

Encouraging Trends in Pretrial Detention in Russia

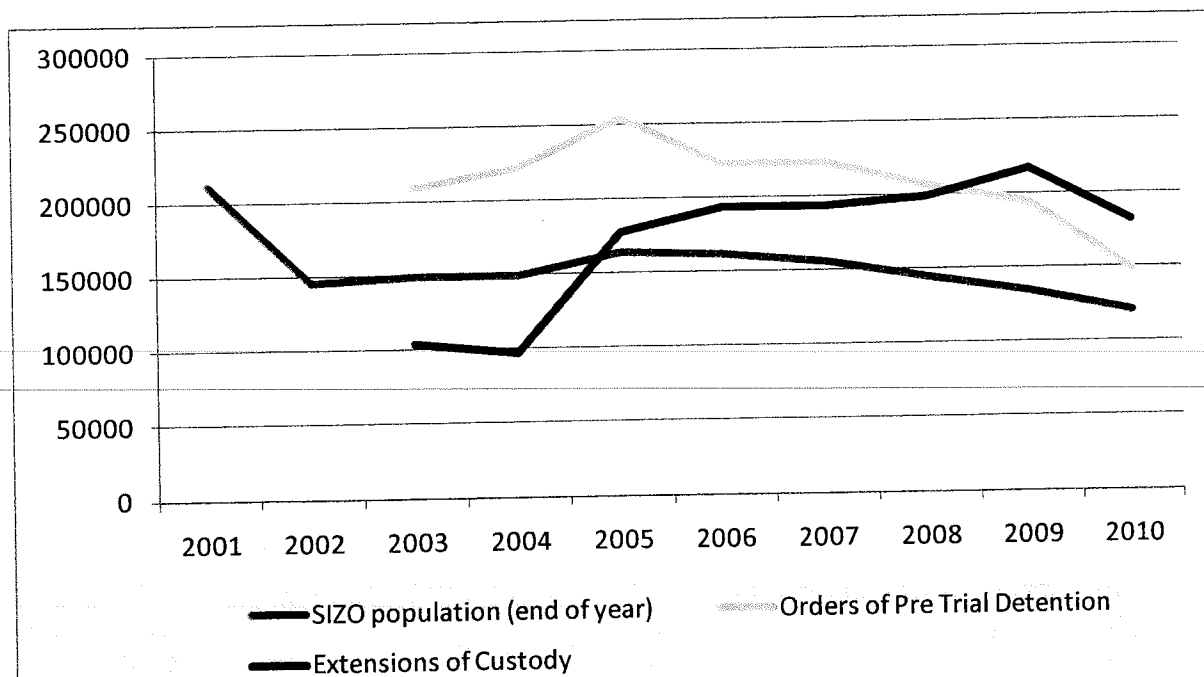
Todd Foglesong

There is a lot of good news to report about pre-trial detention in Russia. As the chart below shows, the number of people in remand facilities (SIZOs) in Russia has declined every year for the past five years, and the rate of decrease appears to be accelerating. Last year, the end of year SIZO population declined 10 percent, the greatest reduction since the introduction of a new code of criminal procedure in July 2002. Most if not all of the reduction in the SIZO population between 2005 and 2010 appears to be the result of the marked and sustained decrease in the number of defendants remanded into custody before trial. The scale of this reduction would have been greater were it not for an increase in the *duration* of detention, represented by the growth in the number of extensions of custody.

Much of the reduction in the amount of pretrial detention is probably attributable to the declining number of

