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**CRIMINOLOGICAL CHARACTERISTICS OF THE PERSONALITY
OF A MILITARY SERVICE MEMBER CRIMINAL**

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Abstract

The article deals with the theoretical and legal foundations of the concept of personality of a military service member criminal. Analysis of existing approaches has shown that the personality of such criminals has a socio-psychological, socio-economic, and moral basis. On the basis of the studied theoretical approaches, as well as the collected factual material, the author concludes that a military service member criminal is a poorly developed person with an unstable psyche, well developed physically, occupying a leading position in an informal army structure (or seeking to), with experience of aggressive behavior and violence. A criminal from the command staff is an established person, often of a choleric temperament, with experience of aggressive behavior and violence, indifferent to the fate of subordinates and the army in general, putting their interests above all else. The leading types of crimes committed by both privates and command staff are shown on the basis of examples from judicial practice. It has been determined that criminals have a close connection with civil life and society living environments. The solution to the problem is seen in a comprehensive analysis and prediction of socio-economic, spiritual, moral, and psychological issues of society and the army. It is important to overcome problems such as corruption and low professional training of military personnel.

Keywords

Military law – Special subject – Personality of a criminal

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Introduction

The study of the criminological characteristics of the personality of a military service member criminal is of great importance for the study of criminal aspects of crime in modern armed forces, especially in developing countries. This confers the possibility to conduct a comprehensive analysis of the causes and conditions of the offense, the formation of motivation and motive for the offense, and, finally, its commission, resulting in the ultimate outcome, as well as to determine actions to identify and prevent the circumstances and conditions of the offense. Criminology, as an important part of applied legal science, is the basis for the investigation and prevention of any crime, including those committed by military members. Today, there are numerous associations and societies of criminologists¹, scientific publications are published, and laboratories and research institutes of criminology function². Complex scientific research is conducted³ and the history of criminology is also the subject of analysis by specialists. Due to the development of criminal investigation technique, there are numerous studies related to its use⁴. We agree that "the pathway to impact requires criminologists to interpret more fully the inter-relationships between criminal justice as (1) political strategy; (2) institutional performance; and (3) embedded practice. Only by acknowledging the potential for dissonance between these dimensions, the discipline can evolve a praxis that is theoretically informed, sensitive to political, spatial and temporal context as well having the highest potential for real-world transformation"⁵. The criminological analysis of crimes committed by military personnel is also based on the achievements of world criminological science. At the same time, the applied nature of criminological science makes it necessary to involve specific materials related to the crime in analysis, including by military personnel. The personality of a military member carries the features of the social environment that they represent. An integrated approach to the problem will help identify the main criminological characteristics of a military member who committed a crime, determine the main directions for their prevention, and facilitate the exchange of experience between countries and the further development of this important branch of criminology.

The purpose of this article is to determine the specific criminological features of a military member criminal, based on the nature of the crime committed and the prerequisites and conditions, in which it was realized. For this purpose, both factual material and the results of modern scientific research were used.

Methods

The conceptual basis for the collection of materials on the topic and their subsequent analysis at the theoretical and applied level comprised the results of research on forensic theory and technology and forensic methodology and tactics, including in the

¹ R. J. Berger, "Not all criminologists were sleeping: a sympathetic rejoinder to John Hagan", *The Criminologist: The Official Newsletter of the American Society of Criminology* Vol: 41 num 1 (2016): 9-10.

² Ch. Reasons, "The Life Course of American Criminology and Criminologists: Some Observations. *The Criminologist*", *The Official Newsletter of the American Society of Criminology* Vol: 41 num 2 (2016).

³ V. Mcdermid, *Forensics: The Anatomy of Crime* (Moscow: Alpina Non-fiction, 2016).

⁴ B. Fakiha, "Technology in Forensic Science", *The Open Access Journal of Science and Technology* num 7 (2019).

