

УДК 328.185

DOI: 10.35750/2713-0622-2024-4-636-652



Methodological issues of investigating corruption crimes in Mongolia

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Abstract

The legal frameworks for combating, preventing, detecting, and investigating corruption crimes are a top priority for professional organizations and their cooperation at both national and international levels. Corruption crimes often involve high-ranking government officials and influential political decision-makers so-called white-collar officials. Although these crimes appear to occur solely between the two persons or parties who are the giver and receiver of a bribe or advantage, they inflict substantial harm on the country's interests and economy due to illegal orders and decisions made by those authorized officials for their personal gain and interests. The impact of corruption crime differs from other types of crime in that it affects all members of society, regardless of their social class, and therefore, is classified as a serious crime or felony.

Keywords

corruption, anti-corruption, bribe, corruption crime, prevention of corruption crimes

For citation: Bayarmagnay, R. (2024). Methodological issues of investigating corruption crimes in Mongolia. *Russian Journal of Deviant Behavior*, 4 (4), 636–652. doi: 10.35750/2713-0622-2024-4-636-652.

Методологические вопросы изучения коррупционных преступлений в Монголии

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Аннотация

Правовые основы для противодействия, предупреждения, выявления и расследования коррупционных преступлений являются одним из главных приоритетов для профессиональных организаций и их сотрудничества как на национальном, так и на международном уровнях. В коррупционных преступлениях часто замешаны высокопоставленные государственные

чиновники и влиятельные лица, принимающие политические решения, так называемые «белые воротнички». Хотя эти преступления кажутся совершаемыми исключительно между двумя лицами или сторонами – дающим и получающим взятку или преимущество, они наносят существенный вред интересам и экономике страны из-за незаконных постановлений и решений, принимаемых этими уполномоченными должностными лицами в своих личных интересах и выгодах. Последствия коррупционной преступности отличаются от других видов преступлений тем, что она затрагивает всех членов общества, независимо от их социального класса, и поэтому классифицируется как тяжкое преступление или фелония.

Ключевые слова

коррупция, противодействие коррупции, взятка, коррупционная преступность, предупреждение коррупционных преступлений

Для цитирования: Баярмагнай, Р. (2024). Методологические вопросы изучения коррупционных преступлений в Монголии. *Российский девиантологический журнал*, 4 (4), 636–652. doi: 10.35750/2713-0622-2024-4-636-652.

§ 1.1 Classification and categories of public positions

Who is a public official?

In the United Nations Convention against Corruption, the term “Public Official” is used instead of the term “official” for corruption crime and is defined as follows:

1. Any person holding a legislative, executive, administrative, or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid irrespective of that person’s seniority;
2. Any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party;
3. Any other person defined as a “public official” in the domestic law of a State Party.

It demonstrates that the United Nations Convention employs the term “public official” when addressing corruption-related crimes and provides a broad, inclusive definition.

The spirit and core idea of this definition is that, firstly, any official or individual, regardless of their role or affiliation, who “performs public functions” or “provides services to the public” on behalf of the state may be vulnerable to bribery or corruption. Consequently, all such individuals become subject to bribery or corruption crime.

The Convention, however, emphasizes that the key criteria “public functions” and “public services” are defined by each member state through its own domestic laws.

Secondly, the Convention underscores that all categories of officials and employees are subjects, whether they are appointed or elected, permanent or temporary, paid or unpaid (including volunteers), and regardless of seniority or rank (Gereltuya et al., 2022).

A public official is defined in Article 3.1.4 of the Law on “Regulation of Public and Private Interests and Prevention of Conflict of Interest in Public Service” as specified in Article 4.1 of the same law¹. Article 4.1 clarifies that the “public official” referenced in Article 4 of the Anti-Corruption Law applies to enforcement under this legislation.²

¹ Law on regulation of public and private interests and prevention of conflict of interest in public service (2012). State information. UB, 7.

² Law on regulation of public and private interests and prevention of conflict of interest in public service (2012). State information. UB, 8.

Article 4 of the Anti-Corruption Law:

Article 4. A person subject to the law enforcement:

4.1. The following persons are subject to this law:

4.1.1. Persons who hold executive or managerial positions in the political, administrative, or special office of the state;

4.1.2. Persons who hold executive or managerial positions in the public service office, or the chief or senior accountant at such place

4.1.3. Managers or authorized employees of legal entities in which the state or the local administration has full or partial equity interest;

4.1.4. Chairman, members, director-in-chief of the National Council of Public Radio and Television;

4.1.5. Managers and executive officers of non-governmental organizations, temporarily or permanently performing particular state functions in compliance with legislation;

4.1.6. Candidates for President of Mongolia, Parliament or all levels of Citizens' Representative Khural;

4.1.7. Chairman and representatives from all levels of Citizens' Representative Khural;

4.1.8. Officials specified in the list approved by the competent authority;

4.1.9. The competent official and member of the supervisory board of Future Heritage Fund Corporation stipulated in provision 4.1.7 of the Law on Future Heritage Fund.³

Also, Article 10 of the "Civil Service Law" specifies the classification and categories of civil service positions as political officials, public administrative officials, special state service officials, and public service officials.

