Social Sciences and Humanities
ISSN Print: 3104-4328
ISSN Online: 3104-4336
CD ISSN: 3104-4344
https://doi.org/10.63313/SSH.9024

Research on the Challenges and Optimization Path of Criminal Evidence Standards

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How to cite this paper: Shi, J. Y. (2025). Research on the Challenges and Optimization Path of Criminal Evidence Standards. Social Sciences and Humanities, 1(3), 27-34. ISSN Print: 3104-4328; ISSN Online: 3104-4336.
https://doi.org/10.63313/SSH.9024
Published: 2025-08-29

Abstract

The criminal evidence standard is a judicial tool established to implement the provisions of criminal law and resolve the issue of evidence deficiency. Its core concept involves setting minimum requirements for the quantity of evidence required for conviction and sentencing in relation to specific crimes, ensuring the evidence meets a threshold of usability. Scholars argue that evidence stand-ards should highlight the fundamental set of evidence required for conviction and sentencing, addressing the frequent issues of insufficient evidence, which may result in non-approval of arrests or non-prosecution. The current stand-ards established by local authorities are flawed in terms of their legal basis, con-tent, and application methods, such as inconsistent legal foundations, overly simplistic content, or overly rigid or lenient enforcement. To resolve these is-sues, evidence standards should be based on the elements of crimes as defined by criminal law, and comprehensive evidence collection checklists should be jointly developed for each crime. These lists should be precise and inclusive. The application of these standards should strike a balance between normative rigid-ity and flexibility, allowing necessary annotations and adjustments based on specific case conditions, thereby improving the quality and efficiency of crimi-nal case processing.

Keywords

Criminal Evidence Standards; Conviction and Sentencing; Evidence Quantity; Evidence Deficiency

1. Historical Evolution and Practical Motivation of Evidence Standards

Criminal evidence standards originated from practical needs within China's criminal justice system. They were proposed as a solution to specific difficulties encountered at different stages of case handling. Generally, the evolution of this concept can be divided into two major stages: the founding and exploratory stage (approximately 1998-2016) and the development and expansion stage (approximately 2016 to the present).

During the founding and exploratory stage, with the significant revisions of the Criminal Procedure Law in 1996 and the Criminal Law in 1997, new crimes and more complex litigation models emerged in criminal justice, significantly raising the requirements for evidence quality. As prosecutors were responsible for case facts and evidence, the insufficient evidence in many cases made it difficult to support convictions, prompting case handlers to seek new institutional solutions. From 1998 onwards, Beijing Haidian District Prosecutor's Office and other entities began exploring the establishment of a "minimum evidence standard for the prosecution," which listed the minimum evidence elements and quantities required for prosecution of specific crimes.

Relevant research and practical works provided support for this approach. For example, Liu Jiaqi, then Vice President of the Supreme People's Court, organized the compilation of the "Handbook on Evidence for Conviction and Sentencing in the New Criminal Law," which translated the provisions of each crime in the 1997 Criminal Law into corresponding sets of evidence elements, providing a reference for subsequent research on evidence standards. Prosecutor Miao Shengming and other scholars also further clarified the concept of the minimum evidence standard for the prosecution, emphasizing the minimum evidence required for each crime. These studies and practices indicated that the initial establishment of evidence standards focused on translating criminal law provisions into sets of evidence, thereby clarifying the minimum amount of evidence required for collection.

After entering the development and expansion stage, particularly with the accelerated progress of judicial intelligence construction in recent years, the trend of establishing evidence standards became more pronounced. Since 2017, the Central Political and Legal Affairs Commission has promoted the embedding of evidence standards jointly developed by local public security, prosecution, and courts into intelligent case handling systems in cities such as Shanghai, which sparked increased attention and enthusiasm for evidence standard development across various levels of the judicial system. During this stage, the development of evidence standards at the local level became more closely aligned with the elements of criminal offenses and case handling experience. The entities involved in their creation gradually expanded from a single prosecutor's office to joint development by public security, prosecution, and judicial authorities. This shift was motivated by the desire to adapt to the demands of judicial informationization, aiming to improve case handling efficiency and quality. In recent years, various regions have promulgated evidence standard regulations for key crimes, primarily based on crime elements and case processes, in an attempt to provide clear evidence guidelines for case handling. Notably, in addition to prosecutors, the Supreme People's Procuratorate, Public Security Ministry, and other departments have also issued related guidelines. For instance, in 2005, the Supreme People's Procuratorate's Public Prosecution Office issued guidance on evidence standards for drug-related criminal cases (trial version), which systematically summarized the evidence elements required for drug offenses. These documents reflect efforts to clarify minimum evidence requirements through practical experience. Subsequently, case handling authorities expanded their practices and introduced evidence collection lists for common crimes such as theft, fraud, and intentional injury, to better accommodate the needs of various criminal investigations.