⁵ L. McAra, "Reflections on the Politics, Performance and Effects of Criminal Justice", *The British Journal of Criminology* Vol: 57 num 4 (2017): 767.

military sphere⁶. Due to the complexity of this social phenomenon, a comprehensive, systematic approach is required to analyze the personality of a military service member criminal, in addition to analyzing the specific facts of crimes and the criminological characteristics of persons who commit them. First of all, it should be noted that the military is a *special subject* with its features and characteristics⁷. A mismatch of features that characterize the subject of a crime and the grounds referred to in the content of specific articles of the criminal law excludes liability for this article. The criminal legal literature classifies features that characterize *special subjects*. Article 327 of the Criminal Code of the Republic of Azerbaijan lists the main subjects of military service (military personnel required for military training, persons with the status of military personnel). Articles 328-353 list the subjects of certain types of crimes against military service. For example, the content of Article 339 indicates that the subject of the crime referred to in this article can only be a military member included in boundary order or implementing other duties of boundary service. The content of Article 341 suggests that the subject of the crime referred to in this article may be a chief or official of authority or service position⁸.

Articles 328-353 specify the subjects of certain types of crimes against military service. For example, the content of Article 339 indicates that the subject of the crime referred to in this article can only be a military officer implementing boundary service.

It should be noted that the following two types of crimes committed by military personnel are distinguished in the legal literature:

- crimes against military service committed by military personnel as special subjects;
- common crimes⁹.

The personality of a military service member criminal is determined by such specific features as a commitment to interpersonal relationships in a closed social group, strict regulation of daily life, need to risk their life under certain conditions, strict adherence to the principle of self-restraint, hierarchical relationships between management and subordination, and, as a rule, a narrow framework of cultural choice, significant daily physical and psychological load, "nomadic" lifestyle, etc. Along with this, there are specific personality traits of a military member criminal and a commander (chief) criminal in the conditions of conscription¹⁰. The issues of the criminal military personality are examined on the basis of a study of the legal framework and specific facts of crimes taken from documentary sources. This work was carried out in 2008-2016 in Baku. The analysis of documents of military courts and the military prosecutor's office was carried out to identify the main criminological features of military member criminals (Archive of the Baku Military Court, 2008-2016).

⁶ R. Jamieson, *The Criminology of War*. Routledge, 2017. Available at: <https://www.taylorfrancis.com/books/e/9781315086859>

⁷ Constitution of the Republic of Azerbaijan (Baku: "Legal literature", 2012).

⁸ Criminal Code of the Republic of Azerbaijan (Baku: "Legal literature", 2013).

⁹ D. Bessner y E. Lorber, "Toward a Theory of Civil-Military Punishment", *Armed Forces & Society* Vol: 38 num 4 (2012): 649–668; D. Snowden; Ch.P. Salas-Wright; S. Oh y M. G. Vaughn, "Military service and crime: new evidence", *Social Psychiatry and Psychiatric Epidemiology* Vol: 52 num 3 (2017) y D. A. Schlueter, *Military Justice: Practice and Procedure* (7th ed.). 2008.

¹⁰ S. Anitha y K. Strudwick, *Public Criminologies: Community, Conflict and Justice*. British Society of Criminology, 2019. Available at: https://academic.oup.com/bjc/pages/public_criminologies_vi

Results

Researchers on the criminological data of military member criminals. There are numerous studies on the criminological characteristics of military member criminals, where such qualities are characterized by the socio-economic, administrative-legal, socio-psychological, and political points of view^{11,12}. All this indicates the complexity of this phenomenon, which should be investigated in specific circumstances and conditions.

P.S. Danilov considers the existing classification of a military member criminal's personality inadequate, emphasizing the need to analyze the characteristics of the offender from the number of conscripted and military personnel during contract military service¹³.

Analyzing the characteristics of the personality of a conscripted military member who committed a crime, it should be noted that military personnel in this category are more likely to commit crimes¹⁴. Statistics also confirm this. For example, in 2005, 1,621 of 2,198 (73.7%) military personnel who committed crimes were soldiers and sailors who served active duty¹⁵. The analysis of criminal cases in the Baku Military Court also gives a similar result. Thus, 333 criminal cases were considered in the Baku Military Court in 2007-2013. Forty-seven (11.5%) of the 408 convicted were officers, 27 (6.6%) – warrant officers and passed midshipmen, 35 (8.6%) – junior officers, 27 (6.6%) v cadets, and 272 (66.7%) – soldiers and sailors of active military service¹⁶.

