

# Criminalistic and criminological features of overcoming counteraction to the investigation of crimes. Stages and chronology of mass riots based on the materials of the Republic of Kazakhstan.

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**Annotation.** The subject of this study is the description and study of mass riots that took place in the Republic of Kazakhstan. The chronology of mass riots is investigated, the mechanism of crimes committed and their stages are described, the types and classification of ways to counteract the investigation of crimes are determined, as well as methods and means of overcoming counteraction to the investigation of crimes.

**Keywords:** criminalistics, mass riots, the mechanism of committing a crime, stages of the mechanism of committing crimes, forensic support, counteraction to the investigation of crimes, types and classification of methods of counteraction, overcoming counteraction, methods and means of overcoming counteraction to the investigation of crimes

The collapse of the Soviet Union began with the signing of the Belovezhskaya Agreements on December 8, 1991 and the Alma-Ata Declaration on December 21, 1991, the documents of which established a confederate union of most of the former Soviet republics in the form of the Commonwealth of Independent States. On December 25, 1991, the President of the USSR Mikhail Gorbachev resigned, and on December 26, 1991, the Council of Republics of the Supreme Soviet of the USSR adopted a declaration on the termination of the existence of the Union of Soviet Socialist Republics.

The processes of systemic disintegration in the social structure, national economy, socio-political and state structure of the country have entailed a lot of catastrophic problems that are increasing every day. The economic and social crisis has generated a lot of conflicts in the republics, including on the basis of interethnic, ethnic, religious and social discord: the conflicts in Nagorno-Karabakh, the Georgian-Abkhaz and Georgian-South Ossetian conflict, the conflict of Transnistria, including on the territory of Western Kazakhstan, the so-called "Junior Zhuz", etc.

All of the above actions have dramatically increased the number of crimes committed. Along with crimes against the life and health of citizens, crimes against public order and security began to pose a serious threat, which almost never happened in our huge country, and if it did happen, these were isolated cases, and they certainly were not widespread and massive.

For example, only "in the territory of the Russian Federation at the beginning of the XXI century. for crimes motivated by national and religious hatred, for organizing mass riots, more than 3 thousand criminal cases were initiated and considered by the courts, about 20 thousand people were brought to criminal and administrative responsibility" [5].

The issue under study is a very urgent problem for the state and society. He sets before the scientific community "the tasks of investigating these facts, investigating the specifics of the methods used to prepare, directly commit, conceal such crimes, studying the mechanisms and forms of countering the investigation of crimes, and, accordingly, developing and applying ways to overcome the counteraction to the investigation of these crimes" [5].

We will consider and analyze as much as possible the ongoing processes of mass riots that took place at the beginning of this year in the Republic of Kazakhstan. Let's consider the stages and chronology of the events of mass riots, the formation and description of the mechanism of crimes committed, describe the structural elements and consider the model of the mechanism of crimes, identify possible types of counteraction to the investigation of crimes and classify the methods of counteraction, as well as determine methods of overcoming counteraction to the investigation of crimes.

The Republic of Kazakhstan has always been considered a politically stable and economically prosperous state throughout the post-Soviet space. Kazakhstan, with a total population of over 19 million people, ranks 9th in the world in terms of territory and second among the post-Soviet countries after Russia.

Historically, Kazakhstan is divided into three Zhuzes (kaz. Uly Zhuz), which are formed on the basis of tribal associations. Zhuzes are a specific form of socio-political organization of the Kazakh nationality.

Senior Zhuz (kaz. Uly Zhuz), is the south of the country, the Middle Zhuz (kaz. Orta zhuz) is the center and the Northeastern part of the country and the younger Zhuz (kaz. Kishi Zhuz), it is the western part of Kazakhstan [18]. For your information, despite the rather large territory and the rapidly growing population of the junior Zhuz, it is practically not represented in any way in the state governing bodies, which, according to many analysts, was the first prerequisites for unrest and protests.

