



THE PROCEDURE FOR USING SOUND RECORDING EQUIPMENT IN SOLVING THE TASKS OF OPERATIONAL AND INVESTIGATIVE ACTIVITIES OF INTERNAL AFFAIRS BODIES

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Annotation. This article analyzes legal norms and scholarly views on the non-procedural aspects of using special technical audio recording equipment in the course of operational and investigative activities and in documenting their results to solve the main tasks of such activities. It also substantiates methodological recommendations and rules for increasing the efficiency of using audio recording tools in solving the primary tasks of operational and investigative activities.

Keywords: operational and investigative activity, operational and search measures, audio recording, non-procedural action, evidence, information reports, removable storage media.

The 17th goal of the Development Strategy of New Uzbekistan for 2022-2026 establishes the formation of a new image for law enforcement agencies and the redirection of their activities toward the effective protection of the people's interests, dignity, rights, and freedoms as a key priority, objective, and task [1]. In implementing this strategy, large-scale reforms are underway aimed at ensuring the rights and freedoms of citizens and creating reliable guarantees for their protection, primarily from criminal acts. These reforms also focus on protecting the rights, freedoms, and legitimate interests of individuals, as well as the property of legal entities and individuals; ensuring the security of the individual, society, and the state; preventing, detecting, suppressing, and solving crimes; and identifying and locating persons involved in the preparation and commission of crimes. Additional aims include searching for individuals hiding from inquiry and investigation bodies or the courts, those evading criminal punishment, missing persons, and others as stipulated by law; identifying unidentified bodies; and gathering information on persons, events, and actions (or inactions) that threaten the security of the individual, society, and the state. It is important to note that a crucial task at the heart of these reforms remains the transformation of internal affairs bodies into a people-oriented, professional structure that serves as a reliable defender of the public and focuses on targeted engagement with the population. Other key tasks include creating a solid legal foundation for an open and fair prosecutor's office that strictly ensures legality and makes the principle "the law is supreme, punishment is inevitable" a primary criterion; establishing effective control over investigative activities; further improving operational-search activities to combat crimes committed using information technology; fundamentally reforming the system for registering crime reports within law enforcement agencies; and employing modern methods to prevent the concealment of crimes.

Interaction between bodies that carry out operational-search activities and investigative units in uncovering and investigating crimes can be considered a crucial component of this system. It should be noted that presently, a lone investigator, or even a group of investigators, faces difficulties in solving complex crimes "in the heat of the moment" and conducting comprehensive investigations without the assistance of operational units. The need for mutual cooperation can also be explained by the fact that investigative and operational units use their

own specific forces and means to solve crimes. Today's practice clearly shows that greater efficiency and results are achieved when these tools are used by investigators and operational officers not separately, but in a comprehensive and collaborative manner. At the same time, neither in theory nor in practice is there a unified opinion or approach on how to combine the strengths and capabilities of these two systems, which have different legal natures, on an optimal, effective, and legal basis. A study of current practices has revealed that instead of a convergence of operational-search and pre-trial procedural activities toward a single goal, a significant legal and organizational-tactical separation between them is occurring compared to previous periods, which in turn negatively affects the fight against crime. Another important aspect is that today, theory lags considerably behind practice. This can be observed in trends such as the changing face of crime, the commission of socially dangerous acts by criminals using scientific and technological advancements and modern information technologies, and the joining of certain criminal groups by former law enforcement officers (with experience in operational-search and investigative activities). This indicates the necessity of improving the interaction between investigators and operational units and elevating it to a new qualitative level. While operational-search activity is considered a non-procedural activity, the remaining stages of pre-trial proceedings in criminal cases can be called procedural activities. This is because these activities are regulated by criminal procedural legislation, and the information obtained as a result is assessed as evidence in criminal cases. Operational-search activity does not possess such characteristics, but this does not diminish the importance of this institution in uncovering and investigating crimes. At the same time, as a result of the reforms in our republic's judicial and legal system in recent years—in particular, the improvement of criminal and criminal procedural legislation, the introduction of the pre-investigation inquiry institution into the Code of Criminal Procedure, and the adoption of the Law "On Operational-Search Activity"—new norms are emerging concerning the interaction between investigative (inquiry) and operational-search units in solving and investigating crimes.

It should be noted that at the pre-trial stage of proceedings, an inquirer, investigator, or prosecutor, who holds a special procedural status, is authorized to conduct investigative and procedural actions during a pre-investigation check. Furthermore, some bodies that conduct pre-investigation checks are simultaneously bodies that carry out operational-search activities. Specifically, Part Two of Article 39 of the Criminal Procedure Code stipulates that within the framework of a pre-investigation check, internal affairs bodies, the State Security Service, the State Security Service of the President of the Republic of Uzbekistan, customs service bodies, as well as the Bureau of Compulsory Enforcement under the Prosecutor General's Office of the Republic of Uzbekistan and the Department for Combating Economic Crimes and their local divisions are entitled to take necessary measures, including conducting operational-search activities. This is done utilizing scientific and technical means to detect signs of a crime, identify the perpetrators, and uncover information that can be used as evidence in a criminal case.

In particular, although legislation stipulates that procedural actions and their results can be recorded using video equipment—and in some cases, must be—the procedural rules for their use are not fully defined. This leads to varied interpretations of legal requirements in judicial and investigative practice. In turn, this negatively affects the efficiency of using video recording equipment in the procedural activities of officials responsible for criminal proceedings. Unfortunately, Uzbek scholar A.O. Sharafutdinov also acknowledges that this procedure is not clearly defined in the articles of the Criminal Procedure Code of the Republic of Uzbekistan related to the use of video recording devices during procedural actions [2].

