

Focus on the case study of social investigation of juvenile criminal cases by judicial social workers

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How to cite this paper: Chen, Y. H., Li, H., & Zhang, S. S. (2025). Focus on the case study of social investigation of juvenile criminal cases by judicial social workers. Law and Humanities, 1(2), 1–8. ISSN Print: 3079-5117; ISSN Online: 3079-5125.
<https://doi.org/10.63313/LH.9010>

Published: 2025-06-10

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Abstract

Through the analysis of typical cases, this paper discusses the practice and effect of judicial social workers' intervention in the social investigation of juvenile criminal cases. First of all, it introduces the basic case that Xiao Wen was conditionally not prosecuted for attempted robbery after quarreling with his father and investigated by judicial social workers, as well as the analysis of the family, the causes of crime, the need to return to society and other issues. Then it expounds the process of assistance and education involved by judicial social workers, including accepting entrustment, background investigation and writing reports. At the same time, it points out that there are some problems in the process of intervention, such as the lack of participation of judicial social workers, the problem of qualification assurance, and the evaluation of social investigation reports. On this basis, the paper puts forward the improvement path, including strengthening the team construction, improving the professional level and enhancing the effectiveness of social investigation report, aiming to improve the judicial social workers' involvement in the social investigation of juvenile criminal cases, and provide reference for the prevention and control of juvenile crime.

Keywords

Minors; Social Survey; Judicial Social Workers; Help And Education Mode

1. Introduction

Under the principle of "education first, punishment second", how to conduct social investigation on juvenile offenders has become a matter of great concern. Judicial social workers (hereinafter referred to as judicial social workers) as an important link between the judiciary and juvenile criminal groups, their participation in social investigation is particularly critical. The "several provisions of the court on the trial of juvenile criminal cases" issued in 2000 made it clear that social groups can be the subject of social investigation. In 2018, the Supreme People's Procuratorate and the Central Committee of the Communist Youth League signed the joint cooperation

framework agreement on building a social support system for juvenile procuratorial work, which proposed the content and path of professional social workers' participation in juvenile procuratorial work. The establishment of this legal level has laid a solid foundation for judicial social workers' deep involvement in the social investigation system of juvenile criminal cases. This paper takes the case of minors who first set foot in crime as an example, sorts out the actual operation mode and process of judicial social workers' intervention in the social investigation of juvenile criminal cases, and tries to analyze the effect of judicial social workers' intervention in social investigation from a more specific perspective, showing the important role of judicial social work as an important social investigation subject in the work of helping and educating minors, in order to provide beneficial reference and Enlightenment for the prevention and control of juvenile crime.

2. Case introduction and problem analysis

2.1. Basic case

Xiaowen (a pseudonym), male, Han nationality, was under the age of 18 at the time of the crime. After a heated argument with his father over his study problems, Xiao Wen ran away from home in anger. He was penniless and committed robbery on the roadside. Under the influence of tension and panic, Xiao Wen, who first set foot in the crime, failed to carry out the robbery successfully. Instead, he was subdued by the victim and then sent to the public security organ. After completing the investigation and handling procedures of the case according to law, the public security organ shall submit the case file to the procuratorate. The prosecutor collected Xiaowen's information. Considering that Xiaowen is a minor and has no bad behavior and no bad contacts at ordinary times, he finally made a conditional decision not to prosecute Xiaowen and entrusted judicial social workers to investigate him for half a year. Six months later, the judicial social worker will give a social investigation report, and the procuratorate will finally decide whether to prosecute Xiao Wen.

2.2. Problem analysis

Xiaowen's family structure is simple, and family education belongs to the traditional "strict father and loving mother" mode, which is more inclined to the "autocratic" family. Xiaowen's father is in a leading position in Xiaowen's education, and the education method is quite tough and strict. And because his father's own cultural level is limited, he has high expectations for Xiao Wen's academic performance. However, Xiao Wen's father, while paying attention to Xiao Wen's academic achievements, ignored the care and cultivation of his mental health.

