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Investigators in Russia

Who Creates Practice in the Investigation of Criminal Cases?

The article describes the investigators (sledovateli) in post-soviet Russia. Investigators is the paradoxical professional group - a bureaucratic stratum between the police detectives and prosecutors. Paper is based on the interview and questionnaire survey with the investigators of the Ministry of Internal Affairs (MVD). Authors describes gender, educational and age structures of this group, analyses the professional everyday-life and routines.

Keywords: *Russian criminal procedure, legal profession, crime investigation*

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Investigators in Russia

One of the special features of the Russian law enforcement system is its division—inherited from the Soviet legal system—into “*sledovateli*” - “investigators” (together with “inquiry officials”¹) and “detectives” or, in a broader sense, between inquiry bodies,² and operational-detective services (“*operativnie rabotniki*”).³ As a crude approximation, the former conduct the process of proof—that is, they duly record evidence and use it to identify the culprit. The assignment of the investigator as a procedural figure separate from general policing services was supposed to ensure that investigators would make decisions independently of the interests of the police. In theory, the investigator was supposed to act as a relatively independent monitor of the work of the police.⁴ Viewed in a longer historical perspective, the figure of the investigator and the idea of his procedural independence can be traced back to the “investigative judge,” who appeared at the time of the judicial reform of 1864.⁵

Our analysis is based on the results of empirical research—a questionnaire survey of investigators and interviews with them and with other participants in the process of criminal prosecution—and also on departmental documents and departmental statistics.

First, by way of introduction, we will explain how the investigation fits into the system of criminal prosecution in Russia and refer to some internal discussions of the organization of this work in order to show the general context of the investigator’s work and the significance of his professional activity. Then, after a brief methodological note, we will examine in turn the main results of the study.

The investigators in the Russian system of criminal justice are in many respects a paradoxical professional group. On the one hand, they participate in ordinary detective work (identifying the culprit); on the other hand, they are involved in the activity of the courts and procuracy (proving guilt in a legally correct manner). Moreover, it is precisely at the stage of the investigation that the chief decisions in the process of criminal justice are made.

If an investigator has charged a citizen with a crime, then his chance of rehabilitation at a subsequent stage (during the investigation or in court) is less than 1 percent. Thus, contradictory as investigative work may be, the investigator is a very important figure in Russian criminal proceedings.

If we consider the main decision makers during (a) consideration of the crime report, and (b) the subsequent investigation and hearing of the criminal case, then we find several such actors. In the order in which they “come up against” the crime report, these are police personnel,⁶ inquiry officials and investigators of the Ministry of Internal Affairs (MVD) (and their superiors), investigators of the Investigative Committee (and their superiors), procurators, and judges. The previous sociological studies showed that the decision making of judges is influenced by the anticipated reaction of higher courts (a key task of the judge is to enact a verdict that will not be annulled or changed on appeal by a higher court).⁷ The likelihood of change or annulment depends much more strongly on the position of the procurator than on that of the defendant and his attorney. The procuracy has much greater resources, experience, and opportunities to exert informal pressure than the defendant and his attorney. Subsequent research revealed that the same holds true at the earlier, pretrial stages.⁸ The procurator tries not to send cases to court in which there is even the slightest chance of acquittal or stopping a case on rehabilitative grounds. Whenever possible, therefore, he does not accept such cases from the investigator, and the investigator tries not to send such “doubtful” cases to the procurator.

Thus a system arises in which criminal cases with an unpredictable outcome are winnowed out even before they are sent to court, mainly at the stage of the investigation.⁹ As a result, over 90 percent of the cases that reach court contain an admission of guilt.¹⁰ The system of intradepartmental assessments of all the bodies participating in the sequence of pretrial procedures induces officials to minimize mishaps as information about a crime passes from the stage of the initial report to the transfer of the case to the court.¹¹ The optimal behavioral strategy for all

participants in the process is to have significant procedural decisions made at the earliest possible stage.

The decision concerning the guilt of the suspect is therefore actually taken by the investigator, because it is precisely he who makes the first relatively formalized decision in the whole series by assigning the status of a suspect or accused person. The actions of operatives and other police services do not change the legal status of suspect. And it is precisely the decision of the investigator that turns out to be the final one. Fewer than 0.5 percent of those assigned the status of suspect and subjected to a measure of restraint (e.g. pretrial detention, house arrest, bail or written undertaking) will be rehabilitated in the course of the investigation; fewer than 0.2 percent of defendants in cases where an investigation has been conducted will be acquitted in court.¹² Thus in Russia it is precisely the investigator who actually makes the final decision concerning whether a person will be found guilty of committing a crime.

Influential factors in the formation of this kind of strategy are the organizational structure of state departments (the Ministry of Internal Affairs, the Investigative Committee [SK], the procuracy), pressure from higher departmental levels that create stimuli for decision making, and the “departmental interests” characteristic of any bureaucratic structure.¹³ Officials are interested only in generating “satisfactory” report data for the departments that they represent.

