

The Positioning, Issues and Reform Path of the Supervision Identification System in China: Reflections Based on Procedural Norms and Rights Protection

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Keywords: Supervision Identification; Connection with Criminal Proceedings; Crimes Committed in Violation of Public Duties

Abstract: As a crucial tool for resolving specialized issues during the investigation of crimes committed in violation of public duties by supervision agencies, supervision identification exhibits a certain degree of independence in its institutional design. However, deficiencies remain in its connection with criminal proceedings, the protection of rights during the initiation of identification, the professionalization of management processes as well as the independence and professionalism of the identification institutions. This paper compares the differences between judicial identification and supervision identification, revealing the gaps between the two in procedural norms and rights protection. It points out that the current supervision identification system's lack of mandatory initiation, restriction of the rights of investigated individuals and irregularities in the identification procedures all pose potential threats to fairness. Thus, the paper proposes enhancing procedural justice and rights protection within the supervision identification system through institutional reforms. These include improving the connection mechanism with criminal proceedings, strengthening the independence and professionalism of identification management and granting more procedural rights to the investigated individuals. The suggestions for these reform paths aim to provide theoretical support for optimizing the supervision identification system, thereby better serving the legal process of anti-corruption efforts.

1. Introduction

Identification plays a decisive role in both criminal and supervision investigations, as it can resolve technical difficulties faced by competent authorities in fact-finding. In resolving these issues, specialized expertise plays a crucial role, particularly in revealing the causal relationships of case facts, where it can effectively compensate for the limitations of non-experts in judging facts. Therefore, individuals with specialized knowledge in specific fields naturally become important assistants to the competent authorities in handling cases. Their professional judgments, based on evidence, provide critical references for judicial personnel in deciding case facts. It is under this

background that the judicial identification system emerged and has played a continuous and important role in the litigation process.^[1]

During the investigation of crimes committed in violation of public duties by supervision agencies, specialized issues also frequently arise, and resolving these issues often requires the use of identification methods. After being passed by the National People's Congress in 2018, the *Supervision Law of the People's Republic of China* officially came into effect, which explicitly stipulates identification as one of the twelve investigative measures that supervision agencies may adopt when conducting investigations into crimes committed in violation of public duties. The opinions derived from identifications carry legal validity and have become an important evidentiary tool used by supervision agencies to prove case facts during investigations, especially in handling specialized issues in complex cases where identification opinions play an irreplaceable role. Thus, supervision identification has evolved into a third type of identification category, distinct from judicial identification and administrative identification.

Supervision identification, as an important method of evidence collection for supervision agencies, holds significant legal and practical value in the investigation of crimes committed in violation of public duties. However, there are considerable differences between the stage of supervision investigation where supervision identification is used and the stage of litigation where judicial identification is applied. As a result, there are deficiencies in the connection with criminal proceedings, initiation procedure safeguards, procedural standardization, and the independence of the process.

2. The Legal Positioning and Practical Function of Supervision Identification

2.1. The Legal Basis for Supervision Identification

The *Supervision Law of the People's Republic of China* and related regulations provide a clear framework for the identification system. Article 27 of the *Supervision Law* allows supervision agencies to appoint or hire experts to conduct identifications on specialized issues during investigations. Article 33 further clarifies that physical evidence, documentary evidence, witness testimony, confessions and defenses of investigated individuals, audiovisual materials, electronic data, and other evidentiary materials collected by supervision agencies in accordance with this law may be used as evidence in criminal proceedings.

The *Implementation of the Regulation for the Supervision Law of the People's Republic of China* provides more detailed provisions on the conditions and procedural requirements for applying identification measures. According to Article 146 of the regulation, supervision agencies may conduct various types of identifications on documents, including handwriting, printed materials, damaged documents and documents without a clear creation date. For financial and accounting materials, especially in cases involving bribery, embezzlement and corruption related to financial transactions, the regulation explicitly requires accounting identifications to ensure the accuracy and legality of the financial data. Additionally, the regulation provides for psychiatric identifications of the investigated individuals or witnesses, particularly in cases where some individuals may hope to avoid or reduce punishment through psychiatric identification. To prevent this from affecting the normal progress of the case, psychiatric identifications are required to assess their behavioral capacity, ensuring the smooth progression of the investigation. In cases involving bodily harm or the cause of death, the regulation requires medical identifications. The regulation also stipulates the need for identifications of audio, video materials and electronic data. In cases of crimes committed in violation of public duties, such evidence frequently appears, and with the development of modern information technology, the tampering or destruction of electronic materials and their derivative data has become easier, making electronic data identification particularly important. Its core

