Theory of Legal Protection of Personal Information in Border Guard Administration Field

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Abstract. In recent years, with economic and social development, the importance of personal information protection increasingly prominent. But because of the legal system, and citizens' personal information protection consciousness is not strong, the frontier in the field of administrative personal information protection does not reach the designated position, leaks, the phenomenon of the infringement of citizens' personal information is often happened. In view of this, this article will link the actual situation of the frontier departments, and to the border areas of personal information protection, from the perspective of administrative law and regulations to strengthen the frontier in the field of administrative protection of personal information.

Type Style and Fonts border administrative domain definition of personal information, and the necessity of legal protection

Border Administrative Domain Definition of Personal Information

Ideas about personal information definition has a lot of, the traditional view is that citizens “personal information” means to identify the citizen identity information, including: name, age, gender, id card number, occupation, marital status, work experience, family background, address, telephone number, card number, such as education, health, and economic activity records. [1] The author thinks that, the definition of provisions of the personal information is too narrow, appears somewhat on the aspects of personal information protection. So in order to fully protect the legitimate rights and interests of citizens, the author thinks that, for personal information is defined as “and personal collection of all information related to”.

In the field of public security border administration, a lot of personal information for the public security frontier defense department collection, preservation, processing and use. Public security frontier in the field of administrative personal information including all by public security border departments to collect, to master and know, about the citizen's personal name, sex, birth time, place, contact information, blood type, height, weight, and fingerprints and other personal information. Which is held by the public security border departments to collect, and aware of the citizens and personal collection of all relevant information. Personal information involving personal privacy and human dignity not only spiritual power, and is closely related to personal property and personal safety, and occupies the important status in the realization of citizens' rights and
interests of the core content. [2] Because of personal information protection in the field of border administration must get the attention they deserve.

The Border Administrative Area, The Necessity of Legal Protection of Personal Information

To realize the unification of the honest government construction and the personal information protection

The government credibility is the foundation of modern social credit system and core *, its core position, no doubt, in building a modern society credit system plays a role in promoting the integral demonstration effect and plays a fundamental and decisive role. Personal information protection and closely related to citizens' personal rights, strict personal information protection can increase citizens' personal safety, increase trust in government. Can effectively on personal information protection in the process of achieve the good faith government has a key role. [3] To establish a perfect mechanism of personal information protection is the only way to build honest government. In the field of border administration, can very good protection of the citizens' personal information, is also a frontier departments administration according to law, honesty is responsible for the important embodiment of.

Implement border administration under the expansion of executive power in the field of civil rights protection

With the development of era, the more complex social relations, social affairs are increasing, as law enforcement and the social management, organization of administrative power, the expanding become inevitable trend. [4] Border administrative areas in order to adapt to the changes of the times, is no exception to executive power expansion. And public power can't unlimited expansion, otherwise you will cause damage to lawful rights and interests of citizens. Emphasize and realize the protection of citizens' personal information can not only effectively protect the legitimate rights and interests of citizens, and the expansion of executive power have limited effect on border administration field, effectively ease the border conflict of administrative area expansion of executive power and civil rights protection.

Realize the border the unification of the law enforcement of public interests and personal interests

Only from the literal understanding, the public security frontier departments for personal information collection, storage, handling and use behavior and personal letter.

The contradiction of interest protection is the contradiction between the power of public administration and the administrative relative person rights. But from a deeper level of understanding, hidden under the contradiction is the contradiction between public interests and personal interests. Because of public administrative power to pursue the public interest and the administrative relative person's pursuit is a person of interest. Public security frontier departments to the personal information collection, storage, handling and use of behavior and the conflict of personal information protection, embodies the conflict between public interests and personal interests. Although there are conflicts between them, public interests and personal interests in essence is consistent, so the public interests and personal interests conflict can be coordinated. The public security frontier departments to effectively protect citizens' personal information can coordinate the conflicts of public interests and personal interests, realize the border the unification of the law enforcement of public interests and personal interests.
The border administration domain analysis of the causes of personal information protection

**Personal Information Protection Less Relevant Legal norms, There is No Specific Administrative Law Field of Personal Information Protection Laws**