This, however, does not suffice for an understanding of the decision-making process. It is possible to represent the process of movement of a criminal case and decision making with respect to it as a trajectory (transition from stage to stage, from organization to organization), but this fails to take into account the character of day-to-day relations among the actors. Analysis of our interviews shows that usually the decision-making process reflects interaction within an interdepartmental community that is inclined toward the adoption of a compromise decision. The initial positions of different actors in these negotiations vary in strength depending on the stage and on the type of criminal case. Researchers have described similar interdepartmental

communities in other countries—in particular, in the context of the American courts.¹⁴ However, criminal proceedings in Russia have a structure very different from those in the United States: in Russia the main process of proof and the adoption of a decision concerning whether there is sufficient evidence for the case to be taken to court occur at the stage of the preliminary, pretrial investigation.

Given that the decision concerning a person's guilt is actually made at the pretrial stage under the influence of organizational factors, we conclude that researchers should focus their attention on the investigator—the main actor at the pretrial stage of investigation. This report is an attempt to grasp what sort of people Russian investigators are and how they make decisions. This way of posing the question logically highlights the figure of the investigator and his interaction with his colleagues in other departments.

The word “investigator” is usually associated with officials of the Investigative Committee. There are also investigators in the Federal Security Service (FSB). So investigators now work in three different state agencies: the SK, the MVD, and the FSB.

As regards departmental workloads, investigators of the MVD handle 50 percent of criminal cases in Russia and 83 percent of criminal cases examined by means of an investigation¹⁵ (the remaining cases are fairly minor and either cases of private prosecution, in which no examination is required, or cases examined by means of an inquiry¹⁶). It can be confidently asserted that the practice of the examination of criminal cases by MVD investigators has the decisive influence in forming the general rules guiding the work of the system of criminal prosecution. MVD investigators are the most numerous and significant of the groups requiring priority attention.

Trajectories of Criminal Cases in Statistics: Specifically Russian Features

Tracing the trajectory of a criminal case from the moment when a citizen turns to the police, the first thing that statistics show is that

the majority of such communications do not concern crimes (or are not regarded by the police as concerning crimes). Only 12.4 million of the 29.3 million communications to the police in 2014 became official reports of crimes,¹⁷ and not only the MVD but also all the other departments contributed to these 12.4 million.¹⁸ Only 2.069 million of the 12.4 million (16.8 percent) became criminal cases (1.76 million of them were initiated by the MVD). Thus the most typical trajectory of a crime report ends in a refusal to initiate a criminal case, that is, in an official decision by a state body that no crime took place.

Then what is most typical for criminal cases that are initiated? When we speak of national statistics we have to take into account repeat decisions and also decisions made by different departments. Thus, for example, in a single criminal case a series of successive decisions may be made to suspend and resume the investigation and each of these decisions will contribute to the statistics. That is why in addition to 2 million newly initiated criminal cases and cases remaining unfinished from the previous year (just over 300,000—a figure that is quite stable from year to year), there are another 800,000 resumed cases. But this does not influence the distribution of cases among possible procedural trajectories, of which there are basically three: a criminal case may be sent to court, suspended, or stopped.

The undoubted leader is the trajectory “criminal case suspended.” The number of criminal cases suspended in 2014 was 1.344 million (of which 795,781 were suspended by MVD investigators and 476,743 by MVD inquiry officials). Cases were suspended, as a rule, because the person who committed the crime could not be identified. Formally there are four grounds on which an investigation can be suspended, three of which require that a suspect or accused person be present in the case.¹⁹ However, if we turn to MVD statistics we find that 95–97 percent of all decisions to suspend a case are made in connection with failure to identify the culprit.

The second most common trajectory is the sending of a criminal case to court. In 2014, 872,000 cases were sent to court (321,604 sent by MVD investigators, and 343,891 by MVD

inquiry officials). When a criminal case is sent to court it means that the investigator and procurator are sure that at least one person will not be acquitted. Russian criminal procedure allows the procurator to deem evidence insufficient and return the case to the investigator for further investigation. According to our calculations, in 2014 procurators received 903,273 criminal cases, of which 33,309—that is, 3.7 percent—were returned for further investigation. The majority of the cases returned by procurators were sent to court after flaws—technical errors or “gaps” in the investigation—were eliminated; in very few cases was rehabilitation of the accused the result.²⁰

The least typical trajectory is the termination of a criminal case on the basis of the results of investigation: only 70,657 cases (2.2 percent of active cases) were stopped in 2013.²¹ Investigators terminate very few cases against identified persons. Thus, proceedings against 2,188 persons subjected to a measure of restraint (arrest, detention in custody, or some other measure of suppression, such as signing an undertaking not to leave a certain place) were terminated due to the absence of an event or corpus of a crime; of these persons 941 were rehabilitated by MVD investigators. This, of course, is not many (but it is more than in the courts, where in cases conducted by all bodies of preliminary investigation 1,038 persons were acquitted, 378 of them in cases conducted by MVD investigators).

