

**Кримінальне право та кримінологія;  
кримінально-виконавче право. Кримінальний  
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**Detective Secret Service in Informative  
Space: Morally Legal Limits**

*The article is devoted the analysis of limits moral and legal during realization of informative secret service by private detectives at the opened sources*

**Keywords:** *informative secret service, detective activity, ethics, morality.*

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**Детективна розвідка в інформаційному  
просторі: морально-правові межі**

*Стаття присвячена аналізу меж морального та правового під час здійснення інформаційної розвідки приватними детективами у відкритих джерелах.*

**Ключові слова:** *інформаційна розвідка, детективна діяльність, етичність, моральність.*

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**Детективная разведка в информационном  
пространстве: морально-правовые границы**

*В статье проводится анализ границ морали и права при проведении информационной разведки частными детективами в открытых источниках.*

*Ключевые слова:* информационная разведка, детективная деятельность, этичность, моральность.

### **Challenge problem**

During the last decade Ukraine insistingly steps in the side of the European concord, what puts accents on the necessity of not only re-erecting of informative society but also providing of safety, for informative space, that simply must influence on the process of perfection of domestic legislation in this question. At the same time, realities of the today's social and economic state did main in life financial necessities, forgetting about mental and ethical values. It leads to that in practice detectives not always adhere to balance of categories a «law» is a «moral».

Certainly, such state of affairs no doubt, is the temporal phenomenon, in fact requirement in relation to the increase of morality in our society, it is a derivative from ratified Constitution of Ukraine of principles of humanizing of public and state life, proclamation of person by a higher value and advancement on the first plan guard of its rights, freedoms and interests.

The purpose of the article there is consideration of issues of the day of combination of right, moral and information technologies, in work of private detective.

### **A review of recent studies and papers**

To research of secret service in informative space it is for today spared considerably attention, in the USA and countries of Europe. A receipt of information from the «opened sources» is also the leading subject of the domestic modern «world of commerce». Legal positions of secret service in informative space were probed in labours I.V.Aristovoy, V.M. Bogush, O.K. Yudina and other research workers.

### **Remaining challenges**

In default of separate legislative act, what would regulate detective activity and determined moral ethical maintenance of informative secret service, there is a question of legality of access to the separate types of information and moral and ethical side at its use.

### **Draw the objectives of research**

In the article the analysis of the existing state of construction to date is conducted a “moral – right” in activity of a private detective in cases of carrying out information intelligence in open sources.

### **Discussion**

One of key problem moments in informative space is a category of «formative secret service». From position of information theory – information is a measure of removal of vagueness of knowledge for the recipient of report about the state of object or about some event [1, p. 97]. In opinion of research workers-biophysicists information – this is the memorizing choice of one variant from a few possible and equal in rights» [2, p. 20]. It is possible to say from here, that information is raw material a cost of which will be depend from that, as far as its receipt necessity to the person «in an initial variant» or as far as it will be instrumental in achievement of certain goal.

In the USA and countries of Europe informative secret service – it in majority cases «competition secret service», that also has the names «business secret service», secret «business-service», «commercial secret service». Such secret service is fully legal, and its difference from industrial espionage is that its methods are inalienable from the vital functions of human, and it is conducted within the framework of operating legal norms and gets results due to analytical treatment of enormous amount of various opened (including nowhere published but justly got from their transmitters) informative materials.

By the way, in the USA operates successfully Open source intelligence (OSINT) – secret service is on the basis of analysis of the opened information generators – one of forms of process of organization and management the capture of reconnaissance data (Intelligence Collection Management), that includes their search and selection from public popular sources, getting and analysis of information,

forming reconnaissance a document for acceptance of the proper decision.

In the sphere of OSINT getting and analysis of official records, projects of regulations, watching of new scientific developments, bases given, commercial and state sites, network diaries, is included and others like that [3].

In opinion of domestic research workers, a concept secret «services» in wide maintenance appears extraordinarily capacious, includes in fact in itself the variety of activity in relation to secret, so in relation to the opened receipt of different information, and also to application for this of the most various facilities and methods. Moreover, a concept secret «service» to a certain extent removes centuries-old experience of fight for information [4, p. 12].

