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 Specialty: law enforcement

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THEME:

DISCIPLINARY RESPONSIBILITY OF INTERNAL AFFAIRS OFFICERS FOR VIOLATION OF THE SECRECY REGIME

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**Abstract:**

In this project, I study the disciplinary responsibility of police officers for violation of the secrecy regime. The main problem is that there are quite a lot of legal and organizational problems and gaps in the very mechanism of applying measures of administrative responsibility for the disclosure of classified information, which need to be eliminated by developing more effective mechanisms for responding to violations of rights. The project presents the results of systematization of information that will help employees to familiarize themselves with their disciplinary responsibility for violation of the secrecy regime.

**Keywords**

 Disciplinary liability, state secrets, secrecy regime, internal affairs, control, violation of secrecy.

**Introduction**

 **The relevance** of the topic of the study is determined by the fact that any legal institution of restriction in access to information has a dual nature - it not only establishes the rules on the basis of which the categories of protected information are determined, but also determines the organizational and legal mechanism of their protection and responsibility. At the same time, measures of administrative and criminal liability currently do not ensure the appropriate level of information security.

 **Problem:** Due to the complexity of this topic, many people do not always have a full understanding of disciplinary responsibility for breaches of secrecy. This can lead to multiple violations and improper treatment of classified information, which negatively affects the bottom line.

 **Project objective:** organizational and legal support of responsibility for violation of the secrecy regime.

**Project objectives:**

**-** To disclose the concept of state secrecy;

- characterize the essence of the secrecy regime;

- to study the provisions and principles of the secrecy regime;

- to study the problems of control related to the violation of the secrecy regime.  **Hypothesis:** The legislation clearly outlines the responsibility of police officers for violation of the secrecy regime.

**Method:** collection and analysis of information, systematization and translation into English.

1 The concept of state secrecy

 Characteristics of information constituting a state secret, its concept and content are given in the Law of the Russian Federation of July 21, 1993 № 5485-1 "On State Secrets".

 According to Article 2 of this normative act, state secrets are information protected by the state in the field of its military, foreign policy, economic, intelligence, counterintelligence and operational and investigative activities, the dissemination of which may harm the security of Russia.

 In the theoretical literature, state secrets include "certain information, a number of data, with unauthorized access to which harms state interests".

 Also under the state secret is understood as "an integral component of sovereignty, allowing the management of state agencies as a whole". Тематика сведений, составляющих государственную тайну, указана в ст. 5 того же Федерального закона, а их исчерпывающий круг определен в открытом для всеобщего сведения Перечне сведений, отнесенных к государственной тайне (утвержден Указом Президента России от 30 ноября 1995 г. № 1203 (ред. от 08.08.2019).

 Information constitutes a state or official secret in those cases when it contains actual or potentially secret information, has value due to its unknown to third parties, it is not freely accessible on a legal basis (in other words, without permission or instruction of the management of the department or organization to which this information, obtained in the process of activities of executive authorities, belongs) and the owner of the information takes measures to protect its confidentiality. Information that may not constitute a state secret shall be defined by law and other legal acts. Information that constitutes a state secret shall be protected by means provided for by the laws of the Russian Federation. For this reason, there is a link between state secrets and the security of the state.

 Officials and third parties who illegally obtained information that constitutes a state secret are obliged to compensate for the losses caused. The same obligation is imposed on employees who disclosed state secrets contrary to the labor contract, including the contract, and on contractors who did it contrary to the civil contract. The institution of state secrecy is characterized by a certain political connotation, which is a mandatory attribute, without which it is impossible to realize state powers. It allows to ensure state security, strengthen the constitutional and legal foundations, protect information that is a state secret.

2 The Concept and Essence of the Secrecy Regime.

 In order to protect information that is a state secret in the Russian legal environment, it is characteristic to create a state system that solves a set of various tasks to ensure the preservation of information that does not have free access with the acquisition of the status of a secrecy regime.

 **The secrecy regime** is a set of requirements, rules, organizational, technical and other measures aimed at protecting information constituting a state secret. All this makes it possible to form such structural components that make it possible to complete the solution of various problems:

 1. Resist and prevent intelligence services working for foreign countries from interfering in the affairs of other countries.

 2. Establish and maintain a unified technical system of political influence that enables the protection of state secrets.

 3. To accompany and control the work of all special units working in this area. It is in the interest of every country that all its secrets and secrets are well guarded from the possible hacking of classified information by other competitive intelligence services. In order for the state to achieve its goals, there is a need for the emergence of special units.

