

The Confirmation of the Legal Interests of the Crime of Infringing on Citizens' Personal Information and the Exploration of the Criminal Law Protection Path

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ABSTRACT

In the information age, the phenomenon of cyber crime is increasingly rampant, among which the problem of infringing on citizens' personal information is particularly serious. As for the scope of citizens' personal information, the academic community discusses it from the perspective of identification and sensitivity. Its scope should be considered by integrating multiple factors, and in practice, the definition standard should be improved from both theoretical and judicial aspects. Law properties, academic circles have personal interests and personal interests, focus including legal priority, define the concrete abstraction and judicial fit with legislation, in fact, and measure this crime, to balance individual and social public factors, in order to accurately define its scope, ensure the rationality of the law applicable and impartiality, effectively combat crime and protect citizens' rights and interests and social order. In the situation of judicial application, relevant charges are constantly improved, and the number of cases has increased, but there are problems such as vague definition of information, unclear identification of "serious circumstances" and differences in understanding of legal interests. The protection path of criminal law should clarify the standards of crime identification, strengthen criminal punishment and cooperative protection, so as to fight crimes and protect citizens' information security.

KEYWORDS

Information Age; Citizen Personal Information; Confirmation of Legal Interests; Criminal Law Protection.

1. FOREWORD

In the information age, the power of the Internet is reflected in the revolutionary breakthrough in information production and dissemination. The rapid and wide dissemination of information has brought unprecedented convenience and opportunities to people. However, this advantage has been used by criminals, leading to the emergence of cyber crimes. There are various forms of cyber crime, from malicious attacks and fraud to the infringement of citizens' personal information, which seriously threaten the security and stability of the society. The key to improving cyberspace and building an information society lies in standardizing the circulation of information and the orderly flow of information, so as to ensure the normal operation of society and promote economic development. As a new type of crime, the crime of infringing on citizens' personal information has many problems and complex problems. The illegal acquisition and abuse of citizens' personal information not only brings huge losses to individuals, but also causes a serious impact on the social order.

2. THE SCOPE AND DEFINITION STANDARD OF CITIZENS' PERSONAL INFORMATION

Now we are in a highly development of the Internet age, for the protection of citizens' personal information priority, clear its scope and definition standard is the cornerstone of building effective protection system, it is not only related to the maintenance of citizens' individual rights and interests, also to the stability of social order and the healthy development of the information industry has far-reaching significance. In China's current legal system, many Multiple laws and judicial interpretations have given corresponding provisions on the category of citizens' personal information. Article 76, paragraph 5 of the Cyber Security Law provides a clear definition of the basic concept of personal information. The article states that personal information is a variety of information recorded electronically or otherwise, individually or in combination with other information, to identify the personal identity of a natural person. For example, name, date of birth, id number, personal biometric information, residential address and telephone number all belong to the category of personal information. This regulation lays down an important basic framework for determining the scope of citizens' personal information, and emphasizes the core feature of the identifiability of information. In addition, the Supreme People's Court and the Supreme People's Procuratorate jointly issued the Interpretation on Several Issues Concerning the Application of the Law in Handling Criminal Cases of Violation of Citizens' Personal Information, which provides a more detailed explanation and supplement to the scope of citizens' personal information. According to the interpretation, citizens' personal information includes not only information that can identify the identity of a specific natural person alone or in combination with other information, but also information that can reflect the activities of a specific natural person, such as whereabouts track, communication and contact information, account number and password, and property status. The Personal Information Protection Law, which came into effect in 2021, further refines and expands the scope of personal information. The law clearly states that personal information is a variety of information, recorded electronically or otherwise, in relation to an identified or identifiable natural person. Its scope includes not only identification information, but also covers information that can reflect the activities of a specific natural person.

There is a wide and in-depth discussion on the scope and definition standard of citizens' personal information, and the views are different and constantly evolving. Some scholars advocate that identifiability is taken as the core criterion, believing that as long as the information has the possibility of directly or indirectly pointing to a specific natural person, it should be included in the category of citizens' personal information. Other scholars emphasize the importance of the sensitivity and privacy of information in the defining criteria. They believe that although some information may not be directly identifiable, once it involves personal privacy, property security or personal safety, so such information should be included in the scope of protection. For example, information such as personal health status, financial status, and family relationships, although they may not identify an individual individually, should be strictly protected because of their sensitivity. Some scholars propose that the scope of citizens' personal information should be defined from a dynamic and comprehensive perspective, and believe that with the development of information technology and social changes, the scope of citizens' personal information should be dynamically adjusted according to the characteristics of The Times. At the same time, it is necessary to comprehensively consider the information acquisition method, processing purpose, storage period and other factors to build a comprehensive and scientific definition standard, so as to meet the needs of social development and effectively protect the rights and interests of citizens.

