

From the Sentencing Recommendations' Review and Adoption to See the Pleading Guilty and Accepting Punishment System and the Reform of the Trial-Centered Litigation System

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Abstract

The essence of the inherent conflict between the Pleading Guilty and Accepting Punishment system and the Trial-Centered Reform of the Litigation System is the distribution of litigation and trial power, which is reflected in the review and adoption rate of the sentencing recommendations submitted by the procuratorates in cases involving Pleading Guilty and Accepting Punishment. Since the Pleading Guilty and Accepting Punishment system formally came into legal effect, according to the statistics from China's judicial practice, the adoption rate of sentencing recommendations by the procuratorates is far less than expected, which has led to some questions about the implementation and development of the two systems. Through the three-dimensional analysis of the conflict of powers of prosecution and trial, the author hopes to find a balance between the two values, to build a healthy interaction between prosecution and trial, to improve the rate of adoption of sentencing recommendations, and promote the implementation of the two systems further, so that make every citizen feel the fairness and justice in individual cases.

Keywords: Pleading Guilty and Accepting Punishment System, Trial-Centered Litigation System Reform, the adoption rate of sentencing recommendations, conflict of power between prosecution and trial, positive interaction between prosecution and trial

1. Elicitation of the Problem

Since the Eighteenth National Congress of the Communist Party of China, Chairman Xi has proposed that the development of a society based on the rule of law is profoundly related to the development of socialism with Chinese characteristics, elevating the development of the socialist rule of law with Chinese characteristics

to an unprecedentedly significant strategic height, and pioneeringly proposing a series of practical, systematic and scientific new theories of the rule of law thinking on the overall law-based governance. Thus, Xi's Thoughts on the Rule of Law was conceived. Xi's Thoughts on the Rule of Law inherits the rich wisdom of excellent China's legal culture, focuses on

China's current development, and needs in a new era, and is the latest achievement in the Sinification of the Marxist rule of law. It provides firm ideological leadership and a powerful theoretical guarantee for upholding law-based governance of the nation and the Party, leading China from "getting rich" to "getting strong" and thus realizing the Chinese dream of great rejuvenation.

The reform of the Trial-Centered Litigation System and the Pleading Guilty and Accepting Punishment System are major reforms of Xi's Thoughts on the Rule of Law in the field of judicial practice, reflecting the people-based philosophy of the Chinese legal system, which is consistent with the fundamental will of the people and is an essential embodiment of the Party and state laws and policies. The reform of the Trial-Centered Litigation System, the Pleading Guilty and Accepting Punishment System, and the internal connection between the two are crucial steps to fully implement Xi's Thoughts on the Rule of Law in the legal practice field.

As a result, the crucial tasks of China's current rule of law construction have been established, namely, the popularization and deepening of the reform of the Trial-Centered Litigation System and the implementation and improvement of the Pleading Guilty and Accepting Punishment System. According to its external manifestation, the Trial-Centered Litigation System emphasizes the dominance of the trial function in criminal proceedings, requires that the trial restrains, supervises, tests, and promotes the correctness and fairness of investigation and prosecution, and promotes the improvement of substantive court proceedings; on the contrary, the Pleading Guilty and Accepting Punishment System is a system in which the defendant agrees to plead guilty to a fine. On the contrary, the Pleading Guilty and Accepting Punishment System is based on the premise that the prosecuted person agrees to plead guilty to a fine. The court only reviews the voluntariness and legality of the guilty plea through negotiation between the prosecution and the defense, resulting in repeated simplification of the review process, which extends the dominance of the procuratorates from the review and prosecution stage to the entire criminal procedure stage. However, the procuratorate undertakes the procuratorial supervision function rather than the judicial function (Ruolin Tan, 2022).

Therefore, the early stages of the pilot were inundated with discussions about whether the two systems conflict.

Although, at present, the academic community has reached a consensus: the two can work together to maintain the diversion of criminal proceedings, optimize the allocation of judicial resources, pursue a higher quality of justice, and promote the modernization of the rule of law in China.

