

The Connection and Application of Supervisory Evidence and the Exclusionary Rule of Illegal Evidence—Concurrent Discussion on the Protection of the Right to Defense of Investigated Persons

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Abstract. The core of the "connection and application between laws" between the Supervision Law and the Criminal Procedure Law lies in the connection of evidence, and the problem of illegal evidence collection in supervisory investigations cannot be ignored. By justifying the normative logic of applying the exclusionary rule of illegal evidence to supervisory evidence, we can clarify the scope of evidence types and the interpretations of "usable" and "consistent". An expanded interpretation of the character "deng" (etc.) in Article 33 of the Supervision Law helps to get out of the interpretation dilemma. In view of the inherent difficulties of the exclusionary rule of illegal evidence itself, such as difficulty in verification, difficulty in reasoning, and difficulty in implementation, as well as the natural defects in the internal division of powers and self-exclusion of supervisory commissions, we should strengthen the trial-centered doctrine to ensure that the evidence obtained through supervisory investigations meets the standards of criminal procedure evidence in the "connection and application between laws". Whole-process audio and video recording is conducive to protecting the right to defense of investigated persons, and can also provide guarantees in links such as the digital collection, preservation, and connection of supervisory evidence.

Keywords: Supervision Law, supervisory evidence, evidence connection, exclusionary rule of illegal evidence

1. Introduction

Since the 18th National Congress of the Communist Party of China, the Party Central Committee with Comrade Xi Jinping at its core has established the National Supervisory Commission and formulated the Supervision Law from the perspective of the overall development of the Party and the country to improve the Party and state supervision system. The adoption of the Supervision Law marks the official establishment of China's new national supervision system. One of the major reforms is the transfer of the power of the Anti-Corruption Bureau to combat corruption and bribery crimes to the supervisory commission. Paragraph 3 of Article 33 of the Supervision Law stipulates: "Evidence collected illegally shall be excluded in accordance with the law and shall not be used as the basis for case disposal", which is the basic principle for the exclusionary rule of illegal evidence in the Supervision Law. China's exclusionary rule of illegal evidence first appeared in the Criminal Procedure Law revised in 2012. In 2017, the "Two Highs and Three Ministries" jointly issued the

Provisions on Several Issues Concerning the Strict Exclusion of Illegal Evidence in the Handling of Criminal Cases [1], which made more detailed provisions on the exclusionary rule of illegal evidence. Articles 56-60 of the current Criminal Procedure Law regulate matters related to illegal evidence. In addition, Article 65 of the Regulations on the Implementation of the Supervision Law also provides a basis for the application of the exclusionary rule of illegal evidence to supervisory evidence. However, there are still many difficulties in the accurate application of the exclusionary rule of illegal evidence to supervisory evidence, which require further discussion.

After the introduction of the Supervision Law, many academic achievements have been made on how to connect and apply the exclusionary rule of illegal evidence to supervisory evidence. Some scholars have discussed the review of supervisory evidence and the exclusion of illegal evidence after the promulgation of the new law, and put forward opinions and suggestions on the basis and reasons for the exclusion of illegal evidence by supervisory commissions [2]; some scholars have studied the concept and types of supervisory evidence, and also discussed the conditions for the connection of supervisory evidence to criminal procedure [3]. At the same time, some scholars believe that as the basis for conviction and sentencing, supervisory evidence must meet the requirements of criminal procedure and pass procedural review [4]. Others hold that in accordance with Article 33 of the Supervision Law, supervisory evidence shall be consistent with the requirements and standards for evidence in criminal trials, and thus can be directly used as evidence in criminal proceedings [5]. This paper intends to explore the normative logic of applying the exclusionary rule of illegal evidence to supervisory evidence, clarify the difficulties in connection and application, propose methods to exclude illegal evidence in supervisory investigations, and provide ideas and paths for the digital development of supervisory evidence. It is expected to promote the better application of the exclusionary rule of illegal evidence in supervisory investigations, enable supervisory investigators to conduct investigations in strict accordance with legal provisions, and is of great significance for further promoting discipline inspection and supervision work. It can further advance the connection and application between the Supervision Law and the Criminal Procedure Law, so as to effectively connect the supervisory procedure with the criminal procedure.

2. Reasons for applying the exclusionary rule of illegal evidence to supervisory evidence

To apply the exclusionary rule of illegal evidence to exclude illegal supervisory evidence, it is a primary task to clarify its applicable basis, explore its significance, and understand its application prospects. Its legal basis is a system of excluding illegal evidence based on the Constitution as the fundamental, the Supervision Law and the Criminal Procedure Law as the mainstay, and judicial interpretations as the support [6]. Its significance lies in the positive protection of the legitimate rights and interests of investigated persons, regulating investigative acts, innovating and transforming the supervisory investigation model, and promoting the process of legalization of supervisory work. The prospects for exclusion are understood from the severe anti-corruption situation, the requirements of national policies, and the improvement of judicial efficiency.

