

Definition of “Personal Information” in the Crime of Infringing on Citizens’ Personal Information—From the Perspective of Personal Information Protection Law

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doi:10.56397/LE.2023.05.03

Abstract

The concept of “personal information” in the crime of infringing on citizens’ personal information has always been controversial in the criminal law circle. With the promulgation of the personal information protection law, it is necessary to further analyze the definition of “personal information” in the crime of infringing on citizens’ personal information. The legal interest of the crime of infringing on citizens’ personal information is not the suprapersonal legal interest, but the personal information right in the personal legal interest. As the core content of personal information right, the essence of information self-determination right is to emphasize citizens’ personal control over information, which is in line with the legislative orientation of the new law. Around the right of information self-determination, personal information without identifiability should not belong to personal information, and the identification object of personal information should also be limited to “natural persons” to prevent the biased application of law in judicial practice.

Keywords: personal information protection law, personal information, right to information self-determination

1. The Problem

Personal information is as important to the era of data economy as oil is to industrial society and air is to modern civilization. (Brad Smith, Carol Ann Brown, Jingxian Yang, & Lei Zhao, 2020) With the development of the Internet, the infringement of citizens’ information has increased in a spurt and has been regulated by legislation and justice. Subsequently, the Decision on Strengthening the Protection of Internet Information (hereinafter referred to as the Decision) in 2012 and the Notice on Punishing Criminal Activities Infringing on Citizens’ Personal Information (hereinafter referred to as the Notice) jointly issued by the Supreme People’s Court, the Supreme People’s Procuratorate and the Ministry of Public Security in 2013 have comprehensively regulated the criminal activities of personal information. In 2015, Article 17 of the Amendment (IX) to the Criminal Law amended the above two crimes under the Amendment (VII) to one crime, namely, the crime of infringing citizens’ personal information; in 2016, the Cyber Security Law was passed to provide for cyber security information; In 2017, the Supreme People’s Court and the Supreme People’s Procuratorate jointly issued the Interpretation on Several Issues Concerning the Application of Law in Handling Criminal Cases of Infringing Citizens’ Personal Information (hereinafter referred to as the “Interpretation”), which provides further details on the scope and legal application of citizens’ personal information.

At the level of criminal law, although the provisions on the specific criminal composition and application of penalties for infringement of citizens’ personal information have become more and more perfect, there is still a wide range of opinions on the concept of “personal information” in the crime of infringement of citizens’ personal information. With the promulgation of the Personal Information Protection Law in 2021, it is necessary

for us to clarify the legal benefits and specific concepts of the crime of infringement of citizens' personal information under the perspective of unification of the legal order in line with the new law.

2. The Re-Evaluation of the Doctrine of Legal Interests of Crimes Against Citizens' Personal Information

"The concept of legal interest provides the empirical and factual basis for the object of protection of criminal law, and legal interest is the object of protection as people's interests in life. The concept of legal interest plays a leading role both in the interpretive theory and in the legislative theory." (Zhang Mingkai, 2017) Therefore, it is crucial to comment on the protection of legal interests of the crime of infringing citizens' personal information, which determines the interpretation of the constituent elements of the crime and the scope of punishment.

2.1 The Dispute over the Legal Interests of the Crime of Infringement of Citizens' Personal Information

At present, there are more than ten kinds of views on the legal interests of the crime of infringing citizens' personal information, which can be divided into two categories—the personal legal interest view and the super personal legal interest view. The personal interest view is that the crime of infringing citizens' personal information protects the rights and interests in private law, but not the public interest or social order, which can be seen from the fact that the crime of infringing citizens' personal information is stipulated in Chapter 4 of the Criminal Law—the crime of infringing citizens' personal rights and democratic rights. (Liu Yanhong, 2019) The personal legal interest view can be specifically divided into: first, the right to privacy, that the key to the protection of personal data is the protection of the right to privacy of the data subject, so all information that can identify the personal identity of citizens or involves the personal privacy of citizens such as their names, ages and other data belong to the personal information of citizens. For example, some scholars believe that "to define the personal information of citizens under the perspective of criminal law, we must grasp the essential quality of "private life peace". Any information related to citizens' personal information, once leaked, may be related to the field of private life, the matter of private life peace is the citizens' personal information." Thirdly, the citizens' personal information is the citizens' personal information. (Hu Sheng, 2015) Third, the citizens' human dignity and personal freedom, that "the legal interests protected by the crime of infringement of citizens' personal information is the citizens' human dignity and personal freedom, and personal information should be limited to the "citizens' personal information" that is harmful to this legal interest, and the purpose of the act as a necessary element of the crime. This is also consistent with the substantive illegality of the act of selling or providing citizens' personal information." (Gao Fuping & Wang Wenxiang, 2017) Fourth, the right to personal information of citizens, that is, the crime "to protect the legal interest of the individual citizen's right to information, which includes both the right to personal privacy, including the right to restrict the illegal collection, transfer and sale of other people's information." (Lai Hong, 2016) The right to personal information of citizens is favored by many scholars nowadays, and it is believed that recognizing the legal interest of this crime as the right to personal information of citizens implies the trend of independent protection of this right. (Yu Chong, 2018) Fifth, the right to information self-determination, arguing that this crime protects not the right to personal information equivalent to civil rights, but the most important of these rights, namely the right to personal information self-determination, (Liu Yanhong, 2019) the core content of the right to personal information self-determination is the right to informed consent of the information subject. (Zhang Y., 2020)