As stated by Kazakh officials, more than 20 thousand armed militants were sent to the country in January 2022, which in itself is questionable, but the fact is that the processes of the attempted armed coup were managed by radical Islamists.

During the fighting in the Middle East, thousands of citizens of Kazakhstan, mostly Uighurs [19], participated in them on the side of terrorists. After the defeat of the ISIL Islamist organization banned in Russia [20], many terrorists began to return to their homeland, including Kazakhstan. Moreover, since 2018, the "Zhusan" program has been operating on the territory of the republic with the task of re-educating returned fighters from ISIS, over the past three years there have been more than 800 of them. 22 thousand non-profit organizations are registered and operate on the territory of Kazakhstan, of which two or three are directly financed from abroad. This, in our opinion, was the main reason and prerequisite for organizing and launching mass riots with the aim of overthrowing the current President and Parliament.

"For a few days in January (2020 approx. ours.) Kazakhstan has experienced a large-scale crisis. It has become the heaviest in the entire thirty-year history of independence" [21], President Kassym-Jomart Tokayev said about the beginning of the year in the state.

Street clashes have begun in the capital, mass attacks on the police and military, looters smash everything that gets in their way, including those shops and objects of participants of mass riots or who supported them. The opposition takes responsibility for the bloody events on the streets of Kazakhstani cities and the attempted coup. The leaders of these outrages carried out management from abroad, without actually being on the territory of the country. Spontaneous riots literally turn into an absolutely organized, armed rebellion in a few hours. According to the laws of the "Ukrainian Maidan", a war with monuments and the seizure of state institutions began.

Protest demonstrations took place regularly in Kazakhstan, more than one and a half thousand have been registered in the last three years alone, but they were all absolutely peaceful. The events we are considering took place in a completely different, radical form. Hundreds of dead, thousands injured and enormous economic damage.

Almost synchronously, simultaneously, within one day, protests began in eleven regions of the country. It is quite convincing, on the one hand, and quite strange for observation and analysis on the other hand, that only the capital of Kazakhstan, according to official statements of the country's authorities, was attacked by more than 20 thousand armed militants. That is, militants consisting of more than 20 motorized infantry regiments? It is extremely doubtful, but our attention is not to this issue.

The President of the Russian Federation V. V. Putin on what is happening in Kazakhstan said that "it was necessary to react to it without delay" [22].

"Mass riots are a criminal act against public safety. Their spontaneity, unpredictability, causing material damage to various subjects of law and the state attract special attention. Crimes against public safety are directed against a huge number of people, citizens, the state structure and property. This is what determines the importance for the law enforcement system of establishing all elements of the crime, the stages of formation of the mechanism for committing mass riots, methods of concealing crimes, mechanisms and forms of countering the investigation of crimes and the use of ways to overcome the counteraction to the investigation of these illegal acts" [5].

There is no term "mass riots" in Russian criminal legislation, but, nevertheless, it is possible to detect the signs characterizing them. This is a violation of public security by a large group of people (a crowd), the

use of violence against citizens, damage to state or other property, rendering various kinds of (including armed) resistance to law enforcement agencies, state authorities and management" [5].

The Criminal Code of the Russian Federation does not define the concept or quantitative composition of a crowd, it simply gives a description as a large group of people, which in itself raises questions. As for the legislation of other countries, you should pay attention to the USA, Great Britain, France, Italy.

Thus, "The US Federal Code, section 18, paragraph 2101-2102 [13] defines mass riots as a violation of public peace with the use or threat of violence by a group of at least three participants. The Law on Public Order of the United Kingdom of Great Britain and Northern Ireland [14] fixes the number of persons — twelve or more individuals who not only implement violence, but even threaten to use it. Article 431-9 of the Criminal Code of the French Republic [15] defines it as a criminal offense to organize an action on any public street without an application. The legislation of the Italian Republic [16] fixes an "undesirable gathering of people" as an uncoordinated gathering of more than 10 people" [5].

The use or non-use of criminal prosecution in various countries and in our state according to Article 212 of the Criminal Code of the Russian Federation is not the subject of our research. We are interested in analyzing the formation of the mechanism of mass riots, countering the investigation of these crimes and overcoming it [5].

