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Shortcomings in the Legislative Framework Governing Law Enforcement Intelligence Operations in Correctional Facilities and Solutions: Draft Proposal for Amending Penal Legislation

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Abstract

Introduction: in accordance with Article 84 of the Penal Code of the Russian Federation, law enforcement intelligence operations are conducted in correctional facilities in accordance with the Russian legislation. This provision refers to the federal law No. 144-FZ "On law enforcement intelligence operations" of August 12, 1995. However, the task to identify, prevent, and uncover violations of the established procedure for serving sentences being prepared or committed within correctional facilities stipulated by Article 84 of the Penal Code of the Russian Federation does not correspond to the federal law No. 144-FZ and constitutes a specific, unique objective of law enforcement intelligence operations in penitentiary institutions. The task of ensuring personal safety of convicts, correctional facility staff, and other persons under Article 84 of the Penal Code of the Russian Federation is not fully covered by the objective of crime prevention. Furthermore, law enforcement intelligence operations within correctional institutions have other significant distinctions characteristic of custodial settings. *Purpose*: to identify key features of law enforcement intelligence operations in correctional facilities, gaps and contradictions in its regulatory framework, and propose scientifically grounded solutions based on the author's research. *Methods*: theoretical research: induction, deduction, analysis, synthesis, abstraction, concretization, analogy, comparison, identification, generalization, extrapolation, formalization, and idealization; empirical research: observation, description, questionnaires, interviews, document content analysis, and participant observation. *Results*: the article systematically presents the author's findings on shortcomings in current penal legislation governing law enforcement intelligence operations in correctional facilities. Specifically, it demonstrates that the tasks of law enforcement intelligence operations in correctional facilities exceed the scope of the federal law No. 144-FZ creating no legal basis for operational search measures addressing these tasks. Law enforcement intelligence operations in penitentiary institutions combine operational search measures with regime enforcement, educational, and other activities unified by a common objective. There is a legislative gap regarding authorization procedures for operational search measures involving the items prohibited or restricted in custodial settings. Results of law enforcement intelligence operations cannot be used to impose disciplinary liability on convicts. *Conclusion*: through comprehensive analysis of these shortcomings, the author

proposes an amendment to replace Article 84 of the Penal Code of the Russian Federation.

Keywords: law enforcement intelligence operations, penal system, correctional facilities, operational search measures, legislation.

5.1.4. Criminal law sciences.

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Introduction

The 1997 Penal Code of the Russian Federation became a product of its time, it contained a significant number of gaps and contradictions that are identified in the process of law enforcement practice and subsequently eliminated by the legislator. Thus, since its publication, 196 amendments have been made to the Criminal Code of the Russian Federation (in 1997–2010 – 64; in 2011–2020 – 78; in 2021– 2025 – 54). Article 84 of the Penal Code of the Russian Federation, which regulates the conduct of law enforcement intelligence operations in correctional institutions, has not been amended or supplemented. May it be unnecessary? Let us contemplate on it.

Research

Article 84 of the Penal Code of the Russian Federation "Law enforcement intelligence operations in correctional institutions" is in Chapter 12 "Regime in correctional institutions and means of its provision", which may indicate the legislator's intention to use law enforcement intelligence operations as a means of ensuring the regime. Moreover, it should be recognized that this is exactly how it is mostly used in practice. At the same time, Part 1 of Article 84 unambiguously declares that law enforcement intelligence operations are carried out in correctional institutions in accordance with Russian legislation, i.e. the federal law No. 144-FZ of August 12, 1995 "On law enforcement intelligence operations" (hereinafter – the federal law No. 144-FZ), certain norms of the Criminal Code of the Russian Federation, the Criminal Procedure Code of the Russian Federation and a number of other legislative acts. The Garant information and legal system and the ConsultantPlus reference legal system refer to this federal law. Indeed, Russian legislation does not contain any other laws directly regulating the sphere of legal relations in the field of law enforcement intelligence operations. The priority of the federal law No. 144-FZ, despite the presence of separate law enforcement intelligence norms in other laws, is repeatedly confirmed in the scientific literature [1; 2].