To conclude our description of typical trajectories, let us note that the overwhelming majority of MVD investigators work mainly on a limited set of quite standard cases. Thus, 83 percent of the investigators in our questionnaire survey mentioned Article 158 of the Criminal Code of the RF (theft), 53 percent mentioned Article 161 (robbery), and 42 percent mentioned Article 159 (fraud). Eighty percent of respondents mentioned one of the next four articles: Article 162 (armed robbery), Article 111 (deliberate infliction of grave bodily harm), Article 228 (illegal circulation of drugs), or Article 160 (misappropriation or embezzlement). Each investigator has his area of specialization, but even within this area he is familiar with the practice of investigating typical cases.

Research Methods and Data for Analysis

A sociological survey was conducted to obtain answers to questions about the life and work of the investigator. The survey included a qualitative component (26 interviews) and a quantitative component (681 questionnaires).²² The interviews were conducted first and the questionnaire was adjusted in light of the information obtained from the interviews. Departmental normative acts, working guidelines, and departmental and national statistics also served as empirical data.

The questionnaire survey was conducted in three subjects of the Russian Federation, which we identify by the conventional signifiers Siberia (258 questionnaires), the Northwest (130 questionnaires), and the Volga region (293 questionnaires). All three subsamples included both investigators from regional centers and investigators working in raion sections (approximately in proportion to the distribution of investigators in the regions concerned).

The analysis presented below is based on direct distributions and on pairwise correlations between variables. All the pairwise correlations mentioned in the report have been checked for significance (using the chi-squared criterion for categorical and ordinal variables and a *t*-test for scalar variables). Correlations are significant at a level of at least 95 percent. In instances where a number of possible models exist for explaining correlations, their significance was tested using regression models. Thus, for example, if phenomenon *X* is more characteristic of young investigators, then this may be attributed either to their age itself or to the fact that among young investigators, more have received an extramural education. Regression models enable us to check whether age retains its influence, other things being equal, when we add educational level, sex, and so on as control variables. In interpreting the results we relied on information from the interviews conducted during this project or earlier, in the context of other projects of the Institute for the Rule of Law. In certain instances, we reproduce quotations from interviews in order to illustrate one or another thesis.

In view of the sensitivity of the subject matter, interviews are labeled in such a way as to make it impossible to determine the rank or territorial affiliation of respondents, and thereby to ensure their anonymity.

All the tables present proportions of the set of investigators who gave substantive answers to the question concerned. The proportion of investigators who did not answer averaged 6 percent and ranged from 0.2 to 23 percent, depending on the sensitivity and difficulty of the question, gradually rising toward the end of the questionnaire.

Main Results of the Study

We cite the main results of the study in the form of the answers to questions reflecting ideas about MVD investigators as a professional group that typically find expression in the discussions of Russian experts.

Question 1. Is the Profession of Investigator Mainly for Young Women?

There is a myth according to which an investigator is not a lifelong occupation but only a position for young people at the start of their careers. After acquiring experience and seniority people supposedly leave the field. At the same time one often encounters the assertion that the profession of the investigator in Russia has a “woman’s face.”

Table 1

Distribution of Investigators by Sex ($N = 660$)

	Proportion (%)
Men	28.3
Women	71.7
Total	100.0

Note: N is the number of investigators who answered the question concerned.

MVD investigators are distributed quite evenly among age groups, which indicates a steady inflow of new personnel and an absence of sudden large inflows and outflows. This is confirmed by their average length of service. This age structure contrasts with what we know about investigators at the SK: there the proportion of people below the age of thirty is considerably higher.

The average age of a male investigator is thirty-one, and of a female investigator, thirty-three—a statistically significant difference. The average age of a head of the investigative office (the structure, which includes all investigators of MVD on the raion level) is thirty-nine, and of a rank-and-file investigator, thirty-two. Among head of the investigative office there is a slight preponderance of women—54.8 percent. However, given that women constitute 71.7 percent of all investigators, we see that it is men who more often make a career of their work.

The average length of service of the respondents is eight and a half years. A quarter have worked for up to four years, less than a quarter for thirteen years or more. An investigator is regarded as a junior for about a year. However, the average length of service of investigators who say that they are still considered juniors is two years. In other words, the situation looks somewhat different to young investigators themselves than it does to their more experienced colleagues—those who are appraising not themselves but other, “young” investigators. At the same time, more or

Table 2

Distribution of Investigators by Age ($N = 610$)

	Proportion (%)
35 and over (born 1979 or earlier)	32.0
30–34 (born 1980–1984)	30.3
Under 30 (born 1985 or later)	37.7
Total	100.0

Note: N is the number of investigators who answered the question concerned.

less experienced investigators, who are no longer young, have a uniform view of the situation.

And investigators in Russia are indeed predominantly female (71.7 percent) but by no means young. The age structure shows that this is often a profession for life.

Question 2. Are Investigators Constantly Moved from Region to Region?

Russian discussion of the profession features two conflicting images of the investigator: as an outsider to the local milieu, constantly moving from place to place, and as a person with deep roots in the local community.

Table 3 shows types of mobility. “Educational mobility” refers to situations in which the investigator has gone to another region to study and then either remained there or returned. “Multiple mobility” means that the investigator has changed his region of residence at least twice during his life—for instance, he finished school in one region, studied in another, and is now working in a third.

