

From “Correction” to “Integration”: A Study on the Construction of a Judicial Referral Mechanism for Offending Minors

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Abstract: China’s Judicial Protection System for offending minors is developing steadily at present. However, at the end of the trial, services such as psychological counselling, education and employment assistance are often unavailable; thus, rehabilitation is delayed and people are more likely to commit new crimes. Focusing on minors aged 12–18 who have committed crimes, this paper will use a combination of literature review and case studies. Based on the theories of *parens patriae*, collaborative governance and restorative justice, this paper studies the current situation of their social reintegration and service gap problems, explores the reasons for these issues, and examines the construction of a judicial referral mechanism. According to the above studies, the reasons for this situation are the lack of comprehensive legislation, inadequate coordination among parties, and a deficit of resource integration. Set up a standardised judicial referral mechanism focused on “social integration” to connect judicial correction with social services.

Keywords: offending minors; judicial referral mechanism; service gap; resocialization; collaborative governance

1. Introduction

China’s juvenile justice system is based on the principle of “education, redemption and rescue”, and measures such as conditional non-prosecution and community service have been widely applied to handle minor offences by young people in a non-punitive way [1]. However, after the end of the judicial process, offending minors are often left without any support. The gap caused by the end of judicial correction services and the delayed commencement of social support services, in addition to the fragmentation of educational correction resources and social support in the graded intervention system for juvenile delinquency, hinders resocialisation [2,3]. Therefore, in light of the above, establishing a unified system for judicial referrals to address deficiencies in public services and improving cooperation among the judiciary and social welfare organizations are now urgent tasks.

Four representative cases were selected for this study: Pudong New Area in Shanghai, Shenzhen, Hangzhou, and Chongqing, and the problem of service discontinuity during the transition from judicial disposal to community reintegration was targeted. Based on the above literature research and multi-case comparison, the strengths and weaknesses of the current connection model have been explored from the perspectives of referral initiation, referral process, service content and supervision feedback. This paper aims to enhance the research system of the juvenile justice protection system and offer theoretical support for other studies.

2. Relevant Concepts and Theoretical Basis

This paper studies minors aged 12 to under 18 who have committed criminal acts but, due to their age or other circumstances, have been subject to conditional non-prosecution, community service, suspended sentences, etc., and are in the process of reintegrating into society after the end of the trial [1,4]. Minors are not yet mentally mature and require many kinds of care, so they are the main objects of juvenile justice protection [5].

The standard institutional system led by procuratorates, courts and judicial administrative authorities is called the judicial referral mechanism. Before the end of the judicial process, information on the offending minors and their need for help will be promptly shared with the social service department; they will work together to provide continuous care to ensure that judicial correction is effective and social reintegration is successful [6]. It is the whole process of how a referral starts and is informed.

Resocialisation refers to a process where, with the help of many sides, delinquent minors can shed the bad habits formed during their criminal acts, correct deviant behaviours and values, adjust to social norms, be readmitted by their families, schools and society, and achieve self-improvement and development.

Service gap refers to the situation after the end of judicial proceedings when judicial correction services cease, and social support services have not yet begun; thus, there is a “transitional gap” in psychological, educational, employment and family support. Thus, the delinquent minor has no one to help and no one to turn to.

Parens patriae theory is the principle that the government protects young children. Where there is no family care, the government needs to provide for the needy. Based on the above theory, a judicial referral mechanism will be introduced to continue offering assistance from the judicial and governmental departments.

Collaborative Governance Theory refers to an arrangement in which many subjects cooperate to achieve the purpose of group development; their collective will and various resources should be utilised [3]. It leads the cooperation of judicial, social, family and school actors to provide assistance.

The theory of restorative justice focuses on repairing the harm caused by the crime and promotes participation from offenders, victims, the community, etc. [7]. It is to help the minor offender reform social rules through individualised assistance in the referral system to improve their sense of belonging.

