent attention

of a social worker. Everywhere in the world this function belongs to social welfare and guardianship agencies, which have the necessary resources and trained personnel. Supervisory powers over potential juvenile lawbreakers must be transferred to guardianship agencies; supervisory powers over convicted minors should also be transferred to a specialized agency outside the MVD or exercised in constant contact with guardianship agencies.

The power to protect minors against cruel treatment within the family is in conflict with the supervisory power over potential juvenile lawbreakers and is in practice confined to work with the youngest children. This power is already exercised in constant contact with guardianship agencies and the procuracy. Members of Units for Minors' Affairs also perform narrowly specific policing functions (such as breaking into residential premises) and initiate the procedure for depriving individuals of their parental rights. The latter procedure will be placed under the jurisdiction of guardianship agencies, with the precinct police providing support in such cases as necessary.

### **Reducing headquarters and changing their tasks**

#### ***Creating a Federal Agency for Crime Statistics, disbanding corresponding headquarters, and the problem of crime registration***

The main tasks of headquarters units<sup>31</sup> are to analyze information about the crime situation, plan work based on this information, and render assistance with police methods.<sup>32</sup> In the course of the reform, the tasks of collecting and analyzing statistical data will be assigned to a Federal Agency for Crime Statistics; all units of the police and procuracy will be able to use the FACS for their own purposes. This will change the relationship between headquarters and operative units: all personnel will supply information to the headquarters and in fact be accountable to them. *The basic mission of the FACS will be to provide the law enforcement bodies with information and analysis with a view to the coordination and improvement of their*

*work.* The task of assisting with police methods will be assigned to educational agencies within the framework of an improved system for the training and education of personnel (both operatives and investigators). *Procedural oversight will be a task for police chiefs and a sphere of influence of the procuracy.* This will eliminate the need for headquarters units (including organizational and police methods units), which now generate an enormous quantity of report data and a dual structure of subordination.

Planning based on the information provided by the FACS can be carried out by police bodies, proceeding from the tasks set before them, and by other state structures that in the course of the reform acquire the opportunity to influence the choice of priority tasks for the police at all levels.

The creation of the FACS will serve four purposes:<sup>33</sup>

1. It will ensure the registration of all crimes for which information reaches the law enforcement system.
2. It will ensure the reliability of crime statistics and forensic statistics.
3. It will ensure the openness of information.
4. It will increase the effectiveness of the use of information (“criminological information”) by the law enforcement bodies.<sup>34</sup>

In the course of the reform the following points must be taken into account:

1. Crime statistics should provide information primarily for purposes of managerial decision making and should not be used to form direct assessments of the work of law enforcement bodies that will influence promotions, the giving of bonuses, and the imposition of penalties.
2. The structure that accumulates and analyzes information should not be a headquarters that guides the work of lower-level units, but rather a sort of “information bureau” that confines itself to providing information at the request of other structures.

An important structural element of the reform will be the separation of the function of registering citizens' statements about crimes from the function of their investigation. We have taken into account that many agencies are currently involved in the registration of crimes. As research shows, however, no problems arise with the registration of crimes exposed by the agencies themselves: on the contrary, such crimes are, if anything, overregistered. Thus, the important thing is to reduce refusals to register citizens' statements. This is why duty officers' sections will be incorporated into the system of the municipal police, whose functions will not include the investigation of crimes. The duty officers' sections will retain the function of coordinating the work of the law enforcement bodies at the municipal level.

One method of increasing the number of registered citizens' statements is to make it possible to submit them in electronic form through the portal of state services. As the portal of state services identifies the user and can be redesigned to accommodate the formalities of submitting a statement, this is one way to increase the statement registration rate.

The technological and organizational base for the creation of the FACS will be the MVD's system of Information Centers. Members of analytical sections in the MVD, the FSKN, and the SKR as well as procuracy employees responsible for work with legal statistics will join the new service (after a review of their functions). Members of headquarters and units that are currently responsible for the input of statistical data cards and for relations with the Information Centers will join the new service at the raion level.

The databases of the Federal Migration Service (FMS)—and if necessary other databases—will be incorporated into the databases of the new service.

Consideration must be given to whether it will be necessary to modernize the software used by the FACS with a view both to protecting information from unsanctioned access and to simplifying work with information classified as open.

Information must be divided into three levels of openness:

1. Data on the crime situation and results of investigations

that can be published in open access media, including electronic media. Such data must include *aggregate* data on citizens' statements about crimes, decisions made, registered crimes (*corpus delicti*, general characteristics), and raw (not aggregated) data on results of investigations and court proceedings and on characteristics of convicted people (without personal data). The minimum level for data should be that of the municipality.

2. Information for official use:

- Official databases of the MVD and the FMS, detailed analysis of the crime situation, and sample data on methods of committing crimes should be accessible to the regional and federal police and to the procuracy from work stations at the raion level.
- Data on the course of a criminal case from the time of registration to the time of the final ruling.

3. Secret information.

### ***Constraints on the growth of headquarters***

It is obvious that any organizational structure will strive for the greatest possible expansion of its powers and personnel and also of the resources needed for its maintenance.<sup>35</sup> In order to prevent a return to the “dictatorship of headquarters” that currently exists, it will be necessary to adopt two groups of measures. First, it will be necessary to impose a departmental prohibition on anyone creating any new reporting forms, except for those established by the autonomous agency for the collection and analysis of crime and police statistics (this does *not* mean annulling the powers of structures at any level in the sphere of the analysis of collected statistics). Second, it will be necessary to impose a prohibition on the vertical transmission of assignments, instructions, or requests bypassing the chief of the corresponding territorial subdivision. These two measures, taken together, will greatly impede the expansion of staff structures and help to minimize the bureaucratic burden placed on rank-and-file employees in all units.

### ***Reorganizing and abolishing the Ministry of Internal Affairs***

Four main functions are currently concentrated in the MVD. They can be correlated with the following structural blocks:

- the internal troops and associated support units;
- the police (the fight against crime, the inquiry, and the maintenance of public order) with a set of auxiliary units (personnel, material-technical supply);
- the investigative bodies;
- staff, police methods, organizational, and support units (including the All-Russia Scientific Research Institute of the MVD, the Chief Information Center and Information Centers) both of the MVD itself and of its lower levels (republic-level Ministries of Internal Affairs, Chief Directorates, and Directorates of Internal Affairs).