In turn, Article 1 of the federal law unequivocally establishes that operational investigative activities are carried out in order to counter criminal encroachments. Speaking from the point of view of literal interpretation of the law, it is obvious that ensuring regime requirements in correctional institutions is not included in this goal. It should be noted here that the concept of "protection from criminal encroachments" should be considered both in narrow and broad senses. In a narrow sense, from the point of view of philology, "protection" is that which protects, serves as defense [3, p. 210]. We share the opinion of A.M. Larin that protection as "a variety of activities to protect human rights and freedoms from all kinds of violations and restrictions and to compensate for damage caused to human rights and freedoms if it was not possible to prevent or repel violations, to eliminate restrictions" [4, p. 58]. Consequently, law enforcement intelligence operations cannot be carried out without elements of existing criminal encroachments. This corresponds to the task specified in Article 2 of the federal law No. 144-FZ to identify, prevent, suppress and disclose crimes, as well as to identify those who prepare, commit or have committed them, as well as to the basis for conducting operational investigation measures provided for in Subparagraph 1 of Paragraph 2 of Part 1 of Article 7 of the federal law No. 144-FZ. This is data about signs of the crime that is being prepared, being committed or has been committed, as well as persons who are preparing, committing or have committed it. Thus, law enforcement intel-

ligence operations cannot be carried out without information about, at least, the *crime* being prepared (emphasis added).

At the same time, this approach allows us to identify significant contradictions in the federal law No. 144-FZ. If we are talking about protection from specific criminal attacks, how the search for missing persons provided for in Article 2 of this federal law relates to it? After all, when starting their search, operational units do not have information about the crime commission against a missing person. What about obtaining information (and, consequently, a search process without available primary information) about events or actions (inaction) that pose a threat to the security of the Russian Federation? At the same time, the relevant grounds for conducting operational search measures are provided for in Article 7 of the federal law No. 144-FZ. Based on the above, we consider it possible to assume that the concept of "protection from criminal encroachments" is understood by the legislator in a broad sense as protection from actions that may possibly lead to the commission of a crime.

S.A. Bazhanov, K.K. Goryainov and A.P. Isichenko consider this issue in terms of the specifics of the penal system of the Russian Federation, stating that "the legislative list of serious violations of the established procedure for serving sentences show that they carry very dangerous criminogenic potential, which, in conditions of extremely high concentration of the most criminally affected part of convicts in a limited area, can lead to penitentiary conflicts often escalating into criminally punishable acts ..." [5, p. 9].

Based on the broad interpretation of the concept of "protection from criminal encroachments", as well as the fact that ensuring regime requirements in correctional institutions minimizes the number of crimes committed in places of deprivation of liberty (for example, by banning alcoholic beverages, piercing and cutting objects, etc.), we can assume that the purpose of law enforcement intelligence operations to protect from criminal encroachments is disclosed in the tasks provided for in the federal law No. 144-FZ and Article 84 of the Penal Code of the Russian Federation. At the same time, the mentioned tasks coincide partially. In particular, the task of "ensuring the personal safety of convicts, correctional institution personnel and other persons" and "detecting, preventing and uncovering crimes being prepared and committed in correctional institutions and violations of the established procedure for serving sentences" go beyond the scope of the federal law No. 144-FZ.

We consider it advisable to clarify the first task, since in the current version it goes beyond the scope of penal relations in terms of other persons. Indeed, operational units of the penitentiary system cannot even theoretically ensure the personal safety of an indefinite circle of people. Therefore, it would be better to use the following wording: "other persons being on the territory of correctional institutions". At the same time, developing this idea and using legal techniques, we should dwell on the question, whether it is worth listing certain categories of persons being on the territory of correctional institutions (convicts and staff), if the task of ensuring personal safety also applies to other categories of persons falling under the specified territorial feature? In our opinion, such a list is unnecessary, and therefore we suggest using the phrase "ensuring the personal safety of persons being on the territory of correctional institutions".