Despite the position of the Presidential Administration of the Russian Federation, according to which the recorded growth of protests in the Russian Federation "is a common background" and is considered as "a certain public reaction to certain events," it should be noted that the number of protests in recent years has reached a record level. According to current data, from 1.2 to 1.5 thousand street protests take place annually in Russia, 1443 protest actions were recorded in the first nine months of 2019 [12].

It is necessary to clearly understand and distinguish between peaceful and legally agreed-upon protests and protests that, for one reason or another, escalate into mass riots, with grave consequences for citizens and for the country as a whole.

The number of protests currently underway, especially those developing into mass riots, requires scientists to study these issues, from detailed research and study, to develop and apply private forensic techniques to investigate crimes against public safety.

The criminalistic methodology of investigation of crimes of mass riots, its structure in most cases includes: "circumstances to be established and proven for a specific type of crime; typical models of the crime mechanism; criminalistic characteristics of mass riots; features of the initial stage of investigation of crimes and tactics of urgent investigative actions; typical initial investigative situations, typical forensic versions and programs by their resolution and verification; features of the subsequent stage of the investigation of crimes and tactics of other investigative actions; typical further investigative situations, investigative versions and programs for their resolution and verification; features of the final stage of the investigation of crimes" [6].

The analysis of investigative practice makes it possible to generalize and describe the structural elements of the forensic methodology.

"During the preliminary investigation of mass riots, the following circumstances must be established and proved: the time, place and method of committing a crime; the nature and amount of material damage caused; the identity of the victim, the identity of the perpetrator; circumstances related to extreme necessity and defense, as well as actions related to causing harm during the detention of a person who committed a crime; circumstances, characterizing physical or mental coercion, as well as the stage of the crime; internal and external circumstances of complicity; forms of guilt, circumstances of innocent infliction of harm; motives of the crime; sanity, insanity, mental disorders that do not exclude criminal liability; circumstances that individualize the guilt of the subject; circumstances that mitigate and aggravate the responsibility of the subject; circumstances that characterize the personality of the subject; circumstances that contributed to the commission of crimes; circumstances of concealment of the crime; techniques and methods of concealment of the crime; techniques and ways to counteract the investigation of crimes; subjects and objects of counteraction to the investigation of crimes, etc." [5].

Since the late 80s-early 90s of the last century, mass riots, as a socially dangerous phenomenon, have become of particular interest not only from the point of view of theoretical study, but also from the point of

view of practical application of the developed forensic techniques for law enforcement and the judicial system as a whole. In order to improve the investigation of crimes committed, criminologists have included criminalistic characteristics of crimes in the structure of the methodology for investigating criminal events.

"Criminalistic characterization of crimes is a system of information about stable (typical) and interrelated criminalistically significant properties (signs) inherent in crimes of a certain type developed scientifically on the basis of the study and generalization of investigative and judicial practice" [11].

"The criminalistic characteristics of crimes and the standard model of the mechanism of mass riots contain a significant amount of information and information about the methods of committing crimes, instruments of crimes, means of commission, the subject and objects of crimes, their actions and interaction with the environment and the situation, etc. The investigation of crimes has the most effective option when the investigator has a clear understanding of the mechanism of the committed crimes" [5].

Consideration of standard models of crime mechanisms at the initial stage of investigation makes it possible to work out and determine the model of the mechanism of the committed crime, while it is necessary to focus attention on the stages of formation of this type of crime. So, in our research question, we will consider the model of crimes committed during mass riots in early January of this year in the Republic of Kazakhstan and their phased implementation.