2.1. Legal basis for excluding illegal evidence in supervisory investigations

In summary, the legal basis for excluding illegal supervisory evidence mainly comes from domestic statutory laws, international conventions, and China's judicial interpretations, which can be divided into four categories: fundamental basis, direct basis, indirect basis, and reference basis. First, the fundamental basis. China's Constitution clearly stipulates that the state respects and protects human rights, and prohibits illegal detention and other illegal methods of depriving or restricting citizens' personal freedom. Of course, due to the particularity of the Constitution, these constitutional provisions cannot be directly cited as the basis for excluding illegal evidence. Second, the direct basis.

It mainly refers to the Supervision Law, and the contents related to the exclusion of illegal evidence in its Articles 33, 40, and 41 are the direct basis for excluding illegal supervisory evidence. Third, the indirect basis. It mainly includes the Criminal Procedure Law and judicial interpretations issued by other authorities. For example, Articles 56, 57, and 58 of the Criminal Procedure Law, and the Provisions on Several Issues Concerning the Strict Exclusion of Illegal Evidence in the Handling of Criminal Cases have refined the specific circumstances of excluding illegal evidence, including torture, coercion, illegal detention, etc. Therefore, although the Criminal Procedure Law and judicial interpretations cannot be directly used as the direct basis for supervisory organs to exclude illegal evidence, they can provide important references for supervisory organs [2]. Fourth, the reference basis. It mainly includes international conventions and basic principles. The UN Convention Against Torture prohibits confessions obtained through torture, and China, as a contracting party, shall abide by its corresponding provisions, which have important reference value for supervisory organs to discover and exclude illegal evidence.

2.2. Significance of excluding illegal evidence in supervisory investigations

The Fourth Amendment to the U.S. Constitution is the first law in the world to stipulate the exclusionary rule of illegal evidence, initially intended to regulate the behavior of law enforcement personnel [7]. Cases that have exerted an influence on the formation of the exclusionary rule of illegal evidence include *Weeks v. United States* (1914) [8] and *Mapp v. Ohio* (1961) [9]. Since its birth, the exclusionary rule of illegal evidence has been controversial, but it has stood the test of time. Instead of being eliminated by history, it has been accepted by people through the test of the times. This fully reflects the unique significance of the exclusionary rule of illegal evidence, which is reflected in at least the following four aspects in supervisory investigations. First, it is conducive to protecting the legitimate rights and interests of investigated persons. The main purpose of the state to clarify the exclusionary rule of illegal evidence through legal provisions is to protect the legitimate rights and interests of investigated persons. Through court exclusion, illegal evidence can be excluded from the scope of evidence, and the evidence collection behavior of investigators can be strictly restricted, so as to truly realize the protection of the rights and interests of investigated persons and procedural justice. Second, it is conducive to regulating investigative acts and improving the quality of case handling. Collecting evidence is one of the cores of supervisory investigations. The exclusionary rule of illegal evidence excludes evidence collected by illegal means from the basis for conviction and sentencing, which to a large extent regulates the evidence collection behavior of investigators. At the same time, it improves the quality of case handling, making the results of case investigations stand the test of history. Third, it is conducive to the innovation and transformation of the supervisory investigation model. In the traditional investigation model, due to the relatively low cost of obtaining confessions from investigated persons, case handlers often attach more importance to verbal evidence than physical evidence. In this investigation model centered on obtaining confessions, the possibility of illegal circumstances such as illegal detention, torture, and forced testimony is evident. By denying the admissibility of illegal evidence through the exclusionary rule of illegal evidence, supervisory organs and personnel can be encouraged to actively change their case-handling ideas and seek new investigation models. From the perspective of evidence, it forces case handlers to attach more importance to physical evidence, thereby effectively enhancing their own capabilities, scientifically and reasonably using investigation methods, and striving for excellence in the collection of key evidence. Fourth, it is conducive to promoting the process of legalization of supervisory work. Through this rule, supervisory personnel can adopt investigation methods reasonably and legally, and find out the truth of cases in accordance with laws and regulations.

2.3. Prospects for applying the exclusionary rule of illegal evidence in supervisory investigations

After the 18th National Congress of the Communist Party of China, comprehensive and strict governance of the Party has become the focus of the Party's work. Under such a political situation, remarkable achievements have been made in anti-corruption work across the country. From 2022 to 2024, discipline inspection and supervision organs across the country filed 596,000, 626,000, and 877,000 cases respectively, with more than 2.091 million people punished [10]. Among them, in 2024, 73 provincial-level and above cadres, 4,348 prefecture-level cadres, 35,000 county-level cadres, 121,000 township-level cadres, and 104,000 current or former village Party branch secretaries and village committee directors were filed [11]. While remarkable achievements have been made in anti-corruption work, discipline inspection and supervision organs file investigations against a large number of people every year. Once the criminal filing standards are met, it will inevitably lead to subsequent transfer to procuratorial organs for examination and prosecution and criminal trial activities. This fully proves that the exclusionary rule of illegal evidence has broad development prospects in the application of supervisory investigations. In addition, shortly after the reform of the supervision system, state leaders requested to "continue to advance the reform of discipline inspection and supervision", and "various rules" and "supporting regulations" should keep up. One of the important tasks is to promote the connection between the supervisory procedure and the criminal trial procedure, which requires supervisory evidence to meet the requirements of criminal procedure activities. Finally, the application of the exclusionary rule of illegal evidence in supervisory investigations will further promote the reform of criminal justice. The exclusion of illegal supervisory evidence can to a large extent promote the consistency of evidence standards between supervisory organs and judicial organs, reduce repeated investigations and supplementary investigations returned due to evidence-related issues, thereby improving judicial efficiency.

