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## Korea's Security and Public Order Policy: Why Does KOREA Need a DETECTIVE SYSTEM?

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### Abstract

*Korea's rapid economic growth has further diversified its security environment, so Korea has been introducing a private security system to work with police since 1970, which is a crime prevention system in developed countries.*

*However, in the case of the detective, all of the OECD member countries except Korea are active to introduce it as a major area of private security. Even though the detective system in Korea has not yet been legislated, the private investigators from developed countries have entered into Korea to conduct the detective works since Korea became an OECD member in 1996.*

*Therefore, it is the right time for Korea to prepare for introducing a private detective system. The Korean detective system, however, began in the Japanese colonial period (1910-1945), and was regulated as Chosun governor general ordinance No. 82. in 1911, and then after liberation, the detective business was conducted again, but on September 23, 1961, the "Private Agency Regulation Act" was enacted and regulated.*

*In Korea, there are a lot of companies that are engaged in real detective business by using the name of a consulting company or the cases where a private security company carries out a detective business, but they are crowded for doing this business with no legal basis.*

*Therefore, this study aims to investigate and discuss the research questions on the necessity of the introduction of Korean detective business law through an in-depth interview with the expert group.*

**[Keywords]** Security, Public Order, Detective, Law, OECD

### 1. The Question of Study

In Korea, there are active discussions on the enactment of the "Public Detective Business Law" which is proposed by the National Assembly, along with the revitalization of the field of detective industry.

Because of these reasons, even though the various crimes including the Internet crime are increasing in Korea, it is often difficult to expect satisfactory results in reality due to limitations of the police force and insufficient information of lawyers after reporting to the prosecutors and the police or consulting a

lawyer for a case. Based on this reality, there are some opinions on the necessity of the introduction of the detective system and it is necessary to examine the necessity of the legal system of the detective system in detail. The research question of this study is as follows.

What are the actual reasons for the necessity of the detective system in Korea?

### 2. The Method of the Study

The study conducted semi-structured interviews with police and lawyers with more than five years of experience in Korea for about one year from January 2016 to December 2016. The termination of the interview was based on the redundancy of the sample Factor of Redundancy.

Interview data was categorized again by research topic and sub-topics through Content Analysis, and then the categorized data were analyzed through narrative analysis.

### 3. Differentiation from Preceding Studies

Until now, the studies related to detective in Korea are divided into (1) scope of work of a detective, (2) establishment of the supervisory agency, and (3) education and training of detective. However, this study is different from the previous studies in that it traces the actual contents that need to introduce the detective system of Korea in a questingly way. The following <Table 1> summarizes the preceding studies.

**Table 1.** Review of preceding studies.

| Category                 | Researcher                | Contents  |
|--------------------------|---------------------------|---|
| Work scope               | Lee & Choi (2012)         | Provide effective measures on how to set the scope of the private investigator's right to investigate[1].   |
|                          | Choi & Lee & Hwang (2012) | The scope of the legislation of the Korean detective system is proposed by comparing the scope of work of the legislative proposal of Korea and the overseas case[2].                     |
| Management & Supervision | Lee (2008)                | Claims that the supervisor of detective business should be police like foreign cases[3].  |
|                          | Jeong & Park (2009)       | As a supervisory agency for the detective industry, an independent organization under the National Police Agency should be installed and operated as in the case of foreign countries[4]. |
| Education & Training     | Lee & Park (2007)         | The education of the detective should be centered on-the-job training as the current private security guard in Korea[5].  |
|                          | Cho & Lee (2011)          | The department for the education of the detective should be established at the current Korean university and has to focus on professional education[6].                                   |

## 4. Interview Data Analysis: The Necessity of a Detective System

### 4.1. Limitation of police force

It is the fact that the mobilization of crime in Korea causes difficulties in cracking down and investigating crimes and the investigation of national authority is not meeting the expectation of the people. The limitations of

these police powers can be complemented by expert detectives.

"I think that the detective system which some are worried about the side effect will play a big role in the prevention of crime if it is supplemented by proper restriction(Police Officer KSJ\_20160205)."

"If a reasonable and legitimate market is open, it will play a major role in crime prevention by complementing public power(Attorney PSE\_20161006)."

As of 2016, the number of population per one police officers in Korea is 456, which is insufficient compared to major developed countries. On the contrary, the demand for security such as the 5 crimes and 112 reports is rapidly increasing, but the budget of the National Police Agency is insufficient compared to the level of major developed countries.

In this situation, the police have a high arrest rate of 87% on average, but they are not enough to meet the public expectations.