In the course of the reform, the police and the investigative bodies, together with the auxiliary units and technological base needed for their work, will be transferred to various levels of the new police force. The internal troops will be incorporated into the Ministry of Defense. The All-Russia Scientific Research Institute of the MVD will become an independent research center funded out of the federal budget. The Chief Information Center, and Information Centers will constitute the base for the Agency for Crime Statistics.

Analysis of the structural units of the MVD<sup>36</sup> shows that after a separate police force and anticorruption agency are created, the internal troops and Chief Information Center are removed, and relations of subordination at the municipal and regional levels are changed no independent functions will remain for the MVD. The usual functions of a typical European ministry of internal affairs (apart from the policing function, connected with the fight against crime) are migration policy, matters of citizenship, and responding to emergency situations. In Russia these functions have already been taken away from the MVD and are being performed in a relatively successful manner by independent agencies. Given the

historical path of development, retention of the MVD as a “coordinating structure” will lead to the growth of staff structures that will try to impose unnecessary coordination on the police, demand report data, and expand the structures responsible for statistical reporting in the police. Thus, there is no need to retain the MVD as an independent structure in the course of the proposed reform. On the contrary, the elimination of units that serve the MVD itself and have a negative influence on the workload of lower-level units will make it possible to increase per capita funding of the police without the allocation of new funds. Social guarantees for the employees who will be laid off are envisioned and described in the corresponding section below.

***Effects pertaining to reduction of personnel and growth in per capita funding***

Reduction in the number of police personnel, their release from extraneous functions, and contraction of the managerial apparatus will make it possible to increase the intensity of their work. In order to realize this possibility it is necessary to train personnel in the use of new technologies of police work. Infrastructural reforms are also needed to improve the quality of technology and ensure that its potential is fully exploited. The measures proposed above will make it possible to solve several problems at the same time: they will improve management of the police, minimize unproductive kinds of work (above all, statistical reporting), and reduce the size of the police, thereby achieving an increase in per capita funding that can be used to equip the police with better technology.

Privatization of the Extradepartmental Guards will reduce police personnel by 125,000, resulting in a decrease in the number of policemen per 100,000 residents from 547 to 449. The elimination of other units (departments for the fight against economic crime, headquarters, inspectorates of units for minors’ affairs, and so on) should lead to a further reduction in the size of the police and increase in per capita funding. Given that the budget for 2013–14 provides for a 30 percent increase in spending on the police, the envisioned reduction in size will bring the Russian police close to

the countries of Eastern Europe (Poland, the Czech Republic) in terms of per capita funding. As the experience of these countries shows, once the level of per capita funding reaches something on the order of \$40,000 per year it becomes possible to carry out significant personnel-related transformations and an infrastructural reform, involving the following main measures—raising the level of the young people recruited to the police, reequipping the premises used by police services, substantially renewing the pool of police cars, and creating an effectively functioning and unified information system.

### **Reorganizing the law enforcement bodies in the sphere of criminal prosecution**

#### ***The problem of the organizational separation of investigative and operative work***

The system of criminal prosecution in Russia, as in a number of other post-Soviet countries, imposes an organizational separation between the procedures for exposing and for investigating a crime. This entails the involvement at the pretrial stage of at least three people with different tasks—the operational detective, the investigator and/or inquiry official, and the procurator (the figure of the investigator is a legacy of Soviet criminal procedure<sup>37</sup>). The reforms of criminal procedure that have been conducted since 2002 have sought to change the balance among these figures, but have preserved the separation of operative work, investigative work, and procuracy oversight.

Our study of the work of the law enforcement system showed that, at present, abuses aimed at extracting a confession from a suspect or at rejecting a victim's statement take place before the investigator officially makes criminal charges against a specific suspect. The result of the existing organizational division between operational and investigative work is that the investigator is not responsible for the methods used by the operative to get hold of case material while the operative has no interest in using lawful methods of police work because his task is to hand over the final result to the



investigator and report back. Thereafter, the investigator observes the formal rules for recording the evidence, obtaining almost no new information about the crime (different from what he knows when he initiates the case). The gathering of evidence is displaced into the sphere of action of the operatives who check reports of crimes—the sphere in which the accused is least protected by procedural guarantees of his rights. All reforms of criminal procedure conducted in recent years with a view to strengthening guarantees of the rights of the accused by more clearly dividing the work of the operative, the investigator, and the procurator have in practice had the opposite effect—they have resolved interdepartmental contradictions at the expense of the accused and the victim.

At the same time, the organizational division between the investigator and the operative leads to interdepartmental conflict between their interests, thereby reducing the effectiveness of their joint work on a criminal case. One result of this is that the current law enforcement system is capable of solving only self-evident cases.

### *Change in the sphere of criminal prosecution*

Our Concept envisions simplifying the system of interaction at the pretrial stage of checking reports of crimes and investigating criminal cases by bringing investigators and operatives together in organizational terms. At present, investigators are much less inclined than operatives to apply violence to suspects. Bringing them together with operatives and making them responsible for the actions of operatives from the very start of the check of a report of a crime will make a positive contribution to solving the problem of violence in the police (together with other effects of the reform).

Three successive measures are necessary within the overall framework of reform:

1. Unifying the investigation (inquiry) and the operative services organizationally within the regional and federal police. Specialized investigative bodies, currently represented by the SKR (separated from operative work) and the FSKN (for a narrow category of crimes) will disappear, with the excep-

tion of the specialized body for the investigation of crimes committed by officials.

2. Gradually making the investigative process less formal.
3. Eliminating the investigator as a separate procedural figure and switching to a system of criminal prosecution that will consist of a “police inquiry,” combining actions that now fall under the headings of operative-search work and the investigation, and a “court prosecution” conducted by a procurator.

The final choice of a combination of police inquiry, procuracy influence on it, and the role of the court at the pretrial stage must be made in the course of the reform, but not necessarily during the transition period connected with the gradual transformation of the investigator into a “senior operative.”

*Principles of interaction in the course of work on registered crimes*

The principles set out below are derived from our diagnosis of the problems facing the law enforcement system and designed to create a situation that will discourage the continuation of impermissible current practices and in which the conflicts of interest between investigators and operatives that now impede the effective investigation of criminal cases within the bounds of law will be overcome. Investigators and operatives will be jointly accountable, first, for the legality of the process of investigation, and second, for its result.