3. Interpretation dilemmas and improvements in excluding illegal evidence in supervisory evidence

Due to the short implementation time of the Supervision Law, there are still various theories and controversies in the theoretical and practical circles regarding the interpretation of relevant provisions of the Supervision Law. In particular, there is a dispute over the interpretation of the character "deng" (etc.) in Article 33, i.e., whether it is "etc." indicating exhaustion of enumeration or "etc." indicating unexhausted enumeration, and whether records of inspection and examination can be used as criminal procedure evidence. These are issues that should be interpreted regarding the scope of evidence types. In addition, "can be used as evidence" and "consistent" are also the focus of discussion in this part.

3.1. Interpretation of the scope of evidence types

Paragraph 1 of Article 33 of the Supervision Law stipulates: "Physical evidence, documentary evidence, witness testimony, confessions and defenses of investigated persons, audio-visual materials, electronic data and other evidence materials collected by supervisory organs in accordance with the provisions of this Law may be used as evidence in criminal proceedings." Compared with Article 50 of the Criminal Procedure Law, it can be found that three types of evidence, namely, victim statements, records of inspection and examination, and expert opinions, are not included in Article 33, and the confessions and defenses of investigated persons are not exactly the same as the confessions and defenses of criminal suspects and defendants. The resulting interpretation dilemma is that researchers and practitioners have doubts about the types of supervisory evidence that can enter criminal proceedings.

First, there is doubt about whether the two types of evidence, records of inspection and examination and expert opinions, can be directly used as evidence in criminal proceedings. The core of the problem lies in the interpretation of the character "deng" (etc.) in Paragraph 1 of Article 33, i.e., whether it includes other types of evidence. In legal hermeneutics, the use of "deng" (etc.) generally has two situations: one is to indicate the end of enumeration, i.e., "etc." indicating exhaustion of enumeration; the other is to indicate unexhausted enumeration, i.e., "etc." indicating unexhausted enumeration. If it is the first case, then supervisory evidence such as records of inspection and examination and expert opinions cannot be directly used as evidence in criminal proceedings. For the second case, there is also controversy over whether the unlisted evidence types include records of inspection and examination and expert opinions. Regarding this dispute, an expanded interpretation should be adopted to include records of inspection and examination and expert opinions in the evidence types stipulated in Article 33.

Second, from the perspective of Paragraph 1 of Article 33 of the Supervision Law, the type of evidence "confessions and defenses of investigated persons" appears for the first time in national legal provisions, but Article 50 of the Criminal Procedure Law does not include it in the statutory types of evidence in criminal proceedings. Therefore, academic researchers and judicial practitioners have doubts about this type of evidence. In this regard, some scholars believe that although Article 50 of the Criminal Procedure Law does not include "confessions and defenses of investigated persons" as a type of evidence, it has achieved the transformation of supervisory cases to criminal cases through institutional channels, so that the evidence collected by supervisory commissions can smoothly enter the criminal procedure [12]. Another view holds that due to the significant differences in the subject objects of evidence types, "confessions and defenses of investigated persons" cannot be directly transformed into "confessions and defenses of criminal suspects and defendants" as stipulated in the Criminal Procedure Law. It is still necessary to discuss and study whether the "confessions of investigated persons" illegally obtained by investigators are equivalent to the "confessions of criminal suspects" stipulated in Article 56 of the Criminal Procedure Law [13].

3.2. Interpretation of "may be used as evidence"

According to Paragraph 1 of Article 33 of the Supervision Law, it can be found that this provision has two aspects of problems: on the one hand, whether supervisory evidence can be directly used as criminal procedure evidence; on the other hand, scholars have different interpretations of the meaning of the word "may" in this provision.

The first is direct use, i.e., the evidence collected by supervisory organs within the scope stipulated in Article 33 can be directly used as criminal procedure evidence [14]. This means that no prerequisite conditions need to be met, and no procedural transformation of the evidence is required. The second is conditional use. For example, it can be directly used by procuratorial organs as criminal procedure evidence in the litigation process only if it is collected after formal filing [15] or meets the legal evidence form [12]. Therefore, the connotation to be expressed by "may" still needs to be discussed.