The supra-personal legal interest view is that "the personal information of citizens not only protects the rights in private law, such as personal information security and peace of life, but also relates to the public interests of society, national security and even information sovereignty, so it does not only have the attributes of personal legal interest, but also has the attributes of supra-personal legal interest, and should be interpreted from the perspective of civil society and the state." (Qu XJ., 2015) The supra-personal legal interest is said to have different views such as information exclusive rights, (Jing Lijia, 2018) social trust of information security, (Jiang Ocean, 2018) information public security, (Wang Suzhi, 2017) and social management order according to specific views. (Ling, Pingping, & Jiao, George, 2017)

2.2 Choice of Legal Benefit from the Perspective of the Personal Information Protection Act

"What is important in the concept of legal benefit is not the pre-emptive social damage; the value judgment of the legislator is the key." (Zhong Hongbin, 2012) Therefore, in order to accurately define the legal interest protected by the crime of infringing citizens' personal information, we must analyze the provisions of the important antecedent law of the crime—the Personal Information Protection Law, and comprehensively analyze the value judgment of the legislator on this crime and the legislative positioning of the crime in the criminal law.

2.2.1 The Crime of Infringement of Citizens' Personal Information Protects the Legal Interests of Individuals

Article 1 of the Personal Information Protection Law clearly stipulates that the crime of infringement of citizens' personal information protects the legal interests of individuals, and is intended to protect the "rights and interests of personal information", rather than the public interests of society, national security or even information sovereignty. One of the constituent elements of the crime of infringement of citizens' personal information is

“violation of state regulations”, so it is only right to consider the predecessor law on information protection, such as the Personal Information Protection Law, in analyzing the premise of the crime of infringement of citizens’ personal information. Therefore, in response to the concept of the illegal sale of one of Article 253 of the Criminal Law to provide access to the concept of personal information of citizens in the act of acquisition, etc., must be consistent with the predecessor law “Personal Information Protection Law”, that is, the violation of information rights and interests of citizens’ personal information related matters in order to constitute this crime. From this perspective, it is clear that the legal interest to be protected by the crime of infringement of personal information of citizens should be personal legal interest, not super personal legal interest.

The proposal of public information security and new social management order in the supra-personal legal interest view may be related to the promulgation of the Network Security Law. As an important antecedent law of the law of personal information, the Network Security Law protects “network information security”, but it cannot be concluded that the legal interest protected by the crime of infringement of personal information of citizens is super-personal legal interest, because information security is only a part of the national network security, and infringement of personal information security does not necessarily mean infringement of the entire network of information security. The focus of the crime of infringement of citizens’ personal information should be the personal democratic rights of individuals, which is why many laws on citizens’ information emphasize the identifiability of information to specific citizens’ personal identity. To a certain extent, this crime does violate the public security of information as well as the order of social management, but the establishment of the crime cannot be determined if only such super-personal legal interests are violated; it must constitute a crime when personal legal interests such as the personal democratic rights of individual citizens are violated. In other words, this crime, as one of the crimes of infringement of citizens’ personal democratic rights, such super-personal legal interests do not have a role in the establishment of this crime as an explanatory function of the constituent elements. Therefore, it can be seen that the legislative intent of the crime of infringement of personal information is to protect personal legal interests.

