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### **“What to do” a policeman scholar-jurisprudent?**

“Everyone is guaranteed freedom of literary, artistic, scientific, technical and other forms of creativity, teaching”.  
The Constitution of Russia part 1, article 44

**Abstract:** It is discussed recommendations that should guide a legal scholar during writing of scientific texts, who is a police officer. Necessity in developing such recommendations is caused by changes of social and legal situation in Russia. The author defends the thesis of freedom of creativity and the need to preserve of critical pathos in scientific research. At the same is recognized the need for strict adherence to current legislation and the implementation of the prohibitions imposed on a police officer on the service.

**Keywords:** freedom of creativity; bans; term of service; policeman - scholar; science; criticism of law; the power; an order.

The subject of this article is a discussion of issue on the criteria that should guide the legal scholar, who is a police officer, during writing of scientific texts.

Under term of “scholar-policeman”, about which will be a speech further, we understand the professors and teaching staff, adjuncts and doctoral of educational institutions of higher education, scientific research institutions of the federal body of executive power in the sphere of internal affairs, which are considered serving in police.

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Adoption of a number of normative acts<sup>1</sup> which define the legal status of a police officer, an order of service in police bodies, put on the agenda the discussion of issues of the measure of freedom of scientific creativity, or lack of it in system of the Interior Ministry in general, and applicable to a specifically taken scientific unit.

We begin by reminding of the provisions of the Russian Constitution. Article 18 of the RF Constitution guarantees: “Rights and freedoms of man and citizen are directly applicable. They define the meaning, content and application of laws, activity of the legislative and executive authorities, local self-government and secured by the judiciary”.

Part 1 of article 29 of the RF Constitution states: “Everyone is guaranteed the freedom of thought and expression”. Part 2 of this article guarantees that “no one can be compelled to express his views and convictions or to reject them”.

Of articles 29 and 44 of the RF Constitution follow, that members of the professors and teaching staff of educational institutions and scientific research institutions, adjuncts and doctoral which serve in the police, have the freedom of thought and speech, scientific creativity, and they cannot be compelled to express their opinions and convictions or to renounce them.

According to part 2 of article 55 of the Constitution of Russia in the Russian Federation shall not be taken the laws, revoking or canceling the rights and freedoms of man and citizen. At the same time part 3 of the mentioned article provides: “Rights and freedoms of man and citizen may be limited by federal law only to the extent to which this is necessary in order to protect the constitutional order, morality, health, rights and lawful interests of other persons, national defense and security of country”.

Obviously, the last norm is directly relevant to interested us a category of police officers, because their service involving with implementation of a number duties and observing of prohibitions. Consequently, it is lawful and do not conflict with the

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<sup>1</sup> First of all, it is meant, of course, the Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation and Amendments to Certain Legislative Acts of the Russian Federation” No. 342-ФЗ of November 30, 2011 // PF. December 7, 2011. No. 275 (5651).

Constitution some limitations of their civil rights including the right to scientific creativity, freedom of speech, etc.

We will proceed from these basic provisions and try to find a middle ground between the lawful requirements for behavior of police officer and freedom of creativity which is necessary to scholar-police officer since he is unable to compete without this freedom on the marketplace of ideas, to defend in discussions the interests of state, society, man and citizen, position of his department, in the end.

There are a number of norms that strengthen us in opinion on the priority in the personal focusing of scientist-police officer a loyalty to existing power and the positive law.

So, in part 1 of article 1 of the Federal Law “On Police” (in ed. Federal laws from 01.07.2011 No. 169-Φ3, dated 21.11.2011 No. 329-Φ3), where is defined the role of the police, it is fixed: “The police is destined for protection of life, health, rights and freedoms of citizens of the Russian Federation, foreign citizens, stateless persons (hereinafter - the citizens, persons), for combating crime, defense of public safety, property, and public safety”.

From the system interpretation of part 1 article 10 of the Federal Law “On Service in the Internal Affairs bodies of the Russian Federation”, and Article 25 of the Federal Law “On Police” follows that if a person has taken the (contract-based) commitment on serving of the Federal civil service in bodies of the Internal Affairs, say, on one of the posts of professors and teaching staff, in this case he executes the duties assigned to police and realizes the rights granted to police.

