



PROSPECTS FOR ENSURING THE SAFETY OF PUBLIC MEMBERSHIPS IN CRIMINAL PROCEEDINGS

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Article history:	Abstract:
Received: May 26 th 2022 Accepted: June 26 th 2022 Published: July 30 th 2022	In this article, the author studied the actions of our country and advanced foreign countries to ensure the participation of members of the public in the criminal process, to widely use their assistance in solving crimes. The opinions of scientists on ensuring the safety of members of the public participating in the criminal process are also considered. Based on the above analysis, the author presents a number of proposals and recommendations on legislation and law enforcement.

Keywords: Public, security, security measures, investigative actions, witness, threat, responsibility.

Today, in the Republic of Uzbekistan, as in all other countries, a number of activities are being carried out in order to ensure the participation and increase the activity of citizens in state affairs, including criminal proceedings. However, it is still necessary to carry out a number of works in order to bring the case to court, including in the field of inquiry and preliminary investigation, to transform the state bodies and the public into a system that implements harmonious cooperation.

Of course, in our opinion, first of all, we need to ensure the safety of public representatives participating in the criminal process. The right to security is rightly called the "core of the legal status of the individual", since this right allows the individual to exercise all other related rights.

One of the most common forms of public participation at the preliminary investigation and inquiry stage is the participation of citizens as witnesses.

The main task of a witness is to give truthful testimony. Witness testimony is the most common type of evidence. Among other sources of information about the circumstances of the case, the testimony of a witness ranks first in importance. In most cases, the testimony of witnesses is the only way to establish the circumstances of the crime and identify the person who committed the crime. The value of a witness as an evidence is that he cannot be replaced, he is a rare participant in the criminal process.

However, in many cases there are cases when individuals refrain from participating as witnesses in criminal proceedings. However, according to the legislation of the Republic of Uzbekistan, witnesses are required to testify, and their refusal to testify is subject to criminal liability (Article 240 of the Criminal Code) and for giving knowingly false testimony (Article 238 of the Criminal Code). Our

citizens name several reasons for this: lack of security, deterioration of personal relations with participants in the process, waste of time and money on contacting the investigating authorities, fear of entering into relations with the investigating authorities, etc.

A practice that took place abroad is a clear evidence of this: in Philadelphia, local police identify an anonymous Instagram account called "Rats215" ("Rats215"). This akaunt posted pictures of people who have witnessed violent crimes for months [1]. The number of account monitors reached 7900 people, it was updated daily and revealed more than 30 witnesses. The observers in the accounts reposted photos of the "rats", urging everyone to find out the identity of the witnesses. This account was later blocked by the government. Century of Instagram Facebook, Instagram and Twitter have shown a new circle of influence on witnesses, although the account was permanently banned [2].

Dangerous illegal actions that can be committed against witnesses and other participants in the criminal process include extortion, physical violence, slander, blackmail, damage/destruction of property, etc.

According to scientists, today the state with the strongest and most effective system in the world for the effective protection of witnesses and victims is the United States. [3; 109]. For the first time, in the 1960s, it was in this state that the U.S. government witness security programs appeared to fully cover the mafia by providing Jozef Valachi, a member of the Italian-American mafia, with life-long personal protection and providing separate living conditions [4; 89-92].

Today, security in US law is a comprehensive legal system. An example of this can be measures to change one's place of residence, protect a person,



from imposing harsh penalties for threatening witnesses with criminal law to changing gender.

Based on the American model of ensuring the safety of participants in the criminal process, the countries of Canada and Australia have also created their own reliable and effective systems [5; 133-139].

In this matter, if we analyze the national legislation, although Article 270 of the Code of Criminal Procedure of the Republic of Uzbekistan obliges the person conducting the case to ensure the safety of the participants in the proceedings, in this case it does not specify what measures and by whom the safety should be provided. The Law of the Republic of Uzbekistan dated January 14, 2019 "On the Protection of Victims, Witnesses and Other Participants in the Criminal Process" relatively clearly defined these provisions.