 The following characteristics correspond to the secrecy regime:

1) the content of information that cannot be disclosed;

2) limited access to classified information;

3) limited production to protect certain interests;

4) the definition of the mystery, which includes the incomprehensible, unsolved, and inaccessible to cognition.

 The secrecy regime includes many state secrets that cannot be divulged or lost. Otherwise, it leads to grave consequences that can harm the national security of the country.

 It also contributes to the creation of a threat to the security of the population, while at the same time harming constitutional rights and freedoms. The sphere of state secrets includes a variety of information that is under the protection of the state, which does not allow them to be disseminated without permission and create threats to the national security of the Russian Federation, as well as the constitutional rights and freedoms of the country's population.

The regime of secrecy in the bodies of internal affairs is a uniform procedure established by the normative acts of the supreme bodies of state power and state administration, established by the normative acts of the supreme bodies of state power and state administration, providing for a system of administrative, legal, organizational, engineering, technical and other measures, the main of which are:

1) rules for classifying information as a state secret;

2) requirements for employees admitted to documents of special importance, top secret and secret documents, works and products;

3) the procedure for conducting secret records and the performance of all other secret works;

4) state and departmental control over compliance with the established procedure for the storage and use of state secrets;

5) responsibility of officials and other persons to whom state secrets are entrusted in the course of their service or work, in accordance with the departmental Instruction on Secret Record Keeping.

3 Secrecy regime in IAВ

The secrecy regime makes it possible to ensure compliance with the uniform procedure established by the law for handling information constituting a State secret.

 Compliance with the secrecy regime is ensured by the established rules (requirements), which are enshrined in regulatory legal acts at the legislative and subordinate levels. This applies to the issues of development, circulation, storage, handling of information containing information constituting a state secret, and the procedure for admission and access to them by a certain circle of persons.

Among them:

- non-disclosure of information constituting a state secret, as well as compliance with other requirements of the legislation of the Russian Federation on state secrets – shall be recorded in the employment contract and the agreement on non-dissemination;

- informing, in accordance with the established procedure, of the data available to an official or a citizen of the Russian Federation who have access to state secrets that testify to the existence (occurrence) of circumstances that are grounds for refusing access to state secrets;

- informing, in accordance with the established procedure, of attempts made to obtain from them information constituting a state secret.

At the same time, officials working with classified information are provided for:

 - Percentage increments to the official salary (tariff rate) depending on the degree of secrecy of the information to which they have access;

 - Percentage Increments to the Official Salary (Tariff Rate) for the Length of Service in Structural Units for the Protection of State Secrets;

 -Pre-emptive right, other things being equal, to remain at work when organizational and (or) staff activities are carried out by state authorities, local self-government bodies, public authorities of federal territories, enterprises, institutions and organizations.

In the internal affairs bodies, ensuring compliance with the requirements of the legislation of the Russian Federation on state secrets and other legal acts that determine the procedure for the protection of information constituting a state secret is entrusted to units for the protection of state secrets, special communications, technical protection of information, mobilization units, archives and libraries of secret documents, duplicating and copying units. The system for the protection of state secrets also includes the Central Expert Commission of the Ministry of Internal Affairs of the Russian Federation on the Secrecy Regime and similar Expert Commissions of the Internal Affairs Bodies on the Secrecy Regime.

In addition, internal security units and their employees involved in investigations into the disclosure and leakage of classified information, as well as special units and employees of operational apparatuses that ensure the secrecy regime in the implementation of operational and investigative activities and the conduct of special technical measures, are involved in the tasks of ensuring the secrecy regime.

The largest amounts of classified information pass through classified units, the functions of which in the internal affairs bodies are performed by departments, divisions, divisions and groups of office work and regime, and where they do not exist, by secretariats, general departments and offices. They are the ones who plan, organize, coordinate and control the activities to ensure the secrecy regime of other structural units that are part of the internal affairs bodies. They also ensure the interaction of other departments on the protection of state secrets.

The Department for the Protection of State Secrets of the Ministry of Internal Affairs of the Russian Federation is responsible for the organizational and methodological management of the activities of the internal affairs bodies for the protection of state secrets, as well as control over the observance of the secrecy regime, including in the activities of operational units.

The obligations of persons admitted to state secrets can be divided into two groups.

The first group fixes such requirements (prescriptions), for compliance with which employees need to take active positive actions to ensure the regime of secrecy and secrecy in the internal affairs bodies. Employees must strictly keep confidential information constituting a state secret that has become known to them in the course of their service (work).