It seems logical to assert that the task of an operational unit carrying out law enforcement intelligence operations on the territory of a correctional institution is to ensure the personal safety of its personnel not only while on duty, but also during off-duty hours (on the way to and from work, employees on leave, including in other regions, and etc). At the same time, it should be clarified that this task in the penal system is assigned to special operational units that perform the function of their own security, which is implemented within the framework of the federal law "No. 144-FZ". Internal security units are also entitled to carry out internal security operations in correctional institutions, however, its tasks provided for in Article 84 of the Penal Code of the Russian Federation are not a priority for them. Thus, the wording we propose will not worsen the process of ensuring the personal safety of correctional personnel.

It is worth emphasizing that the content of the concept of "personal security" is not disclosed in the current legislation. There are the following definitions: "the state of human security from danger factors at the level of his/her personal interests and needs provided by the individual him/herself and controlled by the state" [6, p. 130]; "the social good of a person, which has a normative legal basis and is guaranteed and en-

sured by activities of the state and society, from unlawful encroachments and allows a person to safely exercise his/her rights and freedoms" [7, p. 42]; the absence of dangers and their progressive development through the realization of rights, freedoms and legitimate interests, full protection from various types of threats, the possibility of full-fledged development in conditions of imprisonment [8, p. 101], etc.

Thus, the concept of "personal security" represents the state of protection of human life, health, dignity, rights and freedoms from external threats. So, it is possible to identify several interrelated aspects: physical (ensuring the absence of physical violence), psychological (preventing or suppressing psychological pressure), informational (preventing the disclosure of personal data), social (countering discrimination on any basis). It is worth mentioning that this list is not exhaustive.

Obviously, within the framework of law enforcement intelligence operations in correctional institutions, the main emphasis is on preventing the commission of crimes, while other aspects, as a rule, are not provided by operational units. The reason for this circumstance is, first of all, the imperfection of the current legal framework. It is associated with that there is a task of ensuring personal safety goes beyond the scope of the federal law No. 144–FZ. This federal law does not provide grounds for conducting law enforcement intelligence operations appropriate to the task under consideration. Consequently, carrying out law enforcement intelligence operations to achieve this task is illegitimate.

The same is about the task of "detecting, preventing and uncovering crimes being prepared and committed in correctional institutions and violations of the established procedure for serving sentences". If there are no problems with combating crimes (a similar task, which additionally provides for the suppression of crimes, is provided for by the federal law No. 144-FZ), then the current legislation does not contain grounds for conducting law enforcement intelligence operations to identify, prevent and disclose violations of the established procedure for serving sentences being prepared and committed in correctional institutions.

There is also a legal feature here. Subparagraph 1 of Paragraph 2 of Part 1 of Article 7 of the federal law No. 144-FZ provides the basis for conducting operational search measures in connection with the received information about signs of the *illegal act* that is being prepared, being committed or have been committed, as well as about persons who are preparing, are committing or have committed it. Thus, in terms of legislative norms, the norms of the federal law No. 144-FZ and the Penal Code of the Russian Federation are consistent with each other: the wording "law enforcement intelligence operations are carried out in correctional institutions in accordance with the legislation of the Russian Federation" of Part 1 of Article 84 of the Penal Code of the Russian Federation refers to the federal law No. 144-FZ, which establishes the procedure for its implementation, whereas Part 2 sets out the tasks of law enforcement intelligence operations in correctional institutions that go beyond the tasks of the federal law No. 144-FZ. At the same time, the federal law No. 144-FZ contains the basis for solving the tasks provided for in Part 2 of Article 84 of the Penal Code of the Russian Federation. However, this harmony was violated by the ruling of the Constitutional Court of the Russian Federation No. 86-O of July 14, 1998 "In the case of checking the constitutionality of certain provisions of the federal law No. 144-FZ on the complaint of citizen I.G. Chernova". The Constitutional Court of the Russian Federation unequivocally established that "the federal law in question considers unlawful act as a criminally punishable act, i.e. a crime" [14]. Thus, the specified act deprived operational units of the penal system of the legal grounds for conducting operational investigative measures in order to combat violations of the established procedure for serving sentences in correctional institutions.