2. The Concept and Necessity of Evidence Standards

The concept of evidence standards remains contentious. Scholars hold divergent views on its nature: some consider evidence standards as fixed "minimum evidence quantity" requirements, focusing solely on the existence of evidence, while others argue that quality considerations should be integrated, bringing evidence standards closer to the standard of proof. Historical practice shows that evidence standards were initially designed to emphasize the correspondence between crime elements and sets of evidence, aiming to set a minimum "quantity" of evidence required for conviction and sentencing, rather than considering evidence quality or subjective judicial belief. Therefore, evidence standards should be understood as a sub-concept of the standard of proof—a set of objective evidence configuration requirements, rather than a review standard for the "three properties" of evidence or judges' subjective beliefs. Only when the minimum evidence requirements outlined by the evidence standards are met can a case proceed to the subsequent review and trial stages. Otherwise, even if the procedural requirements are formally met, insufficient evidence will prevent the support of charges.

From a practical perspective, evidence deficiency remains a significant issue in the investigation and prosecution stages. Many local statistics show that cases in which additional investigation is required or where arrests are not approved are often delayed due to evidence insufficiency. Missing key evidence is also common in cases requiring supplementary investigation. This highlights that evidence deficiency has become a major obstacle in case handling. In this context, evidence standards, by listing the minimum evidence requirements, can help identify gaps in evidence during the investigation stage, prompting case handlers to comprehensively gather key evidence, thereby improving case quality. Thus, even if the implementation of intelligent trial assistance systems encounters obstacles, evidence standards still play a positive role in standardizing case handling and addressing evidence deficiencies.

3. Issues in the Formulation and Application of Evidence Standards

In recent years, public security, prosecution, and judicial authorities have gradually developed various evidence standard regulations. However, due to the lack of unified national guidance and ongoing debates over the nature of evidence standards, the current standards face several issues in both formulation and application. On a macro level, the formulation of evidence standards suffers from unclear legal foundations, overly simplistic content, and disorganized development models. In terms of specific application, two biases emerge: excessive rigidity or excessive leniency.

The basis for developing evidence standards is not unified in practice. Various approaches have been adopted: some are based on the criminal elements and sentencing circumstances outlined in the Criminal Law, while others are based on statutory categories of evidence or criminal characteristics and case procedures. Standards based solely on processes or evidence categories may be operational but often fail to address the differences in evidence requirements for different crime elements, thus neglecting the correspondence between crime components and evidence. This "disconnection from the elements" approach impedes accurate guidance for case handling and makes it difficult to identify key evidence in cases.

Many evidence standards are overly simplistic in content. Some standards only list the main evidence directly linked to crime elements, ignoring the need for indirect evidence to support subjective intent or other elements requiring corroboration. Others indiscriminately list a large amount of common evidence, making the standards broad and unfocused. This makes it difficult for case handlers to determine which evidence is essential and which is supplementary, potentially missing information crucial to the case.

The development models are also fragmented and chaotic. Some areas have evidence standards formulated solely by prosecutors' offices or police departments, which are limited in scope; other regions adopt a joint formulation model involving public security, prosecution, and judicial authorities, aiming for uniformity but requiring greater negotiation costs. Some standards attempt to cover all crimes at once, resulting in high preparation costs and reduced operability; others focus on crime categories, making the standards more flexible but leading to potential discrepancies between standards. These differences in formulation models affect the authority and consistency of evidence standards.

In terms of application, evidence standards face dilemmas. Some authorities strictly enforce evidence standards, treating them as non-negotiable prerequisites for prosecution: if the required evidence is not included in the case file, the case is returned for further investigation or dismissed. This approach gives evidence standards near-legal power, and case handlers may prioritize meeting the standards over conducting a flexible analysis of facts. Conversely, other authorities regard evidence standards as mere reference guides, making their application non-binding. For instance, some evidence standard documents explicitly state "to be followed as a reference," but in practice, they are often ignored, and the content of the standards fails to be translated into enforcement requirements. This overly lenient approach reduces the effectiveness of evidence standards.

