

Analysis of Evidence Transformation and Application in the Connection between Administrative Law Enforcement and Criminal Justice

Wen Zhang

School of Southwest Petroleum University, Chengdu 610000, China.

Abstract

The connection between administrative law enforcement and criminal justice refers to a two-way operational system in which administrative organs and judicial organs work together to address administrative violations and criminal acts. Since its implementation, this framework has faced persistent theoretical disputes and practical difficulties concerning the qualifications for collecting administrative evidence, the rules for transforming and using such evidence, and the standards for its review. To address these challenges, it is necessary to further clarify, at a theoretical level, the power dynamics involved and the dual illegal nature of administrative crimes. At the level of legal implementation, improvements are required in several areas: the categorization and transformation of administrative evidence, evidence review procedures, rules for excluding illegally obtained evidence, the refinement of cross-departmental information sharing and feedback mechanisms, the advancement of legalization reforms in administrative law enforcement, and the promotion of the effective functioning of the connection between administrative law enforcement and criminal justice.

Keywords

Connection between administrative law enforcement and criminal justice; administrative evidence; criminal evidence; evidence transformation.

1. Introduction

The connection between administrative law enforcement and criminal justice denotes the interaction and procedural juncture between these two domains. Historically, this connection emphasized a unidirectional process where administrative authorities transferred cases suspected of involving criminal conduct to judicial organs for prosecution. It has progressively evolved toward a more comprehensive and bidirectional mechanism. This enhanced framework now also encompasses scenarios where judicial authorities, upon determining that a case does not constitute a crime or warrants exemption from criminal punishment but still involves an administrative violation, refer the matter back to the relevant administrative organs for appropriate handling.

The prevalence of "statutory offenses" within China's Criminal Law inevitably creates an overlap between administrative wrongfulness and criminal wrongfulness[1]. This overlap engages two independent and largely self-contained legal systems—administrative law and criminal law. In practice, this interplay can lead to issues such as the substitution of administrative penalties for criminal prosecution, the failure to transfer cases that should be pursued criminally, or the inappropriate replacement of administrative sanctions with criminal punishment. Consequently, China's legal framework has established specific mechanisms to facilitate this connection.

This connection involves coordination at both substantive and procedural levels. Substantively, it concerns the normative criteria for distinguishing between administrative violations and criminal acts. Procedurally, it focuses on aligning case-handling processes, including case transfer and evidence coordination. A critical issue within this procedural coordination is that, regarding the same set of facts, administrative evidence and criminal evidence belong to different legal branches and are governed by distinct evidentiary rules, leading to significant differences in their admissibility and applicable standards of proof.

The standard of proof for administrative evidence is typically one of high probability, sufficient to establish the likelihood of a violation. This standard contrasts sharply with the criminal evidence standard of "clear facts and reliable, sufficient evidence" stipulated in the Criminal Procedure Law. The criminal standard further incorporates procedural requirements that "facts used for conviction and sentencing must be proven by evidence" and that "all evidence used to decide a case must be verified through legally prescribed procedures," with the ultimate burden of proof requiring guilt to be established "beyond a reasonable doubt." Therefore, the coordination, transformation, and application of evidence from the administrative to the criminal realm constitute a central and complex challenge within this connection framework.

2. Practical Difficulties in Evidence Transformation

Article 54, Paragraph 2 of the Criminal Procedure Law and related judicial interpretations stipulate that evidentiary materials such as material evidence, documentary evidence, audio-visual materials, and electronic data collected by administrative organs during law enforcement and case investigation may be used as evidence in criminal proceedings. This provision establishes a legal basis for the potential admissibility of such evidence while strictly limiting the categories that may be directly utilized.

From the central to local levels, a series of normative documents addressing evidence coordination have been promulgated, forming a considerable regulatory framework. Examples include the Supreme People's Procuratorate's Rules of Criminal Procedure for People's Procuratorates (For Trial Implementation), the Ministry of Public Security's Provisions on the Procedures for Handling Criminal Cases by Public Security Organs, the Measures for the Connection between Environmental Protection Administrative Law Enforcement and Criminal Justice, and the State Council's Decision on Amending the Regulations on the Transfer of Suspected Criminal Cases by Administrative Law Enforcement Organs. These documents elaborate on the transformation and use of administrative evidence based on Article 54 of the Criminal Procedure Law.

However, concerning procedural coordination, existing norms often contain vague, occasionally contradictory provisions subject to significant dispute in practice. This is particularly evident regarding the specific pathways and standards for evidence linkage and transformation, where current regulations fail to provide a coherent and operationally clear framework.

