

# Normative Regulation of Activities of Operational Units of the Penitentiary System (Historical Aspect)

Nikolai Viktorovich Rumyantsev<sup>1</sup><sup>a</sup> and Aleksey Vyacheslavovich Agarkov<sup>2</sup><sup>b</sup>

<sup>1</sup>FKU of Scientific Research Institute FSIN of Russia, NITs-3, Moscow, Russia

<sup>2</sup>Vladimir legal institute FSIN of Russia, of department of investigation and search operations, Vladimir, Russia

**Keywords:** Operational and investigative activities, operational units, tasks, history, normative regulation, penitentiary system.

**Abstract:** *Introduction:* operational units of the penitentiary system have accumulated extensive experience that can be applied in modern conditions. *Purpose:* to trace the genesis of their normative regulation, structural construction, on the basis of which to draw conclusions on the efficiency and prospects of their functioning. *Materials and methods:* generalization of archival materials, works of a number of scientists, parallels with the modern regulatory framework of activities of operational units using the historical and legal method. *Results:* the system of operational units of the penitentiary system of the USSR was regulated exclusively by departmental regulations of a closed nature, and their tasks changed depending on the situation in places of deprivation of liberty. Some of them are included in Article 84 of the Criminal Executive Code of the Russian Federation. In addition, having started their activities in difficult conditions, operational units managed to achieve full manageability of places of detention by the 70s of the twentieth century. *Conclusions:* operational-search activity in places of deprivation of liberty is necessary and historically conditioned, and its normative regulation at various stages of development requires deep study and use in the work of modern operational units of the Russian penal system.

## 1 INTRODUCTION

Currently, scientific and not only scientific interest is aroused by questions related to the history of the activities of various operational units. Aspects that previously belonged exclusively to closed information and were not available to a wide range of researchers are of particular interest. We do not pursue the task of establishing the "historical truth", because in this matter we share the position of Professor P. A. Astafichev, who believes that "historical truth" is only the goal of an objective and conscientious researcher, the achievement of which in the strict sense of the word is generally unattainable (P. A. Astafichev, 2020). At the same time, it seems to us that the regularities of the development of legal regulation of operational work that is carried out in the penal system are currently of interest and can contribute to solving the main task of all law

enforcement activities – improving the effectiveness of the fight against crime.

## 2 MATERIALS AND METHODS

In this regard, we will attempt, based on the study and generalization of archival materials, the works of a number of scientists who develop problems of the history of operational investigative activities, the analysis of the regulatory framework of activities of operational units in the period of 1945-1981, and using primarily historical and legal and comparative analytical methods, to trace the genesis of legal regulation of operational units of the penitentiary system, on the basis of which to draw conclusions on the efficiency and prospects of modern operational-search legislation.

<sup>a</sup> <https://orcid.org/0000-0000-0000-0000>

<sup>b</sup> <https://orcid.org/0000-0000-0000-0000>

### 3 RESULTS AND DISCUSSION

Starting with the consideration of the issues of the emergence and development of the legal regulation of operational investigative activities in the penitentiary system, it is necessary, in our opinion, to consider a brief history of the formation of operational units in places of deprivation of liberty. This need is dictated by the historical fact that the tasks of operational work were reflected both in the regulations and in the organization of the activities of operational units. Moreover, we believe that the organization and practice of the work of operational units in the penitentiary system had and continues to have an impact both on the normative regulation of their activities and on the formation of the theory of operational investigative activities, which from a scientific point of view reveal and explain the laws of operational work. In this respect, we agree with prof. Exarchopulo, who remarks that "during the formation of the first scientific concepts of criminology (and later the theory of operational search activity developed from it - author's remark), and in the further formation of its theoretical base, accumulated knowledge and practical experience always were the objective prerequisites for the development of science (A. A. Exarchopulo, 2014).

So, based on the results of our previous research (A.V. Agarkov, 2019), we assume that in the medieval Russian state and the Russian Empire, there were no specialized units that carried out operational work in places of deprivation of liberty. At the same time, since the middle of the XIX century, prison officers provided assistance in the fight against crime to the political and criminal police, which was provided, in particular, by the relevant instructions (Z. I. Peregudova, 1992). This is confirmed by modern researchers (P. E. Shchegolev, 1992), and "journalistic investigations" of the period under review, acting as narrative sources (V. M. Doroshevich, 2019). In turn, the operational covering up of political criminals in places of detention was carried out by specialized detective agencies, generally responsible for countering crimes against the state. Their activities were carried out on the basis of closed departmental regulations, however, taking their organizational isolation from places of deprivation of liberty into account, they will not be considered in this work.

