Modern Law Research Vol.6 Iss.1 2025
https://doi.org/10.37420/j.mlr.2025.007

China's Judicial Accountability Procedure: Function, Mode, and Transformation

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Abstract
The judicial accountability procedure is a process in which specific entities exercise their accountability powers in accordance with specific procedures, ensuring the effective operation of the judicial responsibility system. It is an important component of the judicial accountability mechanism for judicial personnel. The judicial accountability procedure has the characteristics of independence, step by step, and autonomy. It plays a role in regulating the accountability process, maintaining accountability fairness, and protecting the rights of those held accountable. There are two modes of judicial accountability procedures: administrative accountability procedure and judicial accountability procedure, each with its own advantages and disadvantages. The accountability process for China's judicial personnel has undergone a transformation from administrative accountability to a coexistence of administrative accountability and judicial accountability. Based on the independence and professionalism of judicial power, judicial accountability procedures are more suitable for supervising and controlling the judicial actions of judicial personnel. The development and improvement of judicial accountability procedures should become the direction for the future development of accountability mechanisms for judicial personnel in China.

Keywords
Judicial personnel; Judicial responsibility; Accountability mechanism; Procedure Mode

1 Introduction

Judicial power is an important component of a country's power system, which is implemented through specific judicial activities of judicial personnel. The three basic elements of justice, "independence, profession, and responsibility", are a complete system. "Independence" includes the exclusive jurisdiction, as well as the corresponding professional guarantees to ensure the independent exercise of judicial power. "Professional" refers to the professional ability to independently exercise authority and be responsible accordingly. "Responsibility" means judicial responsibility that is commensurate with independent competence, based on professional competence, premised on professional guarantees, and based on the Constitution and the law. Directly related to judicial responsibility is judicial accountability, which refers to the accountability of judicial personnel for violations of discipline, law, or professional ethics resulting from their judicial actions and related behaviors. A key issue of the judicial accountability system is how to design and improve the accountability procedure mechanism. Whether the design of the judicial accountability procedure mechanism is scientific and reasonable, and whether it meets the basic requirements of the rule of law and the basic logic of judicial power

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operation directly determines the accuracy, rationality, appropriateness, and actual effectiveness of judicial accountability. The main content of the judicial accountability procedure mechanism is to address the issue of "how judicial accountability works". The judicial accountability procedure is a process in which specific entities exercise their accountability powers in accordance with specific procedures to ensure the effective operation of the judicial responsibility system.

2 The attributes and functions of judicial accountability procedures

2.1 The attributes of judicial accountability procedures

The judicial accountability procedure is the procedure followed by judicial accountability institutions in the process of holding judicial personnel accountable. As a type of legal procedure, judicial accountability procedure has both the common attributes of legal procedure and its own special attributes. The prominent attributes of judicial accountability procedure are reflected in the following aspects. Firstly, the judicial accountability procedure is independent. The purpose of establishing a judicial accountability procedure is to maintain the independence and impartiality of judicial personnel, ensure their transcendent and neutral position in the judiciary, and ensure that their judicial actions are not subject to external factors, including the influence of judicial accountability. Therefore, the judicial accountability procedure itself is required to be independent. The accountability procedure, as a mechanism for determining and assuming judicial responsibility, is different from the procedure of judicial personnel handling legal cases, and also different from the accountability procedure of administrative organs for state officials. Instead, it is an accountability procedure aimed at judicial personnel and is carried out by specific accountability institutions. Secondly, the judicial accountability procedure has a step-by-step and sequential nature. In order to achieve the purpose of the judicial accountability system, it requires the development of strict and scientific implementation procedures in a way that conforms to judicial rules and the behavior rules of judicial personnel, ensuring that judicial accountability can be carried out step by step and in an orderly manner. The process of judicial accountability is orderly and extended according to steps and time limits, generally going through several stages such as the initiation of accountability, the hearing and review of accountability reasons, making accountability decisions, and accountability remedies. It reflects the characteristics of stages and steps. Thirdly, judicial accountability procedure is featured with autonomy. The judicial profession is not a popular profession, it has special professional requirements and norms that are different from general professions. Judicial professional autonomy is determined by the professional characteristics of judicial personnel who resolve disputes between legal relationship subjects through judicial actions. The autonomy of the judicial profession requires the judicial professional group to achieve self-management and avoid illegal intervention from outside the legal profession or specialized procedures. The judicial accountability system, as a component of the self-management system of the judicial professional group, should reflect the requirement of autonomy. Judicial accountability institutions are composed of judicial and other personnel. The judicial accountability process operates in accordance with the prescribed procedure. Judicial responsibility is determined by legal standards that reflect the characteristics of the judicial profession. The fourth, the judicial accountability procedure emphasizes the participation of accountable judicial personnel. The judi-

