

Study on the Mechanism for Linking Judicial and Social Assistance for Minors Involved in Crimes — A Case Study based on the TIE Framework

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Abstract: In order to further improve the judicial assistance system for minors, and to ensure that minors receive special, prioritized, and timely protection, the judicial authorities have articulated social assistance forces and initiated a multi-party linkage mechanism. To meet the conditional non-prosecution cases of minors involved in crimes, the study analyzes the precise observation and care of minors and the research and judgment to explore the effective connection between the two. This study is based on the empirical research of N City Y District People's Procuratorate to analyze the current situation and challenges of judicial assistance and social assistance in the field of crime-related minors, and to consider thinking between the assistance of crime-related minors and the traditional assistance mode, and to propose the establishment of a disability tolerant service that meets the requirements of the mechanism to reduce the focus of blindness of the objects that should be assisted as much as they can be assisted, and the actual needs of crime-related minors of the territorialized, to advocate that the principle of maximizing the welfare of children for both criminal suspects and victims.

Keywords: Victim assistance; Accessibility; Bridging mechanisms; Accessibility of services

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1. Introduction

In recent years, judicial assistance has played an increasing role in the assistance of victims in criminal cases, and social assistance has also gradually increased with the emergence of judicial assistance, but is still at the stage of needing advancement. As an important part of society, the healthy growth of minors is not only related to family happiness but also directly affects the future of the country and social stability. The "two types of assistance" for minors involved in crimes is a complex issue in society that is receiving increasing attention. This group has a low degree of socialization and is often a marginalized group of people in society, whose psychological, physiological, and social adaptability have not yet matured and are in urgent need of proper guidance and

assistance. China is in a critical period of social transformation, and the problem of juvenile delinquency is showing new characteristics and trends, which have put forward higher requirements for the articulation mechanism of judicial assistance and social assistance. On the one hand, it is necessary to further improve the judicial assistance system to ensure that minors involved in crimes are treated fairly in judicial proceedings, and at the same time provide the necessary psychological counseling, legal education, and other support. On the other hand, it is necessary to strengthen the synergistic effect of social assistance, integrating resources from the government, the community, the school, the family, and other parties to provide minors involved in crimes with all-around, multi-level help, and to promote their comprehensive rehabilitation and smooth integration into society.

As an important means of safeguarding the legitimate rights and interests of minors involved in crime and promoting their rehabilitation, judicial assistance plays an irreplaceable role in maintaining social justice and preventing recidivism. However, the unitary nature of judicial assistance often makes it difficult to fully satisfy the diverse needs of minors involved in crime, especially those long-term, deep-rooted problems closely related to mental health, education and employment, and social integration. Therefore, timely intervention and effective connection of social assistance has become the key to improving the protection system of minors and promoting their smooth return to society. Based on this, this study focuses on the articulation mechanism of judicial and social assistance for minors involved in crimes, aiming to analyze the problems and challenges of the current mechanism, draw on advanced experiences and practices at home and abroad, and put forward practical countermeasures and suggestions, to provide theoretical support and practical guidance for the improvement and development of China's work on the protection of minors. This is not only a deep concern for the fate of individual minors involved in crimes, but also a far-reaching consideration for social harmony and stability, and the country's long-term stability.

2. Literature review and analytical framework

Academic research on minors involved in crime in judicial social work can be described as multidisciplinary intervention, and the treatise is full of writings. The trend of domestic scholars' research on minors involved in crime is roughly as follows: based on the analysis of CNKI on China Knowledge Network, the number of journal literature on judicial social work has been on an overall upward trend since 2013–2018, with the phenomenon of falling back in 2017. In terms of discipline distribution, the literature is mainly concentrated in the fields of jurisprudence, sociology, social work, psychology, and education. Among them, there are more papers related to “juvenile delinquents” with “social work” as the subject term. In terms of the types of research, qualitative research is the main focus. The focus of research is mainly on the dilemma and development of judicial social work, and the mechanism of regional judicial social workers. The research topics are mainly distributed in community correction, social career, juvenile problems and crime, social investigation, conditional non-prosecution, juvenile crime, teaching methods, observation and guidance, and so on. On the whole, there has been a wealth of research on legislative safeguards, regional development models, empirical studies, and other aspects of minors involved in crimes, and there has been relatively little domestic research on the interface between judicial and social assistance, with only practical cases.