2.2.2 The Right to Self-Determination of Information Is the Legal Interest Protected by the Crime of Infringement of Citizens’ Information

After determining that the crime of infringement of citizens’ information protects the legal interests of individuals, I analyzed the five views of personal legal interests and believed that the legal interests protected by the crime of infringement of citizens’ information should be the right to information self-determination.

2.2.2.1 The Right to Privacy and Its Related Doctrines Do Not Match in Nature

The first three of the five views can actually be summarized as the right to privacy, while the last two can be summarized as the right to information. The reason why the first three views, i.e., the right to privacy, the citizens’ personal peace of life, and the citizens’ human dignity and personal freedom, are in fact essentially infringements of the right to privacy is mainly because “the right to privacy mainly includes two aspects of peace of life and private secrets”, while the right to privacy is also “a concrete manifestation of the human dignity protected by the Constitution. The specific embodiment of human dignity protected by the Constitution”, (Wang, Li-Ming, 2012) so that the violation of tranquility is also an infringement of privacy. Therefore, the citizen’s personal life tranquility saying and the citizen’s human dignity and personal freedom saying are actually essentially also the privacy right saying. However, the view of privacy can not be established, because personal privacy information only belongs to a part of personal information, not all violations of citizens’ personal information involves the violation of citizens’ right to privacy, the relevant legislation in the past also did not make personal information and personal privacy information for equivalent expression, if only consider the protection of personal information in the privacy part, obviously limited the protection of the legal interests of this crime. Moreover, personal information in the network era has not only personality attributes but also property attributes, and traditional rights such as the right to privacy do not cover the property value of information.

2.2.2.2 The Right to Personal Information of Citizens Is Too Broad

The right to personal information is different from the traditional rights of civil law, such as the right to privacy, the right to personality, the right to personal dignity, the right to peace of mind, etc. It is not a traditional right, but a new and independent right. At present, the right to information self-determination is basically established in China. Article 111 of the Civil Code provides that personal information is protected by law, and this right is juxtaposed with the right to privacy in Article 110, which some scholars believe indicates that the right to personal information has been established in civil law. The subsequent enactment of Article 11 of the Personal Information Protection Law is even clear that “the right of a natural person to personal information includes the right to decide on information, information confidentiality, information inquiry, information correction, information blocking, information deletion, information portability, the right to be forgotten, the right to dominate, control and exclude others from infringement of their personal information in accordance with the law.

“And then in Article 12 to Article 19, the right to decide information, the right to confidentiality, the right to access information, the right to correct information, the right to portability, the right to block information, the right to delete information, and the right to be forgotten are clearly stipulated in turn. However, if the legal benefit of the crime of infringing citizens’ personal information in the criminal law, i.e., the right to personal information, is summarized as these eight rights stipulated in the Personal Information Protection Law, then the concept of legal benefit of the crime is obviously not broad. Therefore, the right to personal information, which is the protection legal interest of the crime of infringement of citizens’ personal information in the criminal law, should be further clarified, specifically as the right to self-determination of personal information.

2.2.2.3 The Right to Self-Determination of Personal Information Is the Core Legal Interest to Be Protected

The core of the right to personal information is the right to self-determination of information, that is, the right of the information subject to decide whether and how and to what extent his or her personal information can be learned by others. In other words, the essence of the right is whether or not it is “authorized” and whether or not the information subject has given his or her consent. Throughout the Personal Information Protection Law, the words “individual consent” appear 27 times. For example, Article 13 of the Law stipulates that a processor of personal information may handle personal information only with the consent of the individual. Article 14 of the Law stipulates that if the purpose of processing personal information, the manner of processing and the type of personal information to be processed are changed, the consent of the individual shall be obtained again. Article 15 of the Act provides that where personal information is processed based on the consent of the individual, the individual has the right to withdraw his or her consent. Article 25 of the Act stipulates that a processor of personal information shall not disclose the personal information it handles, except where the individual’s separate consent has been obtained. Meanwhile, according to the legal provisions of the crime of infringement of citizens’ personal information, the three modes of conduct of the crime are illegal acquisition, illegal provision and the act of illegal sale of personal information. Among them, illegal acquisition of personal information refers to the act of obtaining personal information by stealing or other methods, and illegal provision and illegal sale of personal information refers to the act of selling or providing personal information to others in violation of relevant state regulations. In the determination of the crime of infringement of citizens’ personal information, the key to the determination of the “illegality” of these three types of behavior is whether the relevant behavior has obtained the informed consent of the individual. Therefore, both the Personal Information Protection Law and the criminal law of infringement of citizens’ personal information attach importance to the maintenance of the rule of informed consent of individuals, i.e., to the protection of the right to self-determination of personal information. Therefore, criminal law, as the final safeguard law, should protect the legal interest of the crime of infringement of citizens’ personal information is the right to information self-determination.