At the first stage these principles will be as follows:

- Investigators in the federal police (and inquiry officials in the regional police) will closely interact with operatives, be subordinates of the same higher-level officer, and be members of the same police section. The investigator in a criminal case will be higher in status than the operative but not his direct superior. For each case, the head of the police section or his deputy for investigative work will form an investigative group headed by the investigator (inquiry

official); the group may include other investigators (inquiry officials) and operatives.<sup>38</sup>

- Up to the moment at which a suspect is identified the timing of an investigation will be constrained only by the lapse of the period of limitation for a criminal prosecution. Once a suspect has been identified, the law will establish a firm deadline for making the decision either to terminate the criminal prosecution or to take the case to court. This will hasten the start of judicial consideration of the case. This also requires the expeditious conduct of expert appraisals connected with the person of the accused, to be ensured at the stage of the investigation by a reform of expert work.<sup>39</sup>
- The increased powers of the investigator (inquiry official) as coordinator of the work of operatives and organizer of the investigation will be balanced by the increased powers of the procurator (state prosecutor), who will have the right to terminate a criminal case at the stage of the preliminary investigation on grounds of the absence of a *corpus delicti* or refuse to prosecute a case on grounds of its lack of significance or poor judicial prospects. The victim will have the right to appeal to a court against such a decision, or alternatively, the right to independently prosecute the case in court based on the material of the investigation or inquiry.
- The investigator will guide the check of the report of the crime and then the investigation. He will be responsible for actions committed by operatives in the course of operative-search work; the investigator and the operatives will have shared liability for unlawful methods of investigation. (At present, the investigator receives fully prepared material from the operatives and as he belongs to a different unit—or even, if the SKR is involved, to a different agency—he bears no responsibility for the methods by which the material was obtained.) Complaints regarding unlawful methods used in a check will be considered by the Federal Service for the Investigation of Malfeasance. If it has been established that operatives applied unlawful methods but the personal participation of the investigator cannot be proved, then the

investigator will be liable to disciplinary penalties [but not to criminal prosecution—Trans.]. The investigator will not be liable to disciplinary penalties if he himself has exposed the use of unlawful methods.

It may seem that the fusion of investigative and operative-search work will lead to even closer interaction between investigators and operatives in applying unlawful practices of inquiry. However, the proposed reform envisions not only changes in investigative and operative units but also qualitative change in the roles played by lawyers, procurators, and judges in criminal procedure, the introduction of different assessment systems, and qualitative changes in personnel. This will create the conditions necessary for gradual change in work on criminal cases. Closer cooperation between operatives and the investigator (under the guidance of the investigator) will give them all a greater interest in the prosecution. In parallel with this, reform of the assessment system should remove any incentives to conceal mistakes made by the investigation in prosecuting an innocent person, while strengthened external oversight of the legality of law enforcement work together with the increased liability of the investigator will create incentives for him to comply with the law during operative work on a case.

Procurators will obtain the right to terminate a criminal prosecution at any stage, and lawyers will be guaranteed the right to attach to the case file newly acquired documents and other evidence in favor of the suspect (for example, explanations pertaining to the refusal of the investigator to interrogate people as witnesses).

*Making the investigative process less formal and changing the role of the procurator*

The gradual recognition of evidence presented by lawyers as “normal” evidence and reduced pressure on investigators from the procurator, who will no longer have incentives to artificially increase the number of cases sent to court, should gradually lead to the courts becoming less demanding with respect to the formal aspect of evidence and more demanding with respect to its actual

quality. (The important thing will become not the number and correctness of the signatures on transcripts but their actual content and whether they prove the suspect's guilt, and also whether they will be able to withstand a clash with the evidence presented by the defense.) Over the long term, this will tend to make trials more adversarial and strengthen guarantees of the rights both of suspects and victims, while at the same time helping to make the investigative process less formal and facilitating the transition to a *more effective model of work on crimes with a division between the functions of "policing and inquiry" (the police) and those of "criminal prosecution" (the procuracy)*.

In parallel with strengthening the liability of the investigator for actions taken before the formal initiation of a criminal case (during the period when the suspect does not yet have procedural rights and the operative working with him does not have to record his actions), it is necessary to make the process of the preliminary investigation somewhat less formal. The task of the investigator must not be to "legalize" information obtained at the preinvestigation inquiry stage by creating numerous documents and transcripts and ordering a large number of expert appraisals; his task should be to elucidate the real story behind the case, to seek out important evidence for the court to assess during the trial. Reducing the volume of documentation and shortening the length of the investigation will solve the problem of endless report forms, thereby creating conditions for reducing the negative effects of the "points system." *The role of the investigator must come to resemble that of a "senior detective" who concentrates on office work, relations with the procurator, the formulation of questions to be placed before the experts, and the preparation of material to be sent to court.* The operative will then do the bulk of the work "on the ground" but will not assemble a "case" that claims to be an exhaustive picture of the crime and that the procuracy official and the judge then merely check for internal consistency. The story of the crime will be elucidated anew in court with the participation of the defense and a genuinely adversarial relationship between the defense and the prosecution. The task of the investigator will be confined to preparing arguments for the state prosecutor.

A transition period will be needed to implement these proposals because replacement of the traditional inquisitorial model by an adversarial process that comes up to world standards will require a revision of the Criminal Procedure Code and of standards of proof. Making the preliminary investigation less formal will unavoidably increase the amount of work facing the courts. Judges will have to assess evidence and investigate circumstances with greater care and will no longer be able to simply copy text from the charge sheet into the verdict. This will demand an increased number of judicial personnel.

