

# CONDUCTING A SEARCH IN CONDITIONS OF TACTICAL RISK DURING THE INVESTIGATION OF CRIMINAL OFFENCES, IN ACCORDANCE WITH RELATED TO STATE GUARANTEES FOR THE FUNCTIONING OF THE HEALTHCARE SECTOR

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**DOI:** <https://doi.org/10.61345/1339-7915.2025.4.32>

**Annotation.** This scientific article examines issues related to conducting searches in conditions of tactical risk during the investigation of criminal offences related to state provision of healthcare services. Based on the opinions of prominent scholars and the provisions of legislation, the procedural essence of a search and its significance as one of the main means of obtaining evidence in criminal proceedings of this category are revealed. Typical search objects, characteristic forms of resistance on the part of suspects and the defence, as well as behavioural patterns of persons being searched are analysed.

Particular attention is paid to tactical risks arising during searches and factors affecting their effectiveness, in particular, surprise, timing, and the level of professional training of investigators and operatives. Scientific approaches to the classification of types of searches and tactical situations arising during their implementation are summarised. Practical recommendations are formulated for organising and conducting searches in conditions of increased resistance in order to minimise tactical risks, ensure the safety of participants in investigative actions, and respect human rights.

**Key words:** search, tactical risk, investigative (search) actions, criminal offences, healthcare, state provision, pre-trial investigation, law enforcement agencies, state funds.

## 1. Introduction.

The relevance of this topic is due to the fact that healthcare is one of the most important areas of social security, directly affecting the standard of living of the population, national security and stability in the country. At the same time, significant amounts of budget funding, centralised procurement of medicines and equipment, and the repair and construction of medical facilities create high corruption risks. This problem became particularly acute during Russia's armed aggression, when humanitarian challenges created a situation in which financial resources were redistributed quickly and control over their use was often insufficient. In these circumstances, widespread abuses have emerged: overpricing in public procurement, supply of poor-quality equipment, misuse of humanitarian aid, etc.

During the investigation of criminal offences related to state provision of healthcare services, a search is an urgent investigative (search) action that helps to uncover evidence and indicative data. When studying economic crimes, researchers note that the most common and effective investigative (search) actions in criminal proceedings of this category are searches, inspections of the scene, objects and documents, interrogations, and forensic examinations [1, p. 294]. At the same time, searches in such proceedings are extremely complex investigative (search) activities that require not only compliance with legislative norms, but also a high level of organisation, tactical training and psychological resilience on the part of employees. Criminals are highly intelligent and often operate in organised groups, so law enforcement officers often face active resistance, disinformation, and attempts to conceal or destroy evidence.

## 2. Analysis of scientific publications.

The issue of organizing and conducting searches in criminal proceedings, particularly in criminal proceedings involving economic crimes, has attracted the attention of many scholars. For example, V.Y. Shepitko analysed the general theoretical principles of conducting investigative (search) activities, paying particular attention to the importance of proper procedural formalities and thorough tactical preparation for a search. O.M. Kostenko studied the psychological characteristics of offenders' behaviour during investigative actions, in particular the factors that influence their ability to resist or mislead the investigation. O.V. Solovyov analysed the methodology for identifying and seizing evidence in difficult conditions of opposition from organised groups. Important aspects of search preparation and tactics are reflected in the works of V.P. Bakhin, who emphasised the operational interaction between police units during investigative actions. Yu.M. Groshev drew attention to the procedural guarantees of individual rights during searches and the risks of their violation in conditions of armed confrontation. In addition, M.V. Karachun studied the peculiarities of using special knowledge and technical means during searches, in particular in criminal proceedings related to organised criminal groups. At the same time, as evidenced by an analysis of contemporary scientific literature, the issues of search tactics and possible risks during the investigation of criminal offences related to state provision of healthcare services have not received adequate theoretical attention.

## 3. The aim of the work.

The purpose of this work is to examine the issue of conducting searches during the investigation of criminal offences, criminal offences related to the state provision of healthcare services, in conditions of tactical risk, with the aim of improving the effectiveness of this investigative (search) action.

## 4. Review and discussion.

A search is an investigative (search) action, the essence of which is the compulsory examination of premises and structures, areas of land, individual citizens, their clothing and belongings in order to identify and record information about the circumstances of a criminal offence, find the instruments of a criminal offence or property obtained as a result of its commission, and establish the whereabouts of wanted persons [2, p. 423]. Criminal procedural regulation is reflected in Article 234 of the Criminal Procedure Code of Ukraine [3].

In previous studies, we noted that in criminal proceedings involving the misuse of public funds in the healthcare sector, the objects of search are documents – 100%, drafts – 82%, funds obtained by criminal means – 78%, equipment – 15%, medicines – 18%, medical devices – 16%, computer equipment – 80%, mobile phones – 76%, building materials – 23%, food products – 17%, and other items – 9% [4, p. 119].