Researchers usually characterize the personality of a military member criminal's on active military service based on the following indicators¹⁷:

- limit of active age (18-21) from the point of view of criminogenicity and the trait of aggressive behavior characteristic of this age;
- completely unformed, unstable psyche;
- dependence of the unformed psyche on numerous objective and subjective factors (for example, difficult conditions of service, non-authorized interpersonal relationships, etc.);
- getting pleasure from risky actions in dangerous conditions by a young person;
- low level of education and upbringing as a result of negative socio-economic conditions of life in the preinduction age;
- illegal behavior in the preinduction age;
- experience with alcohol and drugs;

¹¹ International Criminal Law Guidelines: Command Responsibility, Case Mapping, Selection and Prioritisation Case Analysis. Center for International Law Research and Policy. 2016.

¹² R. Cryer, *An Introduction to International Criminal Law and Procedure* (Cambridge: Cambridge University Press, 2014).

¹³ P. S. Danilov, "The subject of crimes against military service", *Bulletin of the Omsk University. Series "Law"* num 2 Vol: 51 (2017): 190-192.

¹⁴ A. V. Luptakov, "Actual problems of qualification of crimes against military service", *Domestic jurisprudence* num 5 VI: 30 (2018): 15-23.

¹⁵ Statistical data on crimes committed by military personnel in the Armed Forces of the Republic of Azerbaijan, other troops and military units (Baku, 2007).

¹⁶ Archive of the Baku Military Court. Some of the criminal cases were investigated in 2007-2013 (333 criminal cases). Available at: <https://courts.gov.az/az/bakumilitary>

¹⁷ V. E. Eminov y I. M. Matskevich, *Crime of military personnel (historical, criminological, social and legal analysis)* (Moscow: Penates-penates, 1999): 155-156.

- limited spiritual needs and interests;
- inability to objectively assess one's actions, as well as see the results of the offense and objectively assess its public danger;
- limited, low level of legal thinking, lack of unambiguously law-abiding attitude to the requirements of the law;
- desire to be represented in informal structures and to lead in them;
- desire to show good physical fitness and strength, the dominance of primitive household skills;
- emotional instability, short temper, aggressive behavior that is not justified;
- neglect of duties in military service, etc.

The nature of military crimes. Judicial practice shows that the main victims of military crimes or cases of unresolved interpersonal or intra-group conflicts are military personnel on active military service (*in most cases, this is manifested in desertion from a military unit or the place of service, evasion of military service by harming their health, or in other ways*). For example, the Baku Military Court examined 189 of 272 people who were found guilty of various crimes involved in 221 criminal offenses committed by soldiers and sailors who were in military service during in 2007-2013: Article 127 of the Criminal Code (causing average harm to health with intent) – 1 person; Article 128 (causing harm to health with intent) – 2 persons; Article 150 (sexual violence) – 6 persons; Article 151 (sexual coercion) – 1 person; Article 330 (violent actions against a commanding officer) – 6 persons; Article 331 (insult, injury, or torture of a military member) – 31 persons; Article 332 (infringement of authorized rules on mutual relations between military members not subordinate to each other) – 142 persons. The following most common types of crimes are among these acts related to violence, in some cases directly related to these crimes: Article 333 (unauthorized leaving of a military unit or place of service) – 42 criminal offenses; Article 334 (desertion) – 11 criminal offenses; Article 335 (evasion of military service by causing harm to health or in a different way) – 13 criminal offenses¹⁸. Along with the foregoing, crimes perpetrated by military members on the basis of greed are widespread. In some cases, such crimes involve kidnapping or extortion of money or other property of military personnel, theft of money or other property of military personnel and civilians, etc. For example, in the Baku Military Court in 2007-2013, 272 persons involved in 221 criminal cases committed by military personnel were prosecuted for various crimes against property: Article 177 (theft) – 27 persons; Article 178 (fraud) – 4 persons; Article 182 (extortion) – 4 persons¹⁹. In many cases, crimes are committed by conscripts of active military service in conjunction with other categories of military personnel, as well as with the participation of civilians. For example, soldier "I" of the military unit "N" forms a group with persons "Q" and "A" and steals 28 sets of men's suits costing 4,555 manats, 11 shirts with a total value of 275 manats, and 10 pairs of men's trousers costing 250 manats from the "Istanbul Clothing World" store located on the first floor of Aliev Street, 247, etc. According to the verdict of the Baku Military Court dated May 29, 2008, they were sentenced to various types of criminal punishment for committing the crimes specified in Articles 177.2.1, 177.2.2, 177.2.3, and 177.2.4 of the Criminal Code of the Republic of Azerbaijan²⁰.