According to the above legal provisions in China and some scholars' discussion on the scope of citizens' personal information, the author believes that the scope and definition standard of citizens' personal information is a diversified, dynamic and comprehensive consideration. In general, the scope

should include identifiable, sensitivity and privacy, and information related to social attributes and public interests.

Human identity information, sensitive health and financial status, track, etc., while consider the acquisition, use, storage and other information. To better define citizens' personal information in practice, we need to start from two aspects: theoretical perfection and judicial norms. In theory, the standard should be defined uniformly, and the information characteristics, use scenarios, acquisition means and provider intention should be comprehensively considered to ensure that the classification is scientific and reasonable. In judicial practice, we should clarify the basis of pre-law, standardize the expression of "violation of the relevant national regulations", and treat it as the classification standard of citizens' personal information, distinguish sensitive from general information; strictly standardize the identification standard of "serious circumstances", abandon the unreasonable part, comprehensively consider from multiple dimensions, improve the accuracy and fairness of the definition, avoid different judgments of the same case, and safeguard the legal authority and the rights and interests of citizens.

3. THE ACADEMIC DEBATE AND COMPREHENSIVE JUDGMENT OF VIOLATING THE CRIME OF LEGAL INTERESTS OF CITIZENS' PERSONAL INFORMATION

3.1. The Academic Debate Over the Infringement of the Legal Interests of Citizens' Personal Information

When studying the legal interest attribute of the crime of infringing on citizens' personal information, the academic circle presents a variety of views, among which the core of the debate mainly focuses on the opposition and confrontation between the two main camps of the personal legal interest theory and the superpersonal legal interest theory.

The personal legal theory camp emphasizes the infringement of the rights of individual citizens, which involves the right of privacy, personality right, personal information right and personal information self-determination right and other aspects, and all aspects have derived more detailed insights. Professor Zhang Mingkai pointed out in his interpretation of the legal interests of infringing on citizens' personal information that the legal interests infringed on by this crime focus on the scope of citizens' privacy rights. Specifically, among the numerous personal information of citizens, only those part of the information that can reflect the personal privacy right will be included in the protection scope of the criminal law. Although this point of view is reasonable, it will greatly narrow the scope of the protection benefits of the crime of infringing citizens' personal information, greatly limit the intensity of the criminal law against the serious infringement of citizens' personal information, and is not conducive to the practical protection of the security of citizens' personal information. Personality right said supporters such as Gao Fuping, Wang Wenxiang scholars, starting from the essence illegal "therefore, from the perspective of the legal basis of personal information protection and basic purpose, the infringement of the criminal law of personal information protection should be understood as citizens personal dignity and personal freedom, privacy interests is the content of the protection of personal dignity of- (when emphasizing the importance of privacy, also can be expressed with human dignity)." Intimately connects personal information to personal dignity, but faces difficulties in explaining certain information violations that do not directly damage personal dignity. Li Hong and other scholars pointed out that the protection of legal interest in this crime is citizens' right to personal information, including the right of personal privacy and the right of restricting others to illegally collect, transfer and sell others' information. This statement emphasizes the independent status of personal information rights and emphasizes the public.

People have the absolute right to control their own personal information, and this definition is in line with the realistic demand for the protection of personal information in the information age. However,

in practice, there are disputes over the specific connotation and extension definition of the personal information right, such as the boundary between the personal information right and other relevant rights (such as privacy right, portrait right, etc.) is not clear enough. The right of self-determination of personal information is put forward by Zeng Yuexing, Gao Zhengxu and other scholars, which emphasizes the independent decision of individuals on information and reflects the subject status of individuals in the information age, but needs to be further explored in the coordination with other rights and the scope of practical application.

The super personal law theory focuses on the influence of this crime on public interest or social order, including public information security, social management order and order law theory. Scholars who support the public information security theory believe that the legal interest of this crime is only public information security, highlighting the public attribute of information security, but ignoring the direct connection of this crime to individual rights and interests, and is inconsistent with the orientation of this crime in the chapter provisions of the criminal law. The advocate of social management order claims that this crime infringes on the social information management order and puts the crime under the framework of social order maintenance, but fails to fully reflect the core position of citizens' individual rights and interests in this crime. Order Law Yi said that this crime infringes the overall of personal information management order. This view is more abstract and has deficiencies in the clear content of specific legal interests and the guidance of judicial practice.