2.2.1. Analysis of the cause of the crime of the principal.

When collecting relevant information, the judicial social workers have a preliminary

understanding of Xiaowen and his family, and summed up the main reasons for Xiaowen's crime as follows.

First, the legal consciousness is weak, and there is a fluke criminal psychology. When Xiaowen described the robbery process to the judicial social workers, he said that he did not understand the provisions of the law, and even did not seriously consider whether the act touched the boundaries of the law before committing the criminal act. Xiao Wen chose men in the robbery process, and had no intention of deliberately hurting others, but hoped to get some money through verbal threats. However, this act of obtaining property by illegal means has constituted a crime even if it does not cause actual harm. Xiaowen has no basic cognition about whether his behavior constitutes a crime, nor does he foresee that his behavior will bring serious social consequences, including possible punishment and social condemnation. Second, there are problems in Xiaowen's family education. Parents' education and guidance of Xiaowen are not sufficient, and the family upbringing style tends to be "autocratic". This "authoritarian" parenting style can easily lead to children's rebellious psychology, making it more difficult for them to accept parents' opinions and suggestions. At school, Xiao Wen needs to face heavy study and fierce competition, which makes him feel anxious and tired. After returning home, he had to face his "authoritarian" father, which made him more reluctant to communicate with his parents.

2.2.2. Return to social demand analysis.

First, the case owner needs to be re socialized. [1] After the incident, Xiaowen was detained in the detention center for more than ten days. The detention life in the detention center made Xiaowen deeply feel the pain of losing his freedom, made him aware of the serious consequences of breaking the law and crime, and also enhanced Xiaowen's legal consciousness and legal concept. Second, the case owner has the need to correct the wrong cognition. At the time of the crime, Xiaowen did not use violent robbery, but used words to threaten others to hand over money. He did not know that his behavior had constituted a crime, his legal consciousness was weak, and he had a fluke mentality. Correcting Xiao Wen's misconceptions is an important link to prevent him from committing a crime again. Third, enhance the needs of parents' education. In this case, Xiaowen's family is complete, but Xiaowen lacks communication with his parents on weekdays. In addition, he is in the intense learning stage of high school. His father is strict with him, and the way of discipline is simple and rough, while his mother's role in Xiaowen's education is very little. It can be seen that Xiaowen's parents lack effective education for Xiaowen. A good family relationship can enhance the sense of belonging to the family and social responsibility of the case owner.

3. Working process of social investigation

3.1. Accepting entrustment

In the process of case review and prosecution, the procuratorate introduced professional judicial and social workers, entrusted Xiao Wen's social investigation work to the local judicial and social work service institutions, achieved full coverage of minors and guardians who entered the judicial process, and built a "1+1+n" workflow, that is, 1 prosecutor+1 judicial and social worker+n services for a case. At this stage, after accepting the letter of entrustment for social investigation, judicial social workers should ensure that the social investigation work is completed within the specified time, and timely submit detailed and accurate social investigation reports to support the smooth progress of the judicial process. [2]

3.2. Background investigation

After accepting the entrustment, the judicial social worker contacted and confirmed the respondent Xiao Wen's home address. By observing his living environment and conducting comprehensive communication with neighbors, classmates, teachers, etc., he could fully understand Xiao Wen's family and social relations, neighborhood relations, social exchanges, etc., and ensure the authenticity of the social investigation. The judicial social worker conducted a chat interview with Xiaowen to establish a trust relationship with Xiaowen. Through in-depth exchanges with Xiaowen and his family, the judicial social workers found that Xiaowen was withdrawn, backward in academic performance, and lacked communication with his parents, but he was kind-hearted.

3.3. Report writing

In the process of writing the report, the principle of taking facts as the basis and the law as the criterion is strictly followed to ensure the objectivity and impartiality of the content. At the same time, in the formation of the investigation report, through the in-depth analysis of the collected data, this paper evaluates Xiao Wen's family situation, psychological status and the reasons for the crime, and predicts his risk of recidivism and the possibility of returning to society. Write a social investigation report based on the analysis and evaluation results. The report should fully respect Xiaowen's willingness to express and the true situation, and ensure that the content is true and objective.