purpose is to verify the authenticity of the evidence through technical means, ensuring the integrity and reliability of the data, thereby providing a solid basis for fact-finding in the case. Lastly, the regulation includes a catch-all clause, stating that for specialized issues not covered by the aforementioned categories, identifications may be conducted according to law if there are corresponding identification institutions or experts. In practice, investigators can make judgments based on specific circumstances. This provision ensures that supervision agencies, when dealing with complex cases, can flexibly apply various identification methods as needed, safeguarding the comprehensiveness and scientific basis of the investigation.

It should be noted that supervision identification is a separate category from judicial identification because supervision investigation is not part of the criminal litigation process. The *Constitutional Amendment of the People's Republic of China* passed at the first session of the 13th National People's Congress in March 2018 incorporated the section on the "Commission of Supervision" into Chapter 3, "State Institutions", as Section 7, thereby creating supervision authority. This means that although the investigative powers of supervision agencies are formally similar to those of investigative bodies, their legal positioning is entirely different from criminal proceedings, and the application of identification in supervision should not be simply understood by reference to the requirements of judicial identification in criminal proceedings.

2.2. The Role of Supervision Identification in the Investigation of Crimes committed in Violation of Public Duties

2.2.1. Determining Case Facts and Resolving Specialized Issues

The specialized issues encountered during supervision investigations overlap in certain aspects with the issues requiring judicial identification, but they also display distinct characteristics, especially in terms of the diversity of crimes committed in violation of public duties. The methods of crimes committed in violation of public duties are varied and complex, often extending beyond the scope of common judicial identification. In many supervision investigations, the investigated individuals, as public officials, employ various and hidden methods of committing crimes, making it difficult for investigators to collect evidence. The resolution of specialized issues in supervision investigations is highly complex, involving not only common types of physical evidence identification and audiovisual materials identification but also many other emerging forms of identification. For example, in bribery cases, as the methods of bribery continue to evolve, the bribe giver often avoids direct cash payments or transfers to provide profits to public officials, instead choosing alternative methods to evade legal sanctions. For instance, Dong Hong, the former deputy leader of the Central Inspection Group illegally accepted a substantial number of valuable paintings and cultural relics. In determining case facts, the supervision agency must identify the value of the paintings and relics as the bribery amount. Similarly, in cases where senior officials receive bribes in the form of reduced or waived renovation fees, it is necessary to entrust professional identification institutions to evaluate construction costs. In some cases of dereliction of duties, certain public officials, deviating from the new development philosophy, pursue short-term achievements at the expense of the environment. For instance, Jiao Xiaoping former deputy general manager of China New Construction Group, disregarded the importance of protecting the Qinling ecological environment and supported certain individuals in developing small hydropower projects, causing severe ecological damage to the Qinling region. In such cases, environmental damage identification is required to determine the facts. As social economic development progresses, the means of crimes committed in violation of public duties become increasingly complex, and specialized issues continue to emerge. It is difficult to effectively identify and analyze certain case facts based solely on the investigative experience or common sense of general investigators.

Although some investigators may possess certain specialized knowledge, enabling them to make preliminary judgments on certain specialized issues, the limitations of their knowledge systems and understanding capabilities may result in critical evidence being overlooked, potentially affecting the characterization of the case. Therefore, relying on experts for identification and analysis has become a necessary means of resolving such issues.