¹⁸ Archive of the Baku Military Court. Some of the criminal cases were investigated in 2007-2013 (333 criminal cases). Available at: <https://courts.gov.az/az/bakumilitary>

¹⁹ Archive of the Baku Military Court. Some of the criminal cases were investigated in 2007-2013 (333 criminal cases). Available at: <https://courts.gov.az/az/bakumilitary>

²⁰ Archive of the Baku Military Court. Article 1 (093) -69/2008 of May 29, 2008. Available at: <https://courts.gov.az/az/bakumilitary>

Usually, such crimes are committed for various reasons (to possess pocket money, to possess certain property (for example, a phone), to pay off older soldiers and sergeants, that is, to get rid of their constant pressure, etc.)²¹.

Motivation of egoism and jaundice, accompanied by the desire to use everything, is typical of any crime committed by military personnel on active military service. This motivation is not only the desire to illegally acquire material values (although it exists) but also a sense of power over people with the great desire to force others to do all the dirty work (for example, clean toilets). Consequently, the personality of a active military member is characterized by extreme asociality, formation of antisocial behavior, extreme egoism, tendency to immediately act on spontaneous desires, primitivism, and cynicism, as well as psychological traits associated with violence²².

Personality patterns of military member criminals. Yu.M. Antonov and V.Yu. Eminov, who characterize the personality of a criminal serving active duty, consider it expedient to divide them into the following types: 1) random criminals – when the crime is caused by an inadequate response to suddenly disturbing conflict conditions; 2) stable (permanent) criminals – those who are characterized by a constant aggressive orientation and stereotypes in the use of brute force; 3) cruel (deliberate) criminals – those who consider aggressive behavior to be the norm²³.

It can be added that the main personality patterns of a military who is prone to committing violent crimes are their loneliness in the military team and isolation from the external environment. Loneliness, in turn, complicates the perception of social norms that regulate interpersonal relationships, increases their sense of self-satisfaction, forms a negative attitude to the environment, creates hostility towards the social environment, and brings them closer to their kind. They lose the ability to feel the emotional state of another person (empathy).

It should be noted that in many cases, the investigating authorities are not interested in determining crimes of unauthorized abandonment and desertion on the basis of harsh conditions, including violence, i.e. in the case of "hazing" in a military unit or at the place of service. Detection of such cases indicates a low level of discipline and requires the punishment of the commander of the military unit. Due to a large number of criminal cases, the investigating authority during the investigation seeks to expedite the cause to court without serious efforts to conduct full, comprehensive, and objective investigation of the crime and, consequently, avoid the possibility of a criminal case following Article 333 of the Criminal Code of the Republic of Azerbaijan. A soldier is sentenced to prison and the armed forces lose another soldier. Thus, the criminal remains unpunished and the greatest evil is that the principles of equality and justice are violated, which, in turn, creates conditions for the commission of new crimes. It is worth emphasizing that Article 214.2.3, i.e. the investigation of criminal offenses in the territory of military units or military institutions of the Armed Forces or against military service, was transferred to investigators of the relevant structures and was added to the Criminal Code of the Republic of Azerbaijan by the Law of the Republic of Azerbaijan No. 1036-IIIQD of June 18, 2010. This

²¹ S. Kh. Azizov, Subject and judicial jurisdiction of crimes against military service. De Jure, 2019. Available at: <https://dejure.az/az/article/>

²² Yu. M. Antonov y V. E. Eminov, The identity of the offender. Criminological and psychological research (Moscow: Norm: Infra-M, 2010).

²³ Yu. M. Antonov y V. E. Eminov, The identity of the offender...

has led to a positive change in the situation, but the problem has not yet been fully resolved.

Personality patterns of criminals among the command staff. The personality of criminal commanders and superiors (officers, midshipmen, and long-term military personnel) is determined mainly by the characteristics of their personal and professional qualities. They are the basis of the Armed Forces because they are professional soldiers. The readiness of military units for combat largely depends on the level of command and readiness of leaders, their attitude to the service.

In contrast to criminals among conscripts, the personality of criminal commanders, depending on the crimes they commit, has different characteristics.