3.3. Interpretation of "consistent"

Paragraph 2 of Article 33 of the Supervision Law stipulates: "When collecting, fixing, reviewing, and using evidence, supervisory organs shall be consistent with the requirements and standards for evidence in criminal trials." There are different theories regarding the interpretation of the word "consistent" in this provision. The first is the reference theory, i.e., the requirements and standards for supervisory evidence shall refer to the relevant provisions on criminal procedure evidence. The second is the compliance theory [16], i.e., supervisory evidence shall comply with the relevant provisions of the Criminal Procedure Law. According to the reference theory, the inconsistency

between the standards of supervisory evidence collected by supervisory organs and the standards of criminal procedure evidence does not necessarily lead to a conflict between supervisory evidence and criminal procedure evidence; while according to the compliance theory, if supervisory organs fail to comply with the standards of criminal procedure evidence when collecting supervisory evidence, it will inevitably lead to a conflict of evidence, resulting in the exclusion of supervisory evidence in subsequent judicial procedures in accordance with the law. It can be inferred that the meaning of "consistent" still needs further authoritative explanation.

3.4. Expanded interpretation of the character "deng" (etc.) in article 33 of the supervision law

Regarding the interpretation of the character "deng" (etc.) in Paragraph 1 of Article 33, an expanded interpretation should be adopted. Expanded interpretation refers to an interpretation method that expands the usual meaning of the terms in legal provisions within the possible "scope" of the terms and endows them with a broader meaning than usual. This interpretation method can not only make the meaning of legal provisions more clear and complete, but also better adapt to the development and changes of society. An expanded interpretation of "deng" (etc.) is conducive to including a wider range of evidence types into the statutory types, so that supervisory evidence can be better connected with criminal procedure evidence.

Literal interpretation is a legal interpretation method that mainly analyzes the words, grammar, and wording of legal provisions to reveal the literal meaning of statutory provisions and demonstrate the included legal norms [17]. In terms of the order of application of interpretation methods, literal interpretation is usually the primary choice. Therefore, the interpretation of the "consistent" clause in Article 33 means that supervisory organs must comply with the requirements and standards for evidence in the Criminal Procedure Law, which is actually aligning with the Criminal Procedure Law [16]. From the literal meaning of "consistent", the "compliance theory" is more in line with the legislative purpose. When handling cases, supervisory organs shall comply with the relevant provisions of the criminal procedure, only in this way can supervisory evidence meet the requirements and standards of the criminal procedure.

4. Practical difficulties and solutions in excluding illegal evidence in supervisory evidence

After understanding the interpretation difficulties, the main content of this part is to explain the practical difficulties. In the exclusion in criminal proceedings, there are difficulties in verification, reasoning, and implementation, involving the bearing of the burden of proof, the explanation of exclusion reasons, and the difficulty of actual exclusion. The second difficulty is the internal exclusion by supervisory commissions, including low exclusion efficiency caused by unclear division of powers and low exclusion quality caused by the natural defects of self-exclusion. Finally, it is proposed to strengthen the trial-centered doctrine in the "connection and application between laws" to solve the above problems.

4.1. Difficulties in exclusion in the criminal procedure

In the process of criminal proceedings, the actual difficulties in excluding illegal evidence mainly fall into three categories: difficulty in verification, difficulty in reasoning, and difficulty in implementation. First, difficulty in verification, which can also be called procedural difficulties. Article 56 of the Criminal Procedure Law stipulates: "Parties, their defenders, and litigation agents have the right to apply to the people's court for the exclusion of evidence collected by illegal means in accordance with the law. Those who apply for the exclusion of evidence collected by illegal means shall provide relevant clues or materials." Article 57 stipulates: "In the course of the court investigation on the legality of evidence collection, the people's procuratorate shall prove the legality

of evidence collection." It can be clearly known from the legal provisions that when a party applies for the exclusion of illegal evidence in accordance with the law, they do not need to bear too much burden of proof. However, the people's procuratorate shall prove the legality of the collection of supervisory evidence, and even send personnel to appear in court when necessary. However, in anti-corruption cases, it is difficult for parties and procuratorates to bear the burden of proof[7]. In summary, it includes two aspects of difficulties: first, difficulty in obtaining clues, which is mainly reflected in the insufficient evidence provided by parties, making it difficult to initiate the investigation procedure; second, difficulty in obtaining evidence, that is, after the procuratorate initiates the investigation procedure, it is usually difficult to prove the existence of illegal evidence due to insufficient evidence [18]. Specifically, the investigation procedure of supervisory commissions is highly similar to the closedness and confidentiality of criminal investigation procedures. The special functions of supervisory commissions make their secrecy in handling cases much higher than that of criminal investigation procedures. For example, lawyers are not allowed to participate during the handling of cases by supervisory commissions, and the detention place when taking detention measures against investigated persons is not as independent as that of detention centers. This high degree of closedness not only provides the possibility for collecting illegal evidence, but also greatly increases the difficulty in discovering and proving illegal evidence.