*Our proposals represent a compromise between retaining the existing division of procedural roles and instantaneously abolishing the procedural figure of the investigator. They will facilitate rapid change in a situation marked by the constantly growing use of unlawful methods. Our proposals can be implemented with insignificant changes in legislation. This will make it possible to improve the situation even in the transitional period and provide time for making decisions concerning further development in the sphere of criminal prosecution and for preparing a large-scale procedural reform.*

### ***The Bar. Rights of the defense lawyer during the investigation and in court***

The present problem with Russian criminal procedure is the dominant position of the prosecution and the limited opportunities open to the defense. This manifests itself in the de facto violation of the adversarial principle, the neglect of the right of the accused to a defense, the bias of investigators, inquiry officials, procurators, and judges in favor of the prosecution, and other negative phenomena. At present, it is not possible within the framework of criminal procedure to put up a proper fight against charges, because the right to present exonerating evidence is seriously restricted; as a result, the defense lawyer can only dispute evidence presented by the prosecution and keep an eye out for petty procedural flaws. There is an urgent need to give the defense real means of confronting the prosecution, and this issue is under active discussion.<sup>40</sup>

Strengthening the position of the defense in order to create a

genuinely adversarial situation must be an important aspect of the reorganization of criminal procedure. Ideally, the center of gravity of the investigation of a criminal case would move to the court, turning it from an office for rubber-stamping verdicts into the place where all the arguments of the parties are weighed. This will require a deep reform of the judicial system, and it is very likely that independent courts willing to critically assess the arguments of the prosecution will not be achieved within the time frame of an organizational reform of the law enforcement system. For this reason, a transition period is desirable. Giving defense lawyers scope for autonomous action to gather and officially record evidence in the interests of the accused may be regarded as an important first step.

Ensuring that defense lawyers can exercise the right to present evidence is a multifaceted measure that will require change in many procedural mechanisms. It will be necessary to determine a procedure for registering and legalizing “lawyer” evidence and provide guarantees that such evidence will be introduced into the case. Initially, the investigator will be obliged to attach to the case file any material presented by the defense, setting aside his assessment of its permissibility and its degree of importance to the judge.

In itself this measure will not place the defense in a position of equality with the prosecution in every case. In the overwhelming majority of criminal cases the defense lawyer is appointed by the court<sup>41</sup>—that is, he is paid initially by the state<sup>42</sup>—and will not make any special effort to search for evidence and have it attached to the case file. But even a small proportion of cases in which the prosecution faces a defense of equal strength should exert a disciplining effect on law enforcement personnel and—no less important—help to arouse doubts in the minds of judges concerning the argumentation of the prosecution and make the procedure of judicial investigation more objective.

### *Reform of the procuracy*

Our idea for reform of the procuracy is to gradually free this agency of the function of general oversight with a view to improving the quality of its oversight of the work of the police and investigative

bodies, and also of its support for the state prosecution in court. For this it is necessary:

- to merge units for current oversight of investigative and operative-search work with the state prosecution. This means that one and the same assistant procurator will supervise the investigation in a case and present this case in court. The purpose of this measure is to create a situation in which from the moment of initiation of a criminal case the future state prosecutor in that case will assess its judicial prospects and if it lacks such prospects will have an interest in terminating the criminal prosecution. Moreover, this decision will not depend on crime detection indicators. This should also make procurators more responsible for the quality of evidence and the legality of investigative actions.
- to enable the procurator to choose the cases in which criminal prosecution is expedient, guided not only by formal legal criteria but also by considerations of the efficient use of resources, comparative public danger, and judicial prospects. The tightening of registration discipline will increase the number of registered offenses by an order of magnitude, thereby compelling the procurator to determine which cases are worth taking to court and which investigations merit the expenditure of financial and human resources.
- to gradually withdraw from the procuracy its powers in the sphere of general oversight,<sup>43</sup> while at the same time embodying in legislation and practice the right of public organizations to sue in court in defense of the interests of an open-ended category of people, thereby preserving a mechanism for protecting the interests of citizens in situations where harm is inflicted on their lawful rights and interests. The main sphere of responsibility of the procuracy should be participation in criminal cases as chief representative of the prosecution.
- to transfer the powers of the procuracy to represent the interests of unprotected groups in court (in civil and arbitration proceedings) to other bodies (for instance, to Ombudsmen);



- to change the system of cassational appeals by the procuracy. A cassational appeal will be filed by a higher-level procurator (for cases initially under the jurisdiction of raion and magistrates' courts—the procurator of a subject of the Federation; for cases initially under the jurisdiction of regional courts—the general procurator).

### ***Procedural provision for organizational changes***

The proposed organizational changes and the new system of incentives in the sphere of criminal prosecution will undoubtedly require changes in the Criminal Code and the Criminal Procedure Code, in the laws “On the Procuracy” and “On the Police,” and elsewhere—that is, the formation of a new complex of normative-legal acts. Legal experts in particular take a negative view of the poor quality of laws and the constant changes in them. On the one hand, changes in the law of criminal procedure should be made after broad discussion in the country's leading law faculties, when understanding has been achieved regarding the principles and long-term strategy for the development of the sphere of criminal prosecution and for the inner consistency of regulation of the work of the procuracy and law enforcement bodies. On the other hand, the opinion of practitioners must also be taken into account. But above all else, the interests of society and the principles of the constitution must be taken into account. How quality and constitutionality can be restored to the laws is a question for the community of legal experts, whose participation is essential to the successful conduct of a complex of reforms.

We considered it possible in this connection to indicate only a few rather obvious areas in which legislation needs to be changed in order to conform with necessary organizational changes.

#### *In the field of criminal law:*

- The division of crimes into four categories by degree of gravity will be preserved. However, in light of the anticipated increase in numbers of registered crimes and changes in procedural legislation, penalties will be revised and in general

lessened, in order to ensure that the federal police investigate only crimes that are especially dangerous to society.

- A number of minor crimes may be decriminalized and recategorized as administrative offenses.

*In the field of the law of criminal procedure:*

- The spheres of competence of the federal and regional police will be divided based on the degree of gravity of crimes (with the exception of crimes committed by officials). Disputes over investigative jurisdiction will be settled by the procuracy, as at present.
- Investigative jurisdiction over crimes committed by officials will be determined in the Criminal Procedure Code and assigned to the sphere of competence of the newly created specialized agency.
- Consideration will be given to the possibility of abandoning the principle of the “inescapability” of punishment for every crime in favor of the principle of “expediency.”
- The chief role in deciding the issue of whether to prosecute a crime will be played by the procurator.
- The law will provide stimuli for a *gradual transition* to a system of criminal prosecution in which the procurator will coordinate the investigation and the procedural figure of the investigator will disappear.
- Appeals against acquittals will be made more difficult; procurators must no longer be able to influence the fate of court rulings after they have been pronounced.