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cial process is the ultimate way to resolve legal disputes. Judicial personnel are objective and neutral in the exercise of judicial power, representing fairness and justice. Judicial accountability involves the evaluation of the behavior of judicial personnel, and judicial personnel themselves also need to be treated fairly. The judicial accountability procedure involves the participation of relevant parties. The responsible party and the held accountable party conduct investigations and debates in an equal and confrontational manner. The adjudicators make a neutral judgment. This is a rational way to address the judicial responsibility of judicial personnel. Judicial personnel who are held accountable have the opportunity to participate in the accountability process, fully express their opinions, and highlight their subject status in the accountability process, rather than simply being held accountable as objects.

2.2 The functions of judicial accountability procedures

The function of legal procedures refers to the role and effectiveness of legal procedures in establishing and maintaining the entire rule of law society and its order. The function of the judicial accountability procedure is the role it plays in implementing the judicial accountability and establishing the management order of judicial personnel. The judicial accountability procedure plays a role in the operation of judicial accountability, which includes certain expectations for the design of the judicial accountability system, but its significance has exceeded the specific scope and degree of the system. Firstly, the judicial accountability procedure ensures that the accountability of judicial personnel is carried out gradually and orderly, avoiding temporary and arbitrary actions. Judicial activities are activities in which judicial personnel, authorized by law, handle and settle legal disputes in accordance with judicial procedures, in order to affect the rights and obligations between parties and thus have corresponding legal effects. Judicial activities have characteristics such as procedurality, authority, and finality. The characteristics of judicial activities determine that stable and reliable procedures are required for holding judicial personnel accountable, and the accountability follows a certain order. If there are no restrictions by procedures, judicial accountability can be initiated arbitrarily, and the judicial accountability system is prone to distortion. This may become a reason for external factors to arbitrarily interfere with the judicial behavior of judicial personnel, which is not conducive to the establishment of judicial authority. Secondly, the judicial accountability procedure ensures the fairness of judicial accountability. The establishment of the judicial accountability system is aimed at regulating the judicial behavior of judicial personnel and realizing the scientific operation of judicial power. The fundamental purpose of the judicial accountability system is to achieve judicial authority and enhance judicial credibility. How judicial accountability is carried out also has the meaning of the rule of law. As a type of legal procedure, judicial accountability procedure needs to possess the basic elements and attributes of legal procedure. Following scientific and reasonable procedures in judicial accountability helps to achieve the fairness of judicial responsibility determination results. In addition, the procedure itself has independent value. The result obtained through fair procedure is more easily recognized by the personnel being held accountable and the public. Thirdly, the judicial accountability procedure protects the legitimate rights and interests of the judicial personnel being held accountable. Judicial accountability involves judicial personnel assuming judicial responsibility, and the results of accountability are closely related to the interests of the judicial personnel being held accountable. Without proper procedures, democracy can also harm an individual's culture and values. If judicial accountability is not carried out in accordance with certain pro-

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cedures, it may become a tool that harms individual rights or interferes with normal judicial activities. The judicial personnel being held accountable are the subjects of the accountability process, not the objects. The accountability procedure is not only a mechanism for regulating behavior, but also a process of interaction and coordination among all parties involved. Having sufficient opportunities for judicial personnel to defend themselves and obtain necessary remedies is an essential aspect of the judicial accountability process.