2.2.2. Corroborating Case Facts and Connecting Them with Criminal Proceedings

Article 45, paragraph 4 of the *Supervision Law of the People's Republic of China* stipulates that for suspected crimes committed in violation of public duties, if after investigation supervision agencies believe that the facts of the crime are clear and the evidence is indeed sufficient, they shall prepare an indictment recommendation and transfer the case files and evidence to the people's procuratorate for examination and prosecution. In criminal proceedings, the evidence in the case must meet the standard of "clear facts and sufficient evidence" as required by the *Criminal Procedure Law of the People's Republic of China*. The core task of supervision agencies during the investigations of crimes committed in violation of public duties is to collect and verify evidence, and the characterization of the investigated individual's behavior must be based on sufficient evidentiary support. To ensure the accuracy and completeness of the evidence, different types of evidence must corroborate each other. Supervision identification, as an important method of evidence collection, can provide technical support for the authenticity of other evidence. First, given the relatively large proportion of testimonial evidence in supervision investigations, identification opinions can effectively compensate for the shortcomings of testimonial evidence, enhancing its probative value and avoiding wrongful convictions caused by reliance solely on testimonial evidence. Second, by combining identification opinions with other physical evidence, a more comprehensive and robust evidentiary system can be formed, reducing the risk of relying on a single piece of evidence to resolve the case.^[2]

3. Major Issues in the Current Supervision Identification System

3.1. Obstacles in Connecting Supervision Identification with Criminal Proceedings

3.1.1. The Application of Identification Opinions in Criminal Proceedings is More Stringent than the Requirements in Supervision Investigations

Article 148 of the *Implementation of the Regulation for the Supervision Law of the People's Republic of China* stipulates that supervision agencies should coordinate and ensure the appearance of experts in court when the court lawfully decides that the experts should testify. Although the *Criminal Procedure Law* does not apply during the supervision investigation stage, identification opinions must meet the relevant requirements of criminal procedure law to be admissible in criminal trials. Article 192 of the *Criminal Procedure Law* stipulates that if there is a dispute over the identification opinion during trial, the court may request the expert to testify. If the expert refuses to testify, the relevant identification opinion will not be accepted as a basis for the verdict. Therefore, if the expert of a supervision identification cannot appear in court during the trial phase, the identification opinion formed during the supervision investigation will lose its legal effect, thereby affecting the determination of case facts and potentially leading to a biased trial outcome. This may not only result in the case facts not being fully established but could also raise procedural issues, affecting the fairness of the trial. To ensure that supervision identification opinions can be smoothly admitted into criminal proceedings, supervision agencies must actively coordinate to ensure that experts testify in court as scheduled and properly handle issues such as appearance fees

and personal safety to guarantee the legality and validity of the identification opinions.

3.1.2. The Specific Types of Identification Stipulated in the Implementation Regulation Do Not Fully Align with the Categories of Judicial Identification

Since a unified judicial identification code has yet to be issued, the highest legal document governing judicial identification remains the *Decision of the Standing Committee of the National People's Congress on the Management of Judicial Identification*. The *Decision* clearly stipulates that the state implements a registration management system for certain types of judicial identification businesses. These include forensic identification, physical evidence identification, audiovisual materials identification and other identification items jointly determined by the Ministry of Justice, the Supreme People's Court and the Supreme People's Procuratorate as needed. In December 2015, the Supreme People's Court, the Supreme People's Procuratorate and the Ministry of Justice jointly issued the *Notice on Including Environmental Damage Judicial Identifications into the Unified Registration Management System*, thereby establishing the "four major categories" of identifications in the judicial identification field, namely forensic identification, physical evidence identification, audiovisual materials identification and environmental damage identification. From the perspective of the relationship between supervision and judicial identification, document identification in physical evidence identification aligns with the content of "identifying handwriting, printed documents, damaged documents, documents without a clear creation date and documents presented in other forms" as stipulated in the *Implementation Regulation*. Forensic psychiatric identification and forensic physical evidence identification align with "identifying the mental capacity of the investigated individual or witness" and "conducting medical identification of bodily harm or the cause of death" as stipulated in the regulation. Audiovisual materials identification, including audio identification, image identification and electronic data identification, aligns with the regulation's provisions on "identifying audio and video materials" and "conducting electronic evidence identification of materials and their derivatives arising from the application of electronic information technology." However, the regulation's provision on "conducting accounting identifications of financial and accounting materials and related assets in the case" does not fall under any of the "four major categories" of identification. The *Interpretation of the Supervision Law of the People's Republic of China*, compiled by the Legal Affairs Office of the Central Commission for Discipline Inspection of the CPC and the National Commission of Supervision, also mentions technical identifications, including those involving industrial, transportation and construction technical issues, which are similarly unrelated to the "four major categories" of identification. Furthermore, the regulation uses the term "medical identification" instead of the specialized term "forensic medical identification" commonly used in the judicial identification field, which can be seen as a deliberate distinction made by the National Commission of Supervision when formulating supervision regulations.