3. Current Situation of Social Reintegration of Offending Minors

3.1. Current Situation of Social Reintegration

Based on case studies in many areas, it is known that most of the minors who have been charged are between 14 and 17 years old, and the crimes they have committed are relatively minor, such as theft and assault. Many people have experienced family problems, such as a lack of guardianship or poor family education; as a result, they often display psychological issues such as low self-esteem, rebelliousness and anxiety [2,8]. The basic needs for social re-integration of these people are psychological counselling, school readmission, job assistance, family support, etc.

A Multi-Support Service System has been formed in China. The judicial authorities will carry out follow-up visits, the civil affairs and human resources and social security departments will provide employment training and temporary assistance, social work agencies will offer professional support, and cities such as Shanghai and Hangzhou have established observation and protection bases for integrated graded intervention [6,8]. However, the whole of the services is still scattered and unconnected; thus, we cannot establish an integrated help system.

3.2. Specific Manifestations of Service Gaps

The service gap is as follows: After the end of judicial proceedings, judicial correction services are suspended, but social service agencies do not have formal referral information or sufficient funds, so they are slow to provide support services. For example, in the case of a theft in Shenzhen in 2023 by a minor, Xiao Yu (pseudonym), who was 16 years old, psychological counselling and study assistance were provided to him by the procuratorate through a social worker during the six months of conditional non-prosecution probation. However, after the end of the probation period, due to a lack of a referral mechanism, the assistance was withdrawn, and Xiao Yu started skipping school and staying out late again [8].

Judicial correction is focused on behaviour norms and legal education, does not consider the personalised needs of offending minors systematically, fails to pass on need information to social service agencies, and thus offers untargeted assistance. For instance, in a district of Hangzhou in 2022, only 15 minors under community correction engaged in legal studies and community service during the correction period, were not evaluated for psychological problems, and did not have to readmitted to school. After the correction period was over, only general employment training was offered by the social service agency; it did not meet the needs of the 10 minors who wished to re-enroll and the 3 seeking psychological counseling [2].

Judicial and social service agencies do not have regular communication channels, resulting in poor transmission of important information; thus, social service agencies have “no one to contact and no one to follow up with”, and there is a problem of weak cooperation among families and schools. For example, in Shanghai in 2023, a 17-year-old minor on probation did not have his re-enrollment needs forwarded by the court after the end of probation. The school did not allow him to return due to his criminal record, and his parents were away from home and unable to look after him. The minor later reoffended for affray. In another case from a district of Chongqing in 2024, after completing community corrections, the employment needs of a 16-year-old minor were not referred by the judicial administrative department to the human resources and social security department or social work agencies. Lacking skills and a job, he again got involved in a quarrel.

The negative consequences of the above problems are as follows: Increased psychological distress—the feelings of inferiority and confusion among offending minors cannot be reduced, and they are unable to form social trust; increased risk of recidivism—according to data from a coastal area in 2021–2023, the recidivism rate of offending minors who did not receive continuous support was 18.3%, much higher than the 3.2% for those who did receive support; waste of judicial and social resources—the gains achieved in the early stage of correction cannot be utilised, leading to a vicious circle of “correction–reoffending–correction”; harm to social harmony and stability—some offending minors become hidden dangers to social governance and even form criminal groups that disrupt public order.

4. Causal Analysis of Service Gaps and Lack of a Referral Mechanism

The Law on the Protection of Minors and the Law on the Prevention of Juvenile Delinquency only provide general rules for judicial referral; they do not specify the conditions under which to make a referral, how to make it, or what rights and responsibilities are involved. Therefore, there is no legally binding basis for the referral work. In addition, there are no institutional restrictions on cooperation between the judicial and social service departments, and it is based on the will of the respective departments. In addition, there is a lack of a graded intervention system for juvenile delinquency in the country, and the scattered referral practice in various areas has irregular initiation and inconsistent standards.

Judicial authorities focus too much on “punishment over support”, ignore post-trial links, and do not have specific referral offices. There are few social service agencies, and among them, there is a lack of forensic social workers and psychological counselors. They are financed by government procurement of services. Some families have a lack of guardianship ability and educational literacy, and because schools are worried about their reputation, they discriminate against the minors who have misbehaved and refuse readmission, thus blocking their path to education.