In Ukraine, in practice, all methods of collection of information are erected by a detective only to three legal methods: supervision (after outward things), with questioning (more precisely, conversations with people) and to collection of standards. A detective does not use the illegal, illegal or unethical methods of getting of information. However, circle moral and ethics at application of methods of conduct of such informative secret service remains very washed out. Yes, analysis of the conducted questionnaire of former workers of law enforcement authorities (21 person), workers of detective agencies (11 persons) and persons which study on the faculty (future detectives 26 persons) of law grounds to assert, that almost 96% the all polled is considered not ethics, however possible to apply a lie, when such lie does not conflict with a law, or when possibility is at collection of competition information to set up for other person or organization.

The primary purpose of informative secret service is a capture of different data from various sources. In this case, a preliminary context analysis of data is carried out, their structure, checking for authenticity, plenitude, and make the analysis of «age of information». Particular attention in the work of the detective should be given to the detection of misinformation. Yes, 52% from a number the polled persons was not able to answer wheth-

er «will a question be acknowledged amoral intentionally to mislead an interlocutor at a talk with him, and 10 % confessed, that got false testimonies not consciously were the culprits of distribution of misinformation.

Also, detective work is often the case when the detectives themselves recognize their behavior as unethical: cases in which a third person proposes to buy the information she needs, (legally very close to “bribery”), or when «by» chance a dictaphone of detective is included without warning about it person which is record, or other methods of installing eavesdropping devices that are cleverly “squeezed” within the scope of “randomness”.

Clearly, that a state secret or state secrets is the basic category of information, forbidden for informative detective intelligence. At the same time there is unsecret information, the disclosure of which may harm the state. In this case, it will be ethical for the owner to return confidential and private information to the owner, received accidentally or unintentionally and, accordingly, does not disclose it.

To the second category of other information, which is protected, include personal data and personal life of a person, information which touch the secret of investigation and legal proceeding, official secret, professional secret, commercial and bank secrets, information, about essence of invention, useful model, or industrial a standard to the official publication of information about them.

Collecting information about a business corporation a detective can not know whether it is protected by the mode of commercial secret (depends on the level of organization of informative safety of such structure), or not. And in the absence of the appropriate legal regulation, it may be compelled to prove the legality of the collection of information in court. Also, information about a natural person (personal data) is protected by law, but when the person gives written consent to the processing of information about himself, not rarely they consciously or through official negligence get in other hands and promulgated and it also needs the proper settlement.

Informative secret service in space the Internet, at the same time, it is a special kind

of analytical processing of data, since it is the network space that allows collecting any information legally and without the use of operational-search activities, which is the exclusive prerogative of the relevant law enforcement agencies, although the methods of information intelligence are surprisingly similar to those which are used by special services. The Internet, first of all, is used to obtain business information, related to solving a number of economic, marketing, security and other tasks. Exploration of open access to information allows, for example, legitimate information about actual counterparties or competitors (their location, information about the founders, the size of the authorized fund and financial position, etc.), unscrupulous insurer or insured at the conclusion of the insurance contract, information about the company's image when entering into commercial contracts, information on the presence and actions of competitors, information in the assessment of financial risks, etc., as well as for the reconnaissance of channels of leakage of own information. However, in our time when information is a commodity, a detective must refrain from transferring the results received by chance or through "bad security" to the competitors, or in any way helping to steal industrial secrets, developments or any know-how or pressure on a person in order to obtain the necessary information.

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### **Conclusions**

Swift development of information technologies and softwares, comprehensive Internet Accessibility, an increase in the information flow of open information contributed to the elimination of intelligence on the basis of open sources to an adequate level and made it even more relevant and necessary in the work of the detective. The application of various technologies enables detectives to legally access the vast array of data needed to assess the situation, control over the situation for making informed decisions in the process of meeting the information needs of the customer. However, detective intelligence in the information space should be carried out through the transformation of the personal "moral culture" detective within the law in the field of information technology. The essence of the moral aspect in this case should reflect the basic principles of detective activity in general, and as a set of relevant rules, patterns of behavior for the interpretation of the cultural and humanistic significance of the detective's profession and lifestyle of its representatives.

Today, due to the legal uncertainty of such a category as "information intelligence" in general, and in the activity of a private detective in particular, there remain a lot of discussion issues of both legal and moral (ethical) nature of its implementation.