However, there is a different situation in practice. At the national level, although the rate of sentencing recommendations' adoption was once as high as 96.03% in September 2018 during the late period in the pilot areas where the Pleading Guilty and Accepting Punishment System is promoted (See Chen Guoqing, 2019). However, when the system was formally incorporated into the law, the adoption rate of sentencing recommendations fell precipitously. Even though it rebounded later, but far less than the peak period¹. Some judges even emotionally rejected the adoption of sentencing recommendations submitted by prosecutors in plea-bargained cases, and "local trial organs at all levels, to implement and expand the plea-bargained system smoothly, gave the green light to the prosecutors' sentencing recommendations, even at the expense of the trial judiciary's own statutory independent trial power" (See Wei Xiaona, 2019). For example, in the case of Beijing vs. Yu Jinping, the court of the first and second instances did not adopt the sentencing recommendations of the procuratorial organs and set out in the verdict, the conflict of power between the prosecution and the trial was brought to the fore for the first time in this way and became a problem that the parties could not avoid. The root of the conflict lies in the provisions of Article 201 of the *Criminal Procedure Law of the People's Republic of China*². This "general shall" can be said to be "a stone stirred up a thousand waves." The prosecution and the judiciary have their position, according to the formation of the "trial power concessions" and "substantive review." The "substantive review" expresses the review of plea cases, the nature of sentencing recommendations, and the power distribution between the two sides of the trial with very different views and demands (Chen Wencong & Li Fenfei, 2020). This is also a microcosm of the power conflict between the prosecution and trial.

2. Exploration of the Conflict's Essence of the Power Between the Prosecution and Trial

Exploring the essence of the conflict of powers, resolving the contradiction between the two sides, building a positive interaction mechanism, the implementation of the basic principles of division of labor, each of their duties, cooperation, and mutual restraint (Hu Yunteng, 2019), is to achieve the reforms of the Trial-Centered Litigation System and the Pleading Guilty and Accepting Punishment System of the legislative purpose of the litigation system of critical links. Many scholars have elucidated the essence of the conflict of power of the trial and pointed out the future development path. The author tries to analyze the above issues by dividing the power battle between law and prosecution through three dimensions (See Min Fengjin, 2020).

2.1 Micro Dimension: "Right to Seek Sentence" and "Right to Measure Sentence"

In China, the procuratorial organs enjoy the right to pursue the criminal responsibility of the offender, the right to initiate public prosecution, and the power to implement legal supervision in accordance with the law. Regarding the power of public prosecution, which is the core of the ability to seek punishment, the procuratorial organs can request the trial authorities to convict and sentence according to the law (See Yang Yuguan & Wang Yang, 2019). According to Article 128³ and Article 131⁴ of the *Constitution of the People's Republic of China*, the judiciary in China is the court, which independently exercises the judiciary power according to the law, including the power to convict and the power to impose sentences independently. The power of sentencing means that the courts, in accordance with the substantive law, decide whether to impose a penalty on the defendant, the type and amount of the sentence, and the period and time of execution, based on the determination that a crime has been committed. The courts enjoy discretionary power within the sentencing range of the substantive criminal law in accordance with the law.

The provision of Article 201 of the *Criminal Procedure Law of the People's Republic of China*, whether it is an encroachment of the procuratorial authority on the sentencing authority of the judiciary, has aroused thoughts and debates from all walks of life in the early stage of the development of the sentencing

recommendation system. In the article, the word "shall" reflect the binding force, not a command binding legal, and will not infringe on the courts' right to an independent trial. The author only emphasizes that the judiciary should give respect and recognition to the procedural agreement of the procuratorates, and the Party being prosecuted within the framework of the law, i.e., the plea of guilty and punishment (See Bian Jianlin, 2019). In addition, the legislator also qualified "shall" as "general" in this article, which shows that, in addition to the five statutory "exceptions," this means that the judiciary is not a formal "stamp" on the sentencing recommendation but can independently and fully exercise its free sentencing power granted by law.

How do we balance the prosecutorial authority's right to seek sentences and the sentencing authority's right to judge and achieve common goals? How do we strike a reasonable balance between the procuratorates' precise sentencing recommendations and judges' sentencing power? Professor Bian Jianlin answered these two questions: First, according to the relevant legal provisions of China's plea cases, after the trial, the sentencing recommendation is obviously inappropriate. The court can make a verdict according to the law. Secondly, whether the trial authority adopts the sentencing recommendations of the procuratorates is not related to its ability to exercise its independent authority (See Bian Jianlin, 2019). First, based on the mutual restraint requirements of the various organs of criminal litigation, as well as the pretrial dominance of the prosecution in criminal proceedings and the principle of trial-centered litigation, time and space listed in the post-criminal process organs have the right to exercise veto power over the judgment of the previous organs (Yin Wei, 2021). Secondly, from the analysis of basic litigation jurisprudence, the prosecution's right of public prosecution connotes the right to request a conviction and the right to recommend a sentence (the right to seek a penalty) is itself only a right to request (Hu Yunteng, 2018), and the right to judge will necessarily respond to the right to request.