The fact that the types of supervision identification do not fully align with judicial identification categories can be explained by the fact that supervision investigations are not part of litigation activities. However, the key issue is that the evidence obtained during supervision investigations will eventually enter criminal proceedings, meaning that supervision identification opinions must undergo scrutiny in criminal proceedings. However, accounting identifications and other emerging types of identifications required in supervision investigations do not fall under the "four major categories" of identifications, while the Ministry of Justice has repeatedly emphasized the need to strictly manage the registration of the "four major categories" of forensic, physical evidence, audiovisual materials and environmental damage judicial identifications. The Ministry has also continually conducted clean-up operations on institutions outside the "four major categories," ensuring that identifications lacking legal provisions are not granted registration. This leads to a

situation where identifications outside the “four major categories” are not subject to registration and management by judicial administrative authorities. Their procedures and standards are instead referenced from relevant ministry regulations and standards. In contrast, practitioners and institutions involved in the “four major categories” of identifications must undergo review by provincial-level judicial administrative authorities, and upon meeting the required conditions, they are registered and included in the roster of authorized practitioners and institutions, which is then made public. This process not only ensures that the institutions conducting identifications are legally qualified but also lays the foundation for standardized management of judicial identifications. After years of practice, the procedures and standards for the “four major categories” of identifications have matured. Meanwhile, emerging identifications, such as accounting identifications or those required for supervision investigations, are subject to comparatively looser oversight than judicial identifications. Once these identifications enter into criminal proceedings, they are often subject to scrutiny and challenged by the defense.

3.2. Insufficient Safeguards in the Initiation Procedure of Supervision Identifications

3.2.1. Supervision Identifications Are Initiated at the Discretion of Supervision Agencies

There are significant differences between the initiation conditions for supervision identifications and judicial identifications, particularly in the degree of mandatory requirements. Article 146 of the *Criminal Procedure Law* stipulates that when a case involves specialized issues, judicial authorities must appoint or hire professionals with relevant expertise and qualifications to conduct an identification. This mandatory requirement ensures the objectivity and professionalism of the identification, making the fact-finding process more scientific and reasonable. Article 284 of the *Provisions on Procedures for Handling Criminal Cases by Public Security Organs* reiterates this requirement, highlighting that in criminal proceedings, identifications are a mandatory legal procedure whenever specialized issues arise. Without such identifications, there is a risk of factual misjudgment, potentially affecting the fairness of the trial.

In contrast, Article 145 of the *Regulation on the Implementation of the Supervision Law* grants supervision agencies considerable discretion, stating that when specialized issues arise, supervision agencies “may” conduct identifications in accordance with the law, but these are not mandatory. The use of the word “may” reflects the flexibility of the identification process in supervision investigations. Although this flexibility can improve efficiency in handling cases, it may also lead to issues during the transfer of cases for prosecution, such as the failure to conduct a timely identification, which could result in flawed evidence or factual determinations that may affect subsequent criminal proceedings.

3.2.2. The Rights of Those Under Investigation Regarding Identifications Are Largely Absent

In criminal proceedings, Article 148 of the *Criminal Procedure Law* grants criminal suspects and defendants the right to request supplementary or new identifications if they disagree with the initial identification conclusions. Similarly, Article 253 of the *Provisions on Procedures for Handling Criminal Cases by Public Security Organs* allows suspects to request opinions from other professionals if they dispute the identification results. Article 333 of the *People’s Procuratorate Rules for Criminal Procedure* further provides that the procuratorate can arrange for identifications based on requests from the defendant’s lawyer or close relatives during the examination and prosecution. This essentially grants the defense and their close relatives the right to request an initial identification during this stage. However, the *Regulation on the Implementation of the Supervision Law* only stipulates that the person under investigation or related institutions may apply for

supplementary or new identifications. The regulations surrounding the review process for such requests are vague, stating that if the request “meets legal requirements”, it should be approved, without clearly defining those legal requirements.