According to Article 3.1.1 of the Law on the Civil Service of Mongolia, "Civil service" refers to activities, structure, and arrangements for the implementation of the state's goals and functions within the scope of the Constitution of Mongolia and other laws and regulations, developing state policies and provision of mandatory government services to the public;

The United Nations Convention Against Corruption defines "Public Official" as follows:

A person who is permanently or temporarily appointed or elected to the legislative, executive, administrative, or judicial bodies of the participating countries, paid or unpaid, regardless of their rank;

Political appointment civil service positions shall include the following positions held by those elected under conditions, procedures, and criteria established by the Constitution of Mongolia and other laws, appointed as a result of such elections; and those who are recruited for positions to support them during their term in office⁴:

- The President of Mongolia;
- The Chairman of the State Great Khural (Parliament) of Mongolia;
- The Prime Minister of Mongolia;
- The Deputy Chairman and member of the State Great Hural of Mongolia;
- Member of the Government of Mongolia;
- The Chief of the President's Office of Mongolia;
- The Chief of the Cabinet Secretariat and vice minister;
- Advisor to the President of Mongolia, advisor to the Chairman of the State Great Hural of Mongolia, and advisor to the Prime Minister;
- Governors at all levels, Deputy Governors of Aimag, the capital city, soum and district, General Manager of Ulaanbaatar;

³ Law on anti-corruption (2006). State information. UB, 35.

⁴ Civil service law, Article 11.1.

- Positions of full-time advisor, assistant, or media officer rendering service for a political appointment civil servant during his/her term in office;
- Positions in secretariats serving parties and coalitions in the State Great Hural;
- Other positions specified in laws.
- Positions of chairman of Citizens' Representative Hural of Aimag, the capital city, soum, and district, and manager of town and village may be equated to political appointment civil service positions.

- Advisors, assistants, and media officers who are recruited solely to assist a politically appointed civil servant during their term in office shall be directly supervised by them however shall remain subordinate to the respective state bodies as civil servants.

Public administration positions shall include the following positions performing functions to provide professional advice for developing public policies, and provide public administration management and organizational support for the implementation of such policies:⁵

- Chairman, members, managerial and executive positions of the secretariat of the Civil Service Council;

- Managerial and executive positions of secretariats of the State Great Hural, the President's Office, the Government, the Constitutional Court, the Court Administration and the Prosecutor's Office;

- Managerial and executive positions of secretariats of the Financial Regulatory Commission, the National Statistics Committee, the General Election Commission, and the National Human Rights Commission;

- Managerial and executive positions of the secretariat of the National Security Council;

- State Secretary of a ministry, managerial and executive positions of ministries;

- Managerial and executive positions of government agencies, unless otherwise provided by laws;

- Secretary of Citizens' Representatives' Hural of aimag, the capital city, soum, district; managerial and executive positions of the Governor's Office and Secretariat of Citizens' Representative Hural of aimag, the capital city, soum, district;

- Managerial and executive positions of local public administration organizations under the Governor's Office of Aimag and the capital city, financed from the state budget, unless otherwise provided in laws;

- Managerial and executive positions of the secretariat of Mayor's office of town and village;

Special state service shall include the following positions to perform special state functions related to ensuring national security and public safety, maintaining social order and the core principle of the rule of law under procedures set out by the Constitution of Mongolia and other laws⁶:

- Judges of the Constitutional Court, judges of all levels of courts and prosecutors;

- Secretary of the National Security Council;

- President, first deputy governor, and deputy governor of the Central Bank of Mongolia; chairman and members of the Financial Regulatory Commission; chairman and vice chairman of the National Statistics Committee; chairman and secretary of the General Election Commission; chairman and members of the National Human Rights Commission; the member in charge of the preliminary prevention of torture; chairmen and members of the Judicial General Council and Judicial Disciplinary Committee; managerial and executive positions of the national and local audit offices and the Independent Authority against Corruption.

- Managerial positions in armed forces, border and internal troops, emergency, intelligence, police, court decision enforcement, and forensic science institutions;

⁵ Civil service law, 12.1 of Article 12.

⁶ Civil service law, Section 13.1 of Article 13

- Diplomatic service positions;
- Officers, sergeants and bailiffs, customs inspectors, forensic experts and specialists of armed forces, border and internal troops, emergency, intelligence, police, case filing, investigation, court decision enforcement bodies;

Public service positions shall include the following positions to perform functions related to delivering equitable, quality, and accessible public services, and to assist in the normal functioning of state bodies, employment conditions of which shall be based on labor contract⁷:

- Support positions to assist in the normal operation of state bodies;
- Managers, directors, principals, and other managerial, executive and support positions of public service organizations such as education, science, health, culture, arts and sports, financed from the state budget;
- Managerial, executive, and support positions of public service organizations under a ministry or agency, financed from the state budget.

The aforementioned public official, vested with full authority, issues decrees, orders, decisions, and resolutions within the scope of the mandate, positioning him/her as a special subject with substantial authority and influence. This special subject is characterized by advanced education, extensive professional experience, and a high level of legal and economic expertise. They possess strong and consistent communication skills, a broad network of contacts, and a recognized position within society. Known publicly and within their field, they are financially established and often hold or have held political and public elected positions, with considerable experience and influence, particularly within law enforcement agencies (Bumnanjid & Myagmartseren, 2011).

Official duties and authority refer to the combination of power and primary functions conferred by law upon elected and appointed officials.

Abuse of official position refers to the misuse of one's duties, position, or authority by either neglecting required actions, undertaking prohibited actions, or leveraging official power contrary to the public interest to serve personal interests.

Deliberate failure to perform official duties and authority refers to an intentional neglect of official responsibilities for personal gain, despite knowing and having the full capacity and opportunity to fulfill these duties within the scope of one's mandate.

