



"INNOVATIVE ACHIEVEMENTS IN SCIENCE 2023"

FEATURES OF THE PROCEDURAL REGISTRATION OF EVIDENCE DURING THE INVESTIGATION OF CRIMINAL CASES

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Annotation: *this article discusses the problems that arise during the registration of the results of investigative actions in the protocol, as well as the use of modern means of video recording. The author substantiates proposals for the widespread introduction of auxiliary means of fixing evidence.*

Keywords: *evidence, process, protocol, investigative actions, video recording.*

INTRODUCTION

Today, one of the relevant problems of criminal proceedings is the protection of the rights and legitimate interests of the individual, consideration of statements and reports of crimes, achieving the right and legitimate resolution of procedural issues related to methods and means of registration of evidence obtained during the production of investigative actions in the investigation of criminal cases.

Reforms in the judicial system are implemented in step by step, contributing to liberalization of laws and to enhance safeguards for the protection of rights and freedoms of the individual.

Compliance with all legal requirements, as well as the legality and validity of actions and decisions of the authorized body and officials conducting investigative actions in a criminal case, is reflected in the procedural document.

Discussion and results

The identification of objective reality is one of the main goals of criminal proceedings, which is achieved in the process of proof, which consists in the collection, research, evaluation of evidence. In this activity, an important place is occupied by the collection of evidence and its component – procedural documentation. If the evidence obtained during the investigative action is not legally recorded in the criminal procedure documents, it will be difficult to establish the truth. Therefore, the evidence obtained to achieve the purpose of proof must be essentially formal.

Pre-trial proceedings begin from the moment of receipt of a statement, a report and other information about crimes and include a pre-investigation check and



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investigation of a criminal case [1]. The inquiry and the preliminary investigation have a lot in common, so they are often confused.

With regard to crimes and during their investigation, these bodies perform almost identical tasks. In cases where the corpus delicti has been established, these bodies are obliged to initiate a criminal case within their powers and carry out investigative actions in accordance with the procedure established by the criminal procedure legislation. In their activities, they have the right to carry out investigative actions in the process of proof, consisting in the collection, verification and evaluation of evidence on the basis of uniform requirements of criminal procedure legislation [2, P. 52].

At the same time, the authorities of inquiry and preliminary investigation carry out criminal proceedings in accordance with the rules of investigative jurisdiction. According to the Code of Criminal Procedure of the Republic of Uzbekistan has established that the preliminary investigation is carried out by investigators, and the inquiry is conducted by the inquirers, and the volume of their procedural powers is also different. The bodies of inquiry carry out the production of crimes that do not pose a great public danger specified in article 3812 of the Code of Criminal Procedure, while the preliminary investigation bodies carry out the production of crimes provided for by the relevant paragraph of article 345 of the Code of Criminal Procedure.

Procedural documents of preliminary investigation are a necessary means to perform tasks on rapid and complete disclosure of crimes, to bring guilty to criminal liability, to strengthen the rule of law, to prevent crimes, to eliminate conditions that contributed to their occurrence, protection of the interests of the individual, state and society [3, P. 13].

The fact that the number of procedural documents to be issued during the preliminary investigation and inquiry is currently more than two hundred [4, P. 5], the procedural documents and the procedure of their composition are not studied in the procedural and legal complex. Also the relevance of this problem indicates the need to unification of documents and improve the criminal procedure legislation regulating the formation of procedural documents.

The problem of formalization of evidence is one of the most important problems in the complex of study and use methods of collecting evidence [5, P. 16].

In the process of proof, it is possible to use the collected, procedural, checked, assessed evidence. Protocols of investigative actions or court sessions are considered as means of procedural consolidation of evidence. In order to perfectly analyze the process of registration of evidence, it is advisable to disclose the



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question of their place in the process of proof [6, P. 29]. First of all, without the procedural registration of evidence, the process of forming evidence cannot be considered completed, or, speaking from a scientific point of view, the information received by the subject of proof can be used as evidence only after it has been transformed into the form established by procedural legislation [7, P. 55].

The fixation of evidence is the final element of the evidence collection stage, which is the first stage of the proof process. The fixation of evidence can also be understood as a system of recording factual information relevant to the correct resolution of the case [8, P. 174].

The rules for processing evidence in the protocol are reflected in article 90 of the Code of Criminal Procedure of the Republic of Uzbekistan, which are assigned to the investigator, interrogator and prosecutor, who are responsible for conducting pre-trial proceedings. The form of registration of evidence is historically the most ancient and, due to its relative simplicity, universal form. The technical way of implementing this form is expressed in the compilation of a protocol, audio and video recordings.

Based on the theoretical and practical significance of the issue of investigative protocols, insufficient attention has been paid to the study of the content of these protocols, their procedural and legal nature in criminal procedure law [9, P. 46]. In our opinion, protocols are one of the most effective types of evidence, and therefore their careful study is necessary.

Drawing up of the protocol is described as a way to formalize evidence. The methods of drawing up of the protocol as a general scientific method of criminalistics and evidence have been sufficiently studied and there is no need to repeat them [10, P. 245].

The procedure for drawing up protocols and their procedural registration is described in detail in the law. Compliance with these procedures plays an important role in ensuring the accuracy of the information recorded in the protocols. These protocols include information about the participants of the investigative action, an explanation to these persons of their rights and obligations; the place and time of the investigative action, conditions, process and results, a description of the material objects found in it and their significant signs for the case; facts that the participants of the investigative action are asked to confirm; their testimony about the causes of the event is included; explanations, judgments; petitions, complaints, refusals submitted by them [11, P. 400-405].