3. Re-Definition of the Concept of “Personal Information” from the Perspective of Criminal Law

After clarifying that the legal interest protected by the crime of infringement of citizens’ personal information is the right to self-determination of information in the legal interest of individuals, we can define the concept of “personal information”. The concept of “personal information” is not stipulated in the Criminal Code itself, nor is it covered in the two amendments, but only in the Decision, the Notice, the Network Security Law, the Interpretation, and the Personal Information Protection Law.

3.1 Legislative Changes of the Concept of “Personal Information”

3.1.1 Decision and Notice: Direct Identifiability + Privacy

Article 1 of the Decision provides a framework for the protection of personal information: “The state protects electronic information that can identify citizens and involves their privacy.” The Notice clearly enumerates the scope of personal information: “Citizens’ personal information includes citizens’ names and ages, valid document numbers, marital status, work units, educational biographies, home addresses, telephone numbers, and other information and data that can identify citizens’ personal identities or involve citizens’ personal privacy.” Both of the above expressions take direct identification and privacy as the core connotation of personal information, that is, the personal information to be protected must be directly located to the individual citizen and violate the privacy of the individual.

3.1.2 Cybersecurity Law: Direct or Indirect Identifiability

Article 76(5) of the Network Security Law provides that “personal information means all kinds of information recorded electronically or otherwise that can identify a natural person individually or in combination with other information, including but not limited to the name, date of birth, identity document number, personal biometric information, address, telephone number, etc. of a natural person.” This definition is significantly different from the “Decision” and “Notice” for the definition of “personal information of citizens”. First, the identifiability is expanded from direct identification to direct identification or indirect identification, that is, “can be identified alone or in combination with other information”, and secondly, “privacy” is no longer an element to identify

personal information, the legislator recognized that personal information and in the personal information protection law, the law does not provide high intensity protection for all information related to privacy, but should be limited to sensitive personal information. (Zhang Xinbao, 2015) The right to privacy refers to the right to protect personal information, activities, and space, of which private information is personal information, and therefore the two are not entirely inclusive of each other but overlap. Personal information focuses on “identifiability”, while personal privacy favors “secrecy” and resists the act of personal privacy being accessed and disclosed by others. (Li Yinghan, 2019) The Cybersecurity Law no longer distinguishes between information that “directly identifies a citizen’s personal identity” and information that “involves a citizen’s personal privacy,” but is summarized in the phrase “directly or indirectly identifies a citizen’s personal identity”. The expression of “directly or indirectly able to identify citizens’ personal identity” summarizes.

3.1.3 The Interpretation: Directly or Indirectly Identifiable / Does Not Have the Identification of Personal Information that May Affect the Safety of Persons and Property

Article 1 of the Interpretation provides: “Article 253 of the Criminal Law provides that ‘personal information of citizens’ refers to all kinds of information recorded electronically or by other means that can identify a specific natural person or reflect the activities of a specific natural person, either alone or in combination with other information, including name, identity document number, communication means, address, account password, property status, whereabouts, etc.”

Some scholars believe that this definition adopts the definition of “broad identifiability + activity”, which essentially determines that personal information includes personal identity information and personal information that may affect personal and property security, the former requires broad identifiability, while the latter has no requirement for identifiability. (Yu ZG., 2017) I believe that this classification is reasonable: for “whereabouts and trajectories”, this category is added mainly to respond to the aforementioned “activity information”, “whereabouts and trajectories Trajectory” is the trajectory formed by people moving at different points in time and different geographical locations. (Gao F. P., 2017) In the information age, the use of technical means through the network behavior trajectory can be easily traced to the real trajectory, in essence, is a kind of information to identify the individual, if it is separated from the specific natural person identification, the protection of pure trajectory information is meaningless. However, for “property status” information and “account password” information, they do not have identification, but are only a kind of associated personal information, which aims to protect the personal and property rights behind them. First of all, for “property status” information, strictly speaking, it is not “identifiable” and it is difficult to identify a specific natural person, either directly or indirectly, which is beyond the scope of “personal information” as defined in the previous laws, regulations and judicial interpretations. Secondly, for the “account password” type information, some account passwords are not bound to ID card numbers, cell phone numbers and other specific information, these account passwords alone can neither identify a specific natural person, nor reflect Specific natural person activities, has broken through the concept of personal information. That is, the Interpretation’s definition of personal information includes information that cannot be identified. Therefore, the author summarizes it as directly or indirectly identifiable information + personal information that is not identifiable and may affect the safety of persons and property.