Considering the current situation, one should ask the question, whether the acts of the Constitutional Court of the Russian Federation are sources of operational investigative law? In accordance with Article 4 of the federal law No. 144-FZ, the legal basis for operational investigative activities is the Constitution of the Russian Federation, the federal law No. 144-FZ, other federal laws and other regulatory legal acts of federal government bodies adopted in accordance with them. The decisions of the Constitutional Court of the Russian Federation in the form of rulings, conclusions, and definitions are not mentioned in this article, but they are attributed to the legal basis of law enforcement intelligence operations by many respected scientists ученые [9, p. 52]; [10, pp. 47, 49];

[20]. So, A.E. Chechetin, I.D. Shotokhin, A.A. Shmidt emphasize that "by their legal nature, decisions of the Constitutional Court are legal acts of a special kind with certain precedent and prejudicial properties, and by their legal force they belong to the highest (constitutional) level of legal regulation of law enforcement intelligence operations along with the Constitution of the Russian Federation" [12, p. 5].

We should note the difference in approaches to interpreting the meaning of the concept under consideration: the normative approach, which consists in stating sources of law fixed in Article 4 of the federal law No. 144-FZ, and the scientific approach, which allows scientists to express the author's points of view on this issue, including or excluding certain sources of law. Besides, there are different author's classifications of the legal basis of law enforcement intelligence operations published in the scientific literature [13, pp. 68–69].

When interpreting law, we emphasize the reliance not on theory, but on the current rule of law. Based on the content of Article 4 of the federal law No. 144-FZ, the decisions of the Constitutional Court of the Russian Federation (as well as other courts) are not the direct legal basis of law enforcement intelligence operations. At the same time, they undoubtedly have an impact on their content by forming binding legal positions that interpret the norms of operational investigative legislation. Decisions of the Constitutional Court of the Russian Federation do not create new norms, but clarify the constitutional meaning of laws and are subject to consideration by the *legislator* and the law enforcer. The legal position of the Constitutional Court should be reflected in the norms of legislation, otherwise it will be only advisory in nature. Undoubtedly, if it is ignored as a result of subsequent proceedings, negative consequences may occur in the form of exclusion of evidence from the criminal case, however, its knowledge is not required (by the way, in practice, decisions of the Constitutional Court of the Russian Federation are generally not known) and consideration in law enforcement practice is currently not required from law enforcement officials.

In our opinion, there is another very significant circumstance. The rulings of the Constitutional Court of the Russian Federation adopted after consideration of certain complaints *take into account the circumstances specific to the occurred or similar situations and are not subject to unconditional application in all cases*. We believe it wrong to extract a separate provision from the context of the definition and be guided by it in all cases. This concerns the ruling of the Constitutional Court of the Russian Federation No. 86-O of July 14, 1998 "In the case of checking the constitutionality of certain provisions of the federal law No. 144-FZ on the complaint of citizen I.G. Chernova". Considering the complaint of citizen I.G. Chernova, the Constitutional Court of the Russian Federation conducted a review of the constitutionality of certain provisions of the federal law No. 144-FZ (which is provided for in Part 3 of Article 3 of Federal Constitutional Law No. 1-FKZ of July 21, 1994 "On the Constitutional Court of the Russian Federation") for the circumstances of her criminal case (in relation to I.G. Chernova, operational search measures were carried out in connection with the information about the crime being committed under Article 162.5 of the Criminal Code of the RSFSR "Illegal entrepreneurship in the field of trade"). Thus, in its ruling, the Constitutional Court in no way took into account the content of Article 84 of the Penal Code of the Russian Federation as unrelated to the complaint under consideration. Thus, *we consider it reasonable and possible not to take into account the content of the definition under consideration in terms of the grounds for conducting law enforcement intelligence operations in correctional facilities*.