In fact 74.9 percent of investigators have never lived outside the region in which they work. Educational mobility characterizes 16.5 percent of investigators, divided in roughly equal proportions into those who went to study in another region and returned and those who went to study in another region and remained there. After that, the typical investigator makes no

Table 3

Geographical Mobility of Investigators (N = 649)

	Proportion (%)
No mobility	74.9
Educational mobility	16.5
Multiple mobility	8.6
Total	100.0

Note: N is the number of investigators who answered the question concerned.

further moves: multiple mobility characterizes fewer than 10 percent of respondents.

Mobility is connected with age. Educational mobility is characteristic of young investigators, while respondents belonging to the older generation (born in 1979 or earlier) are more likely to have worked in a variety of regions (10.2 percent).

Thus the overwhelming majority of investigators have always worked in the same region. Only a few go to another region in order to obtain an education—and then they either return or remain where they studied.

Question 3. Are Investigators Narrow, Half-Educated Specialists?

Experts outside the law enforcement system often complain about the quality of investigators' education. They accuse them of having no legal knowledge beyond that required to perform their specialized tasks and of obtaining their education from extramural departments through expedited correspondence courses.

According to our survey data, 6.2 percent of respondents (forty persons) lack a higher education in law. At least 30 percent of these investigators have no higher education at all. The hypothesis that this group consists mainly of young people still in training is not confirmed, nor is the hypothesis that they are mostly people in the oldest age groups who started work before higher education became an obligatory qualification for work as an investigator.

Analysis shows that 10 percent of investigators acquired a higher education by the age of twenty-one, 50 percent at the age of twenty-two or twenty-three, another 30 percent by the age of thirty, and only 10 percent at a later age. The majority of investigators (55.5 percent) obtained a higher education by attending daytime classes, and 39.3 percent did so by means of correspondence. Let us note that a proportion of just under 40 percent educated extramurally is characteristic of all the judicial professions in Russia, including the most authoritative of them all—namely, judges.²³

Over 40 percent of investigators were educated by means of correspondence. Only a third studied in a classical university.

However, their educational background with respect to these two parameters hardly differs from that of judges. In recent years investigators have increasingly often graduated from departmental institutions of higher education (in certain years up to half of all new recruits).

Question 4. Do Investigators Come Straight from the Classroom or with Experience?

It is possible to imagine two diametrically opposed models for the recruitment of investigators. They may be trained for this work at the higher education institution and take up a post immediately upon graduation. Or they may work first in other posts and gradually ascend toward what is conventionally regarded as the summit of the pretrial “pyramid”—the investigation.

We found that 72.3 percent of investigators have worked only as investigators. The remaining 27.7 percent consist of a multitude of tiny groups that cannot be analyzed on the basis of such a small sample. Let us note only that quite a few among them have worked in fields very far removed from law enforcement—for instance, in the education system. Here, therefore, we present only comparative demographic data for those with and without experience in noninvestigative work.

The largest number of those whose experience is confined to investigative work come from the group of investigators who moved to another region to obtain an education. Because the usual reason for moving to another region is to study at a departmental institution of higher education, it is not surprising that the graduates of such institutions would immediately embark on careers as investigators. This is also a characteristic of the youngest category of investigators: among respondents below age thirty, 87.6 percent have worked only as investigators (it is more common for them than for their older colleagues to go to study at a departmental institution). Of course, those who have done other work tend to become investigators later, so it is logical that they would belong to older age groups. However, we cannot fail to observe a general inclination to take a straight path from departmental institution to investigative work. On the other hand,

Table 4

Work Experience by Age Group, % (N = 559)

Age group	Has other work experience	Work experience confined to investigative work	Total
35 and over (born 1979 or earlier)	45.8	54.2	100.0
30–34 (born 1980–1984)	27.9	72.1	100.0
Under 30 (born 1985 or later)	12.4	87.6	100.0
Total	27.7	72.3	100.0

Note: N is the number of investigators who answered the question concerned.

leading investigators are more likely to have other work experience (47.5 percent of leading investigators compared to 26.4 percent of rank-and-file investigators).

People tend to enter investigative work immediately after higher education institution. And this tendency has been growing stronger in recent years.

Question 5. Is the Investigator a Producer of Paperwork?

There are two very different conceptions of the investigator's work. Is he a detective or a bureaucrat? Is it his job to discover who committed the crime or to provide a legally correct set of documents to accompany the case?

If we examine the content of the investigator's work, focusing on the content of each specific case, then we find the following. The focus of his work is to prepare procedural documents and evidence—that is, to give a special kind of legal form to the information obtained at the stage of the preinvestigation check or in the course of the detective's work on solving the crime. According to the survey data, the volume of documents collected in a case ranges from 100 to 250 sheets.

What then is the purpose of the investigator's work? The prevailing practice is to appraise this work by the number and quality of the criminal cases sent to court, with high quality defined as the absence of both acquittals and cases returned by the

procurator or court for further investigation. Here we describe the results of our study insofar as they concern the values that investigators see in their work and the meaning that they attach to professionalism.