Similarly, the operational covering of places of detention was built in the first years of the existence of the Soviet state, but its results quickly showed the inefficiency of this approach. Then, in 1930, specialized information and investigation

departments were created in the organizational structure of the territorial bodies of the OGPU (state security bodies-author's remark) for the operational maintenance of correctional labour camps, the number of which sharply increased at that time. However, despite this, they were part of the structure of the OGPU, and therefore the normative regulation of their activities also remains outside the scope of our work. Only in 1932, as a result of organizational changes, the information and investigation departments were subordinated to the security units. The new units received the names of Secret and Operational Departments (GARF. F. R-9401sch. Op. 1a. T. 1. D. 2. L. 69), which was soon changed to the third departments of the ITL (GARF. F. R-9401sch. Op. 1a. T. 1a. D. 2. L. 80). No normative act regulating their tasks was issued, and they themselves, having in their composition counterintelligence, secret-political, economic, special and operational departments, carried out various aspects of operational-search activities, as well as conducting investigations exclusively on political crimes.

In 1935, the third departments were created in colonies and prisons, which completed the formation of independent operational units in the penitentiary system of the USSR. Their activities were soon regulated by the order of the NKVD of the USSR of April 26, 1935, No. 00159, which regulated the organization and tactics of working with confidants, and the order of the NKVD of the USSR of September 14, 1937, No. 00588, which introduced the Temporary Regulation on the third departments of the ITL NKVD (GARF. F. R-9401sch. Op. 1a. T. 1. D. 9. L. 22-24). According to it, the third departments fully conducted operational and investigative work, and not always at the necessary level (S. I. Kuzmin, 2020). It also provided groups within the third departments: counterintelligence, secret-political, special, accounting and statistical, as well as (what should be paid special attention to) the department for combating escapes and the department of criminal investigation. Thus, it is necessary to state the normative consolidation of the tasks of prevention and disclosure of penitentiary crimes. On the one hand, this corresponded to the leading tasks of the criminal policy of that time: strengthening the fight against the remnants of class enemies and raising the task of educating socialist discipline to a much greater height (A.V. Sorokina, 2018). On the other hand, this allows us to come to the extremely important conclusion that the specific task of operational and investigative activities to counteract penitentiary crime and, in particular, to prevent escapes from

places of deprivation of liberty, currently enshrined in Article 84 of the Criminal Executive Code of the Russian Federation (hereinafter referred to as the PEC of the Russian Federation), was first normalized in 1937. Consequently, the counteraction of crime in places of deprivation of liberty by operational-search methods is historically conditioned, and the norms of the Criminal Code of the Russian Federation in terms of the tasks of operational-search activities in correctional institutions originate in departmental acts that regulated the activities of operational units of the penitentiary system. At the same time, it should be emphasized that countering malicious violations of the regime in correctional institutions is a feature of the operational search activities carried out in them (A.V. Bykov et al., 2015).

Significant changes in the structure and tasks of the operational units of the penitentiary system were made on February 7, 1940 by order of the NKVD of the USSR No. 00149 (GARF. F. R-9401s. Op. 1a. T. 1. D. 55. L. 152-154). The third departments were called operational-chekist departments (OCHO), and their tasks were added to the regime functions, which once again draws us to the content of the current article 84 of the Criminal Code of the Russian Federation. Besides observing moods, the tasks of ensuring the smooth operation of production, combating theft of property of penitentiary institutions, hooliganism and banditry among prisoners, as well as organizing interaction with the territorial state security bodies in a number of areas appeared. Thus, we consider it possible to draw parallels with modern operational-search counteraction to economic crime (which is currently not regulated by law and, in our opinion, requires deep scientific development), as well as with a number of closed interdepartmental regulations in the field of interaction of operational units of various subjects of operational-search activity.

During the Great Patriotic War, the tasks of the operational units of the penitentiary system were significantly expanded, which, however, did not find its normative consolidation, but was carried out exclusively on the basis of the administrative instructions of the NKVD of the USSR. So, in particular, the operational units selected persons among the prisoners who were sent from places of deprivation of liberty to the active army, carried out work in filtration camps, prevented the disruption of production for the front, and also solved the most, in our opinion, responsible task-identifying and suppressing the activities of enemy agents aimed at organizing uprisings, sabotage in places of deprivation of liberty. Numerous facts show that this

work was efficient. For example, one of the identified persons preparing an armed uprising in a correctional labor camp said: "We need to have up to 50 people of desperate thugs now. We need to master weapons... the most important thing is to capture the radio station and the base with food, then we would help the front" (A.V. Agarkov, 2015). The activities of the criminal group were suppressed by the operational unit.