3.4. Hearing report

After the completion of the social investigation of this case, the procuratorate held a closed hearing on Xiaowen's criminal case. The judicial social workers reported the results of the social investigation at the meeting. After fully listening to the facts of the case and the opinions of all parties, the defenders, representatives of the investigation organ and the hearing staff agreed with the Procuratorate's decision not to prosecute Xiaowen conditionally.

4. Problems in the process of social investigation

4.1. Insufficient participation of judicial social workers

Judicial social work is an important force for the judicial organs to carry out social investigation on juvenile offenders. Although the construction of juvenile procuratorial social support system has achieved some results in recent years, compared with the development and demand of juvenile judicial protection, there is still a lack of professional strength. The judicial social work team as a whole started late, and some places lack professional judicial social work and psychological counseling and other professional forces, resulting in the inability to meet professional needs or poor service effect. [3] From the practical experience of provinces and cities across the country, although the public security organs and legal institutions have cooperated with social forces in the social investigation of minors, the institutionalization and standardization of cooperation are still insufficient, and the synergy of collaborative work has not yet formed. For example, the cooperation may only be temporary based on a specific case, without forming a systematic workflow and division of responsibilities.

4.2. The problem of ensuring the qualification of judicial social workers

Judicial social workers are different from ordinary youth social workers. The service objects are minors involved in crime. Social workers need to have a certain theoretical basis of law, psychology and sociology, and have higher requirements for the professionalism of social workers. At present, China's laws and regulations do not clearly require the social forces involved in juvenile justice to have what conditions, the qualification guarantee of judicial social workers involved in social investigation is lack of powerful system design, and the legal status and related rights and obligations of judicial social workers can not be effectively solved. In practice, some judicial social workers have been questioned by the identity of the social relations person of the case owner and refused to cooperate with the investigation because they were unable to produce legal identity certificates during the social investigation. This not only seriously affects the work efficiency of judicial social workers, but also poses a potential threat to the fairness and effectiveness of judicial procedures.

4.3. The evaluation of social investigation report

The social investigation report is an important reference for judicial decision-making. As the development of judicial social work is in the exploratory stage, it is lack of professional talents with certain practical experience and strong practical ability. [2] At the same time, due to the urgent time arrangement and the shortage of funds, the social investigation reports prepared often show the characteristics of modularization, lack of in-depth analysis and detailed research on the criminal psychology of minors, and fail to put forward practical suggestions. To a certain extent, this weakens the "penalty individualization" function of the social investigation

report and affects its practical utility in judicial decision-making.

5. The improvement path of social investigation

5.1. Strengthening the team construction of judicial social workers

Necessary personnel are the basic guarantee for carrying out the work. In view of this, it is particularly important to build a "professional judicial social work talent team", which is not only a useful supplement to the existing legal profession system with judges, prosecutors, lawyers and notaries as the core, but also an important measure to promote the socialization and specialization of judicial work. Procuratorial organs should actively create a new case handling mode of "prosecutors+judicial social workers". Specifically, the procuratorial organ can formally hire judicial social workers to participate in social investigation by means of government purchase of services, and implement the basic requirement of "having special personnel to do" to ensure the professionalism and accuracy of social investigation, and also ensure the stability of judicial social workers engaged in social investigation. In addition, a professional judicial social worker talent pool should be established. When it is necessary to conduct social investigation on minors, qualified judicial social workers can be quickly transferred to take charge of relevant work, so as to further strengthen the judicial protection of minors.