Obviously, the common civil status of scientist serving in bodies of the internal affairs is narrowed with special legal status of the policeman. Moreover, entering the service in internal affairs bodies, a person voluntarily consents to it, i.e. he is aware of such consequences, and agrees with them. One should proceed from the fact that every employee of the police, including those who consider themselves scientists, first of all, are servants of the state, and then the “creators”. About this is clearly stated in part 1 of article 7 of the Code of Professional Ethics of officer of internal

affairs: “to recognize the priority of state and official interests over personal in his/her activities”.

Under article 27 of the Federal Law “On Police”, in the circle of responsibilities that are directly related to the behavior of a scholar-policeman in the field of scientific creativity are included the following duties:

1. to perform service duties in accordance with the official rules (duty regulations) (item 2 of part 1 of the stated article);

2. to execute orders and decrees of heads (chiefs) given in the established order and not contradicting to federal law (item 3 of part 1 of the specified article);

3. to address on official issues to your immediate chief, and if necessary to the superior officer, notifying under this of immediate chief (item 4 of part 1 of the specified article);

4. to comply rights and legal interests of citizens, public associations and organizations during the performance of official duties (item 5 of part 1 of the specified article);

5. to maintain the level of expertise necessary for the proper fulfillment of official duties (item 7 of part 1 of the specified article);

6. not to disclose information constituting state secrets and other secrets protected by law, and also the information becoming known to him in connection with execution of his official duties, including information about private life and health citizens or affecting their honor and dignity (item 8 of part 1 of the specified article);

7. to comply with established by federal law limitations and restrictions relating to the service in police, and also to observe requirements of the official conduct of a police officer (item 12 of part 1 of the specified article);

8. to inform to immediate chief about the occurrence of self-interest, which may lead to conflicts of interest in the performance of duties and to take measures to prevent such a conflict (item 13 of part 1 of the specified article).

In Article 12 of the Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation”, where is defined the basic duties of employees of the bodies of internal affairs, it can be distinguished the following duties of law enforcement officers that are directly related to the creativity of a legal scholar serving in police:

1. to know and execute official regulations (job descriptions) and the provisions of other documents that define his rights and duties, fulfill orders and instructions of direct heads (chiefs) and to follow by the legislation of the Russian Federation upon receipt of the order or disposition of direct or immediate heads (chiefs), wittingly contradicting to the laws of the Russian Federation (item 2 of part 1 of the specified article);

2. to maintain the level of expertise necessary for the proper fulfillment of official duties in established order receive course of training, retraining, increasing of skills, probationary period (item 6 of part 1 of the specified article);

3. not to allow an abuse of official powers; to comply established by federal laws limitations and restrictions relating to the service in police, as well as to observe the requirements to the official conduct of an employee (item 12 of part 1 of the specified article).

From the given list of duties follows such conclusions.

First, a jurisprudent policeman must keep in mind that he may be blamed for the poor quality of scientific output, attesting on an insufficient level of author qualifications. His official duties are included regular work on improving his professional training and skill of the scientist.

Second, during implementation of scientific activity a policeman should observe restrictions and prohibitions established by federal laws. In our view, validity of these provisions is universally, unconditionally. In part 1 of article 14 of the Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation” is said that on an employee of the Interior Affairs is subject to restrictions, obligations and prohibitions related to service in police, established by article 29 of the Federal Law “On Police”.

Thus, under article 29 of the Federal Law “On Police” a scientist-policeman is subject to full and unconditional prohibitions. Applicable to scientific creativity actual are provisions of part two of this article: an employee of police is subject to restrictions, obligations and prohibitions related to service in police established by the Federal Law from December, 25, 2008, No. 273-Ф3 “On Combating Corruption” and articles 17, 18 and 20 of the Federal Law dated on July 27, 2004 No.79- Ф3 “On the State Civil Service of the Russian Federation”. Such restrictions, prohibitions and obligations are determined in the manner established by the federal executive body in a sphere of internal affairs.

In the second part of article 14 of the Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation” states that a consideration of issues relating to the observance by staff limitations and prohibitions, performance of their duties established by the Federal Law of December 25, 2008 No. 273- Ф3 “On combating corruption” and other federal laws, carried out in order determined by the President of the Russian Federation.