3.3 Lack of Professionalism in the Management of Identification Procedures

In the court system, the Supreme People’s Court issued the *Opinions on Establishing a One-Stop Diversified Dispute Resolution Mechanism and a One-Stop Litigation Services Center* in 2019, which clarified the role of the case filing chamber (litigation services center) as the management body for litigation-related services, including external identification appointments. This mechanism enhances the court system’s ability to centralize and streamline the management of identification work, improving the quality and efficiency of litigation services. For example, the Shanghai High People’s Court issued the *Notice on Regulating the Workflow and Deadlines for External Identification Appointments by Courts in Shanghai*, which centralizes tasks such as the preliminary review of identification requests, the designation of identification institutions (including for re-identifications), the issuance of appointment results notices and identification appointment letters, the handover of initial identification materials, the receipt of identification reports, monitoring overdue identifications and performance evaluations. All these tasks are managed collectively by the litigation services center of each court’s case filing chamber. This centralized management by departments knowledgeable in judicial identifications ensures a comprehensive oversight system from appointment to the reception and evaluation of identification results. This model provides valuable insights for supervision identifications.

According to internal supervisory enforcement regulations, when an identification is required, it must be approved by the person in charge of the relevant investigation department before an identification commission letter is issued and handed over to a qualified institution (or individual). However, supervision agencies do not have dedicated departments for external identification appointments, and the task is instead handled by the business departments responsible for investigations. This could lead to two potential issues. First, without a centralized management department to review identification requests, there is a risk of either over-reliance on or misuse of identifications. Second, the business departments responsible for investigations may lack the expertise required for making appropriate selections of identification institutions, submitting materials for identification or defining the scope of the identification.

3.4. Insufficient Independence and Professionalism of Identification Institutions

The independence and professionalism of the identification institution are key to ensuring the legality and scientific validity of identification opinions. However, in the current supervision identification system, the independence and professionalism of identification institutions are notably lacking, which not only affects the impartiality of identification results but also negatively impacts the final handling of cases.

3.4.1. Lack of Professionalism in Identification Institutions

In judicial practice, the judicial technology departments of some provincial-level high courts have already established external identification institution databases. These databases are built on the foundation of registration, management and roster compilation of identification institutions by provincial-level judicial administrative authorities. The institutions apply for inclusion and high courts review them for approval. Compared to traditional judicial identification rosters, the institutions in these databases are held to higher professional standards. They not only meet the

basic requirements for resolving specialized issues but also must continuously operate under high standards. High courts impose strict admission and ongoing management requirements for these institutions, ensuring they comply with judicial regulations throughout their operations. However, this model has not been implemented in supervision agencies, and some emerging types of identifications are not considered part of judicial identifications, leading to concerns about the professionalism of institutions entrusted by supervision agencies. The credibility of their identification opinions may thus be challenged.