At the same time, it is obvious that our opinion is subjective and in no way can be used as a justification in the case of prosecutorial response measures or challenging in court the existence and legality of the grounds for conducting operational investigative measures in order to counter violations of the established procedure for serving sentences in correctional institutions. In this regard, in order to exclude further possible discussions on this issue, we propose to fix in Article 84 of the Penal Code of the Russian Federation the grounds for conducting operational investigative measures in order to solve the tasks provided for in it. At the same time, we consider it inappropriate to list specific grounds and suggest using the legislator's approach demonstrated in Part 3 of Article 7 of the federal law No. 144-FZ. The legislator avoided direct formulations using the phrase "Bodies engaged in law enforcement intelligence operations ... carry out operational investigative measures in order to obtain information neces-

sary for decision-making ...". Thus, we propose to supplement Article 84 of the Penal Code of the Russian Federation with a part providing grounds for conducting law enforcement intelligence operations in correctional institutions stating it as follows: "Bodies carrying out law enforcement intelligence operations while executing sentences, within their competence, in order to solve the tasks provided for in Part 1 of this article, are entitled to conduct operational investigative measures".

However, we find this revision incomplete due to another significant feature of conducting law enforcement intelligence operations in correctional institutions [14]. Article 1 of the federal law No. 144-FZ declares that law enforcement intelligence operations are carried out through operational investigative measures, which means that other measures are not included in law enforcement intelligence operations. The problem stated (although without taking into account the specifics of the penal system) has been repeatedly mentioned in scientific literature [15, pp. 14–15; 2, p. 99; 16, p. 71; 17, p. 39, 22, etc.], in particular, the absence of such actions as blocking, ambushing, blocking, seizing, seizing an object, document, message or other material object, chasing, etc. in the federal law No. 144-FZ. However, the operational investigative legislation has not been amended. With regard to places of deprivation of liberty, this feature is more specific: we have established that *law enforcement intelligence operations in correctional institutions are carried out both through operational investigative, regime, educational, administrative and other measures that form a single complex united by a common plan*. At the same time, with the help of operational search measures, the tasks of ensuring the regime of serving sentences provided for in Article 84 of the Penal Code of the Russian Federation are solved and vice versa. So, for example, the transfer of a convicted person to another cell (a regime event) can provide conditions for carrying out a number of operational search measures, while during law enforcement intelligence operations a storage location for a moonshine distiller can be established, etc.

It should be noted that in this case, the legislation does not reflect the real situation in places of deprivation of liberty back in the middle of the last century and has a socially useful character. Refusing to amend the federal law No. 144-FZ (in order to avoid accusations of "cluttering up" the general operational search law with the specifics of the penal system), it seems to us necessary to reflect this feature in the penal legislation, thereby legitimizing the existing practice of operational units of the penal system. Thus, we propose the following wording of the additional part of Article 84 of the Penal Code of the Russian Federation: "Bodies carrying out law enforcement intelligence operations while executing sentences, within their competence, in order to solve the tasks provided for in Part 1 of this article, are entitled to conduct operational investigative measures, as well as to carry out activities provided for by this code". The right to carry out regime and other measures provided for by the Penal Code of the Russian Federation follows from the departmental affiliation of operational staff to the penal system, as well as operational staff of internal affairs bodies are subject to the rights and obligations provided for by the federal law "On police" No. 3-FZ of February 7, 2011. Another characteristic of law enforcement intelligence operations in penitentiary institutions requiring, in our opinion, special consolidation in legislation is the implementation of operational search measures "test purchasing operation" and "controlled delivery". We believe that operational search measures during law enforcement intelligence operations are being implemented, rather than being carried out, because the term "implementation" is broader and includes both the actual "conduct" and the preliminary preparation for it. Part 7 of Article 8 "Conditions for conducting operational search measures" of the federal law No. 144-FZ establishes that "a test purchasing operation or controlled delivery of items, substances and products, the free sale of which is prohibited or the turnover of which is limited, as well as an operational experiment or operational implementation ... are carried out on the basis of a resolution approved by the head of the body carrying out law enforcement intelligence operations". A special feature of the penal system is that for convicts held in correctional institutions, objects and substances that are allowed in civil circulation are prohibited, for example, alcoholic beverages, cellular communications equipment and accessories for them, piercing and cutting objects, etc. At the same time, in some cases they can serve as the subject of operational search measures of "test purchasing operation" and "controlled delivery". Is an appropriate resolution required

for such events? We believe that it is necessary, because the external (objective) side [see, for example, 19, p. 179] of these measures coincides with the offense (crime) committed by a convict or a penal system employee. It is the resolution on the conduct of relevant measures that will distinguish the actions being carried out from the corpus delicti, legitimize them and avoid bringing participants in the measure to the responsibility established by law.