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Particular attention in the legal literature is paid to the language of registration of protocols. Scientists who have studied this problem believe that the protocol formalization language should meet the following requirements: to enter basic information in impressions as verbatim as possible and to achieve stylistic neutrality when recording other information; accuracy; legibility; compliance with the rules of linguistics; relevance; brevity [12, P. 28-29; 13, P. 36; 14, P. 24; 15, P. 22].

Since the protocol is a procedural document, the law imposes certain requirements on its content and the drafting process. Violation of these requirements, on the other hand, may lead to the loss of evidentiary value or means of verifying evidence.

Article 91 of the Code of Criminal Procedure of the Republic of Uzbekistan states that, in addition to drawing up a protocol, audio, video, film, photography, template production, copy production, preparation of plans, drawings and other auxiliary methods and applications for displaying information can be used to record evidence.

It is worth noting that in recent years, along with sound recording, video recording is very widely used in the procedural design of evidence. Because in combination with sound recording, there is a great need to record the dynamics of various movements [16, P. 11].

In particular, it is desirable to introduce a simplified and new procedure for recording the course and results of interrogation during the inquiry and preliminary investigation [17, PP. 185-186]. The Code of Criminal Procedure of the Republic of Uzbekistan establishes that sound recording, video recording and filming can be used in the interrogation process along with the protocol. Based on this, in the introductory part of the interrogation protocol, entries are made about the date, time of the interrogation, who is being interrogated, information about the identity of the interrogated, the rights and obligations of the interrogated are explained. The free expression of the interrogated person, as well as the recording of the process of questions and answers without being reflected in the protocol only by means of video recording, serve to further eliminate difficulties in the activities of investigative bodies and ensure that there is no pressure on the interrogated person during the interrogation, fully ensuring the right to defense.

Indeed, the above means of proof will be considered auxiliary and will have evidentiary value only in combination with the protocol. At the same time, they confirm and clearly demonstrate the content of the protocol, and sometimes embody additional evidentiary information. For example, photographs may contain aspects of the scene of the incident that are not reflected in the protocol, and



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video recordings may contain circumstances or traces indicating the place and circumstances of the murder, while a voice recording may contain the entire timbre and tone of speech.

Drawing up a protocol (as an oral form of recording) makes it possible to use certain techniques and special techniques of oral speech intended for recording [18, P. 202]. These are shorthand, computer recording and the use of a voice recorder, as well as video conferencing. Intensive development of a speech recognition system using a computer with pictures also creates a number of opportunities in this regard [19, P. 16].

Voice recording as an oral form of recording has certain advantages over recording a protocol. The audio recording provides coverage not only of the content of the testimony, but also of the acoustic part of the interrogation, which contains relatively more information that is not reflected in the interrogation protocol. Voice transmission has more emotional impact than reading the protocol. Finally, the sound recording is able to show the peculiarities of the interrogated's speech, the isolation of his language, which is difficult to reflect in the interrogation protocol [20].

But on the one hand, voice recording does not have an advantage over the protocol itself. It contains a lot of unnecessary information; the use of recording and the search for the necessary materials are technically difficult; special conditions are required for long-term storage of sound recordings, special precautions against accidental damage. Before drawing up the protocol, many advantages of sound recording are rejected, the reason is that it is difficult to prove this circumstance if there are doubts or contradictions regarding the ownership of the testimony recorded on the phonogram to this person [21, P. 285].

The graphical form of proof consists in obtaining evidence by drawing objects or performing graphic designations representing the recorded information.

Historically, technical means were used for this purpose as a method of determining the sketch and were usually included in the protocol. Currently, sketches are used "in emergency cases", since for some reason it is impossible to use technical means to describe the appearance of objects. The portrait retains its evidentiary value as a means of creating a mental image containing specific information, creating portraits based on the testimony of witnesses, victims, and sometimes the accused [22, P. 112].

Drawing up plans and diagrams is a way to formalize evidence in graphic form. Schemes and plans can be prepared by the person providing information to the subject of proof (witness, victim, accused, expert, etc.), as well as to the subject



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performing the proof, based on a direct or indirect description [23, P. 16]. Preparation of plans and schemes is practically not used by investigative authorities today.

It is possible to give representations of plans and schemes that are prepared by the subjects carrying out the proof, based on a direct description of:

- a) the state of the place of the investigative action: inspection of the scene of the incident, conducting an experiment, search, etc.;
- b) ways to change the location of the participants in the investigative actions;
- c) placement of technical means of storing information during investigative actions, if it has evidentiary value or is necessary for the evaluation of recorded evidentiary information.

We agree with the opinion of Terekhov A.Yu. that an objective and visual form of proof in forensic investigative practice is one of the most common forms [24, P. 24]. In a survey on this issue, the question was asked: "What auxiliary methods do you use to formalize evidence?" while 56.8% indicated that the method of registration in the protocol is used, 37.6% indicated that they widely use the method of video recording and photographing, which are auxiliary methods of formalization.

Conclusion

The widespread introduction of modern information technologies into public activities requires the improvement of legislation. At the same time, it is necessary to take into account the fixation of investigative and procedural actions by means of digital technology, the introduction of digital information and document management, as well as the introduction of new types of electronic evidence into the criminal process.

It is important that the lawful and impartial conduct of pre-trial proceedings is a legal guarantee of human rights. It is advisable to reflect in the law measures to comply with the rules of admissibility of evidence and prevent violations of criminal procedure legislation, rapid and complete disclosure of crimes and successful investigation of criminal cases, as well as to prevent difficulties from the official responsible for the proceedings, and the restriction of constitutional rights and freedoms of individuals.

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