



#### OPEN ACCESS

SUBMITTED 20 January 2025

ACCEPTED 22 February 2025

PUBLISHED 23 March 2025

VOLUME Vol.07 Issue03 2025

#### CITATION

Matjanov Ilxam Adilbaevich. (2025). Problems of maintaining the presumption of innocence in media reports and information about crimes. The American Journal of Political Science Law and Criminology, 7(03), 31–35. <https://doi.org/10.37547/tajpslc/Volume07Issue03-05>

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# Problems of maintaining the presumption of innocence in media reports and information about crimes

Matjanov Ilxam Adilbaevich

Associate Professor of the Department of Criminal Law, Process and Forensics of Karakalpak State University, Uzbekistan

**Abstract:** The article analyzes the problems of maintaining the presumption of innocence in media reports and information about crimes. It is noted that the media currently does not maintain a growth trend in the dissemination of news and information about crimes. It is said that the journalistic investigation and the presumption of innocence contradict each other in content. It is concluded that for violating the requirements of the presumption of innocence, liability is provided for the investigator, prosecutor, or court, but the responsibility for a journalist is not clearly defined by law.

**Keywords:** Criminal procedure, presumption of innocence, criminal case, journalist, news and information, information, media, evidence, transparency, investigation, court, principle, innocent person.

**Introduction:** Reforms aimed at expanding transparency in law enforcement activities are aimed at strengthening the participation of citizens in public and state life, especially in the criminal procedure sphere. The media is the main tool in ensuring transparency. An important step in this direction was the Resolution of the President of the Republic of Uzbekistan dated June 27, 2022 No. PP-294 "On Measures to Support Mass Media and Develop the Sphere of Journalism".

Public interest in issues related to the criminal procedure sphere is growing year by year. Analysis of TV, newspapers, magazines, and electronic media shows that they maintain an upward trend in the dissemination of crime-related news and information. However, it should be noted that the reason for the

growth of this trend is not an increase in the level of crime in the country, but a positive change in the government's attitude towards the activities of the media and the provision of broad opportunities for them. Of course, crime has always existed and its level has always increased, but the practice of widely covering news and information about crime in the media has only become more common in recent years.

The activities of the media in the coverage of criminal cases can be assessed by both positive and negative criteria. In this regard, A.D.Boykov and I.I.Karpets note that "The mass media, which have taken on the task of protecting social justice and are actually fulfilling this task, in some cases cause great, and in some cases irreparable damage to the interests of citizens and organizations... It is known that the procedure for making a court decision is enriched with procedural guarantees that ensure its fairness. And the justice provided by the media is not always reliable" [1, 38]. Subsequently, the authors note that transparency contributes not only to awareness of law enforcement activities, but also to the implementation of public control [1, 170].

Transparency requires close cooperation between law enforcement agencies and the media. However, "the widespread introduction of the media into criminal proceedings can, in some cases, lead to other problems that are difficult to resolve through current legislation" [2, 31]. It should be noted that these problems are primarily related to maintaining the presumption of innocence in the coverage of criminal cases by the media.

The presumption of innocence (*praesumptio innocentiae*) applies to the stages of pre-investigation verification, investigation, and trial. Compliance with the requirements of this principle is important at the stages of investigation and trial, but it is especially important at the stages of pre-investigation verification and initiation of criminal proceedings. The reason is that a person suspected of committing a crime has an honest name at these stages, and the content of messages through the media about a person committing a crime, if the message is associated with a violation of the presumption of innocence, has a serious impact on the legal, social, and psychological state of the person. For this reason, in this part of the research work, we considered it expedient to analyze the observance of the presumption of innocence in the process of initiating a case and conducting a pre-investigation check.

The presumption of innocence is a fundamental principle, a procedural and moral phenomenon. As a procedural event, it is interpreted from the point of

view of a court verdict that has entered into legal force, that the person is not obliged to prove innocence, and that all doubts about guilt are resolved in favor of the person. From a moral point of view, it requires a neutral attitude towards the person who committed the crime, not to insult him, and not to draw preliminary conclusions about the incident. Sometimes his rules are violated. One of the principles that should be scientifically researched is the issue of responsibility for violation of its rules.

As a general legal requirement, - writes L.D. Kokorev, - the presumption of innocence indicates the legal status of a person in society, and only on the basis of a court verdict that has entered into legal force is a person considered to have committed a crime [3, 32-33]. Subsequently, the author quotes Ya.O.Motovilovker as follows: "The purpose of the presumption of innocence is not to implement the principle of objective truth, but to determine what the legal conclusion should be in the part of the case where objective truth cannot give a clear answer and a cognitive result has not been achieved. In practice, there would be no room for such problems as the presumption of innocence if the legislator did not proceed from the fact that the truth may not be established in certain cases" [3, 35].