3.4.2. Lack of Independence in Identification Institutions

The independence of judicial identification institutions is a fundamental requirement of procedural justice. Before the *Decision on Judicial Identification Management* was first enacted by the Standing Committee of the National People's Congress in 2005, it was common for courts to establish their own in-house identification institutions, creating a problematic situation where courts were both the "player" and the "referee". This issue was eventually addressed by the *Decision*. Extending this principle to supervision investigations, it is also important to avoid situations where supervision agencies act as both the supervisor and the expert. Although supervision commissions have not established affiliated identification institutions, the institutions they entrust are nonetheless influenced by the supervision agencies for two reasons. First, identification institutions are unilaterally appointed by the supervision agencies. In civil litigation, courts generally do not actively appoint identification institutions, but instead allow both parties to jointly select an institution. If the parties cannot agree, the court will randomly select an institution from the external identification institution database, reducing the potential for bias. In criminal proceedings, defendants may not have the right to initiate or select an identification institution, but they still have some level of participation in the process. In supervision investigations, however, the person under investigation has no choice but to await the supervisory authority's designation of an identification institution. Second, the overwhelming power of supervision agencies makes it difficult for identification institutions to maintain independence. As the state's anti-corruption efforts intensify, supervision agencies have gained significantly more power compared to the former administrative supervisory functions and the anti-corruption duties of prosecutorial authorities. Supervision commissions and commissions for discipline inspection of the CPC operate under a "dual structure", with the same personnel handling both roles. Local supervision commissions are also headed by officials who simultaneously serve as heads of local commissions for discipline inspection of the CPC, creating a power imbalance that places supervision agencies above both judicial and prosecutorial authorities.^[3] Given that many identification institutions still rely on state funding, the objectivity of their reports may be compromised under the influence of such dominant supervisory powers.

4. Reform Pathways to Improve the Supervision Identification System

4.1. Improve the Mechanism for Aligning Supervision Identifications with Judicial Proceedings

4.1.1. The Improvement of the Mechanism for Supervision Experts to Testify in Criminal Proceedings

To address the issue of the admissibility of supervision identification opinions in criminal proceedings, collaboration between supervisory, prosecutorial and judicial authorities must be strengthened to ensure that experts can testify in criminal trials. Specifically, supervision agencies

should inform experts of their obligation to testify in court on specialized issues related to their identifications. Before trial, arrangements should be made to ensure that experts can appear in court on time. If accusations arise during the trial regarding the validity of the supervision identification, the experts must fulfill their duty to testify, providing professional explanations to ensure the legality and validity of the identification opinion.

Additionally, supervision agencies should establish a mechanism to support experts in fulfilling their duty to testify, addressing issues such as compensation for court appearances and ensuring their safety while in court. By reducing obstacles to experts' court appearances, the likelihood of their testimony being included in criminal proceedings will increase. Furthermore, the main purpose of having an expert testify is to support the litigation process with expert knowledge. Given that court interpreters are often compensated at a relatively high rate for their appearances, supervision agencies should consider adopting similar compensation standards for experts, providing them with adequate financial incentives to offset any economic losses incurred during court appearances. For experts who refuse to testify without a legitimate reason, supervision agencies could use judicial recommendations issued by the court to notify the relevant judicial administrative departments, urging them to exercise their administrative oversight powers and impose appropriate penalties on non-compliant institutions or experts. This would ensure that supervision identifications are always conducted within the legal framework.^[4]

4.1.2. Standardize the Norms and Criteria for Supervisory and Judicial Identifications

As illegal conducts or crimes of malfeasance in office become increasingly diverse and the methods of public officials' crimes become more covert, the specialized issues involved in supervision investigations are growing in complexity. Whether dealing with the traditional "three major categories" of identifications or the newly added environmental damage identifications within the "four major categories" of judicial identifications, the continued development of judicial practice has shown that these identification categories are no longer sufficient to meet the diverse needs of current judicial and supervision investigations. Since the new types of identifications have not been fully integrated into the unified management framework for judicial identifications, supervision agencies face challenges in managing the diversity of identification types and standards. Thus, improving the system to ensure the legality and standardization of these emerging types of identifications has become a key issue for institutional reform. On the other hand, identification institutions and experts operating outside the "four major categories" do not need to obtain judicial identification qualifications and are only subject to the oversight of their respective administrative authorities. Yet, the conclusions they provide are still deemed by the courts as identification opinions. In this context, while identifications conducted outside the purview of judicial administrative authorities may produce professional conclusions, they often differ from judicial identifications in several aspects, including the appointment process, the entry and exit mechanisms for identification institutions, the identification standards and the implementation procedures. These discrepancies frequently result in inconsistent operational standards in practice, undermining the uniformity and credibility of case handling.^[5]

4.2 Strengthen the Rights Protection in the Initiation Procedures of Supervision Identification

4.2.1. Introduce Mandatory Provisions for the Initiation of Identification by Supervision Agencies

To address the issue of excessive discretionary power held by supervision agencies in initiating identifications, the *Implementation Regulation for the Supervision Law* should be amended in a

timely manner, with reference to the *Criminal Procedure Law*, to clearly stipulate that when specialized issues arise, supervision agencies must initiate identification procedures. By introducing provisions similar to those in criminal proceedings, which mandate the initiation of identifications by competent authorities, it can be ensured that in complex cases, investigators will not overlook specialized issues, thereby ensuring the accuracy of fact-finding in the case.