3 Two Models of Judicial Accountability Procedure - Judicial Accountability Procedure and Administrative Accountability Procedure

The determination of judicial responsibility is a complex process that requires not only professional accountability institutions but also scientific accountability procedures. Overall, there are two main models of judicial accountability procedures. One is administrative accountability procedure, characterized by judicial accountability agencies responsible for initiating, investigating, and making decisions regarding the accountability process, while the judicial personnel being held accountable are in a passive and assisting position in the investigation. The other is judicial accountability procedure, which is characterized by the fact that it consists of three parties: the initiator of the accountability procedure, the judicial personnel being held accountable, and the judicial accountability decision-making agency. The initiator of the accountability procedure and the judicial personnel being held accountable submit evidence to each other, debate each other, and the judicial accountability decision-making agency ultimately makes a decision. This process usually manifests as a formal trial or hearing procedure.

Administrative accountability procedure and judicial accountability procedure each has it's own advantages and disadvantages. Administrative accountability procedure has the following advantages. Firstly, it has economic benefits. Judicial accountability requires a certain cost to be paid. Compared with judicial accountability procedure, administrative accountability procedure is essentially a process of exercising administrative power, with fast speed and fewer procedural steps. It requires relatively less manpower, material resources, and financial resources. Secondly, it is simple and convenient. The administrative accountability procedure does not involve cumbersome procedural steps similar to litigation. It usually manifests as simple procedural regulations, flexible initiation methods, and convenient jurisdictional mechanisms. Accountability agencies can investigate and listen to the opinions of the person being held accountable, while others only conduct written reviews without strict procedural restrictions. Moreover, the vertical hierarchical relationship within the accountability agency system facilitates the execution of arbitration results. Thirdly, the rapidity is the a basic feature of the administrative accountability procedure. The exercise of administrative power is efficient. Generally speaking, the duration of administrative accountability procedure is relatively short, which can provide timely and definitive conclusions on the judicial responsibility of judicial personnel. Although administrative accountability procedure has the above advantages, it's impartiality is questioned as it is an internal accountability method. The judicial authorities to which judicial personnel belong or their superior authorities initiate accountability procedures and resolve judicial responsibility issues as judges. It is not conducive to protecting the rights of the judicial personnel being held accountable. From the perspective of the normal psychology of judicial personnel being held accountable, they are more con-

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cerned with the fairness of judicial accountability. The premise of fairness lies in having a neutral judge, which is precisely what administrative judicial accountability procedure does not possess. Administrative judicial accountability emphasizes internal supervision of judicial organs, and its procedure is not as strict as judicial procedure. This undermines the fairness of case handling. The judicial accountability procedure is presided over by the accountability adjudication agency with the participation of the initiator and the judicial personnel being held accountable, and follows strict procedural rules to determine whether the behavior of judicial personnel violates discipline and law and whether they bear judicial responsibility. Judicial accountability procedures have the following advantages. Firstly, the subject of judicial accountability adjudication is independent and neutral. Independence refers to the fact that judicial responsibility adjudication institutions are not subject to any external interference except in accordance with laws and regulations, and remain independent in the process of exercising their adjudication power. Neutrality refers to the absence of bias and discrimination against any party in the judicial accountability process, and the maintenance of a detached and impartial attitude and position with the initiator of the judicial accountability process and the judicial personnel being held accountable. The independence and neutrality of the subject of judicial responsibility judgment can enable judges to avoid interference from external factors and focus on the judgment of judicial responsibility. Judicial responsibility adjudication institutions can focus on the judgment of judicial responsibility. Secondly, judicial accountability activities are open and transparent. Unlike the internal and closed nature of administrative judicial accountability procedure, judicial accountability procedure is generally open to the public, allowing parties and the public to have a comprehensive understanding of the process of judicial accountability, the basis for the formation of judgments, and thus supervise the process of judicial accountability. Thirdly, the judicial accountability procedure reflects full participation. Judicial accountability is carried out in a centralized manner with the participation of all parties involved in the dispute, and the initiator of the accountability process and the person being held accountable promote the development of the judicial accountability process through equal and adversarial burden of proof and debate activities. Judicial responsibility adjudicators treat both the initiator and the respondent equally, ensuring that both parties' actions during the accountability process can equally influence the adjudicator's decision. On the basis of listening to the opinions of all parties, judicial responsibility adjudicators draw conclusions, which are more easily accepted by the personnel being held accountable. Although judicial accountability procedure has the above advantages, it also has inherent shortcomings. Firstly, the judicial personnel being held accountable are generally during their tenure. Compared to the administrative accountability procedure, the judicial accountability procedure has a longer duration, and the initiation of accountability procedure may directly affect the normal exercise of judicial power by judicial personnel. Secondly, the judicial accountability process follows strict legal procedure, which is time-consuming and not conducive to improving the efficiency of handling accountability cases. Moreover, all parties involved in the judicial accountability process will inevitably invest more manpower, material resources, and financial resources.