It should be emphasized that it is necessary to specify the circle of persons who are entitled to make relevant decisions. Part 7 of Article 8 of the federal law No. 144-FZ defines that such a right is granted to the heads of bodies engaged in law enforcement intelligence operations. In accordance with Article 5 "Organization of the penal system" of the law of the Russian Federation No. 5473-I of July 21, 1993 "On institutions and bodies of the penal system of the Russian Federation", territorial bodies of the penal system and the Federal Penitentiary Service refer to the bodies of the penal system, whereas correctional facilities refer to institutions that execute punishments and they do not have the status of bodies. Accordingly, in court and in the course of prosecutorial supervision, there may be (and are!) questions about the competence of the heads of correctional institutions to sign the relevant documents. It should be noted that the penal system includes 87 territorial bodies, while correctional institutions include 35 special regime correctional facilities for convicts with particularly dangerous recidivism, 6 special regime correctional facilities for those sentenced to life imprisonment, 251 high security correctional facilities, 164 general regime correctional facilities for convicted men, and general regime correctional facilities for convicted women, 94 penal settlements, 51 medical correctional facilities, 23 medical and preventive institutions, 7 prisons, 13 juvenile correctional facilities [20]. Many of them are located at a very considerable distance from the territorial authorities and therefore the possibility of timely signing resolutions (we note that they contain information that constitutes a state secret, which imposes additional requirements and restrictions) is highly questionable. In connection with these circumstances, we consider it possible and justified to delegate the right to approve resolutions on the conduct of test purchasing operations or controlled deliveries of items, substances and products, the free sale of which is prohibited or whose turnover is limited, as well as operational experiments or operational implementation to the heads of correctional institutions, who, being directly on the spot, can not only promptly issue an appropriate resolution, but also to verify the documents provided by them using their own sources of information.

When completing the construction of the norm governing the conduct of law enforcement intelligence operations in correctional institutions, attention should be paid to the possibility of using its results. Currently, the possibility of using the results of law enforcement intelligence operations exists only in criminal proceedings and is provided for by the joint order of the Ministry of Internal Affairs of Russia, the Ministry of Defense of Russia, the FSB of Russia, the Federal Security Service of Russia, the Federal Customs Service of Russia, the SVR of Russia, the Federal Penitentiary Service of Russia, the Federal Drug Control Service of Russia, the Investigative Committee of Russia No. 776/703/509/507/1820/42/535/398/68 of September 27, 2013 "On approval of Instructions on the procedure for submitting the results of law enforcement intelligence operations to the body of inquiry, to the investigator or to the court". However, there is a need, including due to the changes we propose, of bringing convicts to other legally prescribed liability, primarily those established by penal enforcement and administrative legislation. For example, as a result of the unspoken audio recording, it is possible to obtain information about the storage locations of prohibited items, the intentions of convicted persons of a negative orientation to commit group disobedience (which does not constitute a crime), etc. It should be emphasized that it is possible to obtain information about the involvement of specific convicts in violations of the established procedure for serving sentences, for example, showing tattoos with symbols of extremist organizations, illegally using cellular communications, plotting or preparing to escape from a place of imprisonment (according to parts 1 and 2 of Article 313 of the Criminal Code of the Russian Federation – a crime of moderate severity, while criminal liability is charged for preparing only for grave and especially grave crimes). At the same time, to use operational information (i.e. the results of operational search measures) in modern conditions to bring those convicted to administrative or disciplinary responsibility is impossible.

Based on the innovations we have proposed above, we suggest setting out another addition to Article 84 of the Penal Code of the Russian Federation as follows: "The results of law enforcement intelligence operations in correctional institutions can be used to bring convicts to justice, established by the legislation of the Russian Federation. The procedure for using the results of law enforcement intelligence operations in correctional institutions is determined by a regulatory act of the Federal Penitentiary Service". It should be emphasized that the composition of the proposed norm provides for its application exclusively to convicts serving sentences in correctional institutions (except for ensuring the personal safety of persons other than convicted persons being on the territory of correctional institutions).