2.2 Meso-Dimension: "Substantive Power" and "Procedural Power"

Based on our discussion above, it is clear that, as a rule, the sentencing recommendation power of the procuratorates belongs to the purely procedural power, while to some extent, in the

application of the Pleading Guilty and Accepting Punishment System, the procuratorates to exercise the sentencing recommendation power, reflecting the consultation and agreement between the prosecution and the defense, manifesting judicial credibility, the final sentence of the defendant has a special binding substantive power. Sentencing recommendations as a commitment to reduce the sentence, involving the substantive content of the criminal prosecution, are based on the prosecutor's plea of guilty and punishment acceptance. Whether the sentencing recommendations of the procuratorates are adopted by the judiciary, i.e., whether the judiciary affirms the litigation agreement reached between the procuratorates and the prosecuted person, will affect whether the procuratorates can fulfill the commitment to plead guilty to lenient punishment and, in turn, will also be related to whether the judicial credibility of the plea leniency system can be established in each case. Therefore, from the standpoint of the prosecutors, supporters of the plea leniency system generally believe that, to support the reform of the national judicial system and to protect the prosecuted person's right to procedural choice and substantive disposition, it is necessary for the court to accept the sentencing agreement reached between the charged person and the prosecutor's office based on the Pleading Guilty and Accepting Punishment System, unless the form or substance is found to be inconsistent.

However, the trial court opposed this. The judiciary argued that the prosecutors' right to seek a sentence is essentially a procedural power that should not be opposed to, and cannot be opposed to, the substantive authority of the judiciary—the right to impose a sentence. Suppose the prosecution, as a party to the criminal proceedings, can determine the verdict on the merits. In that case, it will undoubtedly infringe upon the court's right to adjudicate and will likely lead to damage to the public interest and the public's basis of trust in the law.

2.3 Macro Dimension: "Leading Role of Prosecution" and "Trial-Centeredness"

China has long been in a more powerful position in the judiciary, and the litigation stage before the transfer of review and prosecution is almost without the court. Since the integration of arrest and prosecution reform, the pretrial dominance of the procuratorates has expanded almost to the

extreme. In judicial cases where the Pleading Guilty and Accepting Punishment System is applied, the discretionary power of the procuratorates and the power to recommend sentences are subject to the legislative provision of "generally shall be adopted," further expanding the dominant position of the procuratorates to the trial stage. Some judges see such prosecutorial dominance as a challenge to the reform of the Trial-Centered Litigation System and have expressed dissatisfaction by refusing to adopt sentencing recommendations. At the same time, some prosecutors are concerned that if the sentencing recommendation is rejected by the judge unless the court's decision to determine the penalty is the wrong attitude (Zhang Guoxuan, 2018), then the "consensual" contract between the prosecution and the defense will be broken, their prosecutorial authority is shaken. Therefore, on the one hand, this may lead to case defendants' appeal and increase the burden of litigation. On the other hand, this will also affect the other prosecuted to apply the Pleading Guilty and Accepting Punishment System, so that the Pleading Guilty and Accepting Punishment System from the legislative purpose—the diversion of proceedings, optimizing the allocation of judicial resources, cannot be achieved.

The judiciary should have a correct understanding of the connotation of "trial-centered": it emphasizes that, on the premise of clear facts and sufficient evidence, the trial should be substantive to ensure the quality of the case. Procuratorial leadership and "Trial-Centered" is inherently consistent, strict implementation of the procuratorial administration, so that "simple from simple, complex from complex," so that the facts and evidence of significant, difficult, and complex cases can withstand the test of the court, to ensure that the substantive trial. The company's primary goal is to make the facts and evidence of significant, challenging, and complex cases stand up to the test of the court, ensure the trial's materialization, and promote the "Trial-Centered" litigation system reform.⁵

In addition, "Trial-Centered" does not mean that the judiciary's judicial power is not subject to supervision. See Article 134 of the *Constitution of the People's Republic of China*⁶, which states that legal supervision is another vital function of the procuratorial organs. Therefore, in cases

involved in the Pleading Guilty and Accepting Punishment System, the sentencing recommendations of the procuratorates are also an essential basis for the legal supervision of the judicial decisions of the courts. Under the Trial-Oriented Litigation System, the procuratorial organs perform the functions assigned to them by the *Constitution of the People's Republic of China* and the law to promote the implementation and improvement of the Pleading Guilty and Accepting Punishment System.