Overall, compared to the administrative accountability procedure, the judicial accountability procedure is more rigorous, standardized, comprehensive, and fair. It is in line with the principles of the rule of law. British scholar David Miller pointed out that "even if the ruling is obvious, the voices of both parties in the lawsuit should be heard." This not only demonstrates equal respect for both parties and their demands, but

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also regards interpreting all information related to the ruling as an important indicator of the procedure. Those overly simplified approaches, even if they can achieve the goals of reducing costs and improving efficiency, will fundamentally violate the participants' emphasis on the truth of the facts. It is precisely the judicial accountability procedure that reflects the independence and neutrality of the judicial accountability subject, as well as the openness and transparency of the judicial accountability procedure, and realizes the full participation of relevant parties in the accountability procedure.

4 The Traditional China's Accountability Procedure Model for Judicial Personnel

According to the Judges Law and the Public Procurators Law of China, judges and procurators shall enjoy the right being not transferred, removed, demoted from the post or dismissed, and being not given a disciplinary action, without statutory reasons and without undergoing statutory procedures. The accountability of judicial personnel in China emphasizes the legal process in legislation. The specific procedures for holding judicial personnel accountable are mainly reflected in the laws and specific regulations formulated by the National Oversight Commission, the Supreme People's Court, and the Supreme People's Procuratorate. Before the implementation of the judicial responsibility system in the court and procuratorate systems in 2015, the supervisory departments of people's courts and procuratorates at all levels were the functional departments responsible for investigating the responsibility of judges and prosecutors for violations of discipline or law. The supervisory departments within people's courts and people's procuratorates are responsible for initiating, reviewing and deciding on procedures for holding judges and procurators accountable for disciplinary offences. The main legal basis for holding judicial personnel accountable for violations of discipline or law includes the Judges Law, the Prosecutor's Law, the Regulation on Supervision Work of the People's Court(expired), and the Regulation on Supervision Work of the People's Procuratorates (expired) before the 2019 revision. Taking the China's court system as an example, the accountability process for disciplinary offences in China's court system goes through the following case-handling stages. 1. The case filing stage. When the people's court supervisory department receives a report or complaint against a judge who has violated discipline or the law or discovers a violation of discipline or the law in the course of its daily work supervision and inspection, it first conducts a preliminary verification. After preliminary investigation, if it is deemed that disciplinary action should be taken, a formal case will be opened for investigation after approval by the leadership. 2. Investigation and trial stage. After the supervisory department of the people's court officially files a case, supervisory personnel should be dispatched to form an investigation team to comprehensively collect evidence. If it is necessary to make a review conclusion and handling decision, the case shall be submitted to the case review team for trial and evaluation. 3.Case handling stage. If a warning, demerit or major demerit is to be imposed, the supervisory department of the people's court shall propose a disciplinary opinion and submit it to the president of the court for approval before issuing a disciplinary decision; if a demotion, dismissal or expulsion is to be imposed, the supervisory department shall propose a disciplinary opinion and issue a disciplinary decision with the approval of the presidency of the court. 4. Appeal and reconsideration stage. If the accountable judge is not satisfied with the disciplinary decision, he or she has the right to apply for a review to the people's court that made the disciplinary decision;

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if he or she is still not satisfied with the review decision, he or she may apply for a review to the supervisory authority at the next higher level that made the review decision. The procedure for holding prosecutors accountable for disciplinary offences in the people's procuratorate system usually goes through the stages of receiving reports, investigating cases, hearing and handling cases, appealing cases, and reviewing and reconsidering them, with the specific procedures being basically similar to those for holding judges accountable for disciplinary offences in the people's court system.