Conclusion

Summarizing the above, we propose to formulate Article 84 of the Penal Code of the Russian Federation in the following wording (our proposed amendments are in italics):

1. In accordance with the legislation of the Russian Federation, law enforcement intelligence operations are carried out in correctional institutions with the purpose of ensuring the personal safety of *persons being on the territory of correctional institutions*; identifying, preventing, *suppressing* and disclosing crimes being prepared and committed in correctional institutions and violations of the established procedure for serving sentences; searching for escaped convicts, as well as convicts evading imprisonment, in accordance with the established procedure; assisting in detecting and solving crimes.

2. Law enforcement intelligence operations are carried out by operational units of correctional institutions, as well as other authorized bodies within their competence.

3. *Bodies carrying out law enforcement intelligence operations while executing sentences, within their competence, in order to solve the tasks provided for in Part 1 of this article, are entitled to conduct operational investigative measures, as well as to carry out activities provided for by this code.*

4. *A test purchasing operations or controlled delivery of items, substances and products, the turnover of which is prohibited or restricted on the territory of a correctional institution, as well as an operational experiment or operational introduction of persons assisting operational units of the penal system, are carried out on the basis of a resolution approved by the head of the correctional institution or the body of the penal system.*

5. *The results of law enforcement intelligence operations in correctional institutions may be used to bring convicts to justice in accordance with the legislation of the Russian Federation. The procedure for using the results of law enforcement intelligence operations in correctional institutions is determined by a regulatory act of the Federal Penitentiary Service.*

We do not insist on presenting the final wording of the proposed norm and possible scientific discussion is always welcome. We believe that the time has come to recognize and legitimize the specifics of implementing law enforcement intelligence operations in correctional institutions.

REFERENCES

1. Gir'ko S.I., Lugovik V.F., Gusev V.A. About law relationship, procedures and operative investigative law. *Trudy Akademii upravleniya MVD Rossii = Proceedings of Management Academy of the Ministry of the Interior of Russia*, 2017, no. 4 (44), pp. 19–25. (In Russ.).

2. Zheleznyak N.S. *Voprosy aktualizatsii Federal'nogo zakona "Ob operativno-rozysknoi deyatel'nosti": monografiya* [Issues of updating the federal law "On law enforcement intelligence operations": monograph]. Krasnoyarsk, 2019. 332 p.

3. Ozhegov S.I., Shvedova N.Yu. *Tolkovyi slovar' russkogo yazyka: 80,000 slov i frazeologicheskikh vyrazhenii* [Explanatory dictionary of the Russian language: 80,000 words and phraseological expressions]. Moscow, 2010. 938 p.

4. Larin A.M. Protection of human and civil rights and freedoms in criminal proceedings. In: *Konstitutsiya Rossiiskoi Federatsii i sovershenstvovanie mekhanizmov zashchity prav cheloveka: sbornik statei* [The Constitution of the Russian Federation and the improvement of human rights protection mechanisms: collection of articles]. Moscow, 1994. Pp. 57–74. (In Russ.).

5. Bazhanov S.A., Goryainov K.K., Isichenko A.P. *Operativno-rozysknaya deyatel'nost' v ugolovno-ispolnitel'noi sisteme: rasshirennyi kommentarii k stat'e 84 UIK RF* [Law enforcement intelligence operations in the penal system: extended commentary on Article 84 of the Penal Code of the Russian Federation]. Moscow, 2011.