3. Establishment of the Benign Interaction Between the Trial and the Litigation

Reconcile the conflict of power between the prosecution and the trial, in the "prosecution-led" and "trial-center" to find a "mutually beneficial" value balance point. The establishment of positive interaction between the trial, is not only to expand the implementation of the Pleading Guilty and Accepting Punishment System is a must, but also to promote the reform of the Trial-Centered Litigation System to provide the necessary impetus.

3.1 *The Need for Positive Interaction Between the Prosecution and the Trial*

The positive interaction between prosecution and trial is manifested in legal practice in the form of positive interaction between sentencing recommendations and judicial decisions. How can the procuratorates eliminate the concerns of the trial authorities that the procuratorates may interfere with the exercise of their discretionary powers? The author believes that the procuratorates can solve this problem by improving the science and accuracy of precise sentencing recommendations, which will increase the probability that trial officials will adopt sentencing recommendations (See Yang Yuguan & Wang Yang, 2019).

3.2 *The Development of the Idea of Benign Interaction Between the Trial*

3.2.1 The Quality of the "Sentencing Recommendations" of the Prosecutors' Office to Improve

Firstly, the establishment and implementation of a unified standard of "sentencing" recognized by both the prosecution and the law. Currently, the highest judicial authorities have not set suitable operational standards for sentencing recommendations in plea cases, so many

prosecutors' sentencing recommendations are "different in the same case" in practice. In addition, the procuratorial and trial authorities on both sides of the "sentencing proposal are clearly improper" understanding also exists more significant differences. In this regard, the author puts forward two proposals: First, the procuratorial organs at all levels, and the establishment of standardized and unified sentencing guidelines. Second, the Supreme Procuratorate and the Supreme Court strengthen communication and promote the application of sentencing recommendations to gradually expand to more crimes and types of penalties (Guo Guoqian, 2020).

Secondly, the innovation of communication and coordination mechanism between the two sides of the trial, can be explored in due course for the judge to intervene in advance in the sentencing consultation system between the prosecution and the defense. The prosecution and the law itself should work with each other, rather than each in the wave of reform of the criminal procedure system to emphasize their leading role or is the center of the position, rather than strengthen communication, coordination, flexible adjustment, improve sentencing recommendations, enhance the legal, reasonable sentencing recommendations are adopted, to further promote the Pleading Guilty and Accepting Punishment System and the reform of the Trial-Centered Litigation System is carried out smoothly.

Once again, enhance the legal documents of the prosecution and trial of the reasoning. Legal documents for reasoned dialogue, the primary content of criminal justice practice, is also an essential part of criminal justice. However, for a long time, China's criminal justice is more biased in the enumeration of evidence, ignores the reasoning, and dilutes the theoretical underpinnings of criminal justice. The lack of sense in legal documents has become an essential factor affecting the practical application of the Pleading Guilty and Accepting Punishment System and even the development of the entire criminal justice system (Han Yi, 2021). Currently, China's trial authorities will be in the legal instruments to make a detailed elaboration on whether to adopt the sentencing recommendations, the final verdict results, and how much deviation from the sentencing recommendations. On the contrary, many prosecutors and procuratorial organs in the

sentencing recommendations, often lack the applicable law and the basis for the description, not to mention the specific reasons for using different sentencing recommendations. In the future, the procuratorates can be based on the form of sentencing recommendations for “determining the sentence” sentencing recommendations for “rigid reasoning,” while other sentencing recommendations can be taken the form of “weak reasoning” (See Li Dian & Fan Huazhong, 2015).

