

The System Construction of“Defense Investigation and Interrogation”in China

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Abstract: The system construction of“Defense Investigation and Interrogation”in China aims to realize judicial justice,protect the legitimate rights and interests of criminal suspects and improve the quality and efficiency of criminal trial.Reasonable and effective investigation and interrogation regulation mode is conducive to maintaining social fairness and justice,and promoting the scientific,national and civilized development of criminal procedure system.Based on legal literature research and case analysis,this paper discusses the necessity and main contents of the“Defense Investigation and Interrogation”system in China.The establishment of the“Defense Investigation and Interrogation”system will effectively improve the justice and efficiency of criminal justice in our country,provide criminal suspects with more just and lawful rights protection,and promote the reform of criminal justice in our country at the same time.

Keywords: “Defense Investigation and Interrogation”;System construction

Introduction:

The introduction of“Defense Investigation and Interrogation”is closely related to the deepening of the rule of law construction and the concept of human rights protection in our country.Investigation is an important link in combating crime and maintaining social stability.However,some improper investigation and interrogation behaviors have led to the occurrence of extorting confessions by torture and unjust,false and wrong cases,which have infringed on the legitimate rights and interests of criminal suspects.The system construction of the“Defense Investigation and Interrogation”aims to ensure the legality,fairness and effectiveness of investigation by introducing the participation of lawyers and the protection of defense rights,rather than simply safeguarding the interests of the accused.

1. The Significance of the System Construction of the“Defense Investigation and Interrogation”

The reform of our country’s criminal procedure system is taking the advantage of“adversary system”and making up for the disadvantage of“ex officio doctrine”.For example,the establishment of the right of a suspect to hire a defense lawyer during an investigation has opened a window on the legitimacy of defense evidence collection.The establishment of the system of“Defense Investigation and Interrogation”has important significance and value in the criminal justice reform of our country.It is discussed from the following three aspects.

1.1 Protect the legitimate rights and interests of criminal suspects

The core of“Defense Investigation and Interrogation”is to protect the legitimate rights and interests of criminal suspects and ensure that they enjoy the right to defense in the investigation stage.In the current criminal procedure system of our country,the status of the defendant’s right of defense is relatively weak,which easily leads to the occurrence of improper investigation behaviors such as extorting confessions by torture.The introduction of“Defense Investigation and Interrogation”system can effectively avoid these problems to ensure that suspects are treated legally and fairly in the investigation process.

1.2 Improve the quality and efficiency of criminal trials

Another important significance of the“Defense Investigation and Interrogation”is to improve the quality and efficiency of crim-

inal trial.As the agent of a criminal suspect,a lawyer can actively participate in the investigation process,investigate evidence,and put forward defense opinions.The participation of lawyers can effectively promote the rationalization of cases and the legitimacy of evidence,and avoid the wrong judgment caused by illegal evidence and personal grudges.

2. The way of constructing the system of“Defense Investigation and Interrogation”in China

The system construction of“Defense Investigation and Interrogation”in our country can be discussed from the following three aspects.

2.1 Perfect the institutional guarantee of laws and regulations

Firstly,we should focus on improving the laws and regulations related to the“Defense Investigation and Interrogation”,and clarify the limits of authority and obligation of lawyers to participate in the criminal investigation stage.Through legislative means,the power boundary of investigation organs and lawyers can be clarified,and the cooperative relationship between the two parties can be regulated.Secondly,the procedures and methods of lawyers’participation in the“Defense Investigation and Interrogation”should be perfected.Specifically,it can be stipulated that lawyers should meet with suspects at the place of case in a timely manner after receiving the notice of investigation,and can obtain relevant cases or evidence materials,put forward defense opinions,and submit relevant materials to the investigation organ.

2.2 Strengthen the construction and training of lawyers

In order to implement the“Defense Investigation and Interrogation”system,it is necessary to improve the professional level and professional quality of the lawyers.The training institutions of judicial administrative departments at all levels can strengthen the training of lawyers in legal knowledge and investigative skills and others to improve their professional level and professionalism.

2.2.1 Establish and improve the training mechanism for lawyers

It is necessary to combine the characteristics and requirements of the“Defense Investigation and Interrogation”system to formulate the relevant training program and course system,and systematically train lawyers’responsibilities and skills in criminal investigation.The training content includes legal knowledge,criminal investigation procedures,evidence collection and defense skills.It can organize offline and online training,invite senior lawyers and legal experts to give lectures,provide practical cases and mock defense exercises.

2.2.2 Strengthen the all-round quality training of lawyers

In addition to rich legal knowledge and defense skills,lawyers also need to have solid research skills,dialectical thinking skills and communication and negotiation skills.Special lectures and seminars can be held,and experts in psychology,sociology,law and other fields can be invited to give explanations and training to improve the all-round quality and professional level of lawyers.