Personal interest refers to both material and non-material benefits that a public official may be influenced by in the exercise of their official power or related parties.⁸ A conflict of interest facilitates conditions for corruption by enabling the misuse of one's position to perform official duties in favor of acquaintances, friends, or associates, even in the absence of direct personal gain.

Creating an advantage for oneself or others refers to the actions of individuals specified in Article 4, Section 4.1 of the Anti-Corruption Law, who misuse their official authority to obtain material or non-material benefits for themselves, or for another individual, or legal entity.⁹

Material and non-material benefits encompass unlawfully obtained cash, property with monetary value, preferential loans, tender rights, complimentary trips or outings, preferential job or school admissions, ownership of shares, as well as the income, wages, and bonuses earned by dual employment of jobs and positions prohibited by the Law on Civil Service (Article 15 Section 15.1.6) and Law on Regulation of Public and Private Interests and Prevention of Conflicts of Interest in Public Service. In addition to the remuneration received by an official for fulfilling their official duties, other income

⁷ *Civil service law, Section 14.1 of Article 14*

⁸ *Law on Regulation of Public and Private Interests and Prevention of Conflict of Interest in Public Service. Section 3.1.2, Article 3.*

⁹ *Law on anti-corruption, Section 3.1.4, Article 3*

sources—such as bonuses from permitted work, office positions, contracts, and business activities not prohibited by this law or other regulations¹⁰—shall not be considered as creating undue material or non-material benefits for the official or others.

Abuse of power is a form of position misuse in which a public official exceeds their official duties and authority for personal gain, thereby creating an advantage for themselves or others. This can occur, for example, when an official arbitrarily and unilaterally resolves issues that should be addressed through collective procedures, or when authority is exercised in the absence of the special circumstances required by law, involving activities that are prohibited and should not be undertaken.

Per public servant, **official power or influence** does not directly apply to the duties and authorities defined by laws and regulations; yet, it encompasses the ability to affect the actions of other officials through their higher position and common privileges that surpass standard responsibilities (Battseren & Amarbat, 2017).

If a public official abuses their official duties, powers, or official status, resulting in significant damage to public rights and interests, they shall be criminally liable under Article 22.1, Part 2 of the Criminal Code.

Extensive damage refers to financial losses equivalent to fifty units or more, as specified in Article 2.3, Section 2 of the Criminal Code, as well as any damage exceeding this threshold.

If a person of political influence commits the crime specified in Article 22.1, Sections 1 and 2 of the Criminal Code, criminal liability will be applied in accordance with Section 3 of this Article. As the country experiences social and economic growth, corruption crime has been anticipated to rise annually, with perpetrators employing increasingly sophisticated and organized methods. This crime is committed not only within Mongolia but also across the border and extends to neighboring and third countries. Consequently, investigating and addressing corruption requires a high level of legal, financial, and economic expertise, along with significant experience and extensive international cooperation, both formal and informal. Additionally, practical examples and experiences demonstrate that investigating corruption involves a wide scope and demands substantial time, resources, and effort.

The financial impact of this crime on society significantly outweighs that of other criminal activities, making it crucial to trace the flow of illicit funds and identify their ultimate ownership. Key objectives include determining the origins of the illegally obtained money, tracking its recipients, understanding where it was stored, and analyzing how it was utilized. These elements serve as the primary evidence for building a strong case.

Strengthening the financial trace related to cash flows is crucial for presenting facts, events, and circumstances logically and sequentially. Additionally, it helps identify the activities of co-participants in the crime, as well as their motives and methods.

Corruption is recognized as a fundamental economic crime, particularly in the context of money laundering. Therefore, it is crucial to conduct investigations promptly to identify illegal monetary gains, and movable and immovable assets acquired through criminal activities. Effective confiscation of these assets must be carried out without compromising their quality or value. This approach significantly reduces the risk of circulation, conversion, and laundering of illicitly obtained funds and properties, which is vital for establishing the case.

In addition to the traditional methods of taking statements, conducting searches, inspections, and seizures, authorized detectives investigating corruption crimes should utilize Internet resources and modern technological advancements, as well as electronic tools, to verify banking and accounting documents. They should also conduct financial reporting and investigations to trace money flows

¹⁰ *Law on Regulation of Public and Private Interests and Prevention of Conflict of Interest in Public Service, Section 22.1, Article 22*

from illegal sources and identify their ultimate owners. Moreover, it is essential to employ a broader range of investigative techniques and to study the cooperation and best practices of other countries to continuously enhance the methods.

According to Criminal Law of Mongolia /2015/, the following 12 components are considered as corruption crimes:

1. The abuse of authority or of official position /22.1/
2. The abuse of authority committed by an official of international organizations and foreign State organization /22.3/
3. Public official receiving a bribe /22.4./
4. Giving a bribe /22.5/
5. Bribing of an official of a foreign government institution, or international organization /22.6/
6. Illegal spending of the state resourced property /22.7/
7. Spending of the budget funds contrary to their designation /22.8/
8. Spending of non-budget funds contrary to their designation /22.9/
9. Enrich in an unjustified way /22.10/
10. Arbitrariness /22.11/
11. Abuse of power of a legal entity /22.12/
12. Offenses such as bribery apply.