**Changes in reporting and in the system of assessment.  
Statistics and openness**

The basic principles of criminal procedure should be: reduction in periods of application of coercive measures (detention, time between bringing charges and taking to court), application of such measures only in cases of procedural necessity and exclusion of their use as a means of exerting pressure on suspects; the respon-

sibility of participants in an investigation for observing legality; strengthening of the role of the state prosecutor; strengthening of the role of defense lawyers in the investigative process (with the right to attach their evidence to the case file during the investigation).

It is necessary to transfer the registration of information about crimes and offenses to the municipal police (the level at which no detective or investigative work is conducted).

Managerial reform includes the creation of a system for the flexible management of reporting. Within the framework of this system, target indicators will be established each year for each unit (at each level) and police chiefs at the corresponding level will publicly report whether these indicators have been achieved. The indicators must be established through public discussion by a special commission based on the local legislative body; the commission will be made up of representatives of a higher-level body, the procuracy, and the executive and legislative branches, but in such a way that police and procuracy representatives will constitute no more than one-third of the members of the commission. The target indicators should vary by the level of units—that is, the indicator for a higher-level unit should not be the sum of the indicators for its subordinate lower-level units.

### ***Reporting on the registration of crimes***

The municipal police must register citizens' statements without sorting them into categories according to their suitability for investigation. Crimes should not be fabricated for reporting purposes. A "positive" report indicator after the reform will be the number of registered statements by citizens (the registering body—the municipal police—will not be held responsible for the "level of crime" as calculated from the number of registered statements). The number of complaints from citizens concerning refusals to register will be a "negative" indicator.

### ***Reporting of investigative and operative-search work***

There must be a single system for assessing the work of investigators and operatives who work on the same cases together—a

system that does not generate conflicting incentives, with certain indicators being advantageous for operatives and others for investigators. There should be no “negative” indicators attached to specific categories of cases (at present, for example, the juvenile crime rate is a negative indicator, and this leads to unjustified refusals to initiate criminal cases). The number of criminal cases terminated during the investigation on the initiative of the investigator or the procurator or ending in an acquittal must not be treated as a negative indicator. Achievement of the goals set for a given report period by the special commission (see above) should be an indicator of good work, as should the number of substantiated complaints about unlawful actions by police personnel. The only negative indicator that should entail disciplinary penalties is a court ruling or procurator’s instruction to exclude impermissible (but not falsified) evidence obtained during the investigation in violation of the Criminal Procedure Code. Exposure by a court or procurator of the falsification of evidence must be grounds for initiating a criminal investigation, to be conducted by the agency for the investigation of malfeasance.

### *Assessing the work of the procurator*

An acquittal or the termination of a case in the light of rehabilitating circumstances will not automatically be viewed as evidence of poor work on the part of the procuracy official involved. A state prosecutor should not be afraid of “losing” a case (in adversarial trials it is normal for some cases to be won by the defense), but he must be afraid of bringing unlawfully acquired evidence to court. Cases in which the court recognizes that pressure has been exerted on witnesses or on the accused or that unlawful methods of investigation have been used—that is, situations in which the position of the state prosecution is weakened by abuses in the investigation that the procurator did not expose in time—should be regarded as a negative indicator. A case that is appealed and lost at a higher level must also count as a negative indicator: a procurator should not waste state funds on appeals in cases that have already been lost merely in order to “cover” his loss.

## *Openness*

The developmental logic of any organizational structure generates a striving toward bureaucratization and isolation from the outside world. The efficient functioning of a bureaucracy is achieved by disaggregating functions, but the individual bureaucrat then loses the ability to see the overall goal, which is lost behind a palisade of target indicators. The significance of these indicators for the careers of specific individuals within the bureaucratic agency bears no relation to the tasks set before the structure as a whole. Attention is focused on internal report data that are not always directly connected with the overall result in terms of the purpose of the agency. An absurd situation arises: in its functioning, the agency ignores or even works against the original goals for the sake of which it was created.

This problem can be solved with the aid of corrective mechanisms. One of these mechanisms is *openness*, or *open access to data (information)*. It is assumed that given such access, society—in the form of associations, research centers, and simply interested citizens—will be able to draw attention to a problematic area and make well-argued proposals designed to correct the situation. In this way conditions are created for correcting the functioning of the agency.

The fundamental prerequisite is access to work results. These results may be of two kinds—decisions on specific individual issues (documents, resolutions, replies to communications, and so on) and aggregate indicators—that is, statistics.

### *A separate statistical agency (the Federal Agency for Crime Statistics)*

The effectiveness of work with data directly depends on the data being complete and undistorted. Both the completeness and the correctness of statistical data have traditionally been a problem for the law enforcement bodies. The demand for detailed report data leads to expenditures of time and effort that are disproportionate to the importance of the task—and this becomes a problem in itself.

Summary data on work results (statistics) are among the main criteria for assessing the quality of the work of each structural unit. These assessments are so important that they are falsified at all levels. This problem can hardly be solved by cosmetic measures. A fundamentally new approach is required. The radical solution that we propose is the creation of a special structure that will specialize in the collection of data and the compilation of statistical reports. This will free ordinary units of the obligation to spend time on the preparation of reports and at the same time make those reports more truthful. Over the long term, of course, this presupposes the reorganization of recordkeeping and the expanded use of information technology. The transition from paper-based to electronic circulation of information will be a basic task in the creation of a separate agency whose functions will include the collection and processing of statistical indicators. But even at the early stages of this process, before general computerization is achieved, the transfer of work on the preparation of reports to the special agency will itself correct the situation, because several hierarchical levels in the law enforcement bodies that have traditionally engaged in falsification will have been removed from the process.

Nevertheless, the chief condition for the full establishment of a structure that will engage in the collection of statistical data and the preparation of statistical reports is computerization. The greater the importance of the elements of the circulation of information (the reception of statements and complaints, the transmission of replies, the transfer of documents to another structural unit, and so on) that are recorded automatically, the less distorted the statistical data generated.

One merit of this solution will be the possibility of detailed analysis of the functioning of the law enforcement system and the drawing of conclusions that can be used in developing and correcting its work in conformity with the basic tasks embodied in existing legislation.