In the above discussion of personal legal theory and superpersonal legal theory, the controversy mainly focuses on the following aspects: First, which is the more priority between personal legal theory and superpersonal legal interest. The personal legal theory emphasizes the close connection between citizens' personal information and personal rights, and holds the view that protecting personal legal interests is the core point of the crime of violating citizens' personal information. Moreover, the overall social interests and order, and believes that the crime should be understood from the perspective of public interest or social order. For example, when judging some large-scale violations of personal information but do not directly cause obvious personal damage, personal justice may be justified, while superpersonal justice may be based on the impact on social order. Second, the concreteness and abstraction of the definition of legal interests. Personal legal interest theories such as privacy rights and personality rights are relatively specific and directly point to the specific rights of citizens. However, in the face of complex and diverse personal information violations, there may be the problem of insufficient explanatory power. For example, it is difficult to cover some new ways of personal information infringement, such as the use of big data to analyze personal information violations but do not directly involve privacy or personality rights. Public information security, order law interests and other superpersonal legal interests are more abstract. Although it can grasp the harm of this crime from the perspective of the macro level, in the concrete judicial practice, how to accurately define and judge the degree of infringement of these abstract legal interests has become a difficult problem. Third, there are differences in the degree of agreement with the legislative purpose and judicial practice of this crime. For example, personal information rights to say and

To some extent, the right to personal information can explain the trend of legislation on personal information protection, but in judicial practice, these theories fail to provide clear guidance on how to balance the reasonable use and protection of personal information. Although the social management order emphasizes the impact of this crime on the social order, in the actual judicial operation, how to accurately judge the crime and non-crime and the heavy crime according to this legal benefit still needs to further refine the standard.

3.2. Comprehensive Evaluation of the Infringement of Citizens Personal Information

The confirmation of the crime of infringing citizens' personal information is of great significance and controversial in both academic field and practice. From the existing research, its legal interest is not a single nature. On the one hand, personal interests play an important role in it, such as the right to

self-determination, which reflects the ability to control their own information, including the decision of information collection, use, and sharing, when the right is violated, at the same time, personal dignity, personal safety and property security belong to the category of personal interests, because information leakage often leads to such interests such as fraud, harassment and other hazards. On the other hand, the legal interests of the crime also have certain social public attributes. Due to the illegal acquisition and abuse of a large amount of personal information, the social order may fall into chaos and interfere with the normal operation and stable state of the society. Especially in national security, for some key figures or in the field of personal information infringement may endanger national security, so the recognition and consideration of this crime law, need comprehensive balance individual and various factors such as social public, to accurately define its scope, to ensure the rationality of applicable law and impartiality, effective combat crime and protect citizens' rights and interests and social order.

4. THE JUDICIAL APPLICATION SITUATION AND THE CRIMINAL LAW PROTECTION PATH OF THE CRIME OF INFRINGING ON CITIZENS' PERSONAL INFORMATION

4.1. The Judicial Application Situation of the Crime of Infringing Upon Citizens' Personal Information

In 2009, the Amendment (VII) of the Criminal Law established relevant charges for the first time, clearly stipulating "the crime of selling and illegally providing citizens' personal information" and "the crime of illegally obtaining citizens' personal information", thus preliminarily constructing the basic framework of criminal regulation. In 2015, the Amendment to the Criminal Law (IX) has further integrated and optimized the relevant contents, and formally established the "crime of infringing on citizens' personal information". This revision not only broadens the scope of the criminal subject, but also greatly enhances the deterrence of the law. Since then, the judicial organs at all levels, in accordance with the requirements of the Amendment to the Criminal Law, have been severely cracking down on the criminal acts of infringing on citizens' personal information and maintaining a high-pressure situation. It is because of the crackdown that the number of cases has increased significantly than before. In 2017, the Supreme People's Court and the Supreme People's Procuratorate jointly issued a document titled an Interpretation on Several Issues Concerning the Application of the Law in Handling Criminal Cases of Violation of Citizens' Personal Information. The document explains in detail the scope of citizens' personal information.

And how to identify the "serious circumstances" and "particularly serious circumstances" and other important issues, which makes the punishment of citizens' personal information criminal activities, with more operational provisions, provides an accurate and practical basis for judicial practice. For example, in the of Qian Hu and Zhou Meng's infringement of citizens' personal information, the court, in accordance with relevant laws and judicial interpretations, accurately determined that the defendant was not, and the act of obtaining and selling a large amount of citizens' personal information by law constitutes a crime, highlighting the strong support for the improvement of the legal system to judicial practice. In recent years, the judicial organs have always maintained a high-pressure situation of severe punishment in cracking down on the crime of infringing on citizens' personal information. This powerful crackdown has formed a great deterrent to the criminals. At the same time, law enforcement focuses on financial, telecommunications, Internet and other industries with frequent information leakage, accurately crack down on the industry "mole" infringing on citizens' personal information, and cut off the chain of illegal information transactions.