Their mature age shows that the process of forming the personality of commanders and chiefs is psychologically completed. In comparison with other military personnel, they have a higher social status (as a rule, they do not live in barracks, freely use their leisure time, can more actively take advantage of the opportunity to choose a military position and place of service, their actions and behavior do not have such restrictions as military service, etc.)²⁴.

Crimes committed by them pose the most danger to the public. The range of crimes committed by commanding military leaders is wider and the social consequences of these crimes are very serious since they cause serious military and material damage to the army. The fact that the leaders of the Armed Forces have direct access to the types of security (cash, clothing, various household items, services, food, ammunition, etc.) makes it easier for them to commit a crime. This is why the personality of a commander is of great interest to the criminal community. It should be noted that the criminogenic state of military units and associations largely depends on how the commander and superiors perform their duties, how they behave in relation to subordinates and how they relate to the training and education that must be conducted with subordinates²⁵.

Discussion

Summarizing the opinions of researchers who analyzed the criminological characteristics of military member criminals, it is possible to assume that the following features are characteristic of the personality of criminals among commanders and superiors²⁶.

- mature age –older than 21 years, which confirms the fact of a person's formed personality in psychological terms;

- existence of aggressive and violent experience during the previous period of service, a low level of general and legal culture, expressed in a rude style of behavior and deliberate offenses;

²⁴ V. N. Kudryavtseva y V. E. Eminova. *Criminology: Textbook*. 4th ed., Revised. and add. (Moscow: Norma, 2009).

²⁵ S. Anitha y K. Strudwick, *Public Criminologies: Community, Conflict and Justice*. British Society of Criminology, 2019. Available at: https://academic.oup.com/bjc/pages/public_criminologies_vi

²⁶ P.S. Danilov, "The subject of crimes against military service", *Bulletin of the Omsk University. Series "Law"* num 2 Vol: 51 (2017): 190-192; V. E. Eminov y I. M. Matskevich, *Crime of military personnel...* y S. Anitha y K. Strudwick, *Public Criminologies: Community...*

- loss of dignity in behavior and professional habits inherent in military service, as a result of participation in economic affairs and other activities not related to military service;
- transfer, as a result of low psychological and pedagogical readiness, of a significant part of their professional load (for example, socio-political and physical training) to military personnel of urgent active military service and, thus, creation of the ground for negative cases called "hazing";
- habit of taking alcoholic beverages or drugs;
- fear of responsible decision-making and execution of only direct claims of the chief (even if they are illegal);
- arrogance in behavior; in each case, it is accompanied by rudeness and offensive behavior towards subordinates, including military personnel during long-term military service, even for minor offenses;
- greed, avarice, and indifference to the fate of those who are under their control;
- corruption, criminal association with corrupt senior officials of civil organizations, involvement in criminal activities of military personnel, including military personnel during long-term military service;
- contact with the criminal world, including organized crime.

Some of these qualities (with the exception, for example, of cases involving illegal trafficking in alcohol and drugs and criminal associations, including links to organized crime) are to some extent characteristic of criminal individuals among military commanders of the Armed Forces of the Republic of Azerbaijan.

The characteristics of criminal commanders and superiors are determined by the nature of their crimes and the degree of their public danger²⁷. However, the criminological analysis of military member criminals differs among several researchers due to different periods of research, their nature and purpose. This includes the psychological and pedagogical aspects²⁸, general social reasons and conditions for committing a crime²⁹, analysis of crimes in war conditions in certain regions of the world³⁰, etc. We substantiate the idea that in developing countries with a relatively young army and a newly emerging military status, the nature of the crimes committed is directly related to the economic and political conditions of development, as well as the legacy of the previous stage of development. Our conclusions are illustrated by the example of a developing country such as Azerbaijan, which plays a special role in the development of the region and relations with neighboring countries.

²⁷ Archive of the Baku Military Court. No. 1 (093) -8/2013, filed February 11. Available at: <https://courts.gov.az/az/bakumilitary>

²⁸ A. I. Shilov y R. V. Kilimbaev, "Kriminologicheskaya kharakteristika neokonchennykh prestuplenii, sovershaemykh voennosluzhashchimi", *Psikhopedagogika v pravookhranitelnykh organakh* num 3 Vol: 50 (2012): 61-64.