Regarding the organization and transformation of the tasks of the operational units of the penal system in the post-war period, we note that after the end of the Great Patriotic War, the operational situation in places of deprivation of liberty became seriously complicated: penitentiary crime became more active, and mainly due to commissioning of violent crimes, group disobedience, attacks on the administration, etc. We explain this by a number of factors: an increase in the number of convicts, a change in their qualitative composition, among them there were persons with front-line experience, there were processes of redistribution of power between traditional thugs and persons who participated in hostilities (so called "bitches") - "bitch war", accompanied by numerous murders and other crimes against the person (V. T. Shalamov, 2021). We consider it possible to cite the data of a related archival document:

"In 1949, 49, in 1948, 89 people fled. There were 18 cases of open bandit manifestations, which were expressed in the murders and injuries of prisoners. In 1948, 37, in 1949, 72 people were involved in banditry. The growth is explained by:

1. Most of the bandits in 1948-1949 came from the Northern camps because of illnesses, and some from prisons.
2. Until 1949, there was no hostility between bandit elements (so-called "thieves in law" and "bitches") in the camp, so the first isolated bandit manifestations in some units were underestimated neither by the camp administration nor by operational workers, and therefore no decisive actions were taken to prevent them.
3. Mixing of contingents was allowed.

The following actions took place: stabbing prisoners, a group of prisoners organized a bandit act, as a result of which a warden was killed and an assistant platoon commander was wounded, repeated beatings and robberies of individual prisoners in front of everyone; murders of prisoners with axes, knives, including foremen, cooks, etc. (archive of the IC of the Ministry of Internal Affairs of the Komi Republic, f.14, O. 2, A. 29, L. 24-28).

Trying to respond to the growth of penitentiary crime with organizational measures, the Ministry of Internal Affairs of the USSR was reorganized: security units were merged with operational departments, and the heads of the newly formed structures became deputy heads of institutions (GARF, f. R-9401c, op. 12, d. 310, t. 2, l. 3).

As of September 1, 1947, the total number of special prisoners held in GULAG prisons was 1,392,368, who were housed in 54 camps, 79 colonies, and 57 prisons. Confidential assistance was provided by about 10,000 employees and freelancers, almost 4,000 persons who provided assistance on a contractual basis, and almost 65,000 on a non-contractual basis ("informants"). In addition, "anti-run awareness" was carried out by 60,225 people (V. A. Berdinskikh, 2001).

Taking into account the workload of operational workers due to the need to communicate with a large number of confidants of various specializations, in 1948 to intensify the fight against escapes, the right to work with confidants who carried out "anti-escape information" was granted to the security officers and all the personnel of the supervisory service, while the operational workers who served the camp units and colonies were entrusted only with monitoring the quality of the selection of informants, as well as instructing the guards and security officers on the methods of attracting prisoners to the assistance brigades and ensuring secrecy in working with them (GARF, f. R-9401c, op. 12, d.316, vol. 3, L. 4). Working with secret employees was based on the Instructions approved by the same order.

Describing the decision, it should be noted that this measure led to a decrease in the number of escapes, but along with the positive aspects, we see the negative aspects here, the main of which are possible violations of conspiracy and partial decoding of methods of the ORD due to poor professional training of employees, mass involvement and, as a result, poor selection of secret apparatus, wide awareness of the special contingent about the operational cover provided by the anti-run operation, etc.

In the period of 1950-1951, the functions of security and operational support were again divided and departments of the regime and operational work were created.

Simultaneously with the attempts to improve the organization of the activities of operational units, the search for ways to improve the operational-search activity itself was underway. In accordance with the instruction of the Ministry of Internal Affairs of the USSR No. 823 of June 30, 1951 (GARF, f. R-9401s,

op. 12, d. 311, l. 6), accounting and observation cases began to be opened as a prototype of one of the types of modern operational accounting cases provided for by the current Federal Law of 12.08.1995 No. 144-FZ "On Operational search activities".

It should be noted that by the beginning of 1953, the operational situation in places of detention stabilized, which was greatly facilitated by the activities of operational units. The most dangerous leaders of groups of convicts of a negative orientation were localized or shot, the redistribution of the "shadow" power ended.