Even if a scientist-policeman has positioned himself as a private person or moreover, he acts under a pseudonym, then he does not depend on the will of the leadership. But the provisions of article 27 of the Federal Law on the Police are applied to him. First of all, the prohibitions related to service in police (item 12 of part 1 of the specified article), not to disclose information constituting state secrets and other secrets protected by law, and the information becoming known to him in connection with his official duties, including information about private life and health of citizens or affecting their honor and dignity (item 8 of part 1 of the specified article); to observe the rights and legal interests of citizens, public associations and organizations during a performance of official duties of (item 5 of part 1 of the specified article).

In principle, all the aforementioned limitations and restrictions have little effect on the freedom of scientific creativity, because, it goes without saying that the science are incompatible with corrupt acts, extremist and other offenses. But really

“dangerous” for the freedom of creativity propositions are formulated in Article 13 of the Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation”. In part one of this article established that the implementation of official activity, *as well as off-duty time* (marked by us), law enforcement officers must:

1) proceed from the fact that the recognition, observation and protection of the rights and freedoms of citizen defines the contents of his official activity (item 1 of part 1 of the specified article);

2) take care on preservation his honor and dignity, avoid making decisions for reasons of self-interest, *upon performance of official duties not to make actions* (marked by us) that raise doubts as to the objectivity, fairness and impartiality of that inflict damage to his reputation and authority of the federal executive body in sphere of internal affairs, as well as public authorities (item 2 of part 1 of specified article);

3) comply neutrality, not to show a preference for any political parties and other public associations, religious and other organizations, professional or social groups and citizens (item 4 of part 1 of specified article);

4) not to allow public expressions, judgments and estimates, including in the media, concerning to government agencies, officials, political parties and other public associations, religious and other organizations, professional or social groups of citizens, if it not included in his official duties (item 5 of part 1 of specified article)<sup>2</sup>.

It is important to take into account that in accordance with item 2 of article 49 of the Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation” the grave violations of discipline by law enforcement officers are the next:

1) non compliance by an employee the prohibitions and restrictions established by the legislation of the Russian Federation (item 1 of part 2 of specified article);

2) disclosure by an employee information that constitutes state secrets and other secrets protected by law, confidential information (professional secrecy), which

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<sup>2</sup> The initial version this norm had the following content, “not to allow public expressions of his personal opinion concerning to the state bodies, officials, political parties and other public associations, religious and other organizations, professional or social groups of citizens”.

became known to him in connection with fulfillment of his official duties, if this does not involve a criminal liability (item 5 of part 2 of specified article);

3) public statements, judgments and estimates, including those in the media concerning to the activities of government agencies and their leaders, including the federal body of executive power in the sphere of internal affairs or its territorial offices, divisions, if it is not included in the official duties of an employee (item 15 of part 2 of specified article).

It was said above that prohibitions and restrictions have little impact on the freedom of creativity. About the item 5 of part 2 of article 49 of the Federal Law say once again that contained in it prohibition has categorical and unconditional character for a scholar-policeman. Again, it is the greatest concern is the formulation of item 15 of part 2 of article 49 of the Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation”.

From the literal interpretation of item 15 of part 2 of article 49 and item 5 of part 1 of article 13 of the Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation” follows that to a police officer, including to a scientist are prohibited any kind of public assessments, expressions of his personal opinions in concerning the activities of government agencies and their leaders. And it is none other than as the prohibition on scientific work, because it implies freedom in the expressions, opinions and estimates, including in the media in concerning to the activities of government agencies and their leaders: normative acts can be interpreted as a result of the activity of state bodies. The subject of scientific activity, including criticism, is the activities and results of activity in the form of normative acts of state agencies and their leaders. If it is impossible to undergo doubt of the correctness of normative act, in whole or in part, then leaves only substantiate their correctness. But what are about the draft legislations which are offered for public discussion by the same government and their leaders. It turns out that one cannot express critical judgments to their address. In general, upon the literal and all the more broad



interpretation mentioned law norms put prohibition to freedom of the scientific creativity in system of the Interior Ministry.