The FACS will assume the functions of collecting and analyzing statistics concerning crime and the crime situation, the results of investigations, and public opinion survey data. Primary information will come mainly from the municipal police (duty officers'

sections), which will not be responsible for the results of investigations or for the crime detection rate. It is important that apart from collecting statistics, the FACS will serve all the law enforcement bodies (the police, the investigative bodies, the procuracy, etc.) as an auxiliary partner, providing them with access (including electronic access) to its databases.

***Public opinion surveys and assessment of the work of law enforcement bodies***

The use of public opinion survey data to assess the work of the police is an extraordinarily positive trend. At present, however, this is not done in the best possible manner—at least insofar as the outside observer can judge. The main indicator to which attention is paid is the level of public trust in the police. This, however, is a very specific indicator. It depends very strongly on a whole series of factors that the police are in no position to influence—for example, on the degree of openness of the regional information environment (the level of public trust will always be lower in regions with more developed mass media and better qualified journalists) and on the urban or rural nature of the territory (the level of public trust will always be higher in rural than in urban areas). Moreover, this indicator reflects not so much the work of the police as the quality of the work of the police public relations service.

In using survey data, it is necessary to rely on fundamentally different indicators that reflect the direct experience of respondents, whether as victims of crime or as citizens seeking police assistance (how effective is it?). A system of such indicators should be constructed in an open and independent forum and in consultation with police structures.

Besides the use of public opinion surveys, assessments of the work of the police should take into account the expert opinion of civil society. A coordinating commission should be set up, consisting of representatives of various parties and public associations, parliamentary deputies, and lawyers, and give an expert assessment of the work of the law enforcement system once a year (or once every two years).

## Conclusion

Our proposed reform is to be implemented in three areas:

- optimizing functions pertaining to the maintenance of law and order, crime control and criminal prosecution, and the levels of management of the policing function of the state;
- reducing the functions and size of the law enforcement bodies; and
- optimizing the system of incentives and constraints faced by personnel in the course of their work (change in the institutional environment).

These areas are interconnected. On the one hand, decentralization through division of the police into three levels will make it possible to adapt the policing function to the needs of residents in specific raions, cities, and regions (the municipal and regional police). Making the police more accountable to local residents and removing obstacles to the registration of all crimes will make the police more “client-oriented.” This will make it possible to mark out a more powerful and effective structure at the federal level for the fight against crime (the federal police). The difficulties that will arise out of the greater independence of different levels of the police will be mitigated by the oversight of lower-level by higher-level police forces, but mainly by the creation of an independent Federal Service for the Investigation of Malfeasance with its own powers and resources.

The organizational fusion of investigative and operative work, leading to stronger operative-investigative work at the federal level, will be balanced by stronger procuracy oversight of the investigative process, introduction of the institution of investigation by lawyers, and measures to enhance the independence of the judiciary.

Today’s police force is hard to control and ineffective to a large extent because it has become overcentralized and unwieldy. The striving to combine everything within a single agency has led to



expansion of the managerial apparatus, loss of control, and isolation from social needs. Our Concept for reform envisions a more compact and more logically organized police in which control and answerability will be determined by clearly outlined functions. Extraneous functions will be removed from the sphere of responsibility of the law enforcement bodies and transferred to other civilian or military agencies. Control of police units will be linked to tasks at the corresponding level (federal, regional, local) and exercised jointly with the state authorities at that level. The final step in the reform should be the dissolution of the MVD in its present form. The guidelines for the actions of police forces at all levels will be the law, the tasks set by representative and executive bodies at the corresponding level based on independent feedback mechanisms, and the analytical work of an independent agency that accumulates all information about crime and law enforcement work.

This Concept is *a coherent system of interconnected measures aimed at creating a new system of incentives for law enforcement personnel, designed to solve the problems that we have diagnosed while preserving all necessary functions of the law enforcement system and maintaining its effectiveness*. We set ourselves the goal of infusing public debate with an understanding of the need for the comprehensive reform of all law enforcement bodies, which must be regarded as a single complex system of organizations that cannot be reformed piecemeal.<sup>45</sup> Not being in a position to propose a detailed “roadmap” of the whole reform inasmuch as its timetable will depend on external conditions, let us merely indicate the stages needed to turn our Concept into a real reform.

### ***Stage 1. At least six months***

*Content:* Discussion of the basic idea of the Concept, its general principles, risks, and alternative variants (including alternative variants within the Concept).

*Necessary effect:* Attainment of an understanding of the fact that the effect of a sharp reduction in the latency of crime will be a wave of registered crime. As a result, in the first few years after

the reform we can expect: (1) to obtain real knowledge of the problems; (2) no improvement in the effectiveness of police work at the first stages of reform; (3) a rapid decline in the degree of danger to society presented by the police.

### ***Stage 2. One year after adoption of the Concept***

*Content:* Work of the Reform Commission. Elaboration of the reform in the necessary detail (analysis of organizational links among regions, staff numbers, the material base; determination of the status of Moscow, St. Petersburg, and problem regions). Drawing of a “roadmap” for change in bodies and transfer of powers. Determination of the sequence of measures. Preparation of a plan for other necessary reforms—budgetary and tax reform at a minimum (formation of municipal and regional budgets).

*Necessary effects:* Acquisition of full knowledge of the structures to be reformed. Increased openness and public oversight of the law enforcement bodies. Attainment of consensus regarding change in the principles of criminal prosecution.

### ***Stage 3. One year***

*Content:* Six months to form and adopt a complex of normative-legal acts, including acts for the reform of closely related areas. Five months to prepare for their entry into force at the end of the year (this is necessary in order to avoid pressure from “statistics” in the year of reform).

*Necessary effect:* Creation of a new system of law enforcement bodies that works effectively and contains stimuli to positive development.

*The main principle in planning the reform is to implement during the very first year a system of measures that will ensure that the “point of no return” is reached and that ties that may facilitate the restoration of previous practices are destroyed. The attainment of results at each stage must be ensured by competent and effective management of the project.*

## Notes

1. The survey was conducted by the Center for Sociological Research at the Russian Academy of National Economy and State Service under the president of the RF in summer 2013 in ten regions of the RF by telephone polling of a stratified sample. The total sample size was 6,000. Presented here are intermediate results of the survey, obtained in nine regions with a sample size of 4,943 respondents.