2.1. Unresolved Status of Administrative Evidence and Standards of Proof

Within the connection framework, administrative evidence gathered during enforcement actions serves as a crucial foundation for subsequent legal assessment. This evidence, often primary source material obtained close to the time of the alleged violation, possesses direct probative value. However, in connected cases, formal criminal investigation often occurs subsequently, which can lead to lost or degraded evidence.

Although the Criminal Procedure Law allows the use of administrative evidence, profound differences in standards of proof and procedural requirements mean that not all transferred

evidence is admissible. This creates a dilemma: administrative evidence may be directly relevant yet excluded or accorded limited weight in criminal trials due to procedural formalities. Compounding this difficulty, Article 3 of the Regulations on the Transfer of Suspected Criminal Cases by Administrative Law Enforcement Organs requires administrative organs to preliminarily assess whether illegal facts meet criminal thresholds and to compile evidence according to criminal standards before transfer. This significantly increases the burden of case transfer.

The operational philosophies of the two systems differ fundamentally. Unlike criminal justice, which prioritizes procedural fairness and accurate fact-finding, administrative law enforcement is necessarily driven by efficiency, immediacy, and maintaining public order[3]. Under the imperative for efficient governance, administrative decisions are often made on-site, and evidence collection may not meet the stringent, forensically-oriented standards of criminal trials. In resource-constrained environments, imposing full criminal evidence standards on administrative enforcement is widely regarded as unrealistic.

2.2. Incomplete Rules for Evidence Transformation and Legality Review

Article 54 of the Criminal Procedure Law strictly delineates the types of administrative evidence admissible in criminal proceedings. Furthermore, for administrative evidence to serve a probative function in a criminal trial, it often requires a process of categorization and procedural transformation. However, China's current normative framework lacks detailed, systematic provisions governing this transformation process.

This legislative gap creates challenges in judicial practice. For certain special types of evidence or evidence obtained through means unique to administrative procedures, determining how they can be legitimately transformed remains unresolved. In the absence of clear rules, such evidence is often relegated to a secondary role, used merely as investigatory leads or corroborative material.

For instance, in intellectual property cases, Price Appraisal Reports commissioned by administrative organs occupy an ambiguous legal status. They are generally not directly admissible as formal expert opinions in court, yet investigative authorities may rely on them to commission further judicial appraisals, creating procedural duplication.

Moreover, China's current framework lacks a dedicated set of rules for excluding illegally obtained evidence specific to the administrative-criminal connection. The legality review primarily follows uniform criminal procedure standards. Administrative organs, however, operate under distinct procedural constraints. Their enforcement activities may carry inherent risks of rights infringements that would render similar evidence inadmissible if collected by police. The absence of a specialized exclusionary rule fails to adequately address these unique interface risks.

3. Jurisprudential Analysis: Administrative and Criminal Legal Relationships

3.1. The Distinction Between Administrative and Judicial Power

Analysis of evidence coordination must be grounded in the fundamental differences between administrative and criminal legal relationships, rooted in the distinct nature of administrative power and judicial power.

Administrative power is the authority to organize, manage public affairs, and provide public services. Its exercise is characteristically active, initiative-taking, and geared toward proactive governance. Judicial power is the authority to apply law to concrete disputes through adjudication. It is inherently passive, reactive, and focused on impartial judgment. As scholars

note, "the essence of judicial power is adjudication—it is the power to judge—whereas the essence of administrative power is management—it is the power to manage"[4].

Administrative power's broad scope demands efficiency and effectiveness. Judicial power's mandate demands a paramount commitment to procedural and substantive fairness. These divergent philosophies inevitably lead to differences in functional divisions, procedural rules, and substantive standards, directly impacting the handling of evidence in cases that traverse the boundary between the two systems.

3.2. The Dual Illegality of Administrative Crimes

At the substantive level, the connection framework navigates the relationship between administrative violations and administrative crimes. Chinese legal scholarship holds differing views on administrative crimes. One prominent view argues they are acts violating administrative regulations that seriously harm administrative order and should bear criminal responsibility under the Criminal Law[5]. Another perspective contends they warrant liability under a distinct "administrative criminal law," suggesting it belongs to the sphere of administrative law [6].

A fundamental common ground is the acknowledgment that administrative crimes possess dual illegality: they simultaneously violate specific administrative regulations and cross the threshold to violate the Criminal Law. However, administrative violations and criminal acts represent a fundamental dichotomy of "non-crime" versus "crime," differing qualitatively in the severity of harm and legal liability.