Yu.V.Fransiforov emphasizes that the presumption of innocence is directly related to the process of proof. This principle prohibits the prosecution approach in the process of proof. It is well known that an indictment is not based on assumptions and is adopted when the defendant's guilt is proven, and any doubts about the proof of guilt are resolved in favor of the person. In cases where the commission of a crime is not proven, the person is found not guilty. A person does not have to prove their guilt; such an obligation rests with the prosecution [4, 10].

Of course, the presumption of innocence is an important procedural principle, and law enforcement officers must strictly comply with the requirements of this principle in their activities. It is especially mandatory for the investigator, inquiry officer, and court responsible for criminal proceedings. However, media journalists who report on crimes carry out their professional activities and practically demonstrate freedom of speech, which is an important factor for the public. Consequently, a journalist, in the course of carrying out their professional activity, cannot influence the guilt or innocence of a person in a procedural order. It can only direct public consciousness in a certain direction (of course, this does not always lead to positive consequences). This raises the question of whether the requirements of the presumption of innocence are mandatory for journalists.

The situation is quite controversial, since the journalist is not a participant in the criminal proceedings. However, this does not mean that the presumption of innocence is mandatory only for officials conducting criminal proceedings. However, in world practice, there are attempts to prove that "the requirements of the presumption of innocence cannot be applied to information disseminated in the media" [5].

Also, lawyer M. Tursunova expresses the following opinion: "Mass media and journalists are not considered participants in the process and do not have procedural rights and obligations. Consequently, there are no legal grounds to require media outlets and journalists to comply with the presumption of innocence principle.... Consequently, applying the presumption of innocence principle to media reports jeopardizes and effectively deprives media outlets of the right to publish reports about crimes, while covering open court proceedings" [6].

However, it should be noted that the information disseminated in the media and attempts to prove that the presumption of innocence cannot be applied to journalists were mainly carried out in sources close to the field of journalism.

If an investigator or inquiry officer violates the principle of innocence, they are considered to have grossly violated procedural order and may face disciplinary action along with the annulment of decisions. What liability does the law provide for a journalist for violating the presumption of innocence?

Of course, a journalist cannot be a subject of procedural liability. However, the law prohibits a journalist from making a conclusion regarding the guilt/innocence of a person who has committed a crime when commenting on matters related to a criminal case. The topic of crime coverage is one of the priority areas for the media. However, skillfully covering it requires professional experience from the journalist. Professional experience plays a greater role in maintaining the presumption of innocence.

The presumption of innocence plays a decisive role in the adoption of a fair judicial decision and the preservation of the integrity of the law enforcement system through respect for the honor and dignity of the individual. However, despite this, there are cases of violation of this principle in practice. Sensationalism, the desire to publish crime details as quickly and online as possible, puts great pressure on the media and encourages them to break the presumption of innocence [7, 21-22].

Criminal cases have different characteristics depending on their social status. While some require a high level of confidentiality, others, on the contrary,

use the principle of transparency for the public. The issue of covering criminal cases in the media can be approached from different positions, but the presumption of innocence must be applied equally to all cases. However, it is natural that many questions arise from the public regarding criminal cases where the principle of secrecy is more commonly applied.

It is known that there are cases in the media where suspects are presented as a person who has committed a crime. Especially in the title of the text. A separate group of suspects (refugees, labor migrants, previously convicted) suffers more from this. This is a violation of the presumption of innocence. The principle of media freedom, which is important for the public, the sharp increase in the number of media outlets and the possibility of disseminating news and information through social networks - create difficulties in solving this problematic situation [8, 107].

One of the ways to solve this problem is to create a corps of professional journalists specializing in covering legal issues. In our country, unfortunately, there are no special courses that form such a corps of journalists. For this reason, it is no secret that in a number of media outlets there are cases of publishing the names and photographs of persons suspected of committing crimes.

Preserving the presumption of innocence in media reports and information is not only a procedural rule but also a necessity that prevents factors negatively affecting the objective consideration of a criminal case during investigation and trial. The main problem is that the public tends to believe reports prepared by journalists more than information provided by investigators or inquiry officers. If a journalist describes a suspect in their report using phrases like "person who committed a crime", "person who used violence", "murderer", "delinquent", "thief", "robber", "burglar", "fraudster" or similar terms, it naturally leads to negative attitudes and conclusions about the suspect among the public. This results in public pressure on the investigator and the court handling the case. Of course, procedural law guides decisions and actions in a criminal case, but disregarding public opinion is a sufficiently difficult task for the official conducting the case.