Second, difficulty in reasoning. Courts in many places have many confusions about the application of the exclusionary rule of illegal evidence to supervisory evidence, with a strong tendency to dare not exclude or be unwilling to exclude. Practices such as cautious exclusion and exclusion after reporting are widespread to a certain extent [13]. There are several reasons for this situation: first, the content of judges' reasoning is relatively extensive, including evidence collected before filing. Illegal evidence excluded in the process of the Criminal Procedure Law usually refers to evidence collected by investigative organs and procuratorial organs after criminal filing to prove relevant criminal facts and the truth. However, due to the particularity of the supervisory procedure, there are clue disposal and preliminary verification procedures before the filing procedure. Judges need to explain whether the evidence collected in the preliminary procedures can enter the litigation procedure and whether the exclusionary rule of illegal evidence needs to be applied; non-statutory exclusion situations. Statutory exclusion situations include illegal detention, torture, forced testimony, etc., while non-statutory exclusion situations include illegal detention, illegal custody, failure to conduct synchronous audio and video recording, etc. These situations are not clearly stipulated to be excluded in the Criminal Procedure Law, but all have certain illegal factors. Second, the reasons for reasoning lack persuasiveness, including improper application of legal provisions. When judges cite legal provisions for whether to exclude evidence, they often directly cite Article 33 of the Supervision Law. Moreover, regardless of the situation of exclusion, judges usually do not choose other legal provisions for reasoning; incomplete or contradictory explanations. When a party or defender claims that the supervisory organ violated relevant provisions during interrogation and failed to conduct audio and video recording in accordance with the law, the confession of the interrogated person shall not be admitted [18]. In the face of the party's application, the judge should explain the confession for which audio and video recording was not conducted in accordance with the law, especially interpret whether the confession is admissible as evidence. Some judges only answer this question from the perspective of the three attributes of evidence.

Finally, difficulty in implementation. Since the Supervision Law came into effect, supervisory organs have transferred a large number of cases to judicial organs. However, cases where the exclusionary rule of illegal evidence has been applied or even initiated are rarely known, and the difficulty in excluding supervisory evidence is far greater than that in ordinary criminal cases. The reason for this phenomenon is the difference in implementation caused by the difference in status. Since the reform of the supervision system is regarded as a major political reform concerning the

overall situation [19], discipline inspection and supervision organs are defined as "political organs"[20] rather than judicial organs. In particular, the institutional design of joint office work means that the powers of supervision, investigation, and disposal are synchronous and homogeneous. This has actually elevated the status of supervisory commissions. At the local level, the top leader of a supervisory commission is usually a member of the Standing Committee of the local Party committee, whose position is much higher than that of the president of the local people's court or the procurator-general of the local people's procuratorate. This difference in the positions of the main responsible persons also gives supervisory organs a natural positional advantage when connecting with judicial organs, further exacerbating the status difference between supervisory commissions and people's procuratorates and people's courts. Under this status difference, it is too difficult to exclude illegal evidence submitted by supervisory commissions that are in an invisible "superior" position.

4.2. Difficulties in internal exclusion by supervisory commissions

Supervisory commissions are the first checkpoint for the illegal exclusion of supervisory evidence, but they can play a very limited role in excluding illegal evidence, mainly for two reasons. On the one hand, there is no clear division within supervisory commissions regarding which department is responsible for the power to exclude illegal evidence. A supervisory commission has 31 functional departments. In addition to regular departments, supervision and inspection rooms are mainly responsible for performing supervision duties in accordance with disciplines and laws; review and investigation rooms are mainly responsible for performing disciplinary review and investigation and disposal duties in accordance with laws [21]. In the institutional setup and responsibility allocation, there is no division of the power to exclude illegal evidence during case handling. From the current situation, both supervision and inspection rooms and review and investigation rooms have the right to exclude illegal evidence during case handling. However, the unclear division of power is prone to mutual prevarication and slackness in actual implementation, which greatly reduces the operational effect of the exclusionary rule of illegal evidence.

On the other hand, there are natural defects in self-exclusion. Due to the same nature of work, supervisors and supervised persons within the supervisory commission often have the same concepts regarding case thinking and the identification of illegal evidence. Secondly, there are common interests between internal supervisors and supervised persons. In order to combat corruption and punish corrupt elements, discipline inspection and supervision personnel all hope that cases can be closed and transferred to judicial procedures so that corrupt elements can be punished in accordance with the law. Therefore, in some cases, supervisors may turn a blind eye selectively, and the supervision intensity may be relaxed, resulting in poor exclusion effects. Finally, there are personal relationships between supervisors and supervised persons. In internal supervision, supervisors and supervised persons are colleagues, often knowing each other or even being familiar with each other [7]. If a supervisor excludes illegal evidence in a case handled by a supervised person, it may affect the supervised person's work evaluation, awards, and promotion, making it difficult for the supervised person to exclude evidence.