As can be seen from the above elements of the accountability process for judicial personnel for disciplinary offences, China's model of accountability procedures for judicial personnel is a form of accountability dominated by the internal supervisory departments of the People's Courts and People's Procuratorates, and the process of accountability is a typical administrative mode of dealing with the situation. This internal administrative homogenisation of oversight and accountability leads to two major problems: the formalisation and discounting of accountability and the failure to substantively safeguard the rights of those held accountable. Firstly, prosecution and trial are not separated. In the accountability process for violations of discipline or law by judicial personnel, the supervisory departments within the people's courts and procuratorates dominate the main process of accountability. The supervisory departments have the power to investigate, initiate accountability procedures, and make decision. The court inspectorate combines the powers of filing, investigating, adjudicating and recommending penalties, which are basically the same as those of the former administrative inspectorate, and the inspection process is clearly characterised by law enforcement rather than justice. Although the relevant provisions require that accountability for disciplinary offences committed by judicial officers be established at the trial stage by setting up a special trial team to distinguish it from the investigation team at the investigation stage, and stipulate that those who participate in the investigation of a case may not take part in the trial of the case, both the investigation team and the trial team belong to the management of the supervisory authorities, and in fact the distinction between the two subjects has only a formal significance. Secondly, "inequality of arms between the prosecution and the defence". In the accountability procedures for disciplinary offences committed by judicial personnel, the supervisory departments of the people's courts and people's procuratorates have the power to investigate, to initiate accountability procedures, and to make certain decisions, while the accountable judicial personnel are in the position of being held accountable, and are obliged to assist the supervisory departments in their investigations. At the time, these procedures were administrative in nature, focusing more on fact-finding than on safeguarding rights, and in particular the independence and neutrality of the decision-maker and the equality and adversarial nature of the procedure were relatively weak or even absent. There are provisions in the relevant regulations that the supervisory departments should ask the persons investigated, listen to their statements and defenses, and if necessary, verify testimony with witnesses. But the equality and adversarial nature of the procedure cannot be fully reflected. Thirdly, insufficient guarantees of procedural rights for accountable judicial personnel. The procedure for holding judicial officers accountable for disciplinary offences allows for written hearings, and although it also provides for the questioning of the person being investigated and the hearing of his or her statements and arguments, the scope and degree of exercise of the procedural rights of the judicial officer being held accountable are not comparable to those of judicial accountability by means of a court hearing or a hearing. In addition, the relevant provisions of the judicial

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accountability procedure lack provisions on the allocation of the burden of proof and the engagement of lawyers or peers to help exercise the right of argument by the judicial officials under censure.

The traditional judicial accountability procedure shows internal and administrative characteristics. The investigative and decision-making powers in the accountability procedures for judicial officers are centralized in the judiciary, and there is no separation of investigative, determination and decision-making powers in the internal operational mechanisms. In fact, China's traditional model of accountability procedures for judicial personnel is modelled entirely on the disciplinary provisions for civil servants in the executive branch. Holding judicial officers accountable by reference to the relevant provisions for civil servants, although a simpler procedure, does not reflect the special professional characteristics of judicial officers. The procedure for handling cases under the system of internal supervision of the judiciary is a typical administrative procedure, and its application is susceptible to interference by administrative forces, which is not conducive to ensuring the independence of judicial officers in handling cases. For a long time, since there is no clear distinction between judges and civil servants in general, the entry standards are not high and the qualification requirements are not stringent, some judges have difficulty in exercising judicial power independently and impartially, both in terms of their operational capacity and their spiritual character. The courts have had to resort to administrative guidance from the president of the court, the chairman of the court and the trial committee to study and decide on essentially non-procedural methods to improve the degree of judicial impartiality, and the use of such administrative judicial management has undermined the fundamental setting of an independent judiciary. A serious drawback of the penetration of the logic of administrative organisations into the disciplinary system of judges is that the disciplinary system is prone to replace the logic of judicial organisations with the logic of administrative organisations in terms of standards and procedures, which is in conflict with the professional characteristics of the judges, thus harming the legitimate interests of the judges and impeding the normal order of judicial activities. The accountability of judicial personnel is carried out in an administrative manner, which is essentially a way of thinking that relies on the model of administrative deterrence for accountability. The administrative solution to the problem of the limitation of judicial power has the disadvantage that it does not adequately reflect the impartiality of the process of holding judicial officers accountable and may directly undermine the principle of an independent judiciary.