The model of the mechanism of crimes during mass riots will be described as follows:

"At the initial stage, the causes and conditions that could contribute to the formation of mass riots are determined. In the recent past, to convey certain information to their target audience, the organizers, as a rule, used all possible means of mass communication at that time, such as leaflets, newspapers, magazines, television, especially regional or local (cable) television, including telephone and radio communications at certain frequencies were actively used. Instagram Facebook, Twitter, Instagram, Telegram, TikTok, VKontakte, Odnoklassniki, etc.), as well as closed accounts created for certain purposes and target audience, are currently being used due to the accelerated development of digital technologies. If earlier, in order to convey certain thoughts, goals and objectives, using the means of printed publications and all kinds of communication (radio broadcasting, television), it was necessary to make considerable efforts and means in the form of bribes, blackmail, threats, seizures, etc., now it is possible to convey the necessary organizational information to your audience instantly via the Internet -resources and social networks. Moreover, then this information is distributed in a very short time in an almost uncontrolled manner: to friends, subscribers, groups, communities, regions, countries" [5].

In the Internet in the first days of what is happening, there is a so-called appeal to the people of Kazakhstan, which in its essence was a simple instruction on how to fight the regime. This instruction appears on the famous NEXTA Telegram channel, scandalous for mass protests in Belarus. The instruction, in the image and likeness of what is happening in Belarus, consisted of simple 8 points on how to carry out street battles with security forces. For obvious reasons, it is not worth revealing these 8 pacts, and there is nothing to do.

At the same time, fugitive oligarch Mukhtar Ablyazov assumes full responsibility for what is happening, demanding the complete overthrow of the "regime of Nursultan Nazarbayev." It is he who is called by the mass media the organizer and leader of the coup d'etat, the former Minister of Energy and Trade and the head of one of the largest banks in the country — BTA. Although many analysts call this information not reliable and consider these actions of Mukhtar Ablyazov to be "attached to the project", a person who does not have much respect and authority in the country.

The NEXTA telegram channel began to actively promote the role of Mukhtar Ablyazov in the processes produced in the country, and Ablyazov began to advertise the NEXTA Telegram channel, which is completely under the control of the Polish special services, which, after a complete failure in Belarus, switched to work in Kazakhstan.

In order to organize mass riots, the organizers use information of various plans and content: "accusations against local, regional or federal authorities, information regarding certain actions or inaction of governing bodies and authorities, lack of response to facts, humiliation of human dignity, violation of equality of citizens in various matters; the occurrence of spontaneous meetings, rallies, processions and other gatherings of people who are not legally agreed upon; distribution of provocative leaflets, articles and other illegal literature aimed at calls for changing or even overthrowing the existing order or government;



distribution of calls for national hostility, hostility to people of other faiths, etc. All these actions, in any case, form a negative situation and emotional tension, contribute to incitement, a call to violent actions, the implementation of these actions in one form or another. All this contributes to the incitement of hatred towards each other and hostility against the legitimate government, a certain territorial structure or a group of people" [5].

It is noteworthy that "at the initial stage of the formation of the mechanism of mass riots, the organizers almost always expose everything under a plausible pretext, they always find the right and necessary moments of discontent for the crowd. Discontent is growing and is absorbing into the masses crowds of new and dissatisfied people even with other issues, they are joined by all sorts of social movements, non-profit autonomous organizations, various kinds of meager parties, dissatisfied and negatively minded youth, criminal elements, strangers, passers-by and onlookers in general. Everyone pursues exclusively their own goals under common slogans. The nature of the behavior of such a cluster of people is unpredictable" [5].

The results of the conducted research show that "the subjects of these mass riots may be persons who organize the provocation of illegal actions and assemblies that are not legally agreed upon, persons who are ready for illegal actions, persons who are so-called observers and sympathizers, persons participating, to one degree or another, etc." [5].

The organizers and, subsequently, the participants of mass riots at the initial stage of their actions point to all kinds of specific mistakes or remarks made by state authorities or management activities for greater persuasion of the crowd. They incite hatred towards the authorities, towards any other group of people, persons of another nationality, of another religion, conduct provocative actions to violate public order, call for mass riots.