At the same time, the death of I. V. Stalin and subsequent changes in the domestic political life of the country again led to a complication of the situation in places of detention.

Having declared an amnesty for criminals, the country's leadership was in no hurry to release those convicted of political crimes, which was the reason for the dissatisfaction of the special agent and the tense situation in places of detention (M. I. Perlik, 2015). This is what is discussed in the document below: "... It is established that the dissatisfaction of prisoners... is mainly related to the publication of the Decree of the Presidium of the Supreme Soviet of the USSR on the amnesty of the criminal bandit element..." (Archive of the IC of the Ministry of Internal Affairs of the Komi Republic, f. 47, Vorkutinsky IITL, O. 1-P, No. 9, l.12-16).

It should be noted that the above events occurred at the time when the level of penitentiary crime for a number of reasons increased dramatically. Leaving a detailed consideration of the reasons for this growth outside the scope of our study, we will highlight only a few, in our opinion, the main ones: the lack of qualified specialists due to losses in the Great Patriotic War; the change in the composition of the special contingent and the ongoing redistribution of the "shadow" power in the IITL; the imperfection of the regulatory framework and insufficient attention paid to the problems of the penitentiary system by the leadership of the USSR.

Since 1954, the tasks of the entire penitentiary system have changed – the main one was the correction and re-education of offenders. Conditional early release became possible again, supervision of the prosecutor's office was established for compliance with the laws in correctional labor institutions, amateur organizations of convicts were organized, and convicts were granted the right to receive education in the schools of working youth.

The changes also affected the organizational structure of places of detention: the regime service was transferred to the subordination of security units,

in which the departments of the supervisory service were created. The operational units of the ITL and the ITK were renamed operational (first) departments.

On September 8, 1956, a new departmental normative act of the Ministry of Internal Affairs of the USSR was adopted, regulating operational and investigative activities in correctional labor camps and colonies, which was developed taking into account the changes that occurred in the country: it became "an integral part of the re-education of those sentenced to imprisonment serving their sentences in places of detention". Serious changes also affected the tasks of the operational units of the Criminal Justice System, the main task of which was the fight against penitentiary criminal crime.

Analyzing the tasks given in the Regulation, it should be noted that along with the implementation of the prevention of specific crimes by the special agent, the task of countering organized crime in places of deprivation of liberty is highlighted for the first time – the fight against the leaders of organized crime groups (in modern terminology), which indicates its relevance. It should be noted that this task is still among the tactical tasks provided for by the departmental regulatory act of the Federal Penitentiary Service of Russia and solved by the operational units of the penal system.

Analyzing the above, we come to the conclusion that there were qualitative changes in the organization of the activities of the operational apparatuses of the ITU – having lost the counterintelligence functions of protecting state security; they began to carry out directly operational-search activities, focused primarily on the fight against ordinary crime in the specific conditions of the ITU. In addition, by transferring to other departments, as a result of the reform, the functions of protection and supervision that were not typical of operational work, the first departments were able to fully focus on countering penitentiary crime, using special operational methods for this purpose. At the same time, operational and investigative activities began to be considered as an integral part of the general activities of the ITU for the re-education of prisoners (providing assistance to the administration in maintaining the regime, creating conditions for the re-education of prisoners, and quickly establishing their path of correction).

The ongoing measures to reform the penitentiary system led to an increase in the activities of criminal groups of convicts, with the knowledge or under the influence of the organizers of which the majority of crimes and gross violations of the regime were committed in ITU. The problems of combating penitentiary crime and improving the efficiency of the

penitentiary system acquired national significance, which is confirmed by a number of regulatory legal acts at the state level, namely:

- The Decree of the Presidium of the Supreme Soviet of the USSR of January 13, 1953 "On measures to strengthen the fight against particularly malicious manifestations of banditry among prisoners in correctional labor camps", according to which the death penalty was allowed to be applied to those responsible for these crimes;
- The resolution of the Central Committee of the CPSU and the Council of Ministers of the USSR of October 25, 1956, on the basis of which the correctional labor camps were liquidated.

Leaving out of the scope of our study the tactics and specific facts of operational and investigative activities among convicts of a negative orientation, it is necessary to note the efficiency of the implementation of the entire complex of measures provided for by the above regulatory legal acts - the crime rate among convicts decreased sharply. V. M. Anisimkov claims that in some ITL in the period from 1956 to 1958, the total number of crimes decreased by more than 40%, and the number of escapes decreased by 43%, and robberies and mass riots – by 3 times (V. M. Anisimkov, 1993). Analyzing the above information, we share the point of view of V. V. Dedyukhin that these positive results were made possible due to the implementation of measures to isolate the criminal bandit element in special high-security camp points in combination with measures of a regime, operational-preventive and political-educational nature (V. V. Dedyukhin, 1984).