When we asked what constitutes the professionalism of an investigator—the ability to identify the suspect by means of investigative actions or the ability to competently conduct investigative actions after the suspect has been identified—we were verifying a hypothesis concerning the distribution of duties between investigator and operative and at the same time trying to capture the essential meaning of investigative work to the investigator. The results were unambiguous: 83.2 percent of investigators consider that the ability to competently conduct investigative actions after the person suspected of committing the crime has been identified is the most important quality for an investigator. Taking this in conjunction with the content of the work as described above, closely connected with the preparation of a series of procedural documents and records, we see that the investigator's work is essentially quite bureaucratic.

We found no correlations with mobility, age, work experience, form of education, sex, size of section, or workload. However, the views expressed by heads of investigations sections are significantly different: 30 percent of the respondents in this

Table 5

Answers to the Question “What Is the Most Important Element in the Professionalism of an Investigator?” (N = 665)

Alternative answers	Proportion (%)
The ability to identify the suspect on the basis of the results of investigative actions	16.8
The ability competently to conduct investigative actions after the suspect has been identified	83.2
Total	100.0

Note: N is the number of investigators who answered the question concerned.

group regarded the ability to solve the crime—that is, identify the suspect—as the chief element in the professionalism of an investigator.

In Russia the investigator is first of all a bureaucrat and not a detective. He attaches much greater importance to the ability to prepare documents than to the ability to identify the culprit.

Question 6. Are Investigators Constantly Overloaded with Work?

An investigator processes several criminal cases simultaneously. His workload and work schedule are determined by the number of criminal cases. These are important characteristics of the investigator's daily work. The average investigator is in charge of 13.1 cases at any one time and is assigned 6.4 new cases each month. In practice, given the specific institutional features of the investigation in Russia, this work requires much more time than there is in the working day.

The majority of investigators are kept late at work: half of them stay late every working day and another 37.8 percent do so several times a week. Over a third of investigators go to work on days off every week and another half every two weeks.

Alongside the objective characteristics of the workload, another important factor is the amount of time spent in

Table 6

Answers to the Question “How Often Do You Work on Days Off?” (N = 673)

Alternative answers	Proportion (%)
All days off	33.6
Once every two weeks	53.8
Once a month	10.5
Less than once a month	1.5
Never	0.6
Total	100.0

Note: N is the number of investigators who answered the question concerned.

performing various tasks. The survey reveals the real schedule of work and rest followed by members of a given professional group. We see that investigators are constantly overloaded with work. To fulfill their duties they have to work almost without pause outside of working time and on days off. Moreover, this situation exists regardless of duty rosters. One-fifth of investigators are on duty several times a week and another 26.1 percent are on duty once a week, but many investigators (40.4 percent) are on duty only a few times a month.

The majority of investigators (58.2 percent) regard their workload as normal and 40.7 percent consider it high; just over 1 percent regard it as low. This may be interpreted as meaning that in principle, investigators accept the need to stay late at work and work on days off as an inseparable part of their profession. This is roughly how investigators themselves see it:

Free time, in principle, can always be found if everything is organized properly. In principle everything can be done in working time. To be kept an hour late is no problem. Two hours—well, it happens, on duty, for instance. Today someone was kept four hours late; you may have to sit there until ten, until midnight. That's the sort of service it is. There would always be time to rest if things were properly organized, but I think that it is always possible to find time to rest. That is to say, such issues have not arisen for me recently as they did at first. At first, yes, when I had only just arrived, if I had one or two days off every two or three weeks I was satisfied. That was considered enough. (Investigator)

The assessment of workload differs depending on age: the younger the investigator the more likely he is to regard his workload as normal. Leading investigators are more inclined to assess their workload as high (61.9 percent of leading investigators compared to 39.3 percent of rank-and-file investigators).

In the existing situation, an investigator does indeed spend much more time at work than his formal work schedule indicates.

Question 7. Does an Investigator Command a Crowd of Detectives?

In fiction books and movies—and, indeed, not infrequently in professional discussion—one encounters the image of the

Table 7

Answers to the Question “What Proportion of Investigative Actions Do You Assign to Detectives?” (N = 626)

Alternative answers	Proportion (%)
None	8.1
Under 25%	70.4
25–50%	17.7
50–75%	3.5
Over 75%	0.3
Total	100.0

Note: N is the number of investigators who answered the question concerned.

investigator whose assignments are carried out by a big team of detectives and who appears in effect as their leader, coordinator, and intellectual center.

A typical investigations section, usually serving a single administrative raion, consists of sixteen investigators assisted in reality by twelve operatives (we made a deliberate decision not to compare official numbers of staff posts but to ask investigators how many operatives really work in their raion). There are significant regional differences in this regard: the mean ratio of the number of operatives to the number of investigators is 0.88 (the median ratio is 0.75).

Perhaps this is why investigators conduct most investigative actions themselves: thus 70.4 percent of investigators assign fewer than a quarter of investigative actions to police detectives.

Thus there is on average less than one police detective for each investigator. And operatives have many other tasks besides fulfilling assignments given them by investigators.

Question 8. With Whom Do Investigators Communicate About Work?