2. EMISS, 2011. Available at [www.fedstat.ru/indicators/start.do/](http://www.fedstat.ru/indicators/start.do/).

3. The main results are set out in the first two parts of the present study. *Pravookhranitel'naia deiatel'nost' v Rossii: struktura, funktsionirovanie, puti reformirovaniia. Ch. 1. Diagnostika raboty pravookhranitel'nykh organov RF i vypolneniia imi politseiskoi funktsii* (St. Petersburg, 2012). Available at [www.enforce.spb.ru/images/Fond\\_Kudrina/irl\\_pravookhrana\\_part\\_1\\_final\\_31\\_12\\_ich.pdf](http://www.enforce.spb.ru/images/Fond_Kudrina/irl_pravookhrana_part_1_final_31_12_ich.pdf); *Ch. 2, Rossiiskaia politsiia v sravnitel'noi perspektive: natsional'nye modeli i opyt reform* (St. Petersburg, 2012). Available at [www.enforce.spb.ru/images/Fond\\_Kudrina/irl\\_pravookhrana\\_part\\_2\\_final\\_31\\_12.pdf](http://www.enforce.spb.ru/images/Fond_Kudrina/irl_pravookhrana_part_2_final_31_12.pdf). The other studies are listed at the end of the present section.

4. Based on *European Source Book on Crime and Criminal Justice Statistics—2010* (The Hague: WODC, 2010), p. 38.

5. *Svedeniia o sostoianii prestupnosti v Rossii* (GITs MVD, 2012). Available at [http://mvd.ru/upload/site1/document\\_file/vIXMMRlab8.pdf](http://mvd.ru/upload/site1/document_file/vIXMMRlab8.pdf).

6. Courts at the raion level hear about 60 percent of all criminal cases.

7. This refers to total funding for all purposes (premises, transportation, etc.) and not just for police pay.

8. Offenses independently discovered by the federal or regional police will be registered by the police bodies that discovered them. At present, for instance, the SKR, the MVD, and the FSKN all possess the right to register such communications.

9. The regional level means the level of subjects of the Federation. “Region” and “subject of the Federation” are used in the text as synonyms.

10. Of this total, 0.93 percent of GNP is spent on sustaining the work of the MVD while 1.8 percent of GNP is spent on the performance of policing functions according to the world classification.

11. Not all police employees are engaged directly in work with criminals, but on the whole this is a good indicator for comparing the situation in different countries.

12. While preserving the possibility of registering crimes with the police at any level and directly transmitting information to the statistical agency.

13. Various organizational-legal forms are possible—for example, a federal service or a federal official agency. For working purposes this document will use the term “Federal Agency for Crime Statistics” (FACS).

14. This principle is embodied twice—in the articles that regulate the spheres of competence of the municipal raion (point 8 of part 1 of Article 15) and of the municipal okrug (point 9 of part 1 of Article 16). These articles assign the function

of maintaining public order to the sphere of competence of the municipalities, to be executed by a municipal militia.

15. At the first stage, grave and especially grave crimes that are currently investigated by the SKR (with the exception of malfeasance) will be transferred to the federal police. Later, however, “commonplace” murders may be transferred to the regional police.

16. Even at present the rights of the procuracy to supervise the process of investigating a case are much broader at the stage of the inquiry than they are at the stage of the investigation.

17. In 2011, for example, Singapore—one of the pioneers in creating an independent anticorruption agency—and Hong Kong occupied fifth and twelfth place, respectively, in the rating of countries with the lowest levels of corruption compiled by Transparency International (the Corruption Perceptions Index—see Transparency International, <http://cpi.transparency.org/cpi2011/results>). They managed to achieve such success despite enormous problems with corruption in their law enforcement bodies in the middle of the twentieth century. Many researchers attribute this fact primarily to the creation of effective anticorruption agencies that are independent of the law enforcement bodies and—an important point—of the bodies of executive power (see S.T.J. Quah, “Anti-Corruption Agencies in Four Asian Countries: A Comparative Analysis,” *International Public Management Review*, 2007, no. 8[2]). The EU has chosen the same approach (see “Anti-Corruption Authority Standards and Police Oversight Principles”; available at [www.epac.at](http://www.epac.at)).

18. This does not exclude the possibility of a statement being submitted to any duty officer’s section; from there, however, it will be redirected to the federal service.

19. A person who wishes to become a chief of municipal police may also undergo the check and take the examination without being proposed for such a post in a specific raion. One option would be for the municipality to conduct some sort of competition open to all those who have passed the federal examination.

20. This does not refer to regular events such as ordinary football matches, but only to extraordinary events such as those that take place, for instance, when a city hosts the Olympic Games or world championships.

21. Thus, in 2011 the General Procuracy of the RF held a competition for the systemic design of the state automated system “Legal statistics,” the technical specifications for which included capacities for analysis of the processes by which legal statistics are collected, the structure of existing information flows, and the level of technical provision for the collection of legal statistics in the MVD and other law enforcement bodies. The results of such work, if carried out competently, could be used as a basis for modeling a simpler system of the movement of information.

22. In 2012, the MVD alone registered over 26 million statements, of which 11.7 million were examined in accordance with the rules laid down in the Criminal Procedure Code, 3.6 million were treated as reports of administrative offenses, and 3.6 million were regarded as repeating earlier statements. Thus, even at the current level of registration there is obviously a problem with ensuring clear regulation of the movement of citizens’ statements.

23. As a result of the reform, the number of Extradepartmental Guards will decline by 22 percent (see the Web site of the Russian Agency for International Information RIA Novosti, [http://ria.ru/defense\\_safety/20110504/370832508.html](http://ria.ru/defense_safety/20110504/370832508.html)).

24. One possible option may be to transfer part of the EGD to the municipal police. The functions that now belong to the EGD but cannot be handed over to the new structure (in particular, the guarding of a number of high-security objects) will be performed by police personnel at the regional and federal levels. Some employees of the EGD may be added to the staff of the Patrol and Point-Duty Service.

25. The apparatus of the State Antidrug Committee currently exists at the federal level and at the level of the federal okrugs.

26. Subpoint 4 of point 3 of Section 1 of Regulations Concerning the Ministry of Internal Affairs of the Russian Federation, adopted by Decree of the President of the RF No. 248 of March 1, 2011, "Issues Concerning the Ministry of Internal Affairs of the Russian Federation."