"At the main stage of the formation of this type of crime, the actions of all participants move from calls to direct riots. Mass riots are often accompanied by pogroms, robberies, infliction of serious harm to the health of citizens, bloodshed, and other cruel crimes. All this is accompanied by active opposition to state authorities and law enforcement forces. Provocateurs and particularly active participants in mass riots "shake up" the situation, throw objects, stones, use pre-prepared molotov cocktails, various kinds of "Molotov cocktails" against law enforcement agencies, firearms and even explosives are used. The seizure of premises, pre-trial detention centers and prisons, departments, territorial administrations and subdivisions of law enforcement agencies is almost always carried out. Most of these crimes are committed publicly, openly and demonstratively in order to achieve their goals" [5].

It is at the main stage of the formation of the mechanism of mass riots, with the use of various kinds of illegal actions and offenses, that the mechanisms of other crimes are formed. At the main stage, the following crimes can be committed simultaneously and in parallel: "physical violence (bodily injury, beatings, etc.) against representatives of local authorities; arbitrariness, etc. [11].

At this, the main stage of the commission of crimes, we will consider the chronology of events in the Republic of Kazakhstan right now and within the framework of step-by-step planning of the model of the mechanism of crimes committed.

January 1, 2022 - the price of gas increased from 60 tenge to 120 tenge, which was the reason for the organizers to expose everything that is happening under a plausible pretext. The organizers found the right and necessary words for the crowd in moments of discontent.

January 2 - peaceful protests began in the western part of the country in the city of Zhenaozen.

January 4, 2022 - riots began in the cities of Alma-Ata, Aktobe, Karaganda, Shymkent and Uralsk. The President of Kazakhstan is taking urgent measures to state regulation of gas prices. However, during this time, the protesters' quite peaceful economic demands have turned into political ones, namely the removal of the country's President and the dissolution of the state parliament.

January 5 — The President dismisses the Government, but the protests not only do not stop, but also gain new momentum. Peaceful protests literally turn into mass riots in almost all major cities of the country in just a few hours, and an armed rebellion immediately begins. Random shooting begins, arson of police cars and an attack on police officers and law enforcement agencies. Everything is carried out in a very organized manner. An armed seizure of police stations has begun, and an almost free seizure of the building of the National Security agencies. Seizure of service weapons, law enforcement materials and secret

documents. Street fighting began in Alma-Ata. In other cities, the demolition of monuments and the seizure of state authorities began.

On January 5, 2022, at the request of the Government, the Internet is turned off throughout the territory. Combat groups are switching to transmitting information via radio stations, a favorite way of switching communications by bypassing the mobile network and the Internet.

Combat groups seize state authorities, administrations, television centers, military units, civil and military infrastructure facilities. There is a clear management of the process of mass riots. Armed groups not only seize the objects of city and regional administrations, but also professionally carry out the defense of the captured objects. The main highways, streets, entrances and exits to cities, intersections and all transport arteries of the country are under the control of armed militants, clear and well-coordinated management, the experience of street fighting tactics professionals is traced.

January 5, 2020 - the situation of managing not only the capital and cities, but also the country as a whole is completely out of control.

"At this stage of the formation of the crime mechanism, measures are already being actively implemented to conceal the subjects of criminal actions: customers, organizers, intermediaries, performers, while hiding the instruments of crimes and the results of the negative consequences of mass riots in most cases does not matter, on the contrary, in this case, absolutely different goals are pursued. In any criminal plan there is always a definite goal and objectives. At the final stage of the mechanism of committing mass riots, there is actual resistance to the established order, state authorities and citizens using various means and methods of causing harm, damage, however, the most important thing is that this is an open and demonstrative challenge to the public security of the country. Thus, a distinctive feature of these crimes at the third stage is that the concealment of traces of crimes and its consequences is not carried out, since the result of harm and damage to individuals, legal entities, public authorities and the public should be visible. With full confidence, we can state the fact of the organization and implementation of counteraction to the subsequent investigation of crimes" [5].

On the basis of article 4 of the Collective Security Treaty [23], signed on May 15, 1992, the President of the Republic of Kazakhstan appeals to the participating countries for assistance.