An extremely important marker of the investigator’s work is how his professional interactions are organized in practice. The milieu

of his professional communications is a very good indicator of the essential character of his work and of the relative importance of his professional opposite numbers as partners.

Over the course of an ordinary week, investigators have their most frequent contacts with court officials: almost 40 percent of investigators are in contact with them every day (procuracy officials occupy second place: 16.7 percent of investigators communicate with them every day). Here it is important to understand that the court officials with whom investigators communicate are usually not judges but officials of the court apparatus. The investigator seeks their agreement on technical matters, brings them documents, and receives documents from them.

Investigators are rarely in contact with operatives. They meet attorneys about once a week. It is interesting to consider this in light of the fact that investigators spend about a quarter of their working time working with suspects or accused persons—contacts that have to take place in the presence of an attorney.

The picture for head of an investigative section is different. A larger proportion of them are in daily contact with court officials, but attorneys replace procuracy officials in second place. This may

Table 8

Answers to the Question “How Often Do You Communicate with Various Types of Personnel?”

Alternative answers	Every day	Several times a week	Once a week	Less often	Total
Procuracy officials	16.7%	18.4%	43.1%	21.8%	664
Personnel of operative police services	2.5%	2.5%	17.7%	77.2%	668
Other police personnel	5.2%	12.7%	40.2%	41.9%	659
Attorneys	8.8%	14.4%	51.8%	25.0%	660
Court officials	39.8%	29.1%	26.8%	4.4%	654

Table 9

Answers to the Question “With Whom Do Investigators Talk on the Telephone During Duty Hours?”

Alternative answers	Never	Usually not	Usually	Total
Procuracy officials	41.8%	43.6%	14.6%	594
Superiors of the operative on duty	35.4%	46.1%	18.6%	571
Local police chief	46.8%	42.5%	10.7%	562
Attorney on duty	23.4%	33.1%	43.6%	599
Judge on duty	49.3%	36.8%	13.9%	554

be connected with the fact that leading investigators examine attorneys’ complaints against rank-and-file investigators.

We have discovered a number of other regularities. Those investigators who consider that professionalism consists in the ability to competently conduct investigative actions after the crime has been solved have more frequent communications with procuracy officials. Conversely, those investigators who attach most importance to the ability to solve the crime communicate more frequently with operatives. Thus value orientations are closely correlated with the milieu of the investigator’s daily communication.

The question of initiating a criminal case or arresting a suspect often arises during duty hours. We asked investigators whom they usually talk with on the telephone during duty hours. It turned out that 43.6 percent talk with the attorney on duty during duty hours (i.e., when they go out to check crime reports and initiate criminal cases during these hours).

The main conclusion may be formulated thus: the milieu of the investigator’s professional communication is not the police but structures closer to the subsequent stages of the examination of the criminal case—the court apparatus, attorneys, and the procuracy.

Question 9. Do Investigators Have Any Independence?

One of the most important arguments in the Russian legal field of recent years concerns the independence of the investigator

(his procedural independence is a separate issue). To learn the extent to which the investigator himself makes decisions, we asked investigators with which of their colleagues and opposite numbers they discuss specific significant decisions. By analyzing the interviews and previous research we identified a number of key questions that investigators say they might discuss with leading and rank-and-file officials in various external structures:

- whether it is necessary or possible to arrest a person as a suspect;
- how to qualify the crime when initiating a criminal case;
- how to qualify the crime when presenting the indictment;
- how to complete the statistical card, which indicates qualification of the crime, result of the investigation, and the role of different units in solving the crime; and

Table 10

Answers to the Question “With Whom Do Investigators Discuss Specific Decisions?”

Alternative answers	Decision to arrest	Initial legal qualification of the crime	Legal qualification of the crime in the indictment	Completion of the statistical card	Stopping of the case
Procurator	28.1	15.9	20.5	4.7	7.9
Deputy procurator	31.8	26.9	40.5	7.5	13.1
Assistant procurator	4.1	2.6	4.4	1.2	2.3
Head of investigative body	93.7	9.3	92.4	54.1	85.1
Operative	11.0	2.0	0.8	4.3	3.7
Local police chief	10.9	2.4	0.6	2.8	6.1
Attorney	2.1	0.5	1.1	0.2	0.5
No one	1.7	7.5	4.1	39.1	13.9
Other	0.5	2.1	1.8	6.4	0.3
<i>N</i>	663	665	660	653	656

Note: *N* is the number of investigators who answered the question concerned.

- whether to suspend the investigation of a criminal case (usually when the crime has remained unsolved).

Summary data on the answers to these questions are shown below.

Let us draw the main conclusions. The head of the investigative department plays an enormous role: investigators discuss almost all decisions with him. His role is especially important in the making of the decision to arrest, the legal qualification (specification) of the crime in the indictment, the decision to suspend the investigation, and completion of the statistical card. The investigator's main opposite number in the procuracy is a deputy procurator—usually the deputy procurator responsible for oversight of investigations. Investigators discuss with him how to qualify (specify) the crime when initiating the criminal case more frequently than they discuss this type of decision with the head of the investigative department. The deputy procurator also plays an important role in reaching agreement concerning how to qualify the crime in the indictment, as does the procurator himself. Attorneys are not involved in decision-making negotiations. Police personnel—the operative and the local police chief—appear as interlocutors in decision making only with regard to arrest of the suspect. Here is what investigators themselves have to say about this:

Q: Do you need to interact with the procuracy?

