

# Ensuring the Admissibility of Evidence in the Investigation of Criminal Complaints and Reports

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**ABSTRACT:** In the article, the author analyzes in detail the state of compliance with the rules of admissibility of evidence during the conduct of procedural actions, in the process of verifying statements and reports about a crime, in particular, inspection of the scene of the incident. In this regard, the legislation of foreign countries, and the opinions of scientists and specialists were studied, and proposals were made to introduce a simplified procedure for processing the results of investigative actions.

**KEYWORDS:** pre-investigation inspection, an inspection of the place of the incident, participation of witnesses, registration of evidence and the use of auxiliary methods in this process..

## INTRODUCTION

It is necessary to improve the activity of investigating crimes in Uzbekistan, taking into account international standards and advanced foreign experience, implementing the principles of the rule of law and the inevitability of responsibility, further improvement of the criminal-procedural legislation, as well as ensuring unconditional observance of the rights and freedoms of a person, improving the quality of procedural actions, collecting and strengthening evidence in criminal proceedings, revising their assessment system taking into account the standards of evidence widely used in advanced foreign practice.

The first and most common of the investigative actions that can be carried out in the pre-investigation phase is the investigation of the place of the incident. Inspecting the place of the incident allows for the immediate investigation of an application or report of a crime, identification, collection and formalization of evidence. The result of a timely and competent inspection of the place of the incident is an effective guarantee of the detection and resolution of the crime [1, p.19; 2, p. 16; 3, p. 17].

## DISCUSSION AND RESULTS

Today, in investigative practice, there are cases of not conducting procedural actions within the framework of legal requirements and wrongly formalizing their results by authorized officials. For example, when the General Prosecutor's Office of the Republic of Uzbekistan examined the materials of the criminal case initiated by paragraph "a" of the third part of Article 266 of the current Criminal Code, even though this incident had serious consequences, in the process of examining the place where the incident occurred at the request of the victim J. in this criminal case X1 participated as an impartial and X2 was not at the place of the incident, that incorrect information was included in the inspection report [4].

Many scientists believe that "examination of the place of the incident is considered an important investigative action, and its quality implementation serves to ensure the success of the subsequent results of the criminal case"

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[5, p. 336; 6, p. 196; 7, p. 45; 8, p. 49-50]. Some authors think that “inspection of the scene of the incident is carried out if there is information that a crime has been committed or traces of it in this very place” [9, p. 230; 10, p. 15].

Inspection of the place of the incident as an investigative act is regulated by Articles 135-141 of the Criminal Code of the Republic of Uzbekistan. It is the first and most important investigative action that cannot be delayed, and it is aimed at preventing the destruction of crime traces due to natural influences and intentional loss. For this reason, the investigator (the person who conducts the pre-investigation, the inquirer, the investigator, the prosecutor) upon receiving the information about the occurrence of the incident, regardless of weather conditions or time, must immediately reach the place and carry out the inspection [11, p. 75].

A.V. Belousov said, “it is important to carry out investigative actions on gathering evidence on time and without delay. However, future work needs to delay the investigative actions that cannot be delayed due to certain circumstances that have arisen. For example, delaying the inspection of the place of the incident from the dark to the light hours of the day increases the probability of finding things and circumstances important for the case” [12, p. 6].

In our opinion, during the inspection of the place of the incident, the conditions that are of great importance in determining the true circumstances of the incident and ensuring an objective investigation, that is, the condition of the objects under inspection, their distinctive features are determined. Also, circumstances such as the nature of the incident, identity and purpose of the criminal are determined. The crime place, things and documents, dead bodies, animals, surroundings and buildings are examined to find traces of the crime, material evidence, the circumstances of the incident and other circumstances important for the case.

The main purpose of inspecting the place of the incident is to find the existing traces, material evidence and formalize them. Circumstances and items found during the inspection of the scene of the incident will have evidentiary value after being formalized following the requirements of the criminal procedure law. If they are not formalized based on the requirements of the law, traces of crime and reliable concrete evidence confirming that a person has committed this crime are also destroyed [13, p. 23].

The results of the inspection of the place of the incident must be reflected in the report. In the report, all circumstances revealed during the inspection of the place of the accident, that is, the items found and taken, should be fully indicated. Because if one of the things indicated in the report is not related to the crime, it is easy to remove it from the report, and it is difficult to fill in the place of the omission. It is required that the circumstances and things discovered during the inspection of the place of the incident should be objectively reflected in the report. In this case, the responsible official inspecting the place of the incident should not express his or other participants' personal opinions. Only after special checks about the results of the investigation, certain circumstances and specific aspects and signs related to the involvement of the seized items in the crime are revealed. For example, red stains found at a crime place are not always blood, or a knife or other crime scene object is not a crime weapon.