In the realm of methodological theory for investigating corruption crimes, it is crucial to enhance the qualifications and capabilities of detectives assigned to these investigations. This enhancement should align with the legal functions of the investigating authorities and the specific characteristics of the crimes under their jurisdiction, particularly in cases of abuse of power. In other words, the effectiveness of the organization's crime-fighting efforts will directly depend on the professional experience and performance of its detectives.

The Law of Criminal Procedure enacted in Mongolia in 2002 established a framework in which both investigators and registrars were tasked with conducting investigations. However, significant changes were introduced with the implementation of the Criminal Procedure Law of 2017 . This revised legislation transferred the responsibility for both case registration and investigation to the investigators.

The authorized investigation agencies are empowered to combat abuse of official positions and corruption crimes that are often complex and clandestine in nature, based on their specific mandates. Authorized investigators are permitted to carry out various types of operations, including independent executive actions, a combination of overt and undercover investigations, as well as formation of joint working groups with other authorized organizations.

Similar to trends observed in other world countries, the incidence of "abuse of official positions and corruption crimes" has risen in Mongolia year by year, and the methods employed in these crimes have grown increasingly sophisticated and are now being committed across borders.

As the methods of these crimes become more sophisticated and the incidences of such offenses continue to rise, every officer responsible for detecting, preventing, and investigating such crimes is required to possess a strong knowledge and understanding of this field.

The detectives and investigators of corruption crimes are mandatory to possess the following skills in addition to the basic criteria defined by the related laws. It includes:

1. Ability to apply law.
2. Basic knowledge of finance and accounting.
3. Knowledge of foreign languages.
4. Skills of teamwork.

5. Tactics and methods of information collection/interrogation.
6. Tactics and methods of inspection and search.
7. Knowledge of computers, technology, and IT.
8. Knowledge and experience of other and undercover investigative procedures prescribed by law.

When investigating abuse of official positions and corruption crimes, it is essential for detectives and investigators to have a strong understanding of finance and accounting, along with relevant investigative experience. This requirement arises from the broad scope of these crimes, which often involve complex schemes. Additionally, those under investigation are often highly educated and knowledgeable about concealing their actions, frequently committing these offenses with clear intent.

Tactics and methods of interrogation and information collection

Before conducting an interrogation or collecting a statement, it is crucial to conduct thorough research on the individual involved. This preliminary phase involves gathering and assessing relevant facts about the person, providing investigators with valuable insights into their background and potential motivations. By evaluating this information, investigators can shape the direction of their inquiry more effectively, tailoring their approach to the specific circumstances of the case. This strategic groundwork is essential for enhancing the effectiveness of the interrogation and obtaining reliable information.

When establishing the sequence of individuals who need to testify, it is advisable to start with someone who possesses no personal stake in the matter, is well-informed about the case, and can provide truthful and unbiased testimony. This initial witness can serve as a crucial reference point, helping to clarify key issues and guiding the investigation's focus.

Carefully preparing questions for the informant or interrogatee in advance is a vital activity that significantly enhances the effectiveness of the interrogation process. Well-formulated questions enable detectives to efficiently elicit relevant information and recall causally related events and situations and they create a logical flow in the conversation, allowing investigators to better understand the context and establish a clear chain of evidence.

It is essential to focus on developing a strategy for gathering information about the individuals who will give a statement. This involves establishing a psychological rapport with them, as well as obtaining insights into the circumstances relevant to the case.

The information about the individual who will provide information or insights can be gathered through evidence collected as a result of immediate action, as well as during the process of taking statements, interviewing other individuals, and retrieving relevant documents.

When planning to take statements from witnesses, victims, and accused persons, it is necessary to ensure safety, determine the place where the statements will be taken, and prepare questions in advance.

Depending on their psychological characteristics and personalities, the witnesses may explain what they saw, heard, and knew differently.

Therefore, before questioning the witnesses, it is crucial to inform them that their testimony holds significant importance to the case and that providing false testimony may result in criminal liability. Additionally, it is essential to monitor for any signs of interference or coercion that may affect the witness's statements.

The victim often possesses more specific and detailed information about the circumstances surrounding the case than anyone else. In many instances, they know of events that occurred both before and after the crime. Additionally, the victim's testimony regarding their relationships with the alleged perpetrators is crucial for understanding the dynamics involved.

Furthermore, the victim's reactions and perceptions of the crime, as well as their assessment of the accused's actions, can significantly influence the outcome of the case.

Individuals involved in corruption crimes often come to their testimony well-prepared. Since detectives are in a position to sound of the facts surrounding the case, they can take steps to mitigate the situation. To accomplish this, detectives may begin by asking the witnesses about their backgrounds, including their interests, education, professions, previous work experience, social connections, and personal activities. By gradually shifting from general inquiries to specific questions about the crime, the process of obtaining testimony can be structured to move progressively from broader topics to more targeted, carefully crafted questions. This approach helps to uncover the truth while minimizing the likelihood of coordinated responses influenced by prior preparation.

The key to obtaining high-quality and effective statements lies in the detective's thorough preparation and familiarity with the evidence in the case file. It is essential for the detective to understand every action taken, as well as the timing and manner in which to utilize the existing evidence. Additionally, planning appropriate follow-up actions is crucial to the investigative process.

When interviewing a witness, victim, or suspect, the detective should aim to create a relaxed atmosphere through a conversational approach. This involves removing any physical and psychological barriers to communication, calming the individual being interviewed, and reassuring them that there is no need to conceal information.