Within the connection mechanism, the same conduct must be evaluated across both domains, necessitating a workable demarcation between administrative and criminal illegality. Academic theories include the "quantitative distinction," "qualitative distinction," and the more integrative "qualitative-quantitative distinction" theories [7].

China's legal system employs a model combining qualitative and quantitative criteria. Many administrative laws use quantitative thresholds (e.g., "if the circumstances are serious") to signal when a violation may escalate to a crime. Therefore, a qualitative-quantitative distinction theory appears most comprehensive for demarcation, guided by legislative intent and the principle of maximizing legal utility. This inherent dual illegality makes the connection between enforcement and justice both inevitable and complex.

4. Suggestions for Improving Evidence Transformation

The connection mechanism possesses strong practical demands. Its effective implementation is vital for it to genuinely regulate social conduct. Analyzing its power dynamics and legal relationships aims to inform theoretical refinement and guide practical progress in the evidentiary framework.

4.1. Clarify Rules for Evidence Categorization and Transformation

A systematic approach should be adopted, considering differing standards of proof and probative force. Administrative evidence should be formally categorized based on its evidentiary status (e.g., original or derivative), its type (e.g., physical, documentary), and the procedures through which it was obtained. Standardizing categorization would clarify its position and enable precise regulation.

The current intent of the Criminal Procedure Law favors admitting physical/objective evidence collected administratively while maintaining a higher barrier for testimonial evidence. This is a prudent policy based on the relative stability of physical evidence versus the potential for re-collecting testimony under procedural safeguards.

However, more uniform and detailed regulations are needed for other common types of administrative evidence, such as expert opinions, inspection records, and on-site transcripts. Clear stipulations are required regarding their conditions for admission, any necessary distinctions, and their permitted probative role in criminal proceedings.

4.2. Improve Evidence Review and Exclusionary Rules

Allowing procedurally irregular or illegal administrative evidence that proves pivotal to a conviction to influence criminal outcomes constitutes a serious rights infringement and departs from fundamental criminal law principles. To mitigate risks from potential procedural violations during administrative enforcement, a dedicated set of exclusionary rules tailored to the administrative-criminal interface must be established.

This rule set would filter out evidence tainted by significant procedural illegality. Concurrently, for evidence with minor procedural defects, a mechanism should allow the administrative organ to provide corrections or supplementary explanations before re-submission.

The principle of a "trial-centered" procedure must be upheld. All evidence relied upon for case determination must undergo rigorous, adversarial scrutiny regarding its admissibility and probative force. Through focused examination and cross-examination in court, it must be established that all evidence is objective, relevant, and, crucially, lawful. This court-supervised process represents effective legal supervision over administrative evidence-gathering practices.

4.3. Improve Cross-Departmental Information Sharing

For front-line personnel, convenient, timely, and reliable access to case data flowing through the interface is paramount for effective collaboration. While various regions in China have established information-sharing platforms, their development is uneven. Problems persist, including departmental data silos, obstructed connection channels, and dysfunctional sharing agreements in practice [8].

The efficacy of inter-departmental collaboration depends fundamentally on a robust, stable, and user-friendly information-sharing platform. A strategic path involves promoting deeper integration of enforcement and judicial resources. The envisioned platform should cover the entire case lifecycle, from initial administrative action through case transfer, criminal investigation, prosecution, to trial and judgment.

Its architecture should incorporate specialized functional modules: for standardized case transfer, evidence coordination and tracking, official information notification and feedback, procuratorial oversight, and data analysis. The goal is a seamless, real-time online connection system. This would allow judicial organs timely insight into administrative evidence collection, enabling prompt feedback and guidance to improve future enforcement actions. This approach conserves resources and, through standardized digital reporting, promotes the normalization and legalization of administrative evidence practices.

4.4. Advance Legalization Reforms in Administrative Law Enforcement

The legal awareness, procedural knowledge, and professional competence of administrative law enforcement personnel directly impact the legality of their actions, the admissibility of the evidence they transfer, and potentially criminal case outcomes. Therefore, advancing the legalization reform of administrative enforcement is urgent.

A key objective is to systematically enhance the enforcement capabilities, procedural discipline, and legal literacy of the workforce. This requires a multi-pronged strategy: implementing categorized management and specialized training; perfecting whole-process recording of enforcement activities; and promulgating standardized operating procedures for evidence preservation and collection to ensure chain of custody.

By implementing such concrete measures, the overall legalization standard and professional credibility of administrative law enforcement can be elevated, thereby strengthening the quality and reliability of the evidence it feeds into the criminal justice system.

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