A: Yes, of course.

Q: And what does this interaction consist in?

A: In the course of the investigation. When we finish sometimes we agree the qualification of the crime with the procurator. The final indictment. If this is necessary it's an extreme case. Well, when we have doubts (Investigator).

A: Why is it necessary? The procuracy directly supervises us, and we cannot leave them out when it comes to certain matters. Naturally, we consult with them on everything in advance, before conducting any investigative action, even before arresting the suspect.

We explain our arguments to them. In other words, we work closely with them. (Investigator)

A criminal case is initiated on the basis of the “material of the (pre-investigation) check.” We asked investigators a separate question about which of their superiors and opposite numbers read this “material.” From Table 11 we see that the head of the investigations section practically always reads the material of the check before a decision is made to initiate a criminal case. A procuracy official reads the material of the check in a quarter of instances. The local police chief or the head of an operative service plays a notable role.

In the interviews investigators generally focus on and give quite detailed descriptions of their contacts with the procuracy and with attorneys.

A: Well why? In the courts, let us suppose, we consult today when, let us suppose, [pause] there is a judgment by analogy. Yes, there is such a practice in some criminal cases. Our courts here have one practice; in [name of city] there is a different practice, so far as I know. You phone and you ask what will be convenient for our judge, what documents to collect, what to explain, what else is needed. Well, and we consult the procuracy—the assistant procurators, because they support the charge. (Investigator)

Table 11

Answers to the Question “Who Apart from You Usually Reads the Materials of the Check Before a Criminal Case Is Initiated?” (N = 662)

Alternative answers	Proportion (%)
Raion procurator	5.6
Raion deputy procurator for oversight of investigations	16.0
Assistant procurator	5.0
Head of investigative department	95.5
Head of an detective service	12.7
Local police chief	15.4
Operative responsible for the corresponding area of work	9.4

Note: N is the number of investigators who answered the question concerned.

A: I come to the procuracy with this material [of the check] and they sign to show their consent to initiation [of the criminal case]. Well, we used to get their consent, now we simply sign the cards. After this, let us suppose, in the course of the investigation, when I am already finished. I send the criminal case to the procurator. We may also send it to a deputy procurator. He either confirms or does not confirm the indictment . . .

Q: So with whom do you consult more?

A: Probably the deputy procurators. With those who confirm the indictment for us. They supervise us, as it were. The deputy procurators supervise all our investigative work. An assistant procurator supervises nothing, we turn to him mainly when the case is in court. Or you ask how the judicial investigation is going or, let us suppose, how something else is going there, whether there are any hitches. (Investigator)

In practice the investigator does not act as a separate player. On all key issues he consults with his superior and often also with procuracy officials. Those working on a case in fact constitute a team in which the investigator is the main executor but key decisions are made if not collegially then after serious consultations.

Notes

1. An inquiry official (*doznavatel'*) does essentially the same sort of work as an investigator (*sledovatel'*), but deals with cases of crimes that are less serious and as a rule relatively obvious (in which there is no need for lengthy and complicated efforts to identify the culprit and collect nontrivial evidence).

2. The neighborhood police also act as an inquiry body when they check a crime report and decide whether sufficient grounds exist to conclude that a crime has been committed and that it is necessary to initiate a criminal case.

3. L.V. Golovko, "Reforma politsii 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 goda*, comp. A.V. Smirnov and K.B. Kalinovskii (Moscow, 2012), p. 26.

4. The investigator in the Ministry of Internal Affairs has the same chief as the operative or precinct policeman—the local police chief (usually at the *raion* level). The investigator at the Investigations Committee and the MVD operative share the president as their ultimate chief.

5. A. Smirnov, *Rossiiskii ugovolnyi protsess: ot zakata do rassveta* (RAPSI, 2014). (http://rapsinews.ru/judicial_analyst/20141202/272697983.html; accessed June 2, 2015).

6. As a rule these are understood to be detectives, but in practice a significant role is played by precinct police and in certain categories of cases by employees of the Main Directorate of Road Traffic Safety or the Patrol and Post Service.

7. *Kak sud'i prinimaiut resheniia: empiricheskie issledovaniia prava*, ed. V.V. Volkov (Moscow, 2012).

8. E.L. Paneiakh, M.L. Pozdniakov, K.D. Titaev, et al. *Pravookhranitel'naia deiatel'nost' v Rossii: struktura, funktsionirovanie, puti reformirovaniia*, ed. V.V. Volkov and E.L. Paneiakh; Institut problem pravoprimeneniia, *Diagnostika raboty pravookhranitel'nykh organov RF i vypolneniia imi politseiskoi funktsii*, Part 1 (2012). (www.enforce.spb.ru/images/Fond_Kudri/na/irl_pravookhrana_part_1_final_31_12_ich.pdf; accessed June 2, 2015). See also: V.V. Volkov A.V. Dzmytrieva, E.N. Moiseeva, E.L. Paneiakh, et al. "Concept for Comprehensive Organizational and Managerial Reform of the Law Enforcement Agencies of the RF", in *Statutes and Decisions*, vol. 48, no. 5, September–October 2013, pp. 5–91.