3.2.2 Procedural Regulation of “Legal Judgment” by the Judiciary

First, the judiciary should strictly fulfill the obligation to notify the prosecuted and the obligation to inform the procuratorates. The trial authority’s “judgment according to law” means the termination of the most critical part of the plea bargaining between the prosecution and the defense—the “sentencing range of the penalty.” To respect the status of the subject of the lawsuit and reduce the possibility of appeal, the judge must inform the defendant of the change in full and in detail (See Li Qian, 2018). Some scholars even suggested that if the court “according to law,” the penalty may be heavier than the proposed sentence, the accused should be notified of the right to withdraw the plea, and the “plea agreement” and other statements made during the consultation period, except for the accused expressly expressed voluntary application, shall not be used as evidence of conviction and sentencing (See Sun Changyong, 2021). In addition, the author believes that the “Guidance” implies that the judge informs the prosecutor’s office to make one adjustment as a prior system. According to the requirements of the “Guidance,” the trial organ, after hearing the sentencing recommendations made by the procuratorates that it is clearly improper⁷, should be fulfilled to inform the procuratorates to adjust the sentencing recommendations based on its hearing, the procuratorates refused to adjust, or the trial organ that the adjustment is still clearly improper, should be directed according to the law. In the performance of the duty to inform, the trial authority has three points to note: first, they should promptly notify the procuratorates. Second, they should allow sufficient time for the procuratorates to adjust the sentencing recommendations. Third, with reference to the customary criminal procedure law, they should take written form to inform the procuratorates, and briefly explain and explain

the reasons for the need to adjust the sentencing recommendations, if necessary, can be accompanied by the judge’s recommendations.

Second, the trial authority should listen to the views of all parties. If the court, after reviewing, that the prosecutor’s sentencing recommendations are improper, regardless of the degree of “improper,” to “sentence according to law,” should listen to the views of both the prosecution and the defense, as well as other stakeholders, including the victim. Especially when the court’s proposed sentence is heavier than the proposed sentence, ensure that the prosecutor and his defense attorney adjust the sentencing opinion promptly to express their views.

Third, the trial authority should initiate the conversion of procedures or procedural corrections. According to the *Guidance*, if the defendant does not agree to continue to apply the “expedited procedure” or “summary procedure” during the trial, it should be converted to “ordinary procedure.” However, the *Guidance* does not specify whether the prosecutor’s recommendation to adjust the sentence needs to be converted to proceedings. The current academic community has not reached a consensus on this issue. The author agrees with the view that if the court refuses to adopt the sentencing recommendations made by the procuratorates, the procedure can be considered for correction, so that the two sides can go through the “ordinary procedures” of the trial, the facts of the case, the evidence for robust geological evidence and debate (See Li Fenfei, 2020).

3.2.3 Prosecutorial Modesty of the Defendant’s Appeal

In China’s current judicial practice, some prosecuted persons still apply the plea system of leniency in accordance with the law and appeal again after the first trial. Among them, only a small number of the prosecuted persons appealed for “technical appeal” to delay the proceedings. In contrast, without new facts and evidence, most indicted persons simply pleaded for an “excessive sentence” (See Han Xu, 2020). Usually, the prosecutors’ office will file a protest in response to such “reversal” appeals. In this type of protest, the prosecutor is fighting a defendant who has acted in bad faith, not a court that has ruled incorrectly. Thus, a protest in such cases is essentially an extraordinary

appeal against the person being prosecuted, rather than a protest in the general theory of criminal procedure (See Wang Yang, 2019). Although the accused who pleaded guilty and punished is to concede part of the procedural rights in exchange for the preferential rights of the entity, that is, their right to appeal is limited, which is in line with the inherent requirements of the Pleading Guilty and Accepting Punishment System and is not contrary to the requirements and laws of the reform of the Trial-Centered Litigation System (See Sun Changyong, 2019). However, at present, China's legislation has not yet been the procuratorates attempt to deprive the defendant of the sentencing preferences after the first trial, through a protest, which is a disguised deprivation of the defendant's legal right to appeal, which is a naked violation of the legitimate rights of citizens and can even shake the credibility of the judiciary and undermine its authority (See Liang Jian & Lu Rifang, 2020). Therefore, the procuratorates must maintain modesty in the initiation of protest procedures. The court of the second instance, as the last procedural controller, should follow the principle of modesty to help the procuratorates indeed play the role of criminal procedure diversion to achieve the expected effect of the reform of the Trial-Centered Litigation System under the background of the Pleading Guilty and Accepting Punishment System.