Our state allows have the luxury to keep a system of educational and research institutions of the Ministry of Interior, and accordingly the police science, which has no analogues anywhere in the world. Perhaps it is time to part with it. At least, a scheme of the authors of Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation” can be interpreted in this way. But we hope that it is not. It is at least, yet. Will proceed from fact that the state allows existence of departmental police science, which means that it is ready to accept (and maybe even to respect and consider) critical opinions forming in this environment. If the criticism of a scholar is directed at improving of legislation, improving the efficiency of law enforcement activity, it is not only justified, but also deserves support.

Proceeding from this assumption, item 5 of part 1 of article 13 and item 15 of part 2 of article 49 of the Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation”, we will interpret in the system connection to item 12 part 1 article 12, item 4 of part 1 of article 13 of the Federal Law and the first of all in connection with item 3 of article 55 of the Russian Constitution (rights and freedoms of man and citizen may be limited by federal law only in proportion to the constitutionally significant goals), i.e. the rights of a scholar-policeman to freedom of expression and creativity can be restricted by federal law only to the extent that this is necessary for the protection of the constitutional order, morality, health, rights and lawful interests of other persons, ensuring of national defense and security. About same is said in item 4 of part 3 of article 4 of the Federal Law “On Service in bodies the Internal Affairs of the Russian Federation”: “limitation of the rights and freedoms of man and citizen with regard to an employee of internal affairs are permitted by federal law to the extent that it is necessary to perform the tasks related to protection of the constitutional order, morality, health, rights and lawful interests of other persons, and to ensure security of the state”.

In off-duty time an employee of the internal affairs is limited in the public expressions, judgments and estimates, including in the media about the activities of government agencies and their leaders, only to the extent that it is necessary to perform the tasks related to the protection of the *constitutional system, morality, health, rights and lawful interests of other persons, ensure of defense of state and security*. All that is not in conflict with this provision is allowed to a scholar-policeman.

As for the public expressions, it is existed an explanation of a Plenum of the Supreme Court from 28.06.2011 No.11 “On judicial practice in criminal cases involving crimes of an extremist nature”<sup>3</sup>. In item 4 of the Resolution of the Plenum of the Supreme Court of the Russian Federation of 28.06.2011 No. 11 stipulates that under public calls should be understood the expressed in any form (oral, written, using technical tools, information and telecommunications networks, including the Internet) addressing to other individuals to encourage them for extremist activities. The issue of public appeals must be decided by the courts with regard to the location, method, conditions and other circumstances of the case (appealing to a group of people in public places, meetings, rallies, demonstrations, distributing leaflets, putting up posters, placement of the applications in the information and telecommunications networks, including the Internet, such as web sites, blogs and forums, distribution of applications through emails, etc.). In item 7 of the same resolution is said about such signs of publicity, as for example speaking at meetings, rallies, distribution of leaflets, posters, post relevant information in journals, brochures, books, and in the information and telecommunications networks, including the Internet and other similar actions, including intended for subsequent familiarization with information of other persons).

In the same resolution has another explanation - concerning the criticism of public officials: it is necessary to take into account the provisions of articles 3 and 4

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<sup>3</sup> Plenum of the Supreme Court from 28.06.2011 No.11 “On judicial practice in criminal cases involving crimes of an extremist nature” [http://www.supcourt.ru/Show\\_pdf.php?Id=7315](http://www.supcourt.ru/Show_pdf.php?Id=7315)

of the Declaration on freedom of political debate in the media, adopted by the Committee of Ministers on 12 February 2004, and practice of the European Court of Human Rights, according to which political leaders seeking to enlist public opinion and thus agree to be the subject of public political debate and criticism in the media; government officials can be criticized in the media with regard to how they execute their duties since it is necessary to ensure the public and responsible performance by them of their duties. Criticism in the mass media official persons (professional politicians), their actions and beliefs itself should not be considered in all cases as an action aimed at humiliation of a person or group of persons, since in respect of mentioned persons limits of acceptable criticism are wider than in relation to individuals<sup>4</sup>.