Western countries have independent juvenile justice systems, a model developed based on welfarism and the idea of state parental authority so that there is a good social consensus and legal safeguards for the

convergence of the two types of assistance. For example, the United Kingdom, Germany, France, and the United States have not only set up specific mechanisms for social investigation, case referral, and eligibility screening but also ensure that juveniles involved in crimes are eligible for both types of assistance based on the principle of “best interests of the child.” For example, under the German criminal victim assistance system, the Act on Compensation for Victims of Violent Crimes was enacted in 1976 and has been amended three times to improve the design of the system. However, Germany’s “Compensation for Victims of Violent Crimes Act” provides that the scope of compensation is mainly due to personal injury caused by the loss of property, for criminal offenses caused by direct property losses are not compensated for personal injuries caused by automobile casualties are also excluded from the compensation, and transferred to the mandatory automobile liability insurance to be compensated for. Germany’s social assistance for criminal victims is mainly not by the authorities that are responsible for carrying out, but through the spontaneous design of civil society, citizens spontaneously participate in the formation of independent civil organizations “white ring association” implementation ^[1]. For Japan’s criminal victim assistance system, in terms of compensation conditions, Japan, like Germany, does not compensate for direct property losses caused by crime. In addition, another unique feature of Japan’s victim compensation system is the statute of limitations for applying for victim benefits, which is within two years from the date of learning that the crime was committed and seven years from the date of the crime’s commission. In the area of social assistance, national legislation also provides guidance on legal norms, such as the designation of certain “crime victim support groups” as early crime victim support organizations to provide services for the protection of victims’ rights and interests in the early stages of their lives, and the enactment and publication of the “Rules for Early Crime Victims Support Groups” by the National Public Security Commission in 2002, which provide for the establishment of early crime victim support groups and the establishment of the “Crime Victim Support Groups.” In 2002, the National Public Safety Commission formulated and issued the Rules for Early Help Groups for Crime Victims, which provide guidance and regulation for the establishment and operation of early help groups for crime victims. In Japan, private victim assistance organizations are also very active, such as the Crime Victims Consultation Room established by the Tokyo Medical and Dental University in 1992. There are also private assistance organizations that specialize in certain types of crime victims, such as the Tokyo Metropolitan Women’s Counselling Centre. In addition, in 1999, several victim assistance organizations in Japan joined together to form a national organization. The National Victim Support Network (NVSN) conducts surveys and research on victim assistance nationwide ^[1]. The Swedish legal system emphasizes rehabilitation and restorative justice for minor offenders to facilitate their reintegration into society. Swedish law follows the requirements of the Convention on the Rights of the Child (CRC) and utilizes restorative justice processes such as mediation and the so-called “youth penalty”, which are primarily based on rehabilitative and humanitarian principles ^[8]. The Danish youth sanction system is similar to that of Sweden in that it tends to avoid sending minor offenders to prison, but rather to place them under the care of social authorities. South Korea, Japan, and Taiwan region have developed some experience with justice systems that provide comprehensive assistance to minor victims. These regions provide comprehensive assistance to minor victims through the promotion of “one-stop” inquiry and assistance mechanisms by prosecutors and the exploration of diversified judicial assistance initiatives ^[7]. Therefore, there is a need to further explore and improve the judicial relief system for juvenile crimes, such as the juvenile court system and the deferred prosecution system ^[15].

China’s judicial protection of minors started late but has continued to explore and improve in practice. The judicial and social assistance for minors involved in crimes does require an effective mechanism for convergence.

Such a mechanism should ensure that judicial assistance and social assistance can seamlessly connect and form a synergy to jointly promote the healthy growth and social integration of minors involved in crimes ^[6].