6. Redkov S.K. Features of ensuring personal safety. *Na puti k grazhdanskomu obshchestvu = On the Way to Civil Society*, 2025, no. 2 (58), pp. 128–131. (In Russ.).
7. Guk E.P. On the concept of personal security. *Vestnik Penzenskogo gosudarstvennogo universiteta = Bulletin of Penza State University*, 2016, no. 4 (16), pp. 40–42. (In Russ.).
8. Pakanich S.I. Theoretical–legal study of the concept of the right condemned on a personal security in the conditions of imprisonment. *Vestnik Kuzbasskogo institute = Bulletin of the Kuzbass Institute*, 2011, no. 5 (8), pp. 96–102. (In Russ.).
9. *Teoriya operativno-rozysknoi deyatel'nosti: ucheb.* [Theory of law enforcement intelligence operations: textbook]. Ed. by Goryainov K.K., Ovchinskii V.S. Moscow, 2021. 762 p.
10. *Kommentarii k Federal'nomu zakonu "Ob operativno-rozysknoi deyatel'nosti". S prilozheniem reshenii Konstitutsionnogo Suda Rossiiskoi Federatsii i obzorov praktiki Evropeiskogo Suda po pravam cheloveka* [Commentary to the federal law "On law enforcement intelligence operations". With the application of decisions of the Constitutional Court of the Russian Federation and reviews of the practice of the European Court of Human Rights]. Ed. by Ovchinskii V.S. Moscow, 2020. 576 p.
11. Chechetin A.E. Federal Law "On Operational Search Activities" in decisions of the constitutional Court of the Russian Federation. *Trudy Akademii upravleniya MVD Rossii = Proceedings of the Academy of Management of the Ministry of Internal Affairs of Russia*, 2020, no. 3 (55), pp. 65–76. (In Russ.).
12. Chechetin A.E., Shatokhin I.D., Shmidt A.A. *Operativno-rozysknaya deyatel'nost' v resheniyakh Konstitutsionnogo Suda Rossiiskoi Federatsii: nauchno-prakticheskoe posobie* [Law enforcement intelligence operations in the decisions of the Constitutional Court of the Russian Federation: scientific and practical guide]. Barnaul, 2022. 136 p.
13. Galakhov S.S., Galakhova A.V., Bersanov Sh.R. The legal basis of operational investigative activities in the field of crime prevention: constitutional and criminal law source. *Nauchnyi portal MVD Rossii = Scientific Portal of the Ministry of Internal Affairs of Russia*, 2009, no. 1 (5), pp. 67–74. (In Russ.).
14. Agarkov A.V. *Osushchestvlenie operativno-rozysknykh meropriyatii v ugolovno-ispolnitel'noi sisteme: teoretiko-pravovye i prikladnye problem: dis. … d-ra yurid. nauk* [Implementation of operational investigative measures in the penal system: theoretical, legal and applied problems: Doctor of Sciences (Law) dissertation]. Moscow, 2024.
15. Atmazhitov V.M., Bobrov V.G. *O zakonodatel'nom regulirovanii operativno-rozysknoi deyatel'nosti: nauchnyi doklad* [On the legislative regulation of governing law enforcement intelligence operations: scientific report]. Moscow, 2003. 24 p.
16. *Operativno-rozysknoi slovar'* [Operational search dictionary]. Comp. by A.Yu. Shumilov. Moscow, 2008. 175 p.
17. Sharov V.I. Tasks and forms (directions) of operational investigative activities. *Vestnik Belgorodskogo yuridicheskogo instituta MVD Rossii imeni I.D. Putilina = Bulletin of the Belgorod Law Institute of the Ministry of Internal Affairs of Russia named after I.D. Putilin*, 2022, no. 1, pp. 37–41. (In Russ.).
18. Shakhmatov A.V., Karl A.M. On the issue of legislative regulation of the list of operational investigative measures in the Russian Federation and the Republic of Kazakhstan. *Vestnik Sibirskogo yuridicheskogo instituta MVD Rossii = Vestnik of Siberian Law Institute of the MIA of Russia*, 2019, no. 2 (35), pp. 97–102. (In Russ.).
19. Shumilov A.Yu. *Operativno-razysknoi slovar'* [Operational-investigative dictionary]. Moscow, 2018. 216 p.
20. *Kratkaya kharakteristika ugolovno-ispolnitel'noi sistemy Rossiiskoi Federatsii* [Brief description of the penal system of the Russian Federation]. Available at: https://fsin.gov.ru/structure/inspector/iao/statistika/Kratkaya%20har-ka%20UIS/ (In Russ.). (Accessed August 8, 2025).

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