4.3. Strengthening the trial-centered doctrine in the "connection and application between laws"

The voluntary exclusion of illegal evidence by supervisory commissions in case handling still falls within the scope of internal exclusion, with corresponding defects. We must be vigilant against the "supervisory commission-centered doctrine" caused by the special status of supervisory commissions. When conducting investigations into anti-corruption cases, supervisory commissions should conduct investigations in accordance with the law, clarify evidence awareness and procedural awareness, and

the collected evidence must be comprehensive, objective, and timely, and must comply with the three attributes of evidence [22]. In addition, compared with other departments, supervisory commissions with anti-corruption as their core goal are more self-centered, which may lead to the result of transferring cases for examination and prosecution becoming the final judgment result of the case. To address this issue, the investigation results of supervisory commissions should be regarded as preliminary investigation judgments and should not have inherent final legal effect. The power of final conviction and sentencing needs to be decided by the court [23]. From a procedural perspective, in the subsequent transfer for examination and criminal trial stages of the "connection and application between laws", it is particularly important for procuratorial organs and judicial organs to exclude illegal supervisory evidence collected by supervisory commissions in accordance with the law.

The trial-centered doctrine not only needs to formally highlight the procedural status of trial activities, but also needs to materialize them [24]. From a substantive law perspective, the Supervision Law does not specifically classify the exclusion models of illegal supervisory evidence in Paragraph 3 of Article 33. However, if judicial organs adopt a "one-size-fits-all" exclusion model in trial activities, it will increase the cost and difficulty of supervisory case handling and hinder judicial efficiency [25]. Therefore, combined with the relevant provisions of the Supervision Law and the Criminal Procedure Law, the "connection and application between laws" requires judicial organs to adopt the following three models for the exclusion of illegal supervisory evidence: first, mandatory exclusion. Judicial organs must exclude supervisory evidence obtained by obviously infringing on the legitimate rights and interests of investigated persons from the court. The court's admission of such evidence that seriously infringes on legitimate rights and interests is likely to cause serious damage to judicial justice. Second, discretionary exclusion. For this type of evidence, the court is not required to exclude it, but should comprehensively consider the degree of illegality of the investigators' actions when collecting the evidence, the impact on the victim, and decide whether to admit the evidence after weighing the pros and cons. Third, curable exclusion. For those "procedural flaws" with technical illegal nature, judicial organs may use the evidence as the basis for conviction and sentencing after requiring the supervisory commission to make corrections or give reasonable explanations [26]. In the trial stage, judicial organs adhering to the three models for the exclusion of illegal supervisory evidence can not only better realize the "connection and application between laws", but also further achieve the value goal of combating corruption and bribery crimes.

5. Protection and improvement of the right to defense of investigated persons

After understanding the interpretation difficulties, practical difficulties, and solutions in excluding illegal evidence in supervisory evidence, this part explores the dilemmas and breakthroughs in protecting the right to defense of investigated persons. First, starting from the dilemmas, it introduces the concept of the right to defense and the current status of protection. Then, it understands new technologies and methods for the digital development of supervisory evidence. Finally, it explores ways to protect the right to defense through whole-process audio and video recording.

5.1. Normative analysis of the protection of the right to defense of investigated persons

Illegal evidence collection may occur in the process of collecting physical evidence and verbal evidence, and the interrogation process often becomes a high-risk area for illegal evidence collection. Paragraph 2 of Article 41 of the Supervision Law stipulates: "Investigators shall conduct audio and video recording of the entire process of interrogations as well as important evidence collection activities such as searches, seizures, and detentions for future reference." Illegal evidence collection enables case handlers to obtain the required confessions in a short time with low cost, thereby quickly

closing cases and improving the case closure rate. Therefore, whole-process audio and video recording during interrogations is particularly important to prevent illegal evidence collection.

However, some views hold that "for future reference" will greatly increase the difficulty of verification and even interfere with the work of procuratorial organs and judicial organs [27]. In response to this concern, on the one hand, it is necessary to fix the interrogation place to prevent investigators from illegally collecting evidence outside the interrogation place and then using the audio and video recording system to "endorse" it; on the other hand, the whole-process audio and video recording must start from the beginning of the interrogation and end after the investigated person signs for confirmation. The video screen must include the interrogators and the interrogated person, as well as a display device showing the date and time.

5.2. Digital collection, preservation, and storage of supervisory evidence

Under the current situation where the current legal norms have not clearly stipulated that investigated persons have the right to meet with lawyers, in order to ensure the right to defense and other legitimate rights and interests of investigated persons during supervisory investigations, it is necessary for supervisory organs to conduct electronic collection and preservation of supervisory evidence. Under the digital wave, the generation and storage of Internet data have increased sharply, and evidence existing in traditional forms has been largely replaced by digital data. It is estimated that the market size of electronic data forensics in China in 2022 was about 3.041 billion yuan, with an output value of about 3.129 billion yuan [28]. The Work Report of the Third Plenary Session of the 20th Central Commission for Discipline Inspection clearly proposes to "deepen the development and utilization of data resources, build an integrated work platform for discipline inspection and supervision, and promote the in-depth integration of digital technology into all businesses of discipline inspection and supervision"[29]. In this regard, supervisory commissions must actively promote the in-depth integration of digital technology and supervisory work, and promote the transformation of supervisory evidence from electronic evidence to digital evidence. When searching and seizing physical evidence, more attention should be paid to the protection of electronic devices, and original data must be backed up to prevent the loss or damage of evidence.