The establishment of the “Sunshine Helping Seedlings Judicial Care Fund” in Dadukou District, Chongqing Municipality, has provided important support for minors in distress in prosecution and crime-related cases ^[2]. However, there are still some problems with China’s legal aid for juvenile delinquency, such as the lack of legislation, insufficient coverage, shortage of financial security, and poor quality ^[3-4]. In addition, there is a problem of poor articulation between judicial assistance and legal aid ^[5]. China has not yet introduced an independent juvenile justice system, and subject to a variety of practical constraints, the articulation of the “two types of assistance” for minors shows the development of “case-based” and “regionalized” characteristics. However, the compensation system for victims in the Taiwan region is more complete, and the objects of compensation under Taiwan’s regional criminal victim assistance system are more specific and relatively narrow in scope. In the relief of minors involved in crimes, the role of social support systems such as families, schools, and communities and the mechanisms for their interaction are multifaceted. This is because the family, as the first environment in which minors grow up, has a far-reaching influence on the formation of minors’ world view, outlook on life, and values. Family support and supervision are crucial to the prevention of juvenile delinquency. Effective family education and parent-child relationships can significantly reduce the risk of juvenile delinquency ^[9-11]. In addition to this, there is a need to strengthen communication and collaboration between the procuratorate and other relevant government departments ^[12-14]. Through the establishment of a joint meeting system and a mutual recognition system, the flow of information and sharing of resources are ensured, thus improving the efficiency and effectiveness of assistance.

For judicial aid and social assistance in China, the definition level “judicial aid” concept refers to the court being exempted from litigation fees and legal aid. With the change in the social environment, the academic community should also have a positive response. In practice, at the primary level, in the formation of strong cooperation between the various sectors of the level of discussion, further development of judicial aid for minors and social assistance convergence mechanism research is of great significance. However, the current research also has a realistic dilemma, as one is unable to accurately reveal the basic connotation of the “two types of assistance” system for minors; the second is unable to systematically summarize the main components of the “two types of assistance” articulation mechanism, and the lack of trans-regional and universal research. Based on this, this paper will further explore the need for disability-accommodating services in compliance with the requirements of the mechanism, to reduce the blind spots in the focus on the targets of the assistance that should be provided and the actual needs of minors involved in crimes in a localized manner, and to advocate the principle of maximizing the well-being of the child for both the criminal suspect and the victim groups.

The subjects of the study mentioned in this paper are the group of minors involved in crime, which are cases that qualify for conditional non-prosecution within the work of the juvenile prosecutor. Based on the social investigation of the group of minors involved in crime, it is found that this group has some general characteristics. The main features are as follows: the type of crime involved is more concentrated, the number of the top five types of crime were theft, mobbing, rape, robbery, and provoking trouble; the main body of school leavers mainly, in the minors involved in the crime of the prevailing level of education is relatively low, mainly secondary school, junior high school education, and most of the minors involved in the crime of the failure to complete the mandatory education; the majority of the minors involved in the crime are men, so there is a difference in the number of minors involved in crimes by gender, with the number of male minors involved in

crimes far exceeding that of females; the form is mostly group-oriented, with minors involved in crimes often not acting individually but in groups, and one of the most obvious phenomena is that minors are jointly induced to commit crimes; the type of family is mainly concentrated in joint families, with fewer nuclear families, with less harmonious parental relations, and more reorganized families after divorce, with most living with their grandparents. This type of subjects have certain difficulties both individually and in their families, therefore, during the period of conditional non-prosecution, it is extremely crucial to strengthen the social support network and improve the social adaptability of this group, and with the end of the educational visit, the embedding of the power of social assistance is very crucial, and the power of social assistance complements the limitations of the judicial assistance, especially at the level of employment and rehabilitation, as well as the ability to adapt to the society. The power of social assistance comes from many sources and lasts for a long period, which is a positive supplement to the end of judicial assistance. This paper will use the TIE framework to study the case, after further exploration, this paper summarizes the flow chart of judicial social work services for minors, as shown in **Figure 1**.