9. M.S. Shkliaruk, "Rossiiskii ugovolnyi protsess kak sistema fil'trov: dosudebnye traektorii i otbor ugovolnykh del na primere MVD," in *Obvinenie i opravdanie v postsovetskoii ugovolnoi iustitsii: sb. st.*, ed. V.V. Volkov (Moscow, 2015), pp. 155–83.

10. V. Volkov and T. Titaev, "Lish' 8% obviniaemykh gotovy borot'sia za svoe dobroe imia," *Vedomosti*, February 28, 2013 (www.vedomosti.ru/opinion/articles/2013/02/28/zavedomo_vinovnye; accessed June 2, 2015; registration may be required).

11. E. Paneiakh, "Transaktsionnye efekty plotnogo regulirovaniia na stykakh organizatsii: Na primere rossiiskoi pravookhranitel'noi sistemy," *Politiia*, 2011, no. 2(61) (www.politeia.ru/content/pdf/Politeia_Paneyah-2011-2.pdf; accessed June 2, 2015).

12. M.S. Shkliaruk, *Traektoriiia ugovolnogo dela v statistike: na primere obobshchennykh dannykh pravookhranitel'nykh organov* (Institut problem pravoprimeneniia, 2014) (http://enforce.spb.ru/images/Issledovaniia/2014/IRL_2014.04_MShklyaruk_Trajectory-of-Criminal-Case.pdf).

13. M. Shkliaruk, D. Skugarevskii, A. Dmitrieva, I. Skifskii, and I. Begtin, *Kriminal'naia statistika: mekhanizmy formirovaniia, prichiny iskazheniia, puti reformirovaniia: issledovatel'skii otchet* (St. Petersburg and Moscow, 2015) (http://enforce.spb.ru/images/Staff/Crimestat_report_2015_IRL_KGI_web.pdf).

14. J. Eisenstein and H. Jacob, *Felony Justice: An Organizational Analysis of Criminal Courts* (Boston: Little Brown, 1977).

15. See Shkliaruk, *Traektoriiia ugovolnogo dela*.

16. The borderline between investigation and inquiry in Russia is very reminiscent of the American division of crimes into felonies and misdemeanors. By and large, a person without prior convictions who has committed a

misdeemeanor (or a crime in a case investigated in the form of an inquiry) hardly ever receives a punishment involving real deprivation of freedom.

17. “Sostoianie prestupnosti ianvar’-dekiabr’ 2011 goda,” MVD RF, February 20, 2012 (<http://mvd.ru/upload/site1/import/c47a38e0d6.pdf>).

18. These figures are taken from the Web site of the Unified Interdepartmental Information-Statistical System (www.fedstat.ru). For a detailed description of the data and summary data by department, see M.S. Shkliaruk, *Traektoriiia ugolovnogo dela v ofitsial’noi statistike. Analiticheskii obzor*, ed. K.L. Titaev and E.L. Paneiakh (St. Petersburg: Institut problem pravoprimereniia, 2014), pp. 8–9.

19. The four grounds for suspending a preliminary investigation are: (1) failure to identify a culprit or suspect; (2) failure to establish the whereabouts of the culprit or suspect because he has gone into hiding or for some other reason; (3) the infeasibility of the participation of the culprit or suspect in a criminal case even though his whereabouts are known; and (4) the temporary grave illness of the culprit or suspect.

20. For a more detailed account of other decisions, see M. Shkliaruk and E. Paneiakh, “Sistema ne fil’truet: Skol’ko ugolovnykh del otseivaetsia na rannikh stadiiakh,” *Vedomosti*, April 25, 2013 (<http://enforce.spb.ru/publikatsii-sotrudnikov/mi-v-smi/5948-m-shklyaruk-e-panyakh-extra-jus-sistema-ne-filtruet-skolko-ugolovnykh-del-otseivaetsya-na-rannikh-stadiyakh>).

21. For a more detailed discussion of official statistics and their interpretations and limitations, see Shkliaruk, *Traektoriiia ugolovnogo dela v statistike*.

22. All the interviews, the questionnaire survey, and the initial analysis were conducted with the support of the Committee for Civil Initiatives (Kudrin Foundation for the Support of Civil Initiatives). The detailed analysis and interpretation of the data were conducted within the framework of the project “Sociological Investigation of the Legal Profession in Russia,” with the support of the Russian Scientific Foundation (Grant No. 14-18-02219).

23. A. Dmitrieva, M. Pozdniakov, and K. Titaev, *Rossiiskie sud’i: sotsiologicheskii issledovanie professii*, ed. V. Volkov (Moscow: Norma, 2015) A. Dmitrieva, M. Pozdniakov, and K. Titaev, *Rossiiskie sud’i kak professional’naia grupa: sotsiologicheskoe issledovanie*, ed. V. Volkov (St. Petersburg: IPP EU SPb, 2012).