Assessing the results of the fight against criminal groups of convicts, S. A. Kutyakin and G. V. Kurbatova argue that the elimination of criminal groups in the early 60s were completed only formally..., "thieves in law" lay low in anticipation of favorable conditions for the activation of their activities (S. A. Kutyakin, G. V. Kurbatova, 2003). However, we believe that the actions taken by the operational and regime units brought the necessary effect, since the groups of convicts who were again negatively disposed to the administration appeared only 30 years later, in the era of «perestroika»

On August 21, 1962, a normative act of the Ministry of Internal Affairs of the RSFSR was published, which regulated the operational search activities of correctional labor colonies, camps and prisons of the Ministry of Internal Affairs of the RSFSR, which stated that operational search activities "in colonies and prisons are carried out

according to a plan that provides for the main measures aimed at strengthening the fight against crime and strengthening the regime of detention of prisoners."

The next departmental normative act in the field of operational work in penitentiary institutions was adopted on December 27, 1974. In his introductory part, describing the current operational situation in places of deprivation of liberty, the Minister of Internal Affairs of the USSR, Colonel-General N. Shchelokov, stated that "law and order had been strengthened in places of deprivation of liberty, the number of crimes had slightly decreased. There is a tendency to increase the number of ITU, in which no crimes are committed for a long time...". The content of operational and investigative activities in the penitentiary system was also formulated there: "...assistance in the correction and re-education of convicts, detection, prevention and disclosure of crimes."

It should be noted that the operational situation in correctional labor institutions during the period under review was relatively favorable. We believe that this became possible as a result of the coordinated work of the operational and security services, which managed to level and suppress the influence of the shadow leaders of the criminal environment. Based on our analysis of the content of the bulletin "Operational-search work" for 1974-1981, published by the Research Institute of the Ministry of Internal Affairs of the USSR, it is possible to identify the main, most urgent tasks that faced the operational units of the penitentiary system during this period: preventing the escape of convicts; countering illegal trafficking narcotic drugs; prevention of mass riots, crimes against the person; prevention of theft of property.

*Conclusion.* So, by the beginning of the 80s of the twentieth century, the operational units of the Penal System (operational units) fully controlled the operational situation in places of detention. Crimes in places of deprivation of liberty were committed, as a rule, individually or in small groups, attempts of convicts of a negative orientation to dictate their conditions to representatives of the administration, as a rule, ended in failure. Operative workers liquidated a large number of criminal-bandit groups, debunked a number of leaders of the criminal world – "thieves in law", and took control of the situation in the vast majority of correctional labor institutions. The work of the operational units of the Criminal Investigation Department was radically restructured – from counterintelligence they became directly operational-search units, which primarily fight against

penitentiary criminal crime, which significantly increased its efficiency.

## 4 CONCLUSIONS

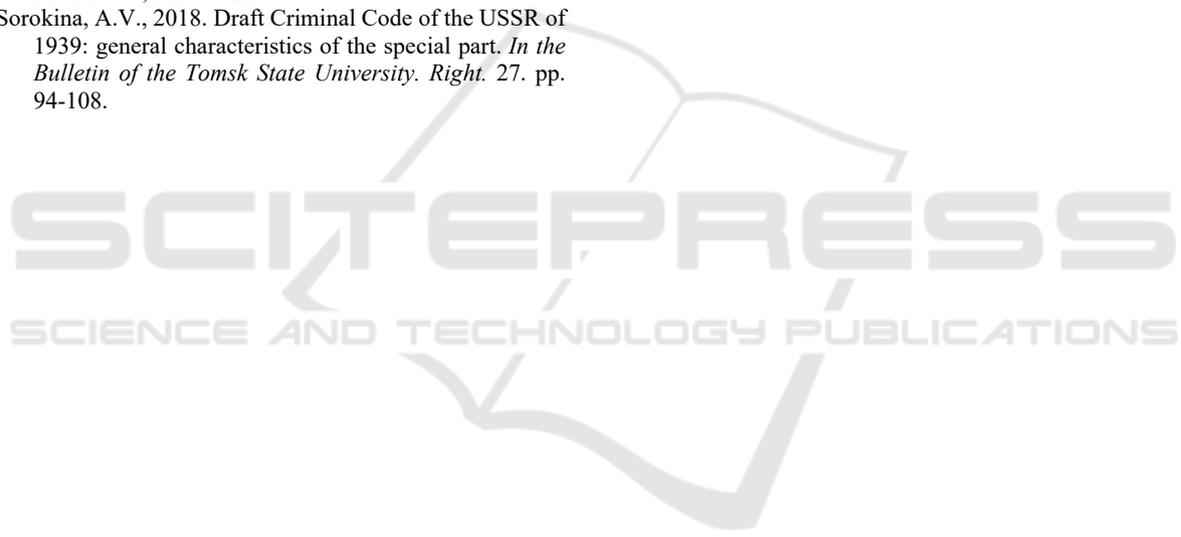
We consider it proven that operational search activities in places of detention are necessary and historically conditioned. Also, an objective necessity is operational-search counteraction with violations of the regime established in places of deprivation of liberty. In addition, the analysis of the normative regulation of operational work at various stages of the development of the penitentiary system has shown that a number of sources (including those not considered in this publication due to their closed nature), after appropriate processing, can be successfully applied in the work of modern operational units of the penitentiary system of Russia.