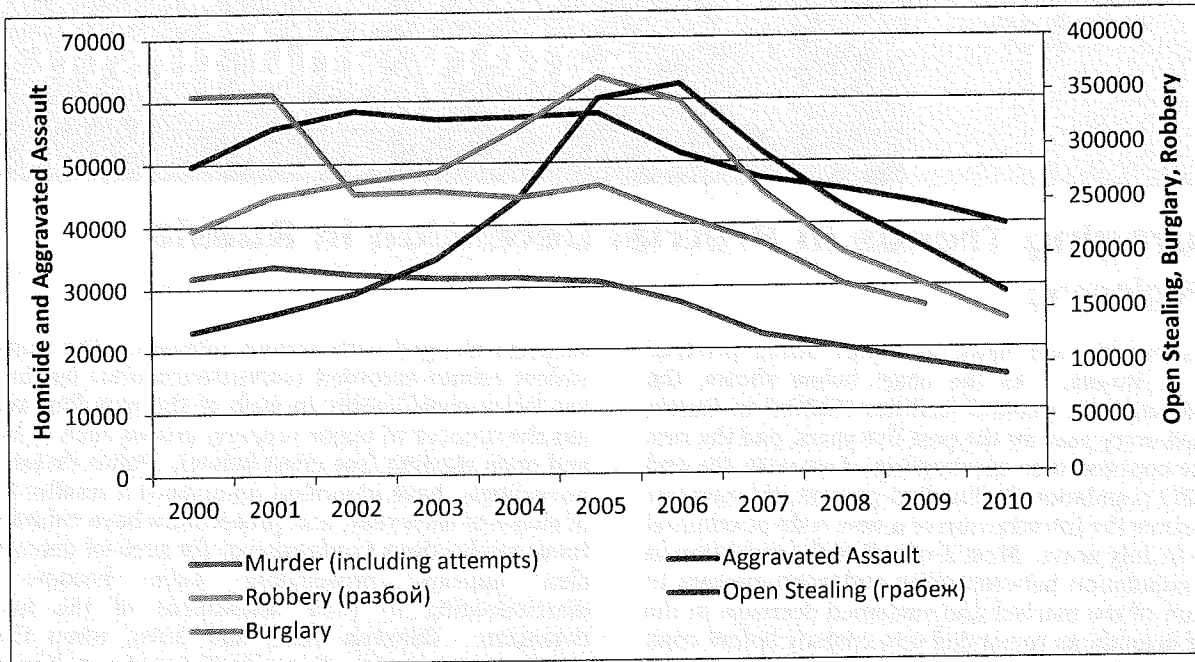
suspects charged with serious offenses. The number of violent crimes recorded (*zaregistrirovano*) by the police has fallen considerably in each of the past four years, as has the number of major property crimes such as burglary and open stealing (see chart below). Police investigators, accordingly, have identified (*vyavleno*) a smaller number of suspects each year, and prosecutors have submitted far fewer applications (*xodataistva*) for pretrial detention. It also appears prosecutors have become more discriminating in their assessment of the need for detention. Between 2005 and 2010, when the total number of suspects "identified" by the police fell 36 percent, the number of applications for detention fell 45 percent, from 277,208 to 165,323. Although we cannot be sure from these data alone, prosecutors may have played a special role in the reduction of pretrial detention in Russia.

Figure 1. Jail Population and Pretrial Detention Practices in Russia, 2001-2010



Sources: Judicial Department (www.cdep.ru), and Federal Prison Service (www.fsin.su)

Figure 2. Major Crimes Recorded by the Police, 2000-2010



Source: Ministry of Internal Affairs (www.mvd.ru)

Is it possible that the judiciary also played an important role in bringing about these trends in detention? Every year since 2002, when the judiciary was given the power to decide upon detention, courts have approved between 90 and 92 percent of all applications for detention. The approval rate for such applications is slightly lower (85%) for what the government terms “minor offenses” – that is, crimes that upon conviction carry a potential punishment of less than 2 years imprisonment. Still, many observers interpret these rates of approval as a sign of a compliant and complacent judiciary, and of the perpetuation of an “accusatory bias” (*obvinitelnyi ukлон*) in Russian criminal justice.

There are other ways to interpret these data. Especially if prosecutors are only advancing applications for detention in more serious cases, or in cases where the grounds for detention are substantiated, the unwavering rate of approval of applications for detention could be a sign of more demanding judicial review of requests for detention. There are other signs of judicial reticence about detention as well. Since 2007 there has been a 10 percent increase in the number of defendants ordered into jail upon receiving a custodial sentence. In these cases, courts initially released defendants for whom a prison sentence longer than the duration of their prosecution and trial was possible if not likely. In the same period, there has been a 37 percent decrease in the number of defendants ordered into SIZOS as a result of pretrial misconduct. Rates of revocation of pretrial release are of course influenced by many factors other than judges’ opinions of the necessity of custody, but such marked changes in the discretionary

use of detention could indicate more careful consideration by the courts.

Finally, since 2005 the proportion of all convicted defendants that spent some time in pretrial detention has continuously declined. Of the 903,928 defendants convicted of one crime or another in 2005, 246,243 (or 27%) were in detention at the moment of their sentencing. Of the 870,082 defendants convicted of a criminal offense in 2010, only 174,855 (20%) were in detention at the time of sentence. While further research is required to understand these figures, these data are additional signs that courts in Russia may be taking a more cautious approach to pretrial detention.

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