In recent years, with a lot of personal information by the phenomenon of serious violations by the news media exposure, the personal information protection not only become a deep concern, every citizen has gradually become the theory researchers and experts have deep concern. Although as early as 2003 in China have make special personal information protection law legislative program, written in 2005 and has JiAiMin the personal information protection law demonstration draft law scholars recommendations, “and in 2006, Mr Zhou, editor of the personal information protection act (expert proposal draft) and the legislative research report, but the law is not so far, has been in a state of review. In the absence of special laws to protect the conditions, legal issues related to the protection of personal information can only be broken up into the various legal ways for individual information to different levels of resolution. In the law, most give it only to the personal and privacy protection, indirect protection of personal information. In most developed countries have developed a special personal information protection law, such as South Korea's “personal information protection act of public authority and the personal information protection act of Japan, Hong Kong and Taiwan region of our country also has a special personal information protection law, in contrast, in mainland China in this respect to prepare. In the field of administrative law, including border administrative areas, of course, there is no specific legal norms of legal protection of personal information.

**The Citizens' personal Information Legal Protection Consciousness**

Our country civil rights consciousness is not strong, the legal attribute of personal information and important understanding is not enough, to disclose personal information the severity and harmfulness of the lack of deep understanding. Viewpoint of citizens' right of personal information protection is weak, poor rights consciousness, awareness is not strong, weak concept of human rights, personal information only when really affect daily life work, to remember their own personal information rights, but most also only stay in oral complaint, rarely take practical action to rights.

**The Border of the Administrative Department of the Multi-layer Management Mechanism, to Make Various Forms of “Communication”, Easy to Cause the Violation of Personal Information**

Public security border as both military and law enforcement organs, is shouldering the protect national sovereignty and lords integrity, maintaining border stability, national security and other major responsibility. Border administrative law enforcement behavior involves content diversity. Management including entry and exit frontier inspection, border crossings, border region between live traffic management, border production operation management, maintenance, the maintenance and management of border area stability, boundary, the border area of the public security management, sea YuChuanMin management, etc. Public security frontier departments need to grasp a lot of information to be effective to carry out the administrative activities. The information included in a lot of personal information. Administrative department of public security border multi-level management mechanism, making various kinds of “communication”, combined with the computer technology and
network, widely used and promoted in frontier departments make border departments leak, improper use of personal information such as tort possibility and how easy it is to improve greatly.

**Border Departments Lack of Administrative Supervision**

Administrative supervision refers to the state administrative organs to enjoy administrative functions and powers of organ and tissue, monitor and supervise the administrative duty situation. At present in the administrative department of public security border, for the administrative supervision and lack of personal information, lack of special supervise department and perfect supervision system. [9] Thus, the frontier in the field of administrative, there is a big possibility of personal information from infringement. The administrative supervision and lack of personal information, which leads to the border departments insufficient power limitation, power use optional the gender is big, is not conducive to the protection of the personal information.

**Absence of Personal Information Infringement Relief System**

“No remedies, no rights”. The absence of personal information rights relief system, one of the important reasons is a personal information rights protected. In the practice of the border, the public security frontier departments illegal personal information public, illegal collection, use of personal information has appeared more, for a citizen's personal and property rights caused some damage. However, the victim's right relief means and ways are very limited, and need to pay the cost of rights is quite high, so people are looking forward to the improvement of the personal information right infringement relief system.

**Border administration personal information protection in the field of administrative law and regulations**

**To Perfect The Legislation of Personal Information Protection Border Administration field**

Personal information protection law in our country is still in the review stage, has not yet come. Personal information protection in China, the present situation of the related law is not perfect, in the field of border administration should strengthen the personal information protection legislation, build and perfect the legal system of personal information protection. First, actively promote the legislation on personal information protection law, strive for an early introduced a special personal information protection law. With a special law to confirm the legal status of personal information rights for information collection, processing, storage, etc. At the same time, introduced the law on the protection of personal information can improve the citizens' understanding of the importance of personal information, enhance the consciousness of citizen. Secondly, in the border areas for the functions and powers of frontier departments, and to formulate personal information protection regulations, clear the scope of the personal information collection, processing, preservation, perform personal information about the behavior of the program and divided responsibility scope, to lead to personal information by those responsible for implementing the corresponding administrative penalty, severe cases according to the relevant provisions of the criminal law.
To Establish a System of Supervision and Management

Build internal personal information protection and supervision system
Public security border supervision and internal personal information is done mainly by means of administrative supervision of the public security frontier departments for personal information collection, processing, storage and other behavior legality supervision. By the frontier departments at lower levels by the frontier defense department's personal information collection, processing, saving behavior to supervise, check, etc., ensure public security frontier departments legitimate use of public power. Also suggested that the public security frontier departments set up a special information security supervision, the collection, use and border departments at various levels query behavior of personal information such as the internal supervision and control, prevent personal information from infringement events.