## REFERENCES

- Agarkov, A.V., 2015. Some aspects of the activities of the operational units of the UIS of the USSR during the war and the post-war period (according to archival materials). VLADIMIR, DIRECTOR OF THE VLADIMIR LAW INSTITUTE OF THE FEDERAL PENITENTIARY SERVICE OF RUSSIA.
- Agarkov, A.V., 2019. Genesis of methods of operational-investigative activity in the penitentiary system of the Russian Empire. *In the Bulletin of the Vladimir Law Institute.* 3(52). pp. 135-138.
- Anisimkov, V. M., 1993. Prison community: "milestones" of history.
- Astafichev, P. A., 2020. Ensuring the protection of historical truth as a new principle in the constitutional law of modern Russia. *In Law Enforcement.* 4(4). pp. 5-11.
- Berdinskikh, V. A., 2001. The history of one camp (Vyatlag). MOSCOW, AGRAF.
- Bykov, A.V. et al., 2015. Norms of the criminal executive legislation regulating operational and investigative activities, scientific and practical commentary. MOSCOW, FKU RESEARCH INSTITUTE OF THE FEDERAL PENITENTIARY SERVICE OF RUSSIA.
- Dedyukhin, V. V., 1984. Formation and development of the organization of the fight against crime in ITU. MOSCOW, ACADEMY OF THE MINISTRY OF INTERNAL AFFAIRS OF RUSSIA.
- Doroshevich, V. M., 2019. *In the Collected Works.* 6(6).
- Exarchopulo, A. A., 2014. Setting a scientific problem as the beginning of the formation of a forensic theory. *In the Bulletin of St. Petersburg State University. Ser.* 14(2). pp. 104-113.
- Kutyakin, S. A., Kurbatova, G. V., 2003. "Thieves in law": at the turn of the century. RYAZAN, AKAD

PUBLISHING HOUSE. RIGHTS AND MANAGEMENT OF THE MINISTRY OF JUSTICE OF THE RUSSIAN FEDERATION.

- Kuzmin, S. I., 2020. The place of the III Operational-Chekist departments in the punitive system of the Soviet state in the 30s of the XX century. *In Penitentiary Law: Legal Theory and Law Enforcement Practice*. 4(26). pp. 96-99.
- Peregudova, Z. I., 1992. Secrets of political investigation: Instructions for working with secret employees. ST. PETERSBURG STATE UNIVERSITY PRESS.
- Perlik, M. I., 2015. Protest actions of prisoners in the correctional labor camps of the post-war Gulag (1945-1956): the reasons and main directions of law enforcement agencies' activities to neutralize them in the Humanities, socio-economic and social sciences. KRASNODAR, LLC "SCIENCE AND EDUCATION". 6-1. pp. 365-369.
- Shalamov, V. T. 2021. Bitch war. In the collection: Kolyma stories. MOSCOW, VECHE.
- Shchegolev, P. E., 1992. Guards, agents, executioners. MOSCOW, PROSVET.
- Sorokina, A.V., 2018. Draft Criminal Code of the USSR of 1939: general characteristics of the special part. *In the Bulletin of the Tomsk State University. Right*. 27. pp. 94-108.



SCITEPRESS  
SCIENCE AND TECHNOLOGY PUBLICATIONS