3.1.4 Personal Information Protection Law: Identification + Relevance

Article 4 of the Personal Information Protection Law states that “personal information is all kinds of information related to identified or identifiable natural persons recorded electronically or by other means, excluding information after anonymization processing.”

The definition of personal information in the Personal Information Protection Law emphasizes “identifiability” and “relevance”, which is consistent with the EU GDPR’s determination of personal data. In other words, personal information can be identified in two ways: one is from information to individuals, where a specific natural person is “identified” by the specificity of the information itself; the second is from individuals to information, where if a specific natural person is known, all information “related” to that natural person is personal information.

3.2 Re-Limitation of the Concept of “Personal Information” Under the New Law

First, the Personal Information Protection Law removes “all kinds of information reflecting the activities of natural persons” and its classification, and if the definition of personal information in the Explanation is “identification or association”, then the Personal Information Protection Law is different from the Explanation in the following two ways. If the Interpretation defines personal information as “identified or associated”, then the Personal Information Protection Law defines personal information as “identified and associated”, i.e., “information related to an identified or identifiable natural person”. The scope of “personal information” has been limited compared to the Interpretation. Second, with respect to the object of personal information identification, the object of personal information identification in the Personal Information Interpretation is “the

identity of a natural person (the activities of a natural person)”, while the object of personal information identification in the Personal Information Protection Law is “a natural person”. With the introduction of the Personal Information Protection Law, I believe that both the administrative law and the judicial interpretation of criminal law should be based on the provisions of the latest Personal Information Protection Law. Specifically, this includes the following two aspects:

3.2.1 Deleting the Expression of “Personal Information Without Identification” to Prevent the Tendency of Expansion of Judicial Interpretation

The concept of personal information of citizens is regulated by judicial interpretation, and I suggest that the interpretation must be improved in accordance with the Personal Information Protection Law, in order to complete the restrictive interpretation of the concept of personal information of citizens, otherwise the protection of personal information in China will be seriously shackled, specifically as follows:

3.2.1.1 The Provisions of the Interpretation Itself Contradict Each Other

Article 1 of the Interpretation considers that personal information of citizens includes identifiable personal information and personal information that is not identifiable. However, Article 3 of the Interpretation provides that even without the consent of the collected person, the information collector may collect and provide to others information that has been processed and is not identifiable to a specific individual. This means that the Interpretation also supports that the processing of information that has been processed and cannot identify specific personal information is not socially harmful, which is clearly contradictory to Article 1. Thus, it seems that the Interpretation’s position on the protection of personal information that is not identifiable is unclear. Likewise, according to the relevant provisions of the Civil Code and the Network Security Law, neither civil law nor administrative law protects personal information that is not identifiable. Since other laws do not include personal information that is not identifiable in the scope of protection, and the Interpretation itself considers that personal information that is not identifiable is not socially harmful, the definition of the scope of protection of “personal information” for the crime of infringing on citizens’ personal information needs to be deliberated to avoid disputes in practice on the understanding and application of the crime of infringing on citizens’ personal information. The interpretation and application of the crime of infringement of citizens’ personal information is controversial. The Interpretation simply identifies “personal information” as “personal information” (i.e., including identifiable personal information and non-identifiable personal activity information), which will obviously lead to overprotection of personal information, thus hindering the reasonable circulation of personal information, bringing problems to the development of the data. This will cause problems for the economic development and inconvenience for social management. In order to clarify the position of criminal law, personal information that is not identifiable should be excluded from the scope of protection of personal information under criminal law.