The in-depth digital development of supervisory evidence will shift the evidence generation space, transfer space, and evidence review space from reality to digital [30]. As an emerging technology, the greatest embodiment of the legal value of blockchain is that it brings a different argumentation model from traditional electronic evidence to the field of law [31]. In fact, blockchain technology can play a significant role in evidence preservation, submission, and verification in all fields involving recording and verification [32]. By comprehensively applying cutting-edge technologies such as blockchain and cloud computing, supervisory evidence can realize the interconnection of discipline and law among relevant departments in a timely manner at different stages, further improving the way to protect the right to defense of investigated persons.

5.3. Improvement direction of protecting the right to defense of investigated persons

The principle of the right to defense means that criminal suspects and defendants have the right to defend themselves, and the relevant organs shall guarantee their right to obtain defense. The right to defense in a narrow sense refers to the right of the defendant to defend himself against the prosecution of the procuratorial organ and to obtain assistance. In a broad sense, the right to defense also includes the right to appeal, the right to petition, etc., and it can even be said that the right to defense is the sum of all procedural rights of the accused [33]. Investigated persons in supervisory investigations should naturally have the right to defense. They not only have the right to defend themselves and present their own arguments during the entire investigation process, but also should have the right to

obtain assistance from defenders. However, the supervisory commission is a special "political organ". Therefore, its investigation is different from criminal investigation and does not need to comply with the provisions of the Criminal Procedure Law. During the entire investigation period, lawyers are prohibited from participating and cannot provide legal assistance to investigated persons [34]. This means that during the supervisory investigation process, it is difficult for investigated persons to obtain legal assistance from lawyers.

Investigated persons may not understand their rights and obligations, making it difficult to protect their right to defense and further compressing the space for them to obtain judicial remedies [35]. In addition, there are still large institutional loopholes in the construction of the judicial review mechanism and the establishment of detention places for the detention measures taken by supervisory organs against investigated persons. Based on the above reasons, the task of protecting the right to defense of investigated persons is still arduous.

6. Conclusion

After the comprehensive reform of the national supervision system, "connection and integration of discipline and law" and "connection and application between laws" have become the focus of attention in the academic and practical circles. In particular, the integration of the supervisory evidence system and the criminal evidence system will surely become the focus of future discussions. The connection and application of the exclusionary rule of illegal evidence to supervisory evidence have encountered various difficulties in both normative interpretation and practice. In this regard, we must follow legal interpretation methods, implement the trial-centered doctrine, and realize the electronic collection, storage, and circulation of supervisory evidence.

Taking Article 33 of the Supervision Law as an example, this paper explains the normative dilemmas encountered in the exclusion of supervisory evidence in criminal proceedings. The relevant contents of other articles of the Supervision Law and the Regulations on the Implementation of the Supervision Law still need further discussion and analysis. To solve the practical difficulties, in addition to expecting the further improvement of the institutional setup and power division of the National Supervisory Commission, the digital development direction of supervisory evidence is also worthy of attention. The reform of the national supervision system cannot be achieved overnight. It is predictable that in future judicial practice, the "connection and application between laws" will face many difficulties, and the solution process requires the mutual adaptation of theory and practice. The practical circle verifies the rationality and improvement of the "connection and application between laws" through practice, promotes the pace of the reform of the national supervision system, and improves the modernization of the national governance system and governance capacity.

References

- [1] Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, Ministry of State Security, & Ministry of Justice. (n.d.). Several provisions on excluding illegal evidence in handling criminal cases. China Procuratorate Network. https://www.spp.gov.cn/flfg/sfjs/201212/t20121228_52203.shtml
- [2] Liu, Y. H. (2019). Review and exclusion of illegal evidence in duty-related crime cases: Against the background of the connection between the Supervision Law and the Criminal Procedure Law. *Legal Review*, (1), .
- [3] Lan, Y. J. (2018). On the use of supervision evidence in criminal proceedings. *Evidence Science*, (6), .
- [4] Gao, T. (2018). Jurisprudential analysis of illegal evidence in supervision procedures. *Evidence Science*, (4), .
- [5] Fan, G. X., & Cao, X. F. (2020). On the use of supervision evidence in criminal proceedings. *Journal of Sichuan Police College*, (1), .
- [6] Gong, J. W. (2020). On the exclusion of illegal evidence in supervision investigations. *Legal Review*, (1), .
- [7] Zheng, X. (2018). On the application of the illegal evidence exclusion rule to cases handled by supervisory committees. *Evidence Science*, (4), .
- [8] *Weeks v. United States*, 232 U.S. 383 (1914)
- [9] *Mapp v. Ohio*, 367 U.S. 643 (1961)