Tactics and methods of inspection and search

To determine and clarify the circumstances surrounding a crime and other pertinent details of the case, it is essential to conduct thorough inspections of individuals, objects, documents, vehicles, baggage, animals, and the location where the incident occurred. If there are reasonable grounds to suspect that physical documents or written evidence related to the case, or items or individuals connected to the investigation, are present, searches may be conducted at residences and other specified locations, as well as on the person, with the appropriate authorization from the prosecutor.

Before carrying out any inspections or searches, careful planning is crucial. This includes a comprehensive evaluation of the area to be searched and an assessment of potential risks.

In situations where the individual being searched displays armed resistance or threatens self-harm upon entry into a residence, it is critical to prioritize safety. Measures should be taken to ensure the safety of all parties involved, which may include efforts to calm the individual, manage their mindset, and limit their ability to resist. Additionally, it may be necessary to seize any weapons and implement strategies to facilitate a safe and effective operation.

Once inside the premises, the detective should clearly introduce themselves, present their identification, and explain the purpose of the search. The detective should read the search warrant aloud and ensure that it is signed by the individual being searched. Security personnel should be stationed near the outer door, and the identities of all individuals present in the premises should be verified to maintain order and safety during the search process.

Request that the owner of the property where the search is being conducted voluntarily produce the item of interest. If the item is presented and deemed satisfactory by the detective, the item can be collected without conducting a full search. However, it is important to note that, in many cases, suspects and their accomplices may comply with requests while attempting to conceal other evidence or prohibited items.

In such situations, the detective should meticulously evaluate the circumstances, considering the specific items, information, documents, and cash that are crucial to the investigation. This assessment will aid in determining whether to conclude the operation or continue further investigations.

To maintain the integrity of the operation and prevent the destruction of any sought-after items, all individuals present should be gathered in a designated area. They should be informed that communication among them will be restricted, including prohibitions on phone calls or leaving the

area, until the search is complete. This approach helps ensure a structured and effective search process.

During the search, it is advisable to inquire about the purpose of individuals entering from outside, verify their identification, and take appropriate measures to temporarily restrain them until the search is complete. However, personnel who are on official duty will not be detained; instead, their movements will be monitored while maintaining the confidentiality of the search process.

The following tactical guidelines will be implemented during the search:

1. Sequential Search: Conduct a systematic search, moving methodically from one area to another.
2. Targeted Searches: Identify and prioritize specific key locations or items for focused examination.
3. Team Coordination: When a team of 2-3 detectives is assigned to search a large location, they should approach from opposite sides, converging toward a central point to ensure thorough coverage.
4. Parallel Searching: Deploy multiple teams to conduct simultaneous searches in different areas, maximizing efficiency.
5. Clockwise Search: In smaller residences or offices, execute the search in a clockwise direction to maintain order and ensure no areas are overlooked.
6. Simultaneous Searches: Several detectives may conduct searches concurrently in different sections of the premises to streamline the process.

During the investigation, it is essential for the detective to seize written evidence, as well as electronic devices such as computers, hard drives, flash drives, mobile phones, tablets, and laptops. The investigator should request the owner to provide passwords for these devices to facilitate access to the contained information. The data stored on these electronic devices is critical for the investigation, so meticulous documentation should be maintained regarding the information seized and the methods used to do so.

To prevent any unauthorized alterations to the data—particularly by third parties via the Internet—it is advisable to place the devices in flight mode as soon as they are confiscated. Additionally, it is important to be aware that the individual under investigation may have undisclosed "black accounts" stored on laptops, hard drives, iCloud, and flash drives, as well as "cold wallets." These cold wallets are similar to flash drives and can store electronic cryptocurrency immobilized for illicit purposes or bribes. Special attention should be given to reviewing the login credentials for any hot wallets and deciphering any encrypted or coded text. Immediate seizure of this information is crucial for further examination.

Key characteristics of investigating abuse of authority and corruption crimes, essential issues for investigators for evidence gathering and circumstances subject to proving:

Abuse of authority and corruption crimes in our country arise from a multitude of factors, including widespread poverty and unemployment, socioeconomic inequality, desire for quick financial gain and business management, violations of human rights and civil service ethics, economic crisis, privatization, and corporate ownership, banking, and financial crisis, various irregularities in practices, the slow market and monetary circulation, deterioration of solvency within the internal business activities, and the debt-credit chains.

According to Article 16.2 of the Law on Criminal Procedure of Mongolia, circumstances subject to proving in the course of inquiry, investigation and adjudication are defined as follows:

1. The circumstance in which the crime is committed (time, place, mode, and other circumstances stated in the Criminal Code);
2. The person committed the crime;
3. The motives, goal, and form of guilt of the crime;
4. Aggravating or mitigating factors of the sentence of accusing crime stated in the Criminal Code;

5. The character and the size of the damage caused by the crime;
6. Reason and cause of the crime.

To comply with the provisions of the aforementioned law, a detective must meticulously plan and organize the investigation from the outset. Conducting an investigation entails the following steps:

1. Develop a comprehensive plan in advance.
2. Ensure seamless communication and collaboration among all members involved in the investigation to facilitate efficiency and clarity.
3. Provide investigation procedure with professional management.
4. Clearly define the duties and responsibilities of each member of the investigative team.
5. Hold routine meetings with the working group to evaluate the investigation progress, discuss findings, and set new goals as necessary.
6. Create a conducive environment for the frequent exchange of information among participants,
7. Take into account all active criminal cases to ensure an equitable distribution of workload among team members when planning the investigation.
8. Ensure that all essential equipment and technology are available and operational throughout the investigation process.
9. Address critical issues such as maintaining the confidentiality of investigative information and implementing measures to prevent any potential destruction of evidence.