Accordingly, on January 6, 2022, the first planes with the peacekeeping contingent of the CSTO countries arrive in Kazakhstan: Russia, Belarus, Armenia, Tajikistan and Kyrgyzstan. The Alma-Ata airport seized by the rebels was immediately released, the consolidated units of the CSTO countries begin to assist the armed forces and law enforcement agencies of Kazakhstan in maintaining the rule of law and restoring constitutional order in order to normalize the situation, restore order, and protect important infrastructure and state facilities.

On January 7, 2020, mass riots, robberies and murders continue in the republic. In the city of Taldykurgan, armed men disguised in military camouflage unsuccessfully tried to seize a pre-trial detention center and release particularly dangerous convicts, including suspected terrorists. On the same day, as in the following, a video of masked militants appears on the network, demanding that the regime be overthrown, the armed forces join them to fight, including with the combined forces of the CSTO.

Only by January 8, the Government of Kazakhstan, with the help of the CSTO armed forces, was able to bring the situation under control. In the crowds of protesters, specific participants were identified as provocateurs who control the emotions and anger of the protesting crowd. In 4 days, more than a thousand people were injured in the country, more than 100 people were killed, 16 policemen were killed.

All the protesters in Kazakhstan could be divided into three separate groups: The first is peaceful citizens who defend their right to a decent life and thereby attract the attention of the authorities. The second is citizens who carried out thefts, robberies and looting against the background of the protests. The third is armed people and militants who clearly fulfill their goal of overthrowing the government.

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entities, public authorities and the public should be visible. With full confidence, we can state the fact of the organization and implementation of counteraction to the subsequent investigation of crimes. Countering the investigation of crimes should be considered as a system of actions aimed at keeping the circumstances of the commission of crimes secret, hiding the sources of criminally significant information about the criminal event and its participants.

Earlier in our works, we pointed out that the system of counteraction actions includes: "threats of possible reprisals against the investigator, judges or their family members; threats or bribery of witnesses or the victim; blackmail or dissemination of false, defamatory rumors; organization of negative publications in the press, creation of negative public opinion, etc." [5, p.47].

Some authors propose the following classifications of ways to counteract: "by the focus on preventing the solution of certain tasks of the preliminary investigation, by content, by subjects, by participation in the investigation process, depending on the proper position of the counteraction subject, by structure, by time of implementation, by criminal law punishability" [10, pp.21-31].

For an objective and comprehensive investigation of the crimes committed, regardless of the volume of obstruction and counteraction by criminals and other persons interested in the "collapse" of the criminal case, the maximum system of actions should be applied to overcome the opposition to the investigation of crimes and to achieve the truth in the criminal case.

The most common methods of overcoming opposition to the investigation of crimes by the investigator should be considered the method of persuasion using positive personality traits, the method of suggestion through the investigator's control of the behavior of a person, the method of exposure through the logical influence of the investigator on the person, etc.

The analysis of investigative and judicial practice indicates that overcoming counteraction to the investigation of crimes should be classified at the level of the investigator (inquirer), at the level of heads of investigative units and heads of departments of bodies of inquiry, at the level of legislative bodies, at the level of research institutes and higher educational institutions.

Realizing the special importance of crimes against public safety, we specifically considered in detail the mechanism of crimes of mass riots of the past events in the Republic of Kazakhstan. Mass riots are a crime against public safety, causing significant harm or creating a threat of causing such harm to public relations that provide vital personal, public and state interests.

A detailed consideration of the issues of the mechanism of these crimes, their stages, further consideration of investigative situations, the facts of countering the investigation and the use of a system of ways to overcome the counteraction to the investigation of crimes, if necessary, will allow the most rapid and effective planning of the stages of criminal prosecution of criminals.

The presence of numerous facts of countering the investigation of crimes, the existing different views and approaches to the problem of overcoming counteraction once again put the need to develop a unified, holistic system of criminalistic teaching on overcoming counteraction to the investigation of crimes, as a complete and unified system of theoretical provisions and practical recommendations

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