4. Optimization Plans for the Formulation and Application of Evidence Standards

To address the issues encountered in practice, improvements can be made in both the formulation and application of evidence standards. First, in terms of basis and content, evidence standards should always be based on the constituent elements of crimes defined in criminal law, taking into account sentencing circumstances and typical criminal characteristics. Currently, many standards still rely on procedural or evidence categories, which lack logical coherence and should be corrected. In the future, when formulating evidence standards, the core evidence required for conviction should be comprehensively covered: for each crime, the subjective, objective, and consequential elements should clearly list the corresponding direct or indirect evidence. For example, the evidence requirements for determining subjective intent should specify the use of investigative recordings or surveillance footage as indirect evidence. The standards should not expand to replace other review standards concerning evidence legality, authenticity, and probative value; their purpose should be limited to specifying the minimum quantity of evidence required.

Additionally, to improve the scientific and authoritative nature of standard formulation, evidence standards should be developed jointly by public security, prosecution, and judicial authorities. For nationally significant crimes, central authorities can take the lead, while for regionally specific crimes, provincial authorities can jointly formulate standards. In general, the content of evidence standards should focus on the investigation and prosecution stages, guiding evidence preparation before the trial process. The design could be hierarchical: for example, when formulating evidence standards for arson, the standards could first list the relevant laws and crimes, then itemize evidence requirements for each element, and finally include common sentencing circumstances and related evidence. This hierarchical design helps clearly illustrate the correspondence between crime elements and evidence. Additionally, broad, exhaustive "comprehensive" standards should be avoided as they are costly to maintain and reduce practical applicability.

In application, a balance should be struck between rigid enforcement and flexible application. Given the rapidly evolving nature of society and crime, evidence standards must be periodically updated to reflect current conditions. At the same time, mechanical compliance should not be emphasized. For example, in the Shanghai intelligent case handling system, a rigid mechanism that halted case processing when evidence standards were not met was introduced, which restricted legal flexibility. As new forms of evidence emerge with the development of law and technology, evidence standards must be evaluated and updated periodically to keep pace with practice. In principle, case handlers should follow evidence standards, but if certain evidence on the list cannot be collected or is unnecessary in a particular case, they can annotate the case file with a justification. Valuable supplementary evidence not included in the standard list should not be overlooked due to standard limitations. This approach allows subsequent reviewing authorities to focus on case facts, initiating supplementary procedures if necessary, thus achieving a balanced approach to applying evidence standards.

5. Conclusion

A review of the development of evidence standards shows that their original intention was always to address the issue of evidence deficiency by setting minimum evidence thresholds for prosecution and conviction. Even within the context of exploring artificial intelligence-assisted trials, the "evidence standards" in smart case handling systems still primarily focus on the "quantity" of evidence. Some suggest expanding evidence standards to include quality requirements, even incorporating judicial belief issues, but from a legal and practical standpoint, such an expansion is unreasonable. Evidence standards are normative guides and should not replace proof standards or rules of evidence as defined by law or judicial interpretation. The assessment of judicial belief and the review of evidence quality should be left to judges and existing legal norms, while the value of evidence standards lies in concretizing criminal law provisions, helping case handlers clearly identify the minimum evidence required, thus reducing delays caused by insufficient evidence.

From an institutional design perspective, evidence standards should only address the question of "what evidence" is required, not issues related to the qualification or probative value of evidence. If they attempt to tackle these broader issues, it may blur the statutory evidence review framework. Currently, the use of artificial intelligence in the judiciary is still in its exploratory stage, and its greater value lies in assisting fact-finding rather than replacing judicial judgment. In the future, big data and intelligent technologies could assist in analyzing case-handling experience, extracting evidence requirements, and refining evidence standards. This would enable a scientific transition from experience-based summary to fact recognition. For example, a database of evidence used in cases could be created to analyze frequently occurring evidence combinations, guiding the revision and improvement of evidence standards. Overly high expectations for evidence standards, if they are tasked with functions that should be decided by law or procedure, may lead to institutional redundancy and confusion, ultimately causing the standards to stray from practical problem-solving and be abandoned. Clearly defining the positioning and role of evidence standards is essential to ensuring that they truly promote criminal justice fairness and efficiency. Only in this way can evidence standards fulfill their original purpose without being misunderstood or abandoned. It is crucial to clarify their status in the legal framework to provide effective guidance for criminal justice practice. In conclusion, evidence standards should occupy the correct institutional level, avoiding excessive elevation of their function.

Acknowledgements

I would like to express my sincere gratitude to all those who have supported and contributed to this research. First and foremost, I am deeply thankful to my supervisor for their invaluable guidance, insightful feedback, and constant encouragement throughout the process of this study. I would also like to acknowledge the assistance and input of my colleagues and peers, whose constructive comments and discussions greatly enriched my work. Additionally, I extend my appreciation to the institutions and research teams that provided the necessary resources and data. Last but not least, I would like to thank my family and friends for their unwavering support and patience, which enabled me to complete this research.

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