The second group of obligations, formulated in the form of legal prohibitions (restrictions), enshrines the need to refrain from certain types of behavior that may lead to the leakage of classified information or the loss of classified materials.

In all bodies where classified work is carried out, permanent technical commissions for the protection of state secrets\* are created, which are an advisory body to the head of the unit on the issues of the secrecy regime and countering foreign technical intelligence.

4 Control Issues Related to Secrecy Violations

The problems of controlling the violation of the secrecy regime as one of the components of the entire system of professional security of police activities are now becoming more and more relevant. This is due to the active transition from traditional paper documentation to automated document management systems.

Information security of police activities is conceptual in nature and includes various methods and means of protecting and providing access to information. The departmental regulatory legal framework for ensuring the protection of state secrets is constantly being improved. Various organizational, administrative, methodological, information and reference documents, including reviews of the state of work on the protection of information constituting a State secret, are sent to the internal affairs bodies. Control over the secrecy regime in the internal affairs bodies has been tightened. Visits are made to various units of the Ministry of Internal Affairs of the Russian Federation in order to check the secrecy and secrecy regime. Work is underway to provide professional training to the heads and staff of the Interior Ministry's clerical management units and regime.

In modern conditions, there are a number of legislative gaps in compliance with the secrecy regime.

For example, one of the problems is that when an employee of the Department of Internal Affairs himself develops and reports on the work with potentially classified materials, then as a result he may find himself under a certain sanction regarding secrecy. To a certain extent, this is a significant shortcoming, since a person working with classified documents is not sufficiently protected from the negative consequences that provide for liability for the use of state secrets. Based on the above, it can be concluded that the improvement of modern legislation on the legal regime of information constituting a state secret is necessary, taking into account all the subtleties and nuances in the legal sphere.

 In order to prevent the prosecution of persons who have not been properly notified of the degree of secrecy of the object and information with which they work, it is necessary to explain all aspects and subtleties of this legal area.

 In addition, it is possible to introduce a number of amendments to federal laws regulating public relations in the sphere of liability for violation of state secrets and high treason. Such amendments could provide specific definitions of information constituting a state secret and negative legal consequences for breaches of secrecy for public use.

 In order to exclude high-profile cases of bringing persons to justice, it is necessary to clarify the elements of crimes: the subject, the subjective and the objective side. It turns out that a person who is conscientiously mistaken about the secrecy of information, without realizing it, falls under criminal law sanctions.

Given the magnitude of the damage, there are specific negative legal consequences. In addition, gaps in the use of legal norms in relation to citizens who do not have access to information constituting a state secret, but due to the current legal situation have the right to familiarize themselves with materials and documents containing state secrets, are revealed. At the same time, there is a need to improve the legislation of the Russian Federation in the field of state secrets: to eliminate the "vagueness" of wording; clarification of the provisions; tightening of security checks, access and responsibility for state secrets.

Conclusion

Based on the above, we can summarize.

 1) The secret area, which is a state secret, includes various information that is under the cover of the state, government agencies that regulate the work of officials, work in economic, foreign policy, military, intelligence, counterintelligence and operational-search activities, while it should be taken into account that the disclosure of information directly affects the security of the Russian Federation.

 2) The legal regime of secrecy, which provides protection of information on the issue of state secrets, includes a group of organizational measures, special rules that help in regulating and ensuring the activities of state structures, they are enshrined at various levels of regulatory legal acts and make it possible to create favorable conditions that make it possible to ensure security at the state level, is expressed in various ways and guarantees its implementation and responsibility; If its requirements are violated, its protection is based on legal principles, which contributes to bringing all its elements into a single orderly system.

3) Dissemination and disclosure of state secrets entails a threat to the security of the state and society in one or more spheres of activity. The damage is assessed by the Government of the Russian Federation.

Given the magnitude of the damage, there are specific negative legal consequences. In addition, gaps in the use of legal norms in relation to citizens who do not have access to information constituting a state secret, but due to the current legal situation have the right to familiarize themselves with materials and documents containing state secrets have been identified.

The means of obtaining the necessary information from various sources connected to the Internet and transmitting signals to the radio are showing an exponential increase in their improvement. And in these conditions, it is important not only to designate the range of protected information, but also to build effective mechanisms for protecting this information in various information environments. These activities must also be supported by effective legal means and the resulting institutional solutions. On the basis of the foregoing, it can be concluded that, despite the positive legislative legitimation of state secrets, these measures are only the beginning of a long journey to restore the real place of official secrets in the general system of protection of state-significant information in the Russian Federation.

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