Conclusion from all of the above should be such. If, in a public expression a scholar-policeman directly pursues a goal or allows for the possibility, or refers indifferently to the possibility of detriment of the constitutional order, morality, health, rights and lawful interests of other persons, ensure the defense and security of the state, his actions will be part of a disciplinary misdemeanour or other offense. Policeman should avoid of the similar behavior in science. Naturally, in order to incriminate to a scholar policeman violation of this duty, it should be proved this guilt in the form of intent or negligence.

Apparently, it is necessary to do a special reservation with regard to public statements of a policeman made during performance of his official duties. In our opinion, item 2 of part 1 of article 13 of the Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation” is subject the narrow interpretation, namely: an employee of police in his scientific creativity is obliged not to make during performance of an official duties the actions that raise doubts as to the objectivity, fairness and impartiality of an employee, causing damage to his

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<sup>4</sup> Item 7 of Resolution of the Plenum of the Supreme Court dated from 28.06.2011 No.11 “On judicial practice in criminal cases involving crimes of an extremist nature”.

reputation and authority of the federal body of executive power in the sphere of internal affairs, as well as public authorities.

Off-duty time, acting as a private person, a scholar policeman is eligible not to performance of this duty, including in it is not a duty to perform the prohibition not to prejudice the authority of the federal body of executive power in the sphere of internal affairs, as well as public authorities. Anonymously, he can express his personal opinion or make any assessments to the public authorities and official persons, avoiding thus the limitations imposed by the fact of service in police department and by applicable legislation. Of course this is not the best way, to which the scientist may be resorted to only in extreme cases, and at this cannot bind its position with belonging to the police.

Usage of a pseudonym, which is especially common in Internet publications, also frees a scholar policeman from performance of formal duties, but not from following of the officer's honor. It should be emphasized that in regard of an employee always continue act the norms of official ethics, in particular, do not make any actions that cause irreparable damage to the reputation and credibility of the internal affairs bodies (article 8 of the Code of Professional Ethics of an employee of the internal affairs). In addition, the condition of anonymity is lost the right to authorship. The sacrifice, on which is also not able to go any scientist in the modern world.

During performance of official duties, a policeman scholar must observe of service discipline in his scientific creativity. By definition, part 1 of article 39 of the Federal Law "On Police" and part 1 of article 47 of the Federal Law "On Service in bodies of the Internal Affairs of the Russian Federation" service discipline in police is a mandatory for all police officers observance of established by legislation the Russian Federation, which regulates of issues of service in bodies of the internal Affairs, by the Oath of an employee of the Internal Affairs of the Russian Federation, normative legal acts of the federal body of executive power in the sphere of internal

affairs, orders and instructions of the direct chiefs of procedures and rules of performance service duties and realization of the rights granted.

Norms about service discipline are directly relevant to a departmental scientific production, which constitutes an integral part of the service activity of a scientist-policeman. During performance of his duties for the production of scientific production a scientist officially acts as a police officer, pointing to his post, and in some cases special rank and other attributes.

During execution of service duties a scholar policeman must observe the service discipline, unquestioningly obey orders and instructions of the heads (chiefs) (item 3 of part 1 of article 27 of the Federal Law on the Police), under fulfillment of: a) ordered of scientific research, educational works; b) works included in the plan of scientific and publishing activity of institution; c) planned in an individual plan of a lecturer; d) entrusted by a leadership of institution in which he serves.

Therefore, if an article or other work is published with indicating the position, the special rank of a scholar policeman, then he must comply with all, without exception, prohibitions, restrictions, perform all service duties and to obey of the orders and instructions of a chief. The same applies to the duties of a scientist-policeman upon public statements in editions of educational, scientific research institution of the Ministry of Internal Affairs, in departmental editions, in publications under a signature stamp of the MIA. The same is concerned for public statements of a policeman-scientist in educational institutions of the internal affairs, in an official meeting when he is dressed in the uniform and accordingly he acts as a police officer.

What is more, upon a literal interpretation of item 4 of part 1 of article 27 of the Federal Law “On Police” follows that an immediate scientific authority on all matters of an official scientific creativity are his chiefs in way of subordination, and the Minister of Internal Affairs is the supreme authority in science. Therefore justifiably in disputable cases of understanding and application of the legal norms to appeal directly to him, and further on descending - to the authority of appropriate chiefs.