First of all, article 3 of this law provides for a relatively broad scope of the classification of protected persons in relation to article 270 of the Code of Criminal Procedure, which includes:

- 1) the victim and his legal representative;
- 2) a witness;
- 3) public prosecutor and public defender;
- 4) the suspect, the accused, the defendant, their lawyers and legal representatives;
- 5) a convicted, acquitted person, a person against whom the criminal case has been terminated;
- 6) civil plaintiff, civil defendant and their representatives;
- 7) it was established that the Expert, Specialist, interpreter and witness, as well as family members and close relatives of the above persons may also be protected persons [6].

It is also stated that protective measures can be applied to the applicant, a witness to a crime or persons contributing to the prevention or detection of a crime before a criminal case is initiated. However, according to Part 1 of Art. 270 of the Code of Criminal Procedure, we can apply security measures only to persons who are involved in initiated criminal cases and who have a procedural status.

In addition, parts 2 and 3 of Article 270 of the Criminal Procedure Code define only internal affairs bodies as security agencies, and Article 5 of the Law "On the Protection of Victims, Witnesses and Other Participants in Criminal Proceedings" includes the State Security Service of the Republic of Uzbekistan, these bodies include institutions of the High Command of the Armed Forces, the Main Directorate for the Execution of Punishments.

The presence of conflict makes it difficult to enforce security measures and, as a result, discourages law-abiding citizens from cooperating with

law enforcement [7; 58].

In our opinion, based on the provisions of the Law "On the Protection of Victims, Witnesses and Other Participants in Criminal Proceedings", it is advisable to state Article 270 of the Code of Criminal Procedure of the Republic of Uzbekistan in the following wording:

« If there is sufficient information to assert that the victim, witness, applicant, witness of the crime, contributing to the prevention or disclosure of the crime, as well as other persons participating in the case, as well as members of their families or close relatives, are threatened with murder, use of force, destruction of property or damage to their property, or that they are threatened with other unlawful actions, an official of the pre-investigation inspection body, an inquirer, an investigator, a prosecutor, a court must protect the life, health, honor, dignity and property of these persons in the manner prescribed by law, and they must take steps to identify those responsible and bring them to justice.

The authorities providing security measures must be informed about the information available in the criminal case about the persons posing a threat of danger, the likely intended nature, sources, place, time and other circumstances of this danger».

It also seems appropriate to develop regulatory documents on the procedure for ensuring security measures. Because our citizens and practitioners lack the knowledge of how to use them.

In addition, parts 2 and 3 of Article 238 of the Criminal Code establish criminal liability for forcing participants in a process to give false testimony using unlawful influence. However, in most cases, witnesses are afraid of threats and do not testify at all and refuse to cooperate with the investigating authorities. Although the law establishes that this rule applies to applicants and witnesses of crimes, the fact that it is not reflected in criminal law causes differences in the application of the law. Therefore, in our opinion, it is advisable to state part 2 of article 238 of the Criminal Code of the Republic of Uzbekistan in the following wording:

«Extortion from an applicant, a witness to a crime, a witness or a victim, or from an expert to give a false opinion, or from an interpreter to give a false translation, for giving false testimony or not giving evidence during the pre-investigation check, inquiry, preliminary investigation or trial, as well as extortion they are either coerced into giving false testimony or not testifying by influencing their close relatives mentally, psychologically, physically or otherwise».



In our opinion, the implementation of the above proposals will prevent cases of failure to testify or change them due to fear of retribution or violation of personal relations as a result of exposing the crime of a criminal, will serve to ensure the safety of a public representative helping to establish the truth in the investigation. Also, if this does not affect the life and health of the people who helped us, the bodies that conduct pre-trial proceedings should express their encouragement and gratitude to them through the media and social networks. In addition, they need to present their gratitude to the enterprises, organizations and institutions where they work in the presence of the public. After all, encouraging citizens is the first way to encourage them to act. We believe that thanks to this, the investigating authorities will win the trust and favor of the people.

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