In addition to the above legal provisions on the infringement of citizens' personal information and the positive trend of judicial application, some problems existing in the process of judicial practice can not be ignored. First, there are many ambiguity in the definition of citizens' personal information.

Different cases have great differences in the identification standards of information. Whether some information, such as network browsing records and consumption preferences, belong to citizens' personal information has different results in different court decisions. This is because although existing legal and judicial interpretations list some common types of information, they fail to cover emerging forms of information and lack a unified definition principle. Second, "serious circumstances" is the key element of the conviction and sentencing of the crime, but at present, its identification standard is relatively complex and lack of clarity. The amount of information, the amount of illegal income, the use of information, the number of violations and other factors need to be considered. The weight distribution between various factors is not clear, and there is easy to difference in judicial judgment. Third, the protection of the legal interests of this crime, the theoretical circle presents a variety of different views, and in the process of judicial practice, for this problem has not yet reached a unified understanding. Some courts focus on the protection of personal legal interests such as personal privacy and information self-determination, and emphasize the intrusion of information leakage on citizens' personal life in the judgment, while some courts tend to maintain the superpersonal legal interests of social information management order and public information security, and pay attention to the damage of criminal acts to the overall information environment of the society. Such differences may lead to different results in judicial adjudication in similar cases, which affects the unity and stability of the application of the law, fails to provide clear behavior guidance for the public, and is not conducive to the effective judicial application and social prevention and control of this crime.

In general, the crime of infringing on citizens' personal information has achieved some achievements in terms of judicial application. In the process of cracking down on such crimes and protecting citizens' personal information, a series of measures taken by the judicial organs have played a positive role in curbing the occurrence of relevant illegal and criminal activities to a certain extent. In order to effectively protect the security of citizens' personal information, it is necessary to further improve the relevant laws and regulations, make the legal provisions more clear and specific, and enhance their operability. At the same time, it is also necessary to unify and refine the judicial practice standards, reduce the uncertainty in the judicial practice, and ensure that every case can be handled fairly and reasonably.

4.2. The Path of Criminal Law Protection for the Crime of Infringing on Citizens' Personal Information

Nowadays, with the rapid development of information technology, citizens' personal information will encounter various risks in cyberspace. In the process of protecting citizens' personal information and punishing the crime of infringing on citizens' personal information, it is very important to clarify the identification standard of criminal behavior. First of all, the connotation and extension of the key element of "violation of the relevant national regulations" need to be clarified urgently. Yu Zhigang pointed out that there are differences between the current legislation and the judicial interpretation in this respect. Although the judicial interpretation defines it to a certain extent, it may not completely agree with the original meaning of the criminal law provisions. Further legislative interpretation should be adopted or further work to amend the law. In judicial practice, it is necessary to make clear its specific role in the constitution of crimes, whether it is considered as an element or only a reminder, and the cause of the law, so as to avoid different judgments in the same case and ensure the unity and stability of the application of law.^⑬ Second, the definition of "citizens' personal information" is the core link. On the one hand, the identifiability of information is one of the most important judgment criteria. Traditional direct identification information, such as ID number, name, etc., is relatively clear, but for some indirect identification information, such as preference information obtained through network behavior analysis, it is necessary to carefully judge whether it can be combined with other information to reach the degree of identifying specific natural persons. On the other hand, the relevance of information cannot be ignored. Although some information alone does not seem to be

significant, it may have a significant impact on citizens' rights after association with other information. For example, individual shopping records combined with medical records may expose an individual's health privacy.⁽¹⁴⁾ With the rapid development of the society, new types of information are constantly emerging. For example, biometric information, Internet browsing information, geographical location information, etc., should be timely included in the scope of protection according to their potential impact on citizens' rights and interests. At the same time, the information with different sensitivity levels should be differentiated for hierarchical protection. For highly sensitive information, such as genetic information, biometric password, maximum protection shall be given; for generally sensitive information, such as family, address and contact information, corresponding protection measures shall be formulated; for some, relatively public information, such as personal information in public reports, be more careful in identifying crimes, considering the factors of information acquisition and the purpose of use. Thirdly, when identifying criminal acts, the acquisition, use and dissemination of information should also be considered. The means of illegal information acquisition, such as hacker technology, malicious software, etc., should be severely cracked down on, and the legal liability of legally obtained but illegal use or dissemination should also be clarified. When judging whether the information is legally used, it is necessary to consider whether it is agreed by the subject of the information and whether it exceeds the scope of authorization. In short, only by clarifying the identification standards of criminal behavior for the crime of infringing on citizens' personal information, can we provide accurate guidance for judicial practice, effectively crack down on criminal behavior, and protect the security of citizens' personal information.