One more moment attracts particular attention; it is associated with provision about mandatory fulfillment by a scientist-policeman of an order of the chief. Earlier, this issue specifically regulated by article 34.1. Provisions on service in bodies of the internal affairs of the Russian Federation and the text of the Oath of an employee of the internal affairs of the Russian Federation<sup>5</sup> (introduced by the Federal law from 22.07.2010 N 156-Φ3), where specially regulated issues of execution order of the chief: “The order of a chief must be executed without question, accurately and on time. Discussion of the order and its criticism is unacceptable”<sup>6</sup>.

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<sup>5</sup> Resolution of the Supreme Soviet of the Russian Federation of December 23, 1992 No. 4202-I “On Approval of the Provisions on Service in bodies of the Internal Affairs of the Russian Federation and a text of the Oath of an employee of internal affairs of the Russian Federation” (in edition of Federal Law of 17.12.2009 No. 313-Φ3)

<sup>6</sup> Literally article 34.1 of the Regulations said: “An order of a chief in bodies of the internal affairs of the Russian Federation is an official demand of a chief addressed to the subordinate employees of the Interior (hereinafter in this article - the subordinate) about mandatory execution for specific actions, compliance of rules or establishing order, situation.

An order should comply with federal laws and orders of superior chiefs.

An order given by a chief is mandatory for execution by subordinates, with exception of obviously illegal order.

An order may be given in writing, orally or through the usage of technical communications equipment to one subordinate or group of subordinates. An order given in writing is the main administrative official document (legal act), issued by a chief on the rights of one-man rule.

Giving an order the chief should not allow the abuse of official authority or their excess.

The chief is prohibited to give an order that does not pertain to the execution of subordinate of the service duties or directed to violate the legislation of the Russian Federation. An order stated clearly, concisely and accurately without usage of formulations, which can permit of different interpretations.

Before giving an order, a chief must comprehensively assess the situation and take measures to ensure its implementation.

Orders are given to way of subordination. When it is absolutely necessary, a direct chief can give an order a subordinate, bypassing his immediate chief. In this case, direct chief shall notify the immediate chief of a subordinate or subordinate himself reports on receipt of this order to his immediate chief.

An order of a chief should be executed unquestioningly, accurately and on time. It is not allowed discussion of the order and its criticism.

To ensure a proper understanding of an order given, a chief may require its repetition, and the subordinate who has received an order, may address to the chief with request to repeat it.

If a subordinate does not agree with executed order he is eligible to appeal it.

On execution of an order obtained, a subordinate must report to a direct chief, who gave this order, and (or) to his immediate chief.

Subordinate who has not performed in the prescribed manner an order of a chief, is subject to responsibility on the grounds provided by the legislation of the Russian Federation.

A chief is responsible for order given and its consequences, for compliance of the content of an order of the legislation of the Russian Federation and the failure to enforce its execution.

Cancel an order is eligible only a chief, who gave it, or the superior direct chief.

Similar norm is consolidated in item 3 of part 3 of article 4, item 2 of part 1 of article 12 of the Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation” and in item 3 of part 1, article 27 of the Federal Law “On Police”: it is mandatory for law enforcement officers is execution of orders and instructions of the heads (chiefs), given in established order and not contrary to federal law.

Other words the essence of the legal status is on the strict implementation of the order remains, but without former fanaticism.

To a certain extent the mechanism of dispute resolution about the understanding and application of an order, normative act that is subject execution by a scholar-policeman is found in article 72, which resolves a service dispute in internal affairs bodies, including a service dispute, i.e. unsettled disagreements on issues related to the application of federal laws and other normative legal acts of the Russian Federation in the sphere of internal affairs and a contract between the head of the federal executive body in the sphere of the Interior or an authorized head and employee of internal affairs, as well as between the direct supervisor (chief) or immediate supervisor (chief) and an employee.

According to part 3 of specified article, for resolution of service dispute an employee of the internal affairs may apply in writing to the supervisor (chief), and in case of disagreement with his decision or upon impossibility of consideration the direct supervisor (chief) of the service dispute on the merits - to the direct head (chief) or in court.