Use external power to supervise the personal information protection
In terms of personal information protection, relying only on its frontier departments supervise and does not take well to limit public power, to protect personal information will not be collected at random and even move for him. On the construction of civil society in China still is not perfected, the viewpoint of citizens' right of personal information protection is weak, right consciousness, awareness is not strong, when really affect daily life work, to remember their own personal information rights, but most also only stay in oral complaint, coupled with the high cost of maintaining legal rights, so very few civil action to rights. So must to the rule of law education and citizen individual rights to protect education, improve the citizen's personal information rights consciousness, initiative to focus on their own personal information security. At the same time, in personal information when encroach on frontier departments, and to take action, legal rights. At the same time, also want to play to other social organizations, media and other external forces to strengthen external supervision.

Improve the Border Administration Personal Information in the Field of Administrative tort Law Relief System

Enlarge the scope of accepting cases of administrative review and administrative litigation
Administrative reconsideration and administrative litigation as the administrative relative person's legal relief way, taken for granted and administrative legal relief for infringement of personal information. However, the current administrative review and administrative litigation system cannot fully protect the personal information right. In accordance with the administrative reconsideration law, refuses to accept a specific administrative act is only for the public security of the citizens, legal persons or other organizations to apply for reconsideration. Such regulation in the progress of the information society for personal information protection is insufficient. Should be in accordance with the spirit of law of the constitution protection of citizens' personal information and the relevant laws and regulations, combined with practical work experience, to summarize the problems as regards the signing of the personal information.

Development of administrative review and administrative litigation law, the scope of protection of personal information into relief. As a result, the personal information protection in administrative law, shall be appropriate to expand the scope of accepting cases of administrative reconsideration and administrative lawsuit.
To improve the independence of the administrative body for reconsideration

At present, the public security administrative reconsideration institutions and personnel of reconsideration still lack of independence, many situation or subject to administrative leadership, cannot exercise their functions and powers, unable to safeguard the legitimate rights and interests of administrative relative person very well. To improve the system of administrative reconsideration, enhance the independence of the public security administrative reconsideration institutions and review staff is necessary. The author thinks that can improve the administrative body for reconsideration independence from the establishment of independent administrative reconsideration institutions and strengthen the independence of the public security administrative reconsideration workers two aspects. According to the administrative reconsideration law and other relevant laws and regulations, establish and improve public security administrative reconsideration institutions, optimization of power operation in the administrative reconsideration, set up independent public security administrative reconsideration institutions, such as administrative review committee, and give its own decisions.

Therefore, China should enhance the independence of public security administrative reconsideration institutions, establish a professional, independent public security administrative review team, did raise the independence of the public security administrative reconsideration organ, guarantee the impartiality of the administrative reconsideration, authority, let citizens of the administrative reconsideration as to maintain their personal information right and convenient way.

Solve the problem of inadequate administrative compensation

Administrative compensation is a kind of property of remedial measures, and to the other party to remedy in the form of money damages. The relief in the form of more direct, more practical. If the public security frontier departments violated the legitimate rights and interests of information subjects, information subject can request the losses within the scope of administrative compensation. The information main body of property losses should give full consideration to the expected loss “of” indirect benefits damages, of spirit damage to the information subject, points to judge damage as a result, when deciding whether to mental compensation. According to China’s existing laws and regulations, the state organs only related to personal freedom, the right to life and physical and health damage compensate an appropriate compensation principle. The right of relief is not sufficient. Thus to expand the scope of administrative compensation, improve the efficiency of the administrative compensation is an important aspect of right remedy for the administrative relative person.

In conclusion, as the administrative department of the border, in the hands of the given by the state administrative law enforcement, an enormous influence upon the rights of citizens, to fully realize the importance of protection of citizens’ personal information and system protection. Believe that through the joint efforts of the whole society, the legal protection of personal information will get the attention of the whole society and the protection of the legal system.

References