5.2. Strengthening the professional level of judicial social work

Just because the nature of judicial social workers is different from that of ordinary social workers, judicial social workers should not only let the case owner feel the care from the society, but also reflect the seriousness of national laws. Therefore, the professional ability of judicial social workers will have a direct impact on the effect of judicial services. In order to promote the development of judicial social work in the direction of specialization, first of all, we should clarify the relevant legal norms of judicial social work, so that the professionalization and professionalization of judicial social work will have rules to follow, and the rights and obligations of judicial social workers will also be effectively guaranteed, so as to stimulate the work enthusiasm and professional belonging of judicial social workers. Secondly, it is necessary to clarify the entry conditions of judicial social workers to ensure that they have the necessary professional qualifications and qualities. Specifically, judicial social workers need to have social work majors, obtain social work certificates, and have more than two years of social work experience. After entry, they should strengthen the study of sociology, psychology, Criminology and other basic knowledge to ensure the specialization of judicial social work. [4] Finally, we must strengthen the training mechanism of judicial social workers, and help them improve their professional ability and legal literacy by regularly inviting legal professionals to carry out professional training for judicial social workers, so as to better

meet the needs of judicial service.

5.3. Strengthening the effectiveness of social investigation report

First, promote the objectivity and professionalism of the report. The judicial society is a neutral third-party organization. When collecting the social information of the case owner, it should follow scientific methods and procedures to ensure the accuracy and reliability of the data and avoid subjective assumptions. Secondly, strengthen the role of analysis and argumentation in the social investigation report, and strengthen the persuasiveness of the conclusion of the social investigation report. Because judicial social workers also have the corresponding legal knowledge, the logic between the specific content of the social investigation report prepared by judicial social workers and the investigation conclusion must be self consistent. The social investigation report should not only be conclusive language, but also analyze and explain the important facts of juvenile suspects and defendants. [5] Finally, the social investigation report should focus on whether it objectively and comprehensively reflects the personality characteristics of minors, the performance before and after the implementation of crime and other reasons leading to minors' going to crime.

5.4. Promote multi-party collaboration and resource integration

The involvement of judicial social workers in the social investigation of juvenile criminal cases is not carried out in isolation. It needs to cooperate with various parties and integrate various resources. On the one hand, we should strengthen the in-depth cooperation between judicial social workers and judicial organs such as public security organs, procuratorial organs and the judiciary. Establish a regular communication mechanism, such as holding regular joint meetings to share the case information, social investigation progress and help and education results of minors involved in crime, so that the judicial organs can better make accurate judicial decisions based on the social investigation report, and the judicial social workers can also timely obtain the requirements and feedback in the judicial procedure, so as to improve the pertinence of the work. On the other hand, integrate social resources. Actively establish cooperative relations with schools, communities, volunteer organizations, etc.[6], and build a diversified platform for helping and educating minors involved in crime. For example, schools can provide academic counseling and career planning guidance, communities can organize public welfare activities and social practice to help them re socialize, and volunteer organizations can arrange one-on-one help and companionship. At the same time, we should integrate financial resources, strive for special financial support from the government, social charitable donations, etc., provide sufficient financial support for the work of judicial social workers, which can be used for training improvement, service expansion, psychological counseling tool purchase, etc., comprehensively promote the effective devel-

opment of Judicial Social workers' involvement in the social investigation of juvenile criminal cases, and improve the overall effect of assistance and education and social influence.

6. Conclusion

In recent years, with the humanized treatment of juvenile justice issues, the importance of juvenile social investigation has become increasingly prominent. The judicial society is a professional with dual knowledge background of law and social work. It has unique advantages to intervene in the social investigation of minors, and the judicial department also has corresponding demands. Through the in-depth analysis of Xiaowen, a typical case, this paper shows the actual operation process, many difficulties faced by judicial social workers in this process, and its key role in the work of helping and educating minors. Furthermore, this paper puts forward some suggestions to improve the judicial social workers' involvement in the social investigation of juvenile criminal cases, in order to gradually make up for the shortcomings of the current judicial social workers' involvement in the social investigation system of minors, so that it can truly become an indispensable solid force in the juvenile justice system, and play a more active and far-reaching role in preventing juvenile delinquency and promoting the smooth return of minors to society.

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