

Research on the Integrated Mode and Operation Mechanism of Arrest and Prosecution in Procuratorial Organs

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ABSTRACT. *To adopt the system of the combination of arrest and prosecution is the best choice under the current legal system of our country, which embodies the principle of efficiency priority and fairness consideration, and is also another attempt to optimize the exercise of internal power.*

KEYWORDS: *Integration of arrest and prosecution; Litigation supervision; Connection of two laws*

1. Introduction

In order to improve the judicial efficiency, the current “unity of arrest and prosecution” in China must be a substantial combination, rather than just a formal combination of departments. The author believes that in the current era, “unity of arrest and prosecution” must involve the integration of departments, personnel and power. “Unity of arrest and prosecution” refers to the combination of the investigation and supervision section that approved the arrest and the public prosecution. In other words, the same department is responsible for the work of arrest, prosecution and response in court. For the same case, from the stage of examination and arrest to the stage of public prosecution, it is undertaken by the same post prosecutor or the same case handling team, and the responsibility of judicial life-long system is assumed for the case.

2. Advantages of the Mode of “Integration of Arrest and Prosecution”

2.1 Improve Case Handling Efficiency and Reduce Judicial Cost

Under the mode of “integration of arrest and prosecution”, a post prosecutor is responsible for both arrest and public prosecution of a case, that is, whoever arrests will initiate public prosecution. From the perspective of procedure alone, it saves the resources of case handling, which is more in line with the reality of “more cases and fewer people”. At the same time, from the perspective of workload, the repeated workload will be greatly reduced under the “integration of arrest and prosecution” mode, and the post prosecutor will have a detailed understanding of the cases he has arrested from the beginning to the end. When the cases after arrest come to the procuratorate for review and prosecution again, the post prosecutor is relatively familiar with the cases, including marking papers, bringing up for trial, making legal documents, etc., which can save a lot of time.

2.2 Optimize Resource Allocation and Strengthen Litigation Supervision

Under the mode of “integration of arrest and prosecution”, we should optimize the allocation of power, integrate the right of arrest and the right of public prosecution, and strengthen the supervision of litigation activities. In the stage of arrest approval, the post prosecutor will not only consider the results of arrest approval, but also consider whether the case can be successfully prosecuted in the case of existing evidence. In the intangible, it can strengthen the supervision of litigation activities, connect the two stages together, and fill the “vacuum zone” between the stage of arrest approval and the stage of public prosecution.

3. Suggestions on Improving the Operation of the Mode of “Combination of Arrest and Prosecution”

The mode of “the unity of arrest and prosecution” is not a simple superposition of $1 + 1 = 2$, but is full in the judicial reform give full play to the actual effect of $1 + 1 > 2$. In order to better implement, better connect with

the two laws, and further optimize the prosecution mechanism, we need to improve from the following two aspects.

3.1 “Unified Receipt and Distribution, Classified Handling” is Adopted for Case Management

Under the mode of “integration of arrest and prosecution”, we need to balance the work of arrest and public prosecution, and grasp the rhythm of handling cases. In order to balance the progress of cases, we should adopt “unified sending and receiving, classified handling” in case management. Unified sending and receiving refers to the criminal procuratorial department after the combination of investigation supervision and public prosecution departments, which accepts cases in a unified way and maintains a unified image of windows. The internal service of the two departments cooperated with each other to transfer the cases returned by the undertaker to the investigation organ in a unified way. According to the complexity and different types of cases, the criminal prosecution department is divided into the first criminal prosecution department (ordinary criminal cases) and the second criminal prosecution department (economic investigation criminal cases, etc.), and the cases are allocated to different departments according to different types of cases. The two departments perform their respective duties to ensure that each case can be concluded within a limited period of time.

3.2 Optimize the Relationship between Arrest and Prosecution, and Increase the Examination of Arrest Hearing

After the integration of arrest and prosecution, we should strictly grasp the standards of arrest, put an end to the phenomenon of raising the standards of arrest or lowering the standards of prosecution, and ensure the litigation of arrest procedure. Therefore, the author can explore the application of hearing review in the stage of arrest. For cases with high social concern but controversial understanding of social risks, a hearing and review system can be adopted to convene investigation organs, criminal suspects and their defenders, victims and their legal representatives or close relatives, agents ad litem and public representatives to listen to their opinions and make a decision whether to arrest or not.

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