Such a portrayal by a journalist of a person who has committed a crime contradicts the presumption of innocence. Such sentences can be used only in cases where the identity of the person who committed the crime is unknown.

When a journalist disseminates information about a committed crime through the media, they must treat the individual only professionally. Emotion and personal attitudes can lead a journalist to use words that are

beyond the norm of working relationships. If the identity is unclear, there will be no problem here. However, in cases where the person is known, quoting the above words can be considered an insult in the future. For example, phrases like killer, thief, or bandit are considered an insult to a person in any situation. Such sentences cannot be applied to a person who has committed a crime. The criminal procedure sphere is closer to objectivism than to subjectivism. For example, an objective approach is taken to the concept of the accused - "a person in respect of whom a decision has been made to involve him in the case as an accused in the prescribed manner".

The most frequently encountered phrase in the media is the word "fraudster," which is disseminated by the media based on information received from law enforcement agencies during the pre-investigation check. When disseminating a message, the person's full name is not clearly indicated, only the initials are indicated, but the address of residence is not indicated.

The above-mentioned sentences are practically not found in electronic media with large volumes and numerous subscriptions (kun.uz, gazeta.uz, daryo.uz, qalampir.uz, etc.), in state and private television and radio channels. Such cases are most often encountered among bloggers. The blogger, of course, does not have media status, but other media outlets are likely to refer to this blogger's information. For example, the work of officials in one of the regions is among them [9].

The presumption of innocence applies to the suspect, the accused, and the defendant. However, the person is interested in the application of the presumption of innocence not only in the status of a preliminary suspect, but also at the pre-investigation stage, even before the initiation of a criminal case. If the person who committed the crime is unknown, there is no need for the presumption of innocence. The need arises when a person is presumed to have "committed a crime". Such a situation arises in cases of detention at the scene of a crime, indicated by the victim in his statement, identified by law enforcement officers, and similar circumstances. And to involve a person in the case as a suspect, a certain period of time must pass. During this period, the individual feels a deep need for the presumption of innocence. However, it is often during this period that news about a person committing a crime spreads in the media.

Consequently, the presumption of innocence should be observed not from the moment the criminal case is initiated, but even before it. Reports and information about a crime in the media should not indicate the guilt or innocence of a particular person in committing a crime. When news about a crime spreads in the media,

a pre-investigation check is appointed. Consequently, it can be concluded that a person has committed a crime, there is no indication of guilt or innocence, and the message has a neutral content - the presumption of innocence was fully observed during the pre-investigation check.

Publishing news about a crime in a neutral context is also beneficial for journalists. In this regard, the opinion of A.V. Sumin and O.V. Khimicheva is well-founded: "Media journalists should always remember that, first of all, persons who are unreasonably suspected by them or recognized as guilty of committing a crime may be acquitted or the criminal case against them may be terminated on the basis of procedural law" [10, 164].

The presumption of innocence is an important principle not only for the suspect or accused of committing a crime, but also for his close relatives. The reason is that media reports of an accusatory nature create an environment for the emergence of various negative views in the public regarding these individuals.

The main rule in the presumption of innocence is that "the suspect, accused, or defendant is not obligated to prove their innocence". This procedural rule states that a suspect, accused, or defendant involved in a criminal case is not obligated to prove their innocence; the burden of proof rests with the prosecution. This procedural rule protects the person from unfounded and false accusations. In this regard, as D.K. Shanokin pointed out, it is fair to provide for such a rule by the presumption of innocence. Pronouncing false accusations against a person under conditions of insufficient evidence is extremely complex. Thus, if the prosecutor fails to provide evidence of the commission of the crime by the person and there is no evidence justifying the accused, it is impossible to bring charges against the person. Insufficient evidence of an accusative nature is grounds for acquittal, and conversely, insufficient evidence of an acquittal nature is not grounds for accusation [11, 1403-1409].

Consequently, the presumption of innocence, as a defense against unfounded and false accusations, implies not the presence of acquitting evidence for acquitting a person or terminating a criminal case, but the insufficiency of incriminating evidence. In the presence of acquittal, the acquittal of a person does not create any procedural complications. Insufficient evidence of the accusation serves as a procedural basis for acquitting a person or terminating a criminal case.

Responsibility for violating the presumption of innocence is provided for by the investigator, prosecutor, or court, but the responsibility for a journalist is not clearly defined by law.

It should be emphasized that journalistic investigation

plays a crucial role in disseminating crime-related materials in the media. However, maintaining the presumption of innocence during a journalistic investigation is an extremely challenging task. Consequently, one can conclude that journalistic investigation and the presumption of innocence are inherently contradictory concepts in terms of their content.

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