Still, there are no provisions in criminal proceedings regarding the circumstances for the mandatory initiation of judicial identification. Some scholars argue that to safeguard the fundamental rights of the accused from irreparable harm, it is necessary to include mandatory identification provisions in the *Criminal Procedure Law* through legislative processes to limit the discretionary power of authorities regarding the initiation of identifications.^[6] Comparatively, supervision agencies are not subject to the existing legal framework, especially concerning the investigation of Crimes committed in violation of public duties, which were previously regulated by the *Criminal Procedure Law*. Therefore, ensuring the protection of the rights of individuals involved is even more critical. In this regard, it is necessary to outline a set of procedures for mandatory initiation of identifications to a certain extent. For example, to fill the gap in the initiation conditions for psychiatric identifications in supervision cases, supervision agencies can focus on the following aspects regarding initiation scenarios and standards: first, whether the individual under investigation or their family has a history of mental illness. In addition to a clear history of mental illness, full consideration should be given to the descriptions of the individual's character by their family and surrounding individuals, especially if they exhibit abnormal behaviors, such as eccentricity, impulsivity or emotional instability. Moreover, it is necessary to review whether their criminal intent, motivation and behavioral patterns deviate from common logic, and whether there is an absence of clear motivation or if the consequences of their actions are disproportionate to the severity of their behavior.^[7] If the individual meets the above criteria, supervision agencies should, in principle, initiate psychiatric identification procedures. Establishing clear standards for mandatory initiation not only maximizes the protection of the human rights of the individual under investigation during the supervision investigation process, but also avoids situations where the individual under investigation attempts to interfere with the investigation by repeatedly requesting identifications.

4.2.2. Grant the Right to Request an Identification to the Person Under Investigation

To address the issue of the rights vacuum regarding the initiation of identifications for individuals under investigation, consideration should be given to introducing the right of the individual under investigation to request an identification within the supervision identification procedure. It should be recognized that compared to criminal investigations, supervision investigations exert significantly more pressure on the individual involved, particularly with the use of retention in custody measures. Currently, the maximum retention period can be up to three months, with a possible extension of no more than three months in special circumstances, limited to one extension. In contrast, under the relevant provisions of the *Criminal Procedure Law*, the period of criminal detention is generally 14 days, with a possible extension to 37 days in special cases. It is evident that the maximum retention period significantly exceeds the period of criminal detention by public security authorities. In practice, retention in custody functions similarly to a combination of criminal detention and arrest, but the conditions for its application differ from both. According to Article 81 of the *Criminal Procedure Law*, arrest requires the fulfillment of three conditions, the most critical of which is the assessment of the social danger posed by the arrested individual. However, the conditions for retention stipulated in Article 22 of the *Supervision Law* are relatively broad, with a significantly wider scope of application, further highlighting the distinctiveness and widespread applicability of coercive measures in supervision investigations.^[8] Given the