5 The Reform of the Accountability Procedure for China's Judicial Personnel

The principle of judicial de-administration and judicial independence is both the premise of the judicial responsibility system and the basic theory for measuring whether the design of the judicial responsibility system is scientific and reasonable. It is precisely because of the recognition of the problems existing in traditional judicial personnel accountability procedures that China has initiated a new round of judicial reform, and the mechanism of judicial personnel accountability procedures has undergone structural changes. In 2015, the Supreme People's Court issued "Several Opinions of the Supreme People's Court on Improving the Judicial Accountability System of People's Courts". Article 35 stipulates that the supervisory department of the people's court shall investigate whether a judge has engaged in any illegal judicial conduct and take

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necessary and reasonable protective measures. During the investigation process, the judge involved shall have the right to be informed, to defend himself, and to present evidence. The supervisory department shall faithfully record the opinions, defenses, and evidence presented by the judge involved, and shall state in the investigation report whether they are adopted. Article 36 stipulates that the supervisory department of the Higher People's Court shall send personnel to report to the Judicial Disciplinary Committee on the facts of the judge's illegal judicial conduct and the proposed handling suggestions and bases, and provide evidence regarding his illegal judicial conduct and subjective fault. The judge involved has the right to make statements, present evidence, defend himself, apply for reconsideration, and lodge an appeal. The Supreme People's Procuratorate issued "Several Opinions on Improving the Judicial Accountability System of the People' Procuratorates". Article 42 stipulates that the discipline inspection and supervision institutions of the people's procuratorates shall accept and investigate complaints and accusations against procuratorial personnel for disciplinary violations, illegal acts, and judicial faults in judicial case handling. Article 43 stipulates that the discipline inspection and supervision institutions of the people's procuratorates shall promptly report to the Prosecutor's Disciplinary Committee on the facts of the prosecutor's intentional violation of laws and regulations or gross negligence, as well as the proposed handling suggestions and bases, and bear the burden of proof for his or her intentional violation of laws and regulations or gross negligence. The prosecutor involved has the right to make statements, defend himself or herself, and apply for reconsideration. In 2016, the General Office of the CPC Central Committee and the General Office of the State Council issued "The Provisions on Protecting Judicial Personnel to Lawfully Perform Statutory Duties". Article 14 stipulates that the disciplinary committee for judges and prosecutors shall conduct a hearing when deliberating on cases of responsibility for wrongful convictions of judges and prosecutors. The revised Judges Law and Prosecutors Law in 2019, as well as "The Provisions on Working Procedures for Imposing Punishments on Judges (for Trial Implementation)" issued by the Supreme People's Court and "The Provisions on Working Procedures for Imposing Punishments on Prosecutors (for Trial Implementation)" issued by the Supreme People's Procuratorate, provide clear and detailed provisions on the judicial accountability procedures for judges and prosecutors. The introduction of the Judges Disciplinary Committees and the Prosecutors Disciplinary Committees, the establishment of specialized judicial accountability hearing procedures, and the clarification of the procedural rights of the judicial personnel being held accountable have changed the traditional mode of judicial personnel accountability procedures in China. These regulations to a certain extent reflect the judicial nature of the accountability procedures for judges and prosecutors.