When investigating a crime, the detective must conduct thorough research on the individual or legal entity under investigation as the first step.

Following this, the detective should clearly define the scope of the case, including the collection and consolidation of evidence, as well as estimates for time and manpower needed for urgent operations.

Developing a comprehensive investigation plan is crucial for efficiently gathering and consolidating evidence that is vital to resolving the case promptly.

Due to the often concealed nature of evidence related to abuse of authority and corruption crimes, evaluating the collected evidence requires a high level of expertise. Therefore, it is advisable to engage an expert in the process of collecting and assessing relevant evidence to strengthen the investigation.

Additionally, some of the written evidence collected during the investigation of abuse of authority and corruption crimes may initially appear insignificant. However, as the investigation progresses, this evidence can later be recognized as crucial to resolving the case. Therefore, the detective needs to ensure that all evidence is preserved intact until the case is conclusively solved.

During the processes of searching, collecting, and confiscating evidence, valuable items may inadvertently be overlooked or left behind. To mitigate this risk, the detective should consider sealing certain objects for a specified period, taking into account the current circumstances and the routine activities of the legal entity involved. Investigating economic crimes often requires more time than other types of cases; thus, it is imperative to prioritize the preservation of evidence and maintain confidentiality throughout the investigative process.

Investigations are categorized as follows:

1. Investigations Requiring Prosecutorial Permission:

- a. Investigations conducted with authorization from the prosecutor;
- b. Urgent investigations conducted without prior approval from the prosecutor in cases requiring

immediate action;

Investigations conducted with authorization from the prosecutor:

- Conducting undercover examinations;
- Executing searches;
- Seizing objects and documents;

- Controlling, restricting, and monitoring the movement of capital;
 - Monitoring by regulating access to communication networks;
 - Obtaining the content of information transmitted via communication networks from relevant organizations;
 - Collecting information from relevant organizations, such as the users and owners of communication networks, their locations, connection times, devices, and access;
 - Gathering additional non-content-related information from relevant organizations;
 - Instructing relevant authorities to restrict access to communication networks;
 - Taking biological samples from individuals for analysis;
 - Exhuming and analyzing buried bodies;
 - Acquiring pertinent documents and information;
 - Engaging in controlled deliveries;
 - Engaging in controlled procurement;
 - Conducting secret investigative tests;
 - Implementing covert observation;
 - Carrying out covert identifications.
2. Independent Investigative Actions by the Investigator:
- Conducting checks and examinations;
 - Performing physical examinations;
 - Inspecting crime scenes;
 - Inspecting corpses;
 - Executing detection tests;
 - Searching an individual's body without prosecutorial authorization according to legal provisions;
 - Conducting searches;
 - Taking statements;
 - Conducting in-person, face-to-face interviews with witnesses and documenting their statements;
 - Establishing on-site evaluations;
 - Identifying and recognizing;
 - Conducting routine observations;
 - Undertaking testing and analytical procedures;
 - Collecting patterns and samples for examination.

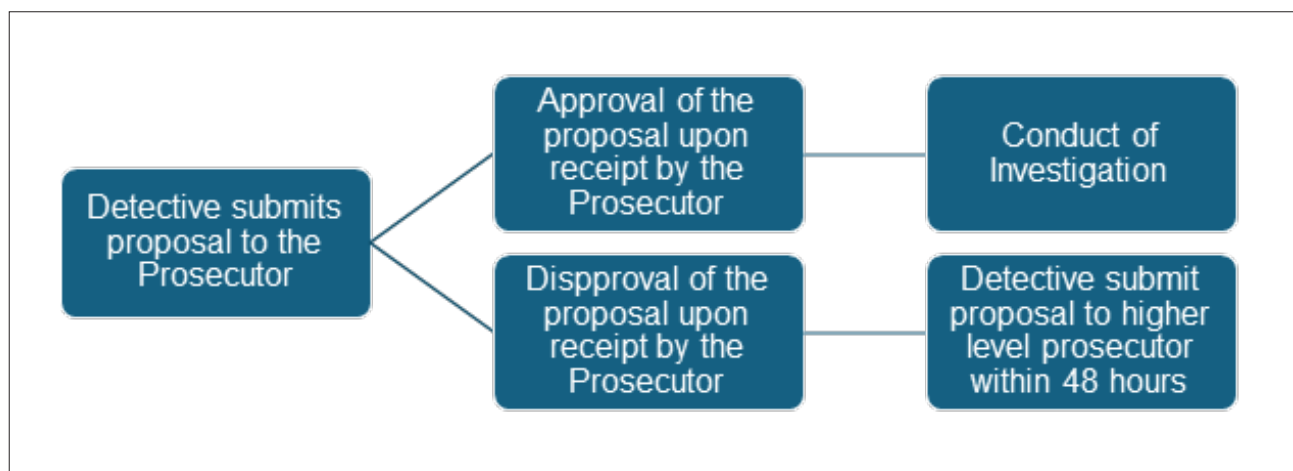


Fig. 1. Algorithm of actions

Under the "Criminal Procedure Law," detectives perform several essential procedures to establish proof of a crime, which include:

1. Taking statements.
2. Conducting inspections, searches, and confiscations.
3. Appointing experts for analysis.
4. Carrying out undercover investigations.
5. Seizing information and documents with the prosecutor's consent.