2.3 Establish a diversified defense resource platform

In order to fully implement the“Defense Investigation and Interrogation”system,it is necessary to establish a diversified defense resource platform to solve the problem of insufficient resources for lawyers to participate in investigation.Adequate resource support for lawyers can be provided through a variety of means,such as the establishment of lawyer cooperation institutions and the establishment of special defense funds.At the same time,the public defense system can also be established to reduce the work burden of lawyers and ensure that suspects get timely and reasonable defense in the investigation process.

3. The theoretical basis of the system construction of“Defense Investigation and Interrogation”in our country

The theoretical basis of the system construction of“Defense Investigation and Interrogation”in our country can be discussed from the following three aspects.

3.1 The foundation of principle of ruling by law

The rule of law is one of the basic principles of modern society and the core idea of judicial reform in our country.As an important judicial reform measure,the theoretical basis of the“Defense Investigation and Interrogation”is that law is the basic creed of the ruler,that is,individuals have equal rights and obligations before the law.

3.2 The theoretical basis of respecting human rights

The system construction of the“Defense Investigation and Interrogation”is carried out on the theoretical basis of respecting and protecting human rights.As a reform measure closely related to human rights,the“Defense Investigation and Interrogation”emphasizes the legitimate rights and interests of criminal suspects and respects their basic rights such as freedom,personal dignity and freedom of

expression. In criminal proceedings, although a criminal suspect is suspected of committing a crime, his or her basic human rights, including life, health, freedom, dignity, property, and housing, shall not be deprived unless in accordance with the law, and the criminal suspect shall not be subjected to discrimination or unequal treatment because of the suspicion on him or her.

3.3 Reference to international human rights standards

The system construction of the “Defense Investigation and Interrogation” is also influenced by international human rights standards. In international human rights law and related conventions, there are a series of provisions for the protection of human rights of criminal suspects, such as Universal Declaration of Human Rights, International Covenant on Civil and Political Rights. The reference of these international standards provides the theoretical basis and practical reference for the system construction of the “Defense Investigation and Interrogation” in our country. China has participated in the signing and ratification of international human rights instruments and actively used international human rights standards for reference in domestic legislation, which promotes the system construction of the “Defense Investigation and Interrogation”.

4. Strengthen publicity and promotion of the “Defense Investigation and Interrogation”

Strengthening the publicity and promotion of the “Defense Investigation and Interrogation” system is of great significance for promoting the reform of criminal justice, enhancing the protection of criminal suspects’ rights and perfecting judicial justice. The following three aspects discuss how to strengthen the publicity and promotion of the “Defense Investigation and Interrogation” system.

4.1 Legal education and publicity popularization

Firstly, we should strengthen the legal education of the public, popularize the legal knowledge and the relevant laws and regulations on the protection of the rights of criminal suspects. By carrying out publicity and education activities on the rule of law, such as legal lectures and public debates, the significance, principles and practices of “Defense Investigation and Interrogation” are explained to the general public, so that the public can realize its important role in safeguarding social equity and justice.

Secondly, it is necessary to organize special seminars and training courses for lawyers, police, prosecutors and judges and other relevant professionals to introduce the important value and operation of “Defense Investigation and Interrogation” in simple terms. At the same time, it is necessary to strengthen the legal education of relevant personnel to improve their legal awareness and professional quality of criminal trial, and enhance the quality and effect of the execution of “Defense Investigation and Interrogation” system.

4.2 Build cooperation platforms and exchange mechanisms

It is necessary to strengthen cooperation with relevant departments, establish a good communication mechanism and cooperation platform between various links, so that all parties can work together to jointly promote the publicity and promotion of “Defense Investigation and Interrogation”.

At the same time, we should actively strengthen exchanges and cooperation with the international community and draw on the experience of the international advanced experience and practice of the “Defense Investigation and Interrogation”. By organizing international exchange visits, participating in international conferences and seminars and other methods, we can promote the continuous improvement of the theory and practice level of the “Defense Investigation and Interrogation” in our country.

Conclusion:

The system construction of “Defense Investigation and Interrogation” provides strong support for promoting the reform of criminal justice, protecting the rights of criminal suspects, and improving the quality and efficiency of criminal trial. China’s “defense investigation” system has achieved positive results by clarifying the limits of authority and obligations of lawyers, establishing procedures and methods for lawyers to participate in investigations, strengthening the construction and training of lawyers, establishing a diversified defense resource platform, and strengthening the publicity and promotion of the system. The implementation of the system will ensure the legitimate rights and interests of criminal suspects, improve the fairness and efficiency of criminal trials, and promote the perfection of the criminal justice guarantee system.

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