

公務員背信罪之探討*

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關鍵字：公務員、背信罪、身分公務員、授權公務員、委託公務員。

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摘 要

向來，有關背信罪之討論，多集中於背信罪與侵佔罪兩者之關係，這些規定因為都是有關侵害個人法益的犯罪規定，因此大部分的爭議，就在於二者的區別問題上。但，公務員能否成立背信罪，亦即公務員是否具有成立背信罪的主體適格問題，卻鮮有觸及，進而包括公務員背信罪之成立要件、公務員背信罪與其他公務員犯罪之關係、公務員背信罪之成立範圍及公務員背信罪的犯罪參與等，皆有探究之必要。本文擬就學理與實務見解予以分析探討。

The Application of the provision of Breach of trust on the Public officials

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Abstract

Traditionally, much of the discussion of the offense of breach of trust always focused on the relations about breach of trust and conversion, such provisions as are the crime against personal legal interest, so most of the controversy is that the distinction between the two. However, can the public officials commit the conduct of the crime of breach of trust? This problem, in addition to the continuation of the aforementioned controversial discussions, but also produces many additional issues, such as the elements of the crime, the boundary of the commitment, and the participation in the acts of the crime, and so on. To this end, all the problems will be analyzed according to the theory of crime and the opinions of practice.