4. Conclusion

The prosecution as the leading position of the Pleading Guilty and Accepting Punishment System and the reform of the Trial-Centered Litigation System is China's current judicial reform; at the same time to promote two important initiatives, is Xi's Thoughts on the Rule of Law in the field of judicial practice is an important footing. The correct understanding of the connotation and substantive connection between the Pleading Guilty and Accepting Punishment System and the reform of the Trial-Centered Litigation System is essential to correctly grasp the relationship between the rule of law and reform. The correct understanding and handling of the distribution of the power pattern of prosecution and trial is the accurate understanding of the Pleading Guilty and Accepting Punishment System. The reform of the Trial-Centered Litigation System is a critical breakthrough in reforming the litigation system of the connotation and internal linkage.

The establishment of "procuratorial dominance" is not an expansion of the procuratorial authority to prosecute and seek punishment. Still a need for the procuratorates to assume more procedural responsibilities in criminal proceedings, including diversion. This is because leniency means that the prosecuted person receives preferential sentencing under substantive criminal law and procedural leniency, including adopting lighter coercive measures and simplifying criminal procedures. This can save limited judicial resources to a certain extent.

The reform of the Trial-Centered Litigation System is not the same as emphasizing the trial-centered. The legislator is hoping to change the traditional investigation-centered backward litigation system in China through the reform of the litigation system, to complete the reconstruction of the litigation process around the trial, the implementation of the trial substantiation, to achieve the trial of the investigation, public prosecutions, etc. The effective control and supervision of pretrial procedures to improve the quality of the case. This reform will undoubtedly require the state to allocate more judicial resources to the trial of ordinary procedures, and the task of optimizing the allocation of judicial resources is imminent. The importance of the Pleading Guilty and Accepting Punishment System for the reform of the Trial-Centered Litigation System is obvious.

If the relationship between the two systems cannot be correctly viewed, to find the "prosecution-led" and "trial-centered" seemingly contradictory root cause the distribution of the trial power pattern, through the two sides' mutually beneficial cooperation to eliminate these conflicts, China's plea cases will not improve the adoption rate of sentencing recommendations. In the long run, it may become a plea system to enhance the implementation of constraints. If we can't make "the simple from the simple," then how do we take out the leading energy from the limited judicial resources to deal with "the complex from the complex" of the major trial tasks? In this way, the criminal procedure system's realization of the Trial-Centered Litigation System will only become empty talk.

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¹ See data released by Chen Guoqing, deputy procurator general of the Supreme People's Procuratorate, at a press conference on the accurate application of the leniency system for pleading guilty and accepting punishment, reported on October 24, 2019.

² Article 201 of the *Criminal Procedure Law of the People's Republic of China*: For a case where the defendant admits guilt and accepts punishment, the people's court shall, when rendering a judgment in accordance with the law, generally adopt the charges filed by and sentencing recommendation from the people's procuratorate, except under any of the following circumstances:

- (1) The conduct of the defendant does not constitute a crime or the defendant shall not be held criminally liable.
- (2) The defendant admits guilt and accepts punishment against his or her will.
- (3) The defendant denies the facts of the crime which he or she is charged with.
- (4) The charges filed are inconsistent with those determined at trial.
- (5) The fair trial of the case may be otherwise affected. Where, after trial, the people's court holds that

the sentencing recommendation is evidently inappropriate or the defendant or defender raises any objection to the sentencing recommendation, the people's procuratorate may amend the sentencing recommendation. If the people's procuratorate fails to amend the sentencing recommendation or the sentencing recommendation is still evidently inappropriate after amendment, the people's court shall render a judgment in accordance with the law.

³ Article 128 of the *Constitution of the People's Republic of China*: The people's courts of the People's Republic of China are the judicial organs of the state.

⁴ Article 131 of the *Constitution of the People's Republic of China*: The people's courts exercise judicial power independently, in accordance with the provisions of the law, and are not subject to interference by any administrative organ, public organization or individual.

⁵ See the November 2019 Supreme Prosecutor's Plea and Punishment Leniency System Prosecution and Law Training Course with Supreme Prosecutor General Zhang Jun, Supreme Court Vice President Jiang Wei, and renowned criminal defense lawyer Tian Wenchang.

⁶ Article 134 of the *Constitution of the People's Republic of China*: The people's procuratorates of the People's Republic of China are state organs for legal supervision.

⁷ The author believes that, although the guidance does not clearly indicate how to deal with the improper situation below the degree of clearly improper, but according to logical reasoning, it is more appropriate to refer to the clearly improper processing of a notice adjustment.