3.2.1.2 Conflict with the Core Legal Interest Protection Scope of the Crime of Infringement of Citizens’ Personal Information

In the above-mentioned evidence of the legal interest of the crime of infringing citizens’ personal information, the author proposes that the legal interest protected by the crime of infringing citizens’ personal information is the right to information self-determination, and the key lies in whether the consent of the information subject has been obtained. However, first of all, there is no need to obtain the informed consent of the individual when collecting personal information that is not identifiable, because non-identifiability cuts off the possibility of identification of a specific natural person by the processor of personal information, and thus the acquisition and use of such personal information cannot directly infringe upon the privacy, human dignity, and property rights of a specific natural person, and there is no real possibility of infringing upon the right of self-determination of personal information. Secondly, because information that is not identifiable cannot be identified to the individual, the individual cannot control it autonomously, and the exercise of the right to self-determination of personal information is futile. Therefore, the inclusion of non-identifiable and relevant information into the scope of “personal information” is inevitably contrary to the legal interests protected by the crime of infringement of citizens’ personal information.

3.2.1.3 Inconsistent with the Basic Position of Necessity that Criminal Legislation Should Adhere To

The irrationality of emotion, the harshness of criminal law and the modesty of criminal law together determine that scientific criminal legislative activities must abandon emotional interference in order to get as close as possible to “good law”, and this is the legal basis for criminal legislation to avoid emotion. (Liu Xianquan, 2016) Criminal law should avoid emotional legislation, not because of the current leakage of personal daily whereabouts, pickpocketing network personal account information, property status and other cases, the information that does not have “strong identification” and “legal interests associated with the” recognized as the criminal law of the citizens. personal information. At the same time, personal information of citizens should not

only be identifiable, but also be reasonably limited in scope according to the modesty of criminal law. (Ye Liangfang, & Eddie Ying Jia, 2016) This means that only information that can help identify a citizen can be considered as personal information within the scope of legal protection, otherwise, it is not included in the scope of protection. (Yue Lin, 2017)

3.2.1.4 Non-Compliance with the World's Common Rules

The Personal Information Protection Law makes the definition of “personal information” in the legislation consistent with the EU General Data Protection Regulation (GDPR), which came into force in 2018. The definition of “personal information” in the legislation is consistent with the EU's General Data Protection Regulation (GDPR), which came into force in 2018, and adopts the identification standard of “identified or identifiable”.¹ The EU's General Data Protection Regulation does not distinguish between the concepts of data and information, and in personal information protection legislation, the EU and its member states mostly use the term “data” to express their legislative protection objects, (Mei Xiaying, 2016) so the connotation of personal data and personal information is the same. In China, a dual protection system of data and information has been established through the Data Security Law and the Protection of Information Law. However, in terms of criminal law, there is no independent and complete data crime protection system, and the criminal law protection norms on data are scattered in different crimes such as the crime of damaging computer information system and the crime of illegally obtaining computer information system data and illegally controlling computer information system. In order to cope with the protection of a large amount of non-systematic data, the criminal law chooses to expand the scope of civil personal information by including non-identifiable data as part of the civil personal information. This extreme expansion has, to a certain extent, maintained the order of social management, but its view that such association is the key attribute for identifying citizens' personal information is open to question. “Instead, it will lead to improper operation of judicial practice due to the lack of applicable basis, and even produce the possibility of practice in violation of the principle of criminality and the concept of criminal law modesty.”

3.2.2 The Identification of Personal Information Is Limited to “Natural Persons”, Precise Criminal Law Protection Point

There is a view that it is necessary to distinguish between the concepts of “natural person status” and “natural person”, which actually refers to “who you are”, and the former refers to the individual with a manifest name of identity, while the latter refers to the individual with a symbolic anonymity. (Yang Junlin, 2021) I agree with the above-mentioned view that the meaning of “identifying a specific natural person” and “identifying a specific natural person” are not exactly the same. There can be many “natural person identities”, while “natural person” can only be specific. For example, identifying a person as a student of a university belongs to the identification of a specific natural person, while identifying a person with the name xx belongs to the identification of a specific natural person. As the “natural person” and citizens' personal and property rights are more closely linked, compared to the “natural person” than the “natural person identity” seems to be more worthy of protection under criminal law. Therefore, the judicial interpretation of the crime of infringement of citizens' personal information should be amended by referring to the expression of the Personal Information Protection Law.

After an in-depth analysis of the Personal Information Protection Law, the legal interest of the crime of infringing citizens' personal information is the right to self-determination of information, and the concept of “personal information” should be narrowed down. We should synchronize the judicial interpretation of the Criminal Law with the Personal Information Protection Law to clearly define the personal information in the crime of infringement of citizens' personal information as “all kinds of information recorded electronically or by other means that violates the right to information self-determination in relation to an identified or identifiable natural person.”

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¹ General data protection regulation, Art. 4(1).

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