#### **4.2. Prevent expansion of unauthorized companies**

Currently, about 3,000 unauthorized detective businesses are established and operated in Korea. Such irrational unauthorized detective companies are causing social problems by being given to illegal acts.

"When detective agencies are rampant and damage cases are on the rise, it would be a good idea for the government to set up rigorous selection criteria and qualifications to introduce a rational and legitimate detective system(Police Officer CSK\_20161116)."

"There is a demand but there is no legitimate source to provide sufficient data, which seems to be the reason why the illegal market is growing(Attorney CSJ\_20161217)."

In this regard, if the public authority of the state fails to satisfy the basic rights of the people, the private investigation system shall be established in accordance with the principle of the beneficiary, so that the basic rights are legally fulfilled and the lack of public power is supplemented with the thorough management of them and there is a need to block illegal activities in advance as well.

#### **4.3. The role of collecting litigation evidence**

In relation to litigation, attorneys may spend too much time and money in collecting

evidence, having problems in securing testimony credibility and the perjury problem. Private investigators can reduce the burden of these attorneys' work, and the problem of the credibility of testimony and perjury can be solved to a certain extent[7].

"A detective system is required to achieve effective results in collecting evidence and various data(Police officer JDS\_20160122)."

"It is necessary for the detective to resolve various incidents that individuals can not do, such as collecting evidence, confirming facts within the limits permitted by law for criminal cases and accidents(Attorney KSB\_20161208)."

In this case, the collection of evidence of the detective must be distinguished from the collection of the evidence of the police because it does not secure the objectivity of identity. In addition, investigative activities of the detective should be strictly restricted in areas where it is likely to interfere with police investigation activities or directly related to the crime scene[8].

#### **4.4. Identification of missing persons**

It is a reality that police are not able to supply satisfactory security because of problems of manpower and time.

"Considering the police work that is focused on securing public order with limited manpower and budget, I think that the burden of the police will be alleviated when the private investigation system is settled (when searching for missing persons, etc.)(Police Officer LSC\_20160211)."

"I think it is necessary to introduce a legal basis for the dispersal and private domain activity in the nature of the public property of the police activities, constituting a complementary nature to the activities of state agencies(Attorney HDH\_20161120)."

Therefore, it is necessary to legislate the detective to overcome the limitations of the police and illegal acts of existing unauthorized detective companies.

#### **4.5. Increase in economic crime**

When the police solve the economic crimes, it is limited to significant economic crimes or cases that follow a large amount of money. In this respect, there is a limitation of the police[7].

"The detective system deals with sensitive areas such as the invasion of privacy, so it should be cautious in implementing institutional legislation, but it is expected that the damage caused by the limitations of the police force will be greater for civilians(Police Officer KSJ\_20160109)."

"Public order services in the private arena should be carried out as soon as possible(Attorney HTG\_20161227)."

In Korea, the number of litigation cases is only one per 8 people, but the lawyers' representation rate is not too high with the average rate being 31.6% and 25.2% for the rate of lawyer representation in civil lawsuits, 48.9% for criminal lawsuits, 35.8% for domestic lawsuits and 66.8% for administrative lawsuits.

## 5. Argument

Currently, in Korea, the law prohibits the use of the term 'detective' or 'private investigator', or to conduct work related to the investigation of privacy of a specific person and the identification of the location. However, it is the fact that many unauthorized detective companies have been working publicly for a long time.

Also, since Korea joined the OECD in 1996, the detective companies of major developed countries have come to Korea and started to operate.

This is because the private security in Korea has been expanding rapidly since the 1980s, with an average annual growth rate of more than 25%. The benefits of private security, which had stayed only in some strata of society in the past, are becoming common to the general public because of economic development.

Through this study, we searched for the necessity of legislating the detective system in Korea. The results are as follows. ① Limit

of police force ② Prevention of unauthorized company expansion ③ Collection of legal evidence ④ Identification of missing persons ⑤ Increase in economic crime.

In this regard, the necessity of the detective system in Korea is raised, but since the first legislative attempt in 1999, there have been a total of 10 legislative attempts for 17 years so far. However, the controversy surrounding the establishment of the supervisory agency between 'National Police Agency' and 'Ministry of Justice' made the legislation infertile, and the differences in scope of work also make it difficult.

However, I would like to suggest that this study make legislative proposals so that the detective can play a role in protecting the lives and property of the people, as long as the police can not cope with the increase of highly intelligent and heinous crimes over time in Korea.

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