27. Subpoint 4 of point 2 of Section 1 of Regulations Concerning the Ministry of Defense of the Russian Federation, adopted by Decree of the President of the RF No. 1082 of August 16, 2004, "Issues Concerning the Ministry of Defense of the Russian Federation."

28. For a more detailed discussion, see E.V. Kitrova and V.A. Kuz'min, "Kommentarii k Federal'nomu zakonu ot 06.02.1997, no. 27-FZ 'O vnutrennikh voiskakh Ministerstva vnutrennikh del Rossiiskoi Federatsii,'" *Spravochno-pravovaia sistema "Konsul'tantPlus,"* 2007.

29. See, for example, E.V. Kitrova and V.A. Kuz'min, *Kommentarii k Federal'nomu zakonu ot 06.02.1997 No. 27-FZ "O vnutrennikh voiskakh Ministerstva vnutrennikh del Rossiiskoi Federatsii"* (Moscow: OOO Novaia pravovaia kul'tura, 2008); L.F. Kvasha, "Militsiia (politsiia) v usloviakh perekhodnogo tipa gosudarstva i prava," *Istoriia gosudarstva i prava*, 2006, no. 3; V.Ia. Anachuk and B.G. Putilin, *Sistema obespecheniia natsional'noi bezopasnosti (na primere Soedinennykh Shtatov Ameriki)* (Moscow, 1998).

30. Nevertheless, the alternative option of using the internal troops as the base for creating a national guard subordinate to the president may be considered in the course of discussion.

31. This section explains the main principles and desired effects. We plan the publication of an analytical note on the need to separate work on crime statistics from other police work and entrust it to an independent body. This note will also describe the reform currently under way, which involves the transfer of oversight of legal statistics to the General Procuracy and the installation of the State Automated System "Legal Statistics."

32. When speaking of "staff structures" in the law enforcement bodies, it is necessary to remember two things. First, they exist—albeit to different degrees—in the investigative bodies and in the procuracy as well as in the MVD. Second, there are locally specific features to the functioning of these units. *A separate work is required to catalog staff structures, describe their real functions, and identify candidates for abolition.* As an example of the overloading of the police with staff structures, we may cite the fact that at the level of a typical subject of the Federation, five to fifteen units are engaged in coordinating work along

one line or another, each consisting of ten to thirty people. These units can be reduced to one-fifth or even one-tenth of their current size without detriment to the substantive tasks that they perform.

33. Change in the system of intradepartmental assessments will be considered separately. In describing the creation and functioning of the FACS, it is assumed that assessment systems within the police and the procuracy do not generate incentives to distort information, or do so only minimally.

34. The FACS, like the currently existing information centers (to a certain extent), will also accumulate criminological information needed by the law enforcement bodies to solve specific crimes, but the question of work with such information requires separate examination.

35. It is useful to study Czech experience in overcoming the problem of expanding headquarters. In the course of a reform conducted in the Czech Republic in 2008, headquarters were sharply reduced and a requirement was established that the ratio of command posts to subordinate posts must not exceed 1:11.

36. See the Web site of the MVD, [www.mvd.ru/mvd/structure](http://www.mvd.ru/mvd/structure).

37. On the problem from the point of view of procedural law, see, for example, L.V. Golovko, "Reforma politzii v kontekste modernizatsii predvaritel'nogo proizvodstva v rossiiskom ugolovnom protsesse," in *Ugolovnaia iustitsiia: sviaz' vremen. Izbrannye materialy mezhdunarodnoi nauchnoi konferentsii. Sankt-Peterburg, 6–8 oktiabria 2010 g.*, compiled by A.V. Smirnov and K.B. Kalinovskii (Moscow: ZAO Aktion-Media, 2012), pp. 24–31.

38. The same principle will apply to inquiry officials and operatives in the regional police.

39. The reform of expert work was outside the scope of our study and should be discussed separately, taking into account the current state of expert work and the presence of expert units in almost every agency and also in the Ministry of Justice.

40. See, for example, M.Iu. Barshchevskii, *Organizatsiia i deiatel'nost' advokatury v Rossii* (Moscow, 1997), pp. 82–83; A.D. Boikov, *Tret'ia vlast' v Rossii* (Moscow, 1999), p. 280; N. Goria, "Printsip sostiazatel'nosti i funktsiia zashchity v ugolovnom protsesse," *Sovetskaia iustitsiia*, 1990, no. 7, p. 22; E.D. Boltoshev, "K voprosu o sostiazatel'nosti v dosudebnykh stadiiakh ugolovnogo sudoproizvodstva Rossii," *Rossiiskii sud'ia*, 2001, no. 10, p. 17; I.L. Trunov, "Zakreplenie dokazatel'stv, sobrannykh advokatom," *Advokatskaia praktika*, 2002, no. 3, p. 22; N.V. Krasnova, "Poznavatel'no-poiskovaia deiatel'nost' advokata," *Advokatskaia praktika*, 2000, no. 1, pp. 57–59; A.V. Grinenko, "Poiskovaia deiatel'nost' zashchitnika," *Advokatskaia praktika*, 2002, no. 5, p. 31; E.G. Martynchik, "Pravovye osnovy advokatskogo rassledovaniia: sostoiianie i perspektivy formirovaniia novogo instituta i modeli," *Advokatskaia praktika*, 2012, no. 1, pp. 21–29.

41. Exact figures are not available, but indirect data suggest that the defense lawyer is appointed by the court in at least two-thirds of criminal cases.

42. The court then charges the cost of paying the defense lawyer to the defendant, but he does not always pay up.

43. As the procuracy is often the sole authority to which citizens can appeal against certain kinds of violations of their rights, a transition period may be needed

insofar as work with citizens' petitions is concerned. However, powers to take the initiative in exposing violations of the law by way of general oversight may be withdrawn from the procuracy at any time.

44. It is important to prevent the situation that has arisen with jury trials: the law bars the annulment of an acquittal, but in practice a reservation connected with procedural violations is used in almost all cases to annul acquittals, thereby further undermining public trust—already weak—in the judicial system.

45. In the course of the coming year more detailed documents will be published on specific measures envisioned by our Concept, describing mechanisms for generating positive stimuli and possibilities of implementation.