Therefore, it is not appropriate to accurately assess something whether it is a weapon of crime, blood, oil or otherwise. Only their size, color, smell and other specific characteristics should be recorded in the report. The protocol must be written in Uzbek (Russian, Karakalpak) literary language, local dialects must not be used in it [14, p. 75].

It is necessary to record the things identified and found during the inspection of the place of the incident in the order in which they were found. The distance between objects and their size should be indicated in meters or centimeters. It is inappropriate to use words such as “from the front”, “from the left”, and “closer to”. All participants must sign the plan and scheme of the place of the incident [15, p. 105].

The study of practice shows that in most cases, after receiving a complaint (report) about the commission of a crime, the investigative-emergency team arrives at the place of the incident and conducts an investigation to inspect the place. Analyzing the time and place of crimes, it was found that serious crimes in Tashkent city and Tashkent region are committed in most cases from 6:00 p.m. to 06:00 in the morning. In particular, 55.1% of thefts, 57.1% of robberies, 60.3% of assaults, 60.6% of intentional homicides, and 66.7% of intentional grievous bodily harm were committed during these times [16]. It can be seen that the inspection of the place of occurrence of the incident has to be carried out in the dark hours of the day in most cases.

In the survey, 33.6 percent of the respondents to the question “What are the problems with the formalization of evidence in the practice of conducting criminal cases?” indicated that there are problems related to the neglect of the suggestions and objections expressed by the participant of the investigation to the content of the report, which reflects its process and results, 31.2 percent refusal of the participant of the investigative actions to confirm the correctness of the report reflecting its process and results, 12 percent of the fact that the process and results of investigative actions are reflected in the report do not correspond to reality, 9.6 percent that the process and results of investigative actions are not fully reflected in the report, 2.4 percent in some cases to provide impartiality to conduct investigative actions.

In such a situation, the body or official inspecting the place of the incident creates several difficulties in carrying out this investigative action [17, p. 10]. In particular, the impossibility of involving impartial persons participating in the inspection of the place of the incident, in most cases between 10:00 p.m. and 06:00 in the morning, and most cases, operatives are limited to entering public assistants or assistants of prevention inspectors as impartial, but their information is included in the report. This leads to a serious violation of the norms of the Criminal Procedure Code, to the inadmissibility of the evidence obtained and formalized during the investigation, and finally to the termination of the criminal case or the issuance of an acquittal [18, p. 24].

In the survey conducted among the employees of law enforcement agencies and scientific-pedagogical employees, 90 percent of the respondents showed their support to the question “What is your attitude to the proposal that the mandatory participation of impartial should be abandoned if the procedural action is recorded by video recording?” and said that it will help to put an end to their excessive distractions, digitize the work, and make the evidence more acceptable.

In connection with this issue, the criminal procedural legislation of the Russian Federation regulates 4 cases related to the participation of impartial persons. In particular:

- 1) the participation of at least 2 impartial persons is mandatory during the search (personal search), seizure and identification investigation;
- 2) participation of impartial persons in the process of investigative actions, such as confiscation of property, search, exhumation, investigative experiment, seizure and inspection of postal and telegraphic dispatches, monitoring and eavesdropping of conversations, examination of testimony at the place of the incident, based on the decision of the investigator, but impartial cases of non-participation shall be recorded using video recording, if it is not possible to use video recording, appropriate notes shall be entered in the report;
- 3) in other cases, if the participants of the proceedings did not request the participation of impartial parties, or the investigator did not make a decision on the participation of impartial parties, then it is indicated that the investigation and procedural actions will be carried out without the participation of impartial parties;
- 4) investigative actions are allowed to be conducted without the participation of impartial people in places where the majority can't be present. It is established that the investigative actions conducted without the participation of impartial people are recorded using video recording devices and relevant information is included in the report [19; 20, p. 586].

## CONCLUSION

Today, the analysis of judicial investigation practice does not allow to ensure the mandatory participation of impartial people in all cases during the investigation of the ongoing crimes. Taking into account this situation, based on the above, to facilitate the activities of the officials responsible for conducting the case, comply with the rules of admissibility of evidence and avoid violations of criminal procedural legislation, to achieve quick and complete detection of crimes and investigation of criminal cases based on the requirements of the law, as well as not allowing the constitutional rights and freedoms of individuals to be restricted, it is appropriate to supplement Article 352 of the Criminal Code of the Republic of Uzbekistan with the new part 4:

*“Inspection of the place where the accident happened, as an exception, in cases where there is a possibility of serious damage to human life and health, as well as in the cases provided for in paragraph 3 of the second part of Article 88 of this Code, in a facility where the majority of people cannot be present, in areas far from the place of residence of the population. examination, exhumation of the corpse, and experimental investigation activities are allowed to be conducted without the participation of impartial persons, and relevant notes should be entered in the report. Investigative actions conducted without the participation of impartial persons must be recorded using video recording devices and relevant information must be included in the report.*

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