In addition, the criminal punishment and cooperative protection of the acts infringing on citizens' personal information should also be strengthened. In terms of criminal punishment, the amount of information is one of the important indicators, and a large number of illegal acquisition or sale of citizens' personal information usually has a more serious society hazard; information types can not be ignored, such as sensitive information involving citizens' privacy and property security should be punished.

The illegal income reflects the profit degree of the crime and is closely linked to the crime plot; the subjective malignancy reflects the subjective intention and malicious degree of the criminal, and the intentional and obvious malice should be punished severely. For the circumstances with serious circumstances and particularly serious circumstances, it is necessary to formulate clear and reasonable sentencing standards to prevent the imbalance of sentencing, ensure that the punishment matches the social harm of criminal acts, and enhance the deterrent force of criminal law.⁽¹⁵⁾ At the level of collaborative protection, the construction of a complete legal system of information protection requires the close cooperation of administrative law and criminal law. Administrative organs must strengthen supervision, and discover and deal with all kinds of illegal acts in a timely manner. For minor illegal acts such as illegal collection but not abusing citizen information that do not touch the crime, administrative penalties should be imposed according to law, order them to rectify within a time limit, and urge them to regulate their own behavior. Once the serious violation of the suspected crime, the administrative organ should quickly transfer the case to the judicial organ to ensure the timely start of the judicial process. In the process of carrying out criminal proceedings, judicial organs should be good at using the evidence materials collected by administrative organs in the early process of supervision, so as to reduce unnecessary duplication of work and greatly improve the efficiency of handling cases. For example, the detailed investigation records made by administrative organs on the collection and use of enterprise information can become a strong support basis for the follow-up criminal investigation and trial work of judicial organs. In addition, the relevant departments also need to strengthen information sharing and collaboration. Like the public security organs, market regulators, net letter department should jointly build information sharing platform, the clues of citizens' personal information and the progress of the case dynamic report, make the ministries, the door can closely cooperate, form a powerful strike force, so as to realize the comprehensive of citizens' personal information security, no dead Angle protection, to safeguard the legitimate rights and interests of citizens.

5. SUMMARY

Against the backdrop of the information age, this paper systematically explores the legal interests and criminal law protection pathways for the crime of infringing on citizens' personal information. First, by reviewing the Cybersecurity Law, Personal Information Protection Law, and relevant judicial interpretations, the study clarifies the definition criteria for citizens' personal information, emphasizing its core feature of "identifiability" and advocating for the dynamic inclusion of sensitive, private, and socially relevant information. Academic debates on the scope of information reflect a multidimensional integration of identifiability, sensitivity, and dynamic comprehensive perspectives, necessitating refined classification standards that account for information characteristics and usage contexts.

Regarding the legal interests of this crime, scholarly disagreements center on the "individual legal interest theory" and the "supra-individual legal interest theory." The former focuses on privacy rights, personality rights, and information self-determination, while the latter highlights public information security and social order. The author synthesizes these views, arguing that the crime's legal interests possess dual attributes: protecting individuals' autonomous control over their information and derivative rights (e.g., personal and property safety), while preventing large-scale information abuse from destabilizing social order and public interests. Balancing these aspects ensures equitable legal application.

In judicial practice, despite continuous improvements in relevant charges and intensified enforcement, challenges persist, such as ambiguous information definitions, inconsistent standards for determining "serious circumstances," and divergent interpretations of legal interests. To address these issues, the criminal law protection framework should prioritize three areas: (1) refining constitutive elements of crimes by clarifying the scope of "violating national regulations" and establishing tiered information protection standards; (2) enhancing precision in criminal penalties through hierarchical sentencing rules based on information volume, type, and subjective culpability; and (3) fostering administrative-criminal coordination mechanisms to create a comprehensive protection system via collaborative oversight and data-sharing between administrative and judicial authorities.

Through theoretical analysis and practical examination, this paper provides a reference framework that integrates academic rigor and operational viability for strengthening the criminal law protection of citizens' personal information.

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