significantly higher pressure supervision investigations exert on individuals compared to criminal investigations, continuing to limit the right of the individual to request an identification seems disproportionate. Excessive restrictions on the rights of the individual under investigation may result in a series of issues, including a lack of effective checks on supervision power, irregularities in investigation procedures and the abuse of investigative measures, which may further affect the fairness and legality of the case. Therefore, this paper proposes that the identification request procedure should be subject to the rule of law to ensure the proper exercise of supervision power for two reasons. First, with respect to the initiation of supervision identifications, the individual under investigation neither has the right to initiate the process nor the right to participate in deciding whether an identification should be initiated. A prominent feature of modern criminal procedure models in terms of procedural justice is the establishment of numerous procedural hurdles on the road to conviction, to minimize the possibility of wrongful convictions.^[9] Restricting the right of the individual under investigation to request an identification may result in the inability to establish an equal adversarial environment between the prosecution and defense once the case enters criminal proceedings. Second, identification opinions regarding certain specialized issues will have a significant impact on determining the nature of the case, conviction and sentencing. If the individual under investigation is unable to request an identification of issues about which they have serious doubts, it will severely undermine their rights. This paper suggests that the practices of the people's procuratorate in criminal proceedings could be used as a reference, granting the individual under investigation the right to request an identification. When the individual under investigation disagrees with the initial identification opinion of the supervision agencies, they should be allowed to apply for a reidentification by another identification entity through a legitimate procedure to ensure the fairness and comprehensiveness of the identification results.

4.3. Redefining the Responsibilities of the Case Management Department to Command Identification Management

To address the issue of unprofessional identification management within supervision agencies, it is recommended to reassign responsibilities within the existing case management department to centralize the oversight of identification-related matters. This department would be responsible for reviewing and managing external identifications and should be staffed with personnel who possess relevant identification knowledge. They would conduct preliminary reviews of identification needs and liaise with the identification institutions. The reform in this direction offers several advantages: First, it can improve the professionalization of identification commissions by supervision agencies, preventing errors caused by the lack of expertise in business departments. When matters concerning identifications are managed by a specialized team within the case management department, which has the necessary knowledge and experience, it allows for the establishment of an efficient communication mechanism between supervision agencies and identification institutions. This would enhance transparency and ensure that investigation procedures are standardized. Professionalized management also helps reduce misjudgments and procedural flaws. Second, from the perspective of separating core supervisory tasks from auxiliary ones, handling matters related to identification commissions does not involve the core of case investigations and thus does not affect the exercise of supervisory powers. On the contrary, by freeing supervisory officers from the burden of routine auxiliary tasks and enabling them to focus on case investigations, the business departments can significantly improve the efficiency and quality of their case handling. This redefinition of roles helps supervisory officers better utilize their professional skills, focus on high-quality case work and ultimately raise the overall level of investigation.

4.4. Enhancing the Independence and Professionalism of Identification Institutions

4.4.1. Establishing a Unified Database of Identification Institutions for Supervision Agencies

To address the lack of professionalism among identification institutions, supervision agencies should adopt the approach used by the court system by establishing a database of identification institutions for supervision identifications. This database should cover both traditional and emerging fields of identification and ensure that the institutions included have sufficient professional capacity and qualifications through strict admission reviews and dynamic management. When commissioning identifications for specific cases, supervision agencies should select institutions from this database that meet the required qualifications and scope of practice, in accordance with the law and relevant judicial interpretations.

4.4.2. Ensuring the Independence of Identification Institutions

To address the lack of independence of identification institutions, supervision agencies should take measures to prevent human interference from affecting the identification results. Therefore, it is recommended to establish management guidelines for the selection of identification institutions by supervision agencies. These guidelines would standardize the process of identification commissions by supervision agencies. By developing internal management rules for selecting identification institutions, supervision agencies can institutionalize the exercise of their identification commission powers and establish a transparent and regulated cooperation mechanism between supervision agencies and identification institutions.^[10] This would ensure the openness and transparency of the identification process.

When the case management department of a supervision agency selects an identification institution, it should review whether the chosen institution holds the necessary qualifications and complies with the relevant laws and regulations. If the individual under investigation raises objections, claiming that the identification institution designated by the supervision agency may produce an identification opinion that harms their interests, and such a claim is found to be valid upon review, the procedure should be terminated. A new institution should then be selected randomly from those in the database that meet the appropriate qualifications.

5. Conclusion

Deepening the reform of the supervision identification system not only has the potential to improve the efficiency and quality of case handling by supervision agencies but also further protects the rights of individuals under investigation, laying the foundation for a more just and transparent anti-corruption system. As the reform of the supervisory system in China continues to advance, it is imperative to improve and perfect the identification system, ensuring that it aligns more closely with both procedural justice and the evolving complexity of crimes committed in violation of public duties.

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