²⁹ Z. R. Fargiev, "Kriminologicheskie i viktimologicheskie faktory, obuslavlivayushchie sovershenie prestuplenii voennosluzhashchimi", *Molodoi uchenyi* num 11 (2017): 380-387.

³⁰ R. C. Kramer y D. J. Michalowski, "War, Aggression and State Crime: A Criminological Analysis of the Invasion and Occupation of Iraq", *British Journal of Criminology* Vol: 45 num 4 (2005).

In particular, the judicial practice of Azerbaijan indicates that fraud (Article 178), embezzlement or extortion (Article 179), reception of a bribe (Article 311), service forgery (Article 313), insult, injury, or torture of a military member (Article 331), unauthorized leaving of a military unit or place of service and desertion (Articles 333 and 334), abusing authority, excess or inactivity of authority (Article 341) are the most common crimes.

For example, 97 people in 109 crimes committed by military personnel and commanders of military units involved in 95 criminal cases reviewed under the supervision of the Baku Military Court in 2007-2013 were found guilty of committing the above actions: Article 178 – 9 persons; Article 179 – 14 persons; Article 311 – 4 persons; Article 313 – 12 persons; Article 331 – 24 persons; Article 333 – 18 persons; Article 334 – 7 persons; Article 341 – 9 persons³¹.

Apparently, a significant part of the convicts were persons who committed a crime (39 persons) in virtue of greed.

It should be noted that the presence of such negative feelings as greed, avarice, desire for easy money, loss of the elementary functions of internal social control, complete indifference to the fate of subordinates, and so on, are typical for the personality of commanders and chiefs who commit a crime of greed. It should be noted that criminal commanders and superiors in some cases create criminal groups of their subordinates and even civilians to achieve their desires and commit various serious crimes. For example, the military commissar of the district department "N", colonel "A", the head of the 2nd department of this commissariat, the colonel-lieutenant "I", the head of the 4th department, captain "T", the chairman of the military-medical commission appointed by the head of the district executive power, a member of the draft board "E", and another civilian "B" created a group to commit various criminal offenses (*large-scale bribery, official fraud, abuse of power*).

Colonel "A" and other members of the criminal group were convicted under Articles 311.3.1, 311.3.2, 311.3.3, 312.2, 313, 318.1, 325, 326.2, and 341.2.1 of the Criminal Code of the Republic of Azerbaijan and were sentenced to various terms of imprisonment on guilty verdicts by the decision of the Baku Military Court of February 11, 2013. The materials of this criminal case give grounds to assert that one of the reasons for serious offenses is related to the shortcomings of the personnel policy. The convicted captain "T" was previously convicted under Article 333.4 of the Criminal code of the Republic of Azerbaijan and sentenced to 3 years of imprisonment based on Article 70 of the Criminal Code of the Republic of Azerbaijan by the decision of the Terter Military Court of February 23, 2011. The punishment imposed was due to the provision of a one-year probationary period³². The officer who left the military unit in service without permission on the battlefield, for inexplicable reasons, was later appointed to a responsible position in the military commissariat system. They committed a more serious crime on their new post as a logical consequence of this unacceptable personnel policy³³.

³¹ Archive of the Baku Military Court. Some of the criminal cases were investigated in 2007-2013 (333 criminal cases). Available at: <https://courts.gov.az/az/bakumilitary>

³² A. V. Luptakov, "Actual problems of qualification of crimes against military service", Domestic jurisprudence num 5 Vol: 30 (2018): 15-23.

³³ Archive of the Baku Military Court. Some of the criminal cases were investigated in 2007-2013 (333 criminal cases). Available at: <https://courts.gov.az/az/bakumilitary>

Conclusions

Thus, based on the foregoing, we come to the conclusion that the commission of a crime on the part of military personnel is associated with mental immaturity and an unstable neuropsychic state in urgent military service. However, they are physically well developed and often are informal leaders in the military structure or striving to be ones. This is a person who has experience of aggression and violence. Criminals from among the command and control staff are people who have already been formed as a person, in many cases having experience of aggression and violence, neglecting subordinates and the army in general, and putting their interests above all else. Age as a selective element is an important factor in crime, including military crime. Problems of inappropriate behavior in soldiers occur both at the beginning and at the end of military service. They are mainly associated with poor integration of the individual, previously existing chronic problems of close relatives, as well as with the incorrect organization of the soldier's service in the unit due to inadequate leadership.

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