Assistance resources are scattered among several organisations and have formed “information silos” and “resource silos”, so the actual needs of the people cannot be identified properly. At the same time, the distribution of resources is uneven; developed eastern areas have a rich supply of assistance resources, and underdeveloped central and western areas have not even formed professional social work teams yet. Although there are general employment training and legal education resources, specialised resources such as psychological counselling and family education guidance are scarce.

The public’s perception of offending minors as “criminals” is that they are contrary to the values of society, which may result in reluctance from schools and enterprises to cooperate with rehabilitation. Some local governments have been focused on suppression rather than prevention, have failed to establish a referral mechanism in their social governance system, and thus do not have the necessary funds and policy support to build such a system [9].

5. Pathways for Constructing a Judicial Referral Mechanism

5.1. Core Orientation and Guiding Principles

The way should be to shift from correction to integration, and resocialisation is the end goal. It should reduce the barrier between the judicial system and social services, offer comprehensive, ongoing and customised assistance, help young offenders reintegrate into society, and thus lower the recidivism rate.

The basis is the best interest of the minor, clear rights and obligations, accurate correspondence, joint management, etc. All work should be based on the growth needs of offending minors, clarify the responsibilities of all parties, achieve precise resource matching, strengthen multi-party cooperation, and strictly protect the privacy of minors.

5.2. Core Actors and Their Roles and Responsibilities

Procuratorates, courts and judicial administrative authorities should determine the need for referral and start the referral within 30 days before the end of the judicial process, and establish a joint meeting mechanism to coordinate multi-party assistance.

Social work agencies, psychological service organizations, observation and protection bases, etc., should carry out a secondary needs assessment within seven days of receiving referral information, develop personalised assistance plans, provide services such as psychological counselling, re-enrollment guidance and vocational training, and regularly report on the progress of services.

The civil affairs department will offer temporary care and guardianship; the education department will arrange for re-registration; the health department will provide psychological consultation and treatment; the human resources and social security department will organise vocational training and employment placement. The actors provide the policies and funds for the aid services.

The family will bear its parental responsibility and work with us to provide support and family education [10]. Schools should not turn them away, provide a re-entry path for minors who have been convicted of crimes, and work together to give them school-entry advice.

5.3. Institutional and Policy Safeguards

The Ministry of Justice and other departments will cooperate to issue the Implementation Measures for Judicial Referral of Offending Minors, and local governments will develop specific implementation rules to build a “national + local” policy system.

Expand the number of kinds of funding guarantee mechanisms and build a combined system of “special fiscal funds + government service purchases + social donations”. Assistance funds should be introduced into the fiscal budget. A professional team of forensic social workers should be formed. Build a good qualification certification system and improve the remuneration and motivation system [11].

A single platform, covering the whole country and linked at various levels, will need to integrate all kinds of assistance information, allow them to be linked and updated flexibly, and be tightly controlled in terms of access and confidentiality.

Media, communities and schools should be used to raise public awareness, reduce social discrimination and foster a correct understanding of aid. Encourage enterprises and social organisations to participate in assisting the re-education and employment of offending minors, build a comprehensive social safety net, etc.

6. Conclusions

At present, there are service gaps for delinquent minors in China at the levels of time, services and agents after they return to society. Thus, it may increase people’s sense of helplessness and drive more crime. The reasons are the incompleteness of laws and regulations, poor cooperation among various parties, lack of resource integration, social cognitive bias, and insufficient attention from the government. The first problem of the judicial referral system is that it has not been standardised. The construction of a judicial referral system for delinquent minors is a large-scale project that will be jointly undertaken by all parties and will take a long time to complete.

However, there are some deficiencies in this study; that is to say, only four developed cities are taken as cases, there is no large amount of empirical data to confirm the reduction in recidivism, and it is mainly qualitative. In the future, more research will be carried out to extend the range of geography studies and use longitudinal and mixed methods to include the subjective experiences of offending minors and front-line practitioners.

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