Searches are important in solving this task, during which photographs and video recordings that capture events that testify to the stable ties between the group members, as well as information from electronic media, in particular, correspondence via SMS, e-mail, etc., can be seized. If, during investigative (search) activities, documents confirming social ties between members of an organised group (photographs, video materials, electronic data) are found and seized, there is a need to conduct appropriate examinations: photographic, video, portrait, computer-technical, etc. [5, pp. 148-150]. According to scientific research, searches occupy a special place among investigative (search) actions carried out in the course of pre-trial investigations of criminal offences, as they are most often the basis for complaints against the actions of law enforcement officials. In this context, it is particularly important to ensure a balance between the efficiency and effectiveness of this procedural action and unconditional respect for human rights [6, pp. 126-129]. In turn, analysis of judicial, investigative and operational practice has established that in 48.6% of cases during searches, law enforcement officers encountered resistance from the defence, and in approximately 32.8% of cases from criminals, which manifested itself in the form of unconstructive complaints, disagreement with the legality of law enforcement actions, refusal to voluntarily hand over documents, means of

communication, computer equipment, cash, etc., as provided for in the ruling. There were recorded cases of destruction and concealment of documents on the territory of the hospital and in other places related to criminal proceedings.

In this context, Vartsaba V.M. pays particular attention to the specifics of such types of searches as group searches, searches with simultaneous detention of suspects (so-called 'search-detention'), as well as searches that did not yield positive results, i.e., searches with negative consequences. Each of these options has its own tactical features, legal restrictions and conditions of admissibility, which need to be carefully considered during the pre-trial investigation [7]. V.Y. Shepitko, depending on the attitude of the person being searched towards the search, notes the following situations:

a) a situation of active resistance;

b) a situation of neutral behaviour on the part of the person being searched and their refusal to communicate with the investigator;

c) a situation of providing assistance to the investigator during the search [8, p. 224]. During the investigation of criminal offences related to state provision of healthcare services, investigators and operational staff encounter all kinds of situations, but it should be noted that the professional actions of law enforcement officers allow them to transform active resistance into neutral behaviour on the part of the person being searched, and subsequently into assistance to the investigator during the search. Clear explanation and enforcement of the law, and the involvement of special forces in conducting searches, as a rule, contribute to the achievement of the lawful purpose of the search. Also, in our opinion, operational staff should prepare in advance for possible risks by carrying out other procedural actions. As noted by scholars, at the organisational stage, it is important to define the objectives of the search, justify the need for immediate intervention, ensure the participation of relevant specialists (operatives, forensic experts, IT experts), and minimise the risks of information leakage, which could lead to the destruction or concealment of evidence [9, pp. 374-378]. However, successfully used tactical search techniques occupy a special place. Among these, criminologists rightly highlight:

- conducting simultaneous searches of all accomplices;

- conducting repeat searches;

- simultaneous interrogation of a suspect by one investigator and a search of their place of work or residence by another;

- use of technical search tools [1, p. 296]. R.V. Yaroshenko notes that the results of a search conducted during an investigation into the appropriation, embezzlement or misappropriation of property through abuse of official position committed by an organised group are influenced to a greater or lesser extent by: the time of the search – 46.8%, the suddenness of the search – 69.2%, the professionalism of the persons conducting the investigative (search) action – 57.5%, other circumstances – 34.6% [10].

In criminal proceedings involving misuse of public funds in the healthcare sector, it is important to ensure that several searches are conducted simultaneously at all locations associated with the individuals involved, including their places of work (offices, other hospital premises), places of residence, and other properties where the objects of the search may be stored (garages, dachas, relatives' homes, etc.). The fact that hospitals often operate in several separate premises complicates the search, requiring the involvement of additional forces.

Thus, in criminal proceedings concerning the misappropriation of public funds on an especially large scale, a search was conducted at the workplace of the chief physician of a tuberculosis dispensary, which yielded no results. At the same time, the items being sought were found at the home of his uncle, who was also being searched at the time.

It should be noted here that an office cannot in itself be considered a dwelling or other property to which access is determined exclusively by its owner, and therefore, without the owner's consent, access to it can be obtained with the permission of an investigating judge. An office is provided for the performance of official duties, and access to it is determined by other regulations based on

considerations unrelated to the protection of the privacy of the persons to whom such office space is provided [11, p. 16]. Based on the opinions of scientists, we consider the following recommendations for conducting searches to be effective:

- investigative actions should be planned with stricter adherence to secrecy, as criminals are usually aware of the methods used by law enforcement agencies, have influential connections among government officials, and take measures to more carefully conceal and destroy evidence or traces of criminal activity;
- in order to prevent leaks of information about the planning and conduct of investigative actions, employees of the assigned forces should be briefed immediately before the start of the search during targeted briefings;
- During searches, criminals may behave defiantly, resist, including with the use of weapons and other dangerous means, attempt to hide or cause harm to themselves or those present, and may engage in other provocative actions, so it is essential to involve special forces personnel and ensure personal safety.
- When conducting searches of members of an organised criminal group, it is important to take measures to prevent communication with other criminals [10, p. 167].

## 5. Conclusions.

Searches conducted during investigations of criminal offences related to state provision of healthcare services take place in conditions of heightened tactical risk due to the organised nature of criminal activity, the existence of influential connections, and the high probability of resistance from interested parties. In such conditions, a search requires careful planning and a high level of professionalism on the part of the investigator and operational staff. The effectiveness of a search directly depends on its timeliness, suddenness, proper organisation, the professionalism of investigators and operational staff, as well as the use of sound tactical techniques, in particular simultaneous and repeated searches, the use of technical means and the involvement of specialists. An important factor in minimising tactical risks is ensuring secrecy, preventing information leaks and taking measures to ensure the personal safety of those involved in the investigation.

At the same time, searches conducted under conditions of tactical risk must be carried out in strict compliance with the requirements of criminal procedural law, which is a necessary condition for obtaining proper and admissible evidence.

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