The detection of abuse of authority and corruption crimes often results from the diligent and innovative efforts of law enforcement officers. This process requires extensive documentation that may take days, months, or even years and demands considerable financial and time investments. Successfully uncovering and substantiating a case requires a high level of skill and experience.

The following information must be included in the Detective request of authorization to the Prosecutor:

1. Name of the detective submitting the request.
2. Type of Operation.
3. Purpose and justification of the operation.
4. The names of individuals, legal entities, organizations, and any relevant objects implicated in the operation.
5. Details of location, the address where the operation will take place, access, and transfer including the residence and property locations involved.
6. Duration of Operation.

7. Justification for night operations must be provided if the operation is scheduled to occur at night.

A detective may conduct an investigation without obtaining prior permission from the prosecutor in the following circumstances:

1. If there is a significant risk of harm to human life, health, or property if the operation does not proceed.
2. If there exists a genuine threat of destruction, transportation, concealment, or loss of traces and physical evidence related to the case if the operation is not conducted.

To determine the validity of these conditions, the prosecutor shall summon the investigator involved to provide a statement and to gather any necessary supplementary materials from the detective.

Following the assessment of the situation, the prosecutor will make one of the following determinations:

1. Validation of Investigation: The investigation is deemed valid and acceptable.
2. Invalidation of Investigation and any evidence gathered

Any confiscated items and documents will be returned to their rightful owners in the event of invalidation or annulment.

In future investigations related to abuse of authority and corruption crimes, it is essential to consider the following issues and remain vigilant in this regard:

A. Concepts of Investigation Planning:

Corruption crimes are inherently complex and require comprehensive investigation efforts. Consequently, effective investigations must be grounded in careful planning and organization.

The investigation plan encompasses a broad range of creative and systematic activities that guide the process from inception to conclusion.

It involves establishing clear objectives, developing appropriate methods and tactics to achieve those objectives, and determining the best strategies for implementation at each stage of the investigation and criminal proceedings.

Additionally, the investigative action plan facilitates case management by balancing workloads and serves as a fundamental requirement for optimizing operational efficiency while ensuring compliance with legal standards.

B. Requirements for the Investigation Plan:

During the investigation process, it is essential to address key questions regarding the operational approach: What actions must be taken, and how should these actions be executed to uncover the truth? The "Criminal Procedure Law" should serve as a structured guide, and investigators must also rely on their analytical reasoning to inform their decisions.

The investigation plan should encompass the following components:

1. Collection and analysis of initial information and materials pertaining to the crime. /This includes assessing the collected evidence critically and aligning it with personal insights and professional judgment/
2. Define the objectives of the investigation and establish the scope of the issues to be addressed.
3. Identify the most effective means for resolving the issues.

The First Stage: Collection and Analysis of Initial Information

This phase involves the systematic collection and analysis of initial information and materials related to the crime, and it is essential for forming hypotheses about potential suspects, the circumstances surrounding the crime, and the physical evidence at hand. It is methodologically critical to approach this stage as a cohesive and integrated activity. By synthesizing the collected facts, investigators can develop informed suspicions and a clearer understanding of the case, laying a strong foundation for subsequent investigative efforts.

When collecting facts and information for the purpose of developing an effective investigation plan, the following factors should be carefully evaluated:

1. Determine which of the gathered facts and pieces of information can be utilized as evidence in the case.
2. Assess which aspects of the crime can be substantiated through physical evidence.
3. Establish which elements of the crime can be conclusively investigated based on the available evidence.
4. Consider how already known evidence can be leveraged to uncover new information or evidence relevant to the investigation.
5. Decide when and how to address any contested facts to facilitate a clear resolution in the investigative process.

The Second Stage: Defining Objectives and Scope of the Investigation

In this stage of the investigation plan, it is crucial to clearly define the objectives and delineate the scope of the issues that must be addressed to conduct a comprehensive investigation of the criminal case. The investigation plan should be designed to encompass all relevant aspects necessary for a thorough resolution of the case.

A scope that is too broad may dilute the focus on the specific nature of the crime, leading to prolonged investigation timelines. Conversely, a scope that is too narrow may restrict the ability to establish a case beyond a reasonable doubt, potentially overlooking important evidence. Therefore, when determining the scope of the problem to be solved, it is imperative to plan with careful consideration of the case's specifics and its temporal and spatial context. This meticulous approach enhances the likelihood of achieving better outcomes in the investigation.

The Third Stage: Identifying and Testing Solutions

In the third phase of the investigation, it is essential to identify and thoroughly test potential solutions. During this stage, the detective must strategically plan operations by formulating effective methods and tactics for execution, as well as selecting the most suitable approach for implementation.

The development of the investigation work plan can be systematically organized as specific investigation operations /such as search, examination, testing, and identification/, comprehensive criminal investigation plans /such as sample and daily plans/, and potential investigation of multiple criminal cases /such as crimes of different or similar nature are investigated tailored to the specifics of the case at hand and techniques suitable for tracking/. For example, the investigation plan can be organized according to the following criteria:

For instance, it can be planned according to:

1. Actions focused on investigating and defining the nature of the crime.
2. Specific suspicions or leads that require further exploration.
3. Events or incidents related to the case.
4. According to the nature and composition of the crime itself.
5. Determinations of culpability or guilt, etc.

In many instances, presumptive planning is employed when a crime has occurred, but the perpetrator has not yet been identified, or when an event has taken place that necessitates determining whether it constitutes a crime.