Thus, if the normative act, concerns personally his, the scientist-policeman must act in accordance with article 72 of the Federal Law “On Service in bodies of the Internal Affairs of the Russian Federation”. If there is a situation *in abstracto*, when a scientist reveals a defect in the order of his chief, which is not addressed to a

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If a subordinate during execution of an order obtains other order that may prevent an execution of a previously received order, he reports to the superior direct chief, who gave a new order, and in the case of confirmation of a new order he executes it. A chief, who gave a new order, notifies the chief, who gave the first order“.

scientist. In this case, the criticism of an order is admissible - within the restrictions imposed by *the service discipline, about which we mentioned earlier*.

In conclusion, I would say the following. It is no secret that the current Russian legal science is experiencing certain difficulties together with the whole of our science and culture, spiritual reproduction of the nation. To assert otherwise would be to enter into conflict with the statement of the President of Russia Dmitry Medvedev. The President of Russia Dmitry Medvedev points to the lack of initiative, lack of new ideas, unresolved issues, the poor quality of the public debate, including criticism. On his words, social cohesion and support are usually expressed in silence<sup>7</sup>.

These generic features of modern science as the silence of other (not ours) of votes, a manifestation of outstripping loyalty to the authorities (servility), intentional narrowing of semantic space, fear of novelty, and simply intellectual laziness and cowardice reflected on the judicial reform the most ruinous way, on the formation of Law and Justice.

Multicolored ideas and schools, pluralism, freedom of expression is a pledge that will be taken into account the alternative ways of development of legislation. The development of legal culture is needed freedom of competition. Science should be independent, expert opinion of the scientists should be formed without caution to the views of a leadership.

How it seems an argument: if you are in the system, you must always support this system is not quite correct. The system is required convinced and independent employees but not compromisers.

Russia, Russian science, and if you wish, police science is needed not only the obedient executors, but also people who think creatively. And creativity is impossible without criticism. Naturally, we should distinguish criticism from carping. Criticism without love, without a desire to improve situation within departmental science is worthy of a censure and even disciplinary action.

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<sup>7</sup> Medvedev D.A. Go Russia! // ПГ (Russian newspaper). - 2009. - September 11.



Since lawyer is a special kind of an intellectual. He is a priori built into the existing state-legal system, and is summoned the first of all to assist an implementation of existing legislation, to be an example of loyalty to law and order, to teach and educate people to respect law. However, it is necessary to separate a function of educational, pedagogical (actually associated with the apologia of existing socio-political system and the right) with a function of scientific creativity. There is a legal academic discipline and there is a theory and philosophy of law. Applicable to the latter, freedom of expression does not tolerate restrictions.

I believe that a scientist should be free in his critical statements about both the legal and non-legal phenomena. When a police officer takes off a uniform, he is an author, who obeys to the laws and morality, which are equal for everybody. He is personally responsible for his position. In the space of hypertext limitations are common to all writers - not to break the law. Everything that is not prohibited by law and does not contradict to morality is allowed in scientific discussion.

I repeat the truth, science begins where it says “no” to a legislator (and law enforcer too). Science gains a value when goes on the edge, explores the limits of possible in lawmaking, detects errors of legislator, proposes new meanings that can be mastered by law.

It is impossible not to see the vices of native legal system, court proceedings, and openly criticize them. On the other hand, perhaps it needs to see an originality of the Russian legal system and justice. So, namely here needs to search a source for inspiration. That's where a scope of the research, that's where you can find the “self” of Russian law. But, it is impossible to make it without the deepest common culture.

We need to create a cultural environment: a competitive, stimulating the growth of each in separately and all together. It is important that public opinion would be heard, and then will be arisen a force of gravity of public opinion, that creates a phenomenon of power in the legal state<sup>8</sup>.

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<sup>8</sup> Ortega y Gasset J. The Revolt of the Masses. - Moscow: AST: ST MOSCOW, 2008. - p. 114.

Only the institutions of civil society that are embedded in the competitive environment of scientific sense production can be trusted scientific truth. Device separation of the truth from lies (or mistake) should be based on free will of all those who are involved in this kind of activity; should be defined within the scientific community.

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