A study of the legislation shows that operational-investigative activities are mentioned in a number of legislative acts without disclosing the mechanism for their implementation. In particular, this is reflected in the Constitution of the Republic of Uzbekistan (Articles 31, 33, 53,



and 146), the Criminal Procedure Code (Articles 19, 22, 36, 38.1, 39.1, 46, 81, 87, 89, 91, 95, 95.1, 169, 169.1, 169.2, 170, 171, 204, 204.1, 204.2, and 382), the Criminal Code of the Republic of Uzbekistan (Articles 141.1, 141.2, 141.3, 143, 157, 160, 162, 163, 230.1, 230.2, 278.1, 278.3, and 278.7), the Criminal Executive Code of the Republic of Uzbekistan (Article 68), the Customs Code of the Republic of Uzbekistan (Articles 378, 379, and 407), the Law of the Republic of Uzbekistan "On the Prosecutor's Office" (Articles 4, 8, 28, and 31), the Law of the Republic of Uzbekistan "On the Protection of State Secrets" (Articles 4, 11, 33, and 36), the Law of the Republic of Uzbekistan "On Guarantees of the Legal Profession and the Social Protection of Lawyers" (Articles 4, 6, and 7), the Law of the Republic of Uzbekistan "On Telecommunications" (Articles 3, 20, and 23), the Law of the Republic of Uzbekistan of September 9, 2016, "On Internal Affairs Bodies" (Article 12), the Law of the Republic of Uzbekistan "On Operational-Investigative Activities" (Articles 8, 12, 14, 19, and 20), and other normative-legal acts.

Although operational-search activities are interconnected with criminal procedural activities, the functions of operational and investigative units are independent of one another. They are not subordinate to each other in their activities. Each party, within its own jurisdiction, possesses a number of specific means and methods: it collects, records, evaluates, and analyzes necessary information about circumstances of interest, and, if required, involves the interacting party in this process.

During the investigation of criminal cases, the investigator makes a decision about a specific incident based on the completeness and admissibility of the information available to them, which is obtained through preliminary investigative actions and operational-search measures.

Article 14 of the Law of the Republic of Uzbekistan "On Operational-Search Activities" lists the operational-search measures that authorized state bodies are permitted to conduct. The implementation of operational-search measures is understood as actions stipulated by law, that is, actions within the scope of overt and covert forces, the use of means and methods, and the acquisition and utilization of information to achieve the intended results [3].

Based on the circumstances detailed above, during operational-search activities conducted to resolve the tasks of such activities, it is advisable for an operative to pay attention to the following when recording the voices of persons of operational interest:

- the usability, readiness, and sufficient power supply of the operational-technical audio recording device, and the availability of the required amount of free space on its data carriers (referring to both removable and non-removable media);
- avoiding the capture of extraneous voices;
- preventing interference from other individuals;
- documenting the make, number, and model of the audio recording device in the paperwork that formalizes the results of the covert audio recording (e.g., reports, memorandums, etc.) (for example, the PCM-A10 digital voice recorder—features: high-resolution audio recording at 96 kHz/24 bit; a three-position (directional) microphone for various environmental conditions, and remote control of recording via a smartphone; Panasonic RR-DR60);
- when using audio recording equipment (tape recorders, dictaphones, digital voice recorders, compact and digital discs, mobile phones, etc.), paying attention to where and under what conditions the recording is being made (e.g., indoors, on the street, inside a vehicle, etc.) [4].

Currently, the Forensic Phonography Laboratory at the Kh. Sulaymonova Republican Center for Forensic Expertise, under the Ministry of Justice of the Republic of Uzbekistan, has the capability to examine secretly recorded audio and video materials (phonograms) from



various sources. These sources include video recordings and digital sound recording devices such as mobile phones, digital voice recorders, digital disks, compact discs, flash memory cards, and CCTV cameras [5].

Information about the operational-technical means, sources, methods, plans, and results used to address the primary tasks of operational-search activities; about the covert staff of the bodies conducting these activities and the individuals assisting these bodies on a confidential basis; and about the tactics for organizing and conducting operational-search measures constitutes state secrets. In the cases and manner prescribed by law—as defined in the law on operational-search activities—the results of such activities shall be used only to fulfill the tasks assigned to the bodies conducting them. The materials from operational-search activities may serve as a basis for initiating a criminal case, may be submitted to the inquiry body, investigative body, or prosecutor handling the criminal case for the preparation and execution of investigative actions, and may also be used as evidence in criminal cases in accordance with the norms of the Criminal Procedure Code of the Republic of Uzbekistan.

The results of operational-search measures conducted in compliance with the conditions of Article 16 of this Law may be recognized as evidence after they have been verified and assessed in accordance with the Criminal Procedure Code of the Republic of Uzbekistan.

The results of operational-search activities, along with materials obtained through the use of technical equipment, shall be submitted to the bodies of inquiry, investigation, and the prosecutor on the basis of a decision approved by the head of the body conducting the operational-search activities. The type, category, and volume of the materials to be submitted shall be determined by the head of the body conducting the operational-search activities in the manner prescribed by law.

An officer conducting operational-search activities who intentionally conceals a crime identified as a result of such activities shall be held liable in the established manner [6].

References:

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