Event-based planning is utilized when a crime consists of multiple events, each exhibiting characteristics of a distinct criminal act.

Criminal feature-based planning applies when several offenses fall under a single crime category, requiring a comprehensive approach to understanding the different elements involved.

Culpability-based planning is implemented when multiple individuals are accused of committing a crime as part of a group, focusing on establishing the specific guiltiness of each person's actions.

An investigation action plan not only organizes activities in a logical sequence but also enhances outcomes and fosters conditions for the swift resolution of cases. A detective must possess a strong command of scientific cognitive methods, effectively analyze and evaluate evidence, anticipate individuals' actions in various scenarios, and strategically plan their approach while selecting the most effective method.

Principles for Investigation Planning:

An effective investigation plan must be clear, legally compliant, and tailored to the specific nuances of the case. It is insufficient to merely outline general objectives; the plan should be concise, precise, and address specific issues directly. Additionally, it must delineate responsibilities and establish a timeline for completion. A key aspect of the planning principle is the detailed specification of each detective's role during a task force investigation, particularly in cases that are complex and involve multiple actions or contacts. This clarity ensures accountability and enhances the overall effectiveness of the investigation.

The investigation plan should be customized to reflect the unique circumstances of each individual involved in the case. Since every case is distinct, the plan must be specifically designed to address its particularities. This means that it should be based on the information and facts gathered during the investigation, free from stereotypes. The effectiveness of the plan is heavily influenced by the detective's knowledge, expertise, and experience, as well as the uniqueness of the case at hand.

Maintain a dynamic plan. Treat planning as a continuous process, not a one-time task. The plan should evolve consistently to address emerging issues, incorporate new findings, and adapt to additional actions required as evidence from the investigation unfolds.

This change can take many forms, such as recognizing when there's insufficient basis to clarify the initial problem or identifying and planning around a newly discovered issue. Because investigations are ongoing and develop over time, new issues will inevitably arise, be disproved, or be confirmed. To remain effective, incorporate these updates into the plan immediately.

Maintain a realistic plan. The principle encompasses two key points. Ensure the plan is grounded in accurate, realistic assumptions and reliable facts. The tasks and methods outlined should be practical and achievable within the given context. In other words, avoid proposing actions that are impossible to execute under current circumstances. For example, the plan of reconstructing a bribery incident for investigative purposes may be unrealistic and impractical.

Types of Investigation Plans. Investigation planning can take various forms depending on the method, purpose, and content. The main types include:

1. General investigation plan.
2. Collaborative investigation plan for the cases that require coordination with the executive and other departments.
3. Partial investigation plan targeting specific aspects or sections of the investigation.
4. A time-based or calendared investigation plan.
5. Plan for verifying suspicions and assumptions.
6. Sample and Template-Based Plans.

When investigating corruption, it is essential to focus on the following steps:

One. Analyze and draw conclusions on the event /compare events with available information sources to ensure accuracy/

Two. Identify the affected legal relationship based on factual findings /including the sector affected such as education, taxation, customs, or public tenders, and how it was influenced, etc/

Three. Identify the specific legislation that governs the relevant sector /study the sector-related laws and regulations carefully/

Four. Determine which legislative articles and legal principles apply to the case /abuse of authority, misuse of power, failure to act, or undue influence. Refer to Judicial precedents, such as Review Court rulings (e.g., No. 2016-05-20 No. 141; No. 2015-06-26 No. 222), to clarify applicable legal interpretations.

Five. Follow structured stages and steps in classifying the case /propose hypotheses and versions, investigate similar cases, analyze patterns, and address potential dead ends to refine the investigation's focus/.

Six. Define and clarify key legal terms and concepts in classifying the case /For instance, when drafting charges, specify whether the subject qualifies as an "official" under Article 4 of the Anti-Corruption Law and identify relevant provisions in sector-specific laws that pertain to their duties/.

Seven. Review whether other legal norms may apply to the case and evaluate their relevance to ensure comprehensive legal coverage.

Eight. In investigating corruption and money laundering, it is essential to adhere to key legal principles, reasons, and consequences either to aggravate or mitigate, including the Fundamental Legal Principles of Criminal Law, Principles of Justice, and Principles of Guilt while considering the applicability of the Criminal Law both within and outside the territory of Mongolia to determine jurisdiction and carefully identify and analyze all stages of the crime. For example, the following Criminal Code Articles outline key concepts in understanding criminal acts and participant roles must be considered: /Article 2.7. Preparation for a crime: Identifies preparatory actions and assesses

reasons why the crime may not have been fully executed or to impose full criminal responsibility/, /Article 2.8. Attempt to commit a crime, rebuttal to commit a crime: Examines attempts to commit a crime, including cases where the individual voluntarily rebuts to accomplish a crime, as well as the involvement of other participants/, /Article 3.1. Complicity in a Crime/, /Article 3.2. Contractor of a crime/, /Article 3.3. Organizer of a Crime/, /Article 3.4. The instigator of a crime/, /Article 3.5. An accessory of a crime/, /Article 3.6. Act in disagreement/, /Article 3.7. Committing of a crime by a group/, /Article 3.8. Organized criminal group/.

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Автор заявляет об отсутствии конфликта интересов.

The author declare no conflicts of interests.

Поступила в редакцию 27.10.2024

Одобрена после рецензирования 20.11.2024

Опубликована 28.12.2024

Submitted October 27, 2024

Approved after reviewing November 20, 2024

Accepted December 28, 2024