A tripartite structure consisting of investigators, involved judges (prosecutors), and adjudicators has been established in the specific program settings. In terms of rights protection, it is proposed that the judges and prosecutors involved have a series of rights such as statement, proof, defense, and relief. All these indicate that the status and rights of the accountable judges and prosecutors are respected and protected in accountability. These regulations, as a new content of China's judicial responsibility system reform, apply to the judges and prosecutors who intentionally violate the law in handling cases, those who result in erroneous judgments due to gross negligence and cause serious consequences, and those who are responsible for prosecutorial supervision and management. The scope of accountability personnel is usually applicable to judges and prosecutors who have entered the post after the implementation of the reform of the judicial

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and prosecutorial staffing system. According to Article 14 of the Regulation on the Enforcement of Judicial Accountability by People's Procuratorates, the procuratorial auxiliary personnel participate in judicial case handling work shall assume corresponding judicial responsibilities according to their functions and division of work. If the auxiliary personnel of the procuratorate have intentional or grossly negligent behavior, resulting in the prosecutor making wrong decisions, they shall bear corresponding judicial responsibility.

In 2018, China issued the Oversight Law. Based on this law, oversight commissions at all levels are established, which are responsible for conduct oversight on the violations of discipline and law by public officials exercising public power. Judges and prosecutors are included in the scope of oversight by the oversight commissions. For the violation of discipline and law by the post judges and prosecutors who are not involved in judicial case handling responsibilities, as well as non staff judges and prosecutor, the responsibility for accountability shall be held by the oversight commissions and judicial organs at all levels, and the administrative accountability mode has been retained in the accountability procedures. According to the Oversight Law and the Regulation on the Implementation of the Oversight Law, supervisory organs handling cases of violations of discipline and law by public officials involves the collection and acceptance of case clues, preliminary verification, filing, investigation, trial, disposal, and relief procedures. The supervisory authorities adhere to the principle of separating investigation and trial when handling cases, with the investigation department separating from the trial department. The investigation department is responsible for case investigation, while the trial department is responsible for case handling and disposal, but two departments still belong to the same supervisory authority. The method of handling cases by supervisory organs is to review case materials and form review opinions through collective deliberation. Although it is possible to talk to the investigated person, verify the suspected illegal and criminal facts, listen to their defense opinions, and understand the relevant situation based on the case handling situation, the hearing trial method is not adopted. The establishment of investigation and trial institutions and the operation of trial procedures by supervisory organs have the characteristics of administrative procedures.

6 Conclusion

The administrative accountability procedures and judicial accountability procedures coexist in the current accountability system of judicial personnel in China. Where judges and prosecutors should be held accountable for disciplinary offences other than violations of their judicial or prosecutorial duties, they shall be held accountable by independent oversight commissions and judicial organs in accordance with administrative accountability procedures. If a judge or prosecutor in a post system should be held accountable for violating his or her judicial or prosecutorial duties because he or she intentionally violated laws and regulations in handling a case or caused an error in the outcome of a judgement due to gross negligence with serious consequences, the judges disciplinary committee and the prosecutors disciplinary committee will mainly review the case in accordance with judicial accountability procedures, and the judicial organ will take disciplinary action.

The accountability of judicial personnel in China distinguishes between different accountability matters, with administrative and judicial accountability procedures co-existing. Different procedural models of ju-

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dicial accountability differ not only in their specific manifestations, but also, and more importantly, reflect different perceptions of the judicial power in the accountability process, as well as different judicial philosophies. The judicial accountability procedure emphasizes the use of judicial means to monitor and control the conduct of judicial officers while maintaining an independent judiciary. Administrative accountability procedure, on the other hand, emphasizes the administrative management of judicial personnel. The judicial accountability procedure reflects the role of safeguards for the judicial behaviour of judicial officers, and judicial accountability is initiated and adjudicated with care. The administrative accountability procedure represents a deterrent to judicial behaviour as a means of regulating and controlling judicial behaviour. Based on the independence and professionalism of judicial power, judicial accountability procedure is more suitable for monitoring and controlling the judicial behaviour of judicial officers. Taking judicial control as the core of judicial accountability, and aiming to build a multidimensional, standardized and judicial control model, thereby guaranteeing the perfection of the accountability system for judicial personnel, is the direction for the development of China's future accountability process mechanism for judicial personnel.

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