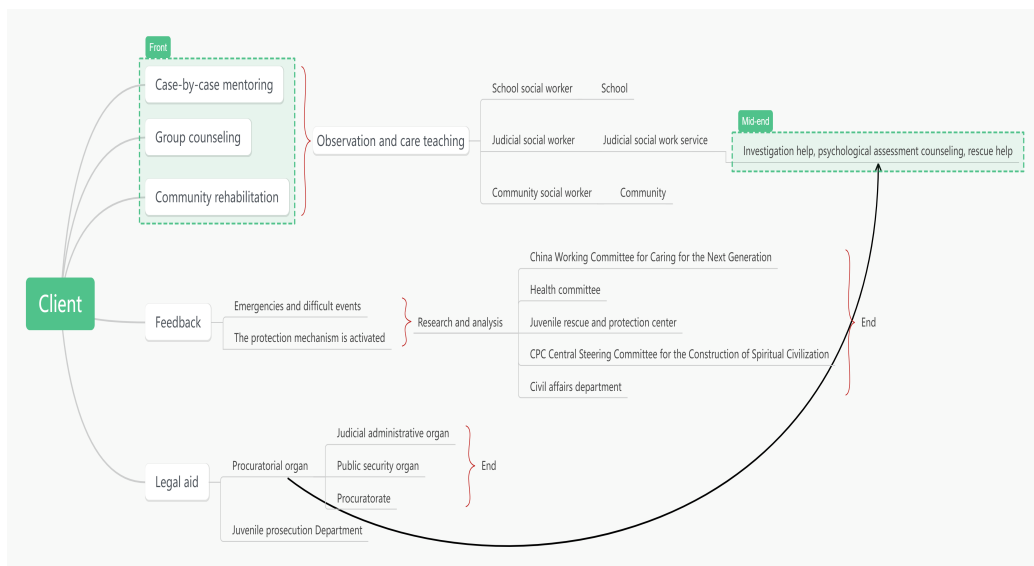


Figure 1. Flow chart of judicial social work services for minors

Based on the service process, the front-end minors' procuratorate took timely and effective assistance after the case occurred, and legal aid also belongs to the category of judicial aid at a certain level. Judicial aid is not only material aid but also effective and timely service aid is also very important. In the middle end, effective intervention services were taken for the minors involved in the crime, and in the end, the operation of a multi-party linkage mechanism was carried out to further ensure the maximization of the interests of the minors involved in the crime. The difference in services for the victims and the suspects currently has no significant difference. Research and practical experience have found that the procuratorial system can provide sufficient judicial assistance as a necessary option for operational capacity, but the assistance of the social assistance system has not formed an effective and complete database, so the effective resources for judicial assistance and follow-up social assistance have not formed a system within the procuratorial system, and thus there is a greater dilemma in further promoting the interconnection of the two effectively. Based on the case study of minors with disabilities who have been convicted of crimes under the TIE framework, it is proposed that the linkage

of judicial assistance and social assistance will have a more obvious effect on the social problem-solving and emotional and intellectual abilities of this group.

3. Conclusion

Whether in the group of victims or of suspects, it is essential to provide a service of tolerance for minors with disabilities who are involved in crimes, especially for localized children, children with disabilities who have migrated with their parents to work from abroad, who are to some extent less able to socialize and who suffer from congenital deficiencies and later deformities. They are not registered in the early stages of the system of assistance for children in distress, and when they are found to be involved in crime, they are less able to be socialized, and there is a strong phenomenon of disengagement from society so that their socialization difficulties are more pronounced. It can be seen that, for groups of minors with disabilities who are not registered in the service area, and who have not been detected in the early stages of their lives for special education and other effective interventions, effective articulation between judicial and social assistance is extremely necessary, and the establishment of a more tolerant service system is conducive to the realization of the principle of maximizing the interests of the child, and to helping groups of minors involved in lawsuits and crimes to enhance their social resilience, to prevent them from being swallowed by the marginalization of society. Under the strong synergy of multi-party linkage, further strengthening their family structure function and social welfare is a point that judicial social workers need to pay urgent attention to in the future as well.

Disclosure statement

The author declares no conflict of interest.

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