- [10] Central Commission for Discipline Inspection and National Supervisory Commission. (n.d.). Central Commission for Discipline Inspection and National Supervisory Commission Website. https://www.ccdi.gov.cn/index_m.html (Accessed on January 21, 2025)
- [11] Central Commission for Discipline Inspection and National Supervisory Commission. (2025). Report on the supervision, inspection, review and investigation work of discipline inspection and supervision organs across the country in 2024. Central Commission for Discipline Inspection and National Supervisory Commission Website. https://www.ccdi.gov.cn/toutiao/202501/t20250110_399620_m.html
- [12] Chen, W. D., & Nie, Y. L. (2018). Several issues on supervision evidence in duty-related crimes: Centered on Article 33 of the Supervision Law. *Journal of Renmin University of China*, (4), .
- [13] Cheng, L. (2019). Connection difficulties and solutions between the Criminal Procedure Law and the Supervision Law. *China Legal Science*, (2), .
- [14] Li, Y. (2018). Research on the connection between the Supervision Law and the Criminal Procedure Law: Proposal of the theoretical model of "dual procedure and integrated evidence". *Evidence Science*, (5), .
- [15] Chen, G. Z., & Shao, J. (2017). Reflections on several issues of China's supervision system reform. *China Legal Science*, (4), .
- [16] Wang, X. M., & Huang, L. L. (2019). Research on several issues of the connection between the Supervision Law and the Criminal Procedure Law. *Legal Forum*, (2), .
- [17] He, H. B. (2022). *Administrative Procedure Law* (3rd ed.). Law Press. p. 90.
- [18] Lin, Z. Y. (2023). Difficulties and solutions in the exclusion of supervision evidence in criminal proceedings: From the perspective of the "two sides of criminal evidence" theory. *Tribune of Political Science and Law*, (1), .
- [19] General Office of the Communist Party of China Central Committee. (2016, November 8). Pilot plan for the national supervision system reform launched in Beijing, Shanxi and Zhejiang. *People's Daily*, p. 3.
- [20] Yan, M. (2018, March 8). The supervisory committee is a political organ. *China Discipline Inspection and Supervision News*, p. 3.
- [21] Central Commission for Discipline Inspection. (n.d.). Latest organizational chart and responsibility brief. CPC News Network. <http://www.12371.cn/>
- [22] Zhang, Y. X. (2019). Analysis on the connection between the Supervision Law and the Criminal Procedure Law. *Legal Science Magazine*, (1), .
- [23] Xia, H. Z., & Fang, W. (2024, October 25). Research on the tendency of de-supervision-centrism in supervision-procuratorate connection. *Rule of Law Times Network*. https://www.fzsd124.com/index/index/n_show/id/149565.html
- [24] Zhang, J. W. (2015). Substantive connotation and realization path of trial-centeredness. *Peking University Law Journal*, (4), .
- [25] Liu, D. Y. (2019). Interpretive reconstruction of the illegal evidence exclusion rule: For the purpose of practical compensation for functional defects. *Academic Circle*, (5), .
- [26] Chen, R. H. (2010). The Chinese model of the illegal evidence exclusion rule. *China Legal Science*, (6), .
- [27] Long, Z. Z. (2018). Legal normative analysis of the coordination and connection between supervision and justice. *Political Science and Law*, (1), .
- [28] Zhiyan Consulting. (2023, September 9). 2022 Panorama of China's electronic data forensics industry: The degree of digitalization of business activities continues to improve, and the amount of electronic data increases sharply. Zhiyan Consulting Network. <https://www.chyxx.com/industry/1156145.html>
- [29] Central Commission for Discipline Inspection and National Supervisory Commission. (2024). Work report of the Third Plenary Session of the 20th Central Commission for Discipline Inspection. Central Commission for Discipline Inspection and National Supervisory Commission Website. https://www.ccdi.gov.cn/specialn/scqh/scqhgzb/202402/t20240226_330301.html
- [30] Hu, M. (2025). On the ternary structure of criminal evidence in the digital age. *Peking University Law Journal*, (1), .
- [31] Zhang, Y. J. (2019). Judicial application, systematic dilemmas and evidence law reform of blockchain technology. *East China University of Political Science and Law Journal*, (3), .
- [32] Zheng, G. (2018). Blockchain and the rule of law in the future. *East China University of Political Science and Law Journal*, (3), .
- [33] Chen, X. L. (2004). Defending the right to defense: The right to defense from the perspective of criminal rule of law. *Legal Science*, (1), .
- [34] Chen, R. H. (2018). On the investigation power of supervisory committees. *Journal of Renmin University of China*, (4), .
- [35] Chen, R. H. (2019). On the nature of national supervision power. *Journal of Comparative Law*, (1), .