

Research on the Hierarchical Construction of the Sealing System for Adult Minor Criminal Records

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Abstract

China's criminal structure shows a continuous decline in serious violent crimes and a significant increase in minor crimes. The Third Plenary Session of the 20th CPC Central Committee has listed the establishment of a sealing system for adult minor criminal records as a key judicial reform task. Currently, China has only established norms for sealing juvenile criminal records. Directly applying this model to adults may cause imbalances in criminal sanctions, insufficient correctional efficacy, and impaired judicial fairness, leaving theoretical disputes and practical gaps in system construction. Based on the principle of proportionality, this study constructs a three-tier “petty crime–minor crime–serious crime” hierarchical sealing system and establishes progressive judgment standards. It systematically improves core elements such as the scope of sealing, unsealing conditions, inspection mechanisms, allocation of powers and responsibilities, and initiation procedures, while clarifying differentiated sealing rules and supporting mechanisms. This research addresses institutional shortcomings in sealing adult minor criminal records, effectively resolves the dilemma of inverted collateral consequences for minor crimes, and facilitates the resocialization of offenders. It holds significant practical value for improving the minor crime governance system and balancing human rights protection with social defense.

Keywords

Balancing leniency and severity, Minor crime governance, Minor crimes, Sealing of criminal records.

1 Introduction

The Third Plenary Session of the 20th CPC Central Committee explicitly proposed “establishing a sealing system for minor criminal records” as a crucial component of improving a fair law enforcement and judicial system. This top-level design directly addresses the structural contradictions present in China's current criminal governance. First, within the macro-governance context of an overall stable and improving social security situation in recent years, both the absolute number of minor criminal cases and their relative proportion of total criminal cases have shown a significant upward trend. The proportion of offenders sentenced to fixed-term imprisonment of less than three years for minor crimes increased from 54.4% in 1999 to 82.3% in 2023. Second, the expansion of collateral consequences for minor criminal suspects has led to a phenomenon where “minor crimes are not treated lightly”. There is no significant difference between the collateral consequences of minor crimes and those of serious crimes, often resulting in lifelong restrictions or deprivation of rights, which severely obstructs the resocialization process of the offenders.



The 1997 Criminal Law introduced the criminal record reporting system; however, this provision suffers from an overly broad scope of application, posing a particularly significant obstacle to offender resocialization. Accordingly, China first explored breakthroughs in the field of juvenile delinquency, forming a coordinated legislative path covering both substantive and procedural laws. The 2011 Amendment (VIII) to the Criminal Law added Paragraph 2 to Article 100, exempting juveniles from the obligation to report criminal records under specific circumstances. Concurrently, Article 275 of the 2012 Criminal Procedure Law introduced a sealing system for juvenile criminal records. Subsequently, Paragraph 2, Article 59 of the Law on the Prevention of Juvenile Delinquency, revised in 2021, expanded the scope of sealed juvenile records from criminal records to include specialized correctional education, administrative penalties, criminal coercive measures, and non-prosecution records. The 2012 Opinions on Establishing the Criminal Record System for Criminals (hereinafter referred to as the “Opinions”), jointly issued by the Supreme People's Court (SPC), Supreme People's Procuratorate (SPP), Ministry of Public Security (MPS), Ministry of State Security (MSS), and Ministry of Justice (MOJ), clarified the system's content and procedures. The 2022 Implementation Measures on the Sealing of Juvenile Criminal Records (hereinafter referred to as the “Implementation Measures”) unified law enforcement standards, standardizing the sealing and inquiry processes to ensure institutional implementation. Meanwhile, the deepening advancement of the criminal policy of balancing leniency and severity in the new era urgently demands institutional supply oriented toward “leniency for minor offenses”. The Central Political and Legal Work Conference held in 2024 explicitly emphasized that for perpetrators of minor crimes, the focus should be on strengthening educational and redemptive functions and eliminating the negative effects derived from criminal labels, defining the sealing system for minor criminal records as the core pathway to breaking the current governance dilemma. Because the normative basis for China's criminal record sealing system exists only in the Criminal Procedure Law and the Law on the Prevention of Juvenile Delinquency, both of which focus exclusively on juveniles, a specialized system of substantive and procedural rules has been formed. The institutional framework proposed by the Third Plenary Session of the 20th CPC Central Committee signals the necessity of expanding the applicable subjects of China's criminal record sealing system from juveniles to adult minor offenders.

Currently, the Standing Committee of the 14th National People's Congress has included the fourth revision of the Criminal Procedure Law in its short-term legislative work plan, a dynamic that has become a focal topic in legal academia. Notably, compared to China's current juvenile criminal record sealing system, the institutional design of an adult minor criminal record sealing system entails more complex elements. Although existing research provides theoretical references for constructing an adult sealing system, substantial disagreements remain on core issues such as defining the scope of sealed cases and setting up inspection mechanisms. The problem consciousness of this paper stems precisely from this. The specific research approach is as follows: first, clarify the necessity and feasibility of the system; analyze the dilemmas of the existing “direct sealing” model; construct an innovative three-tier “petty crime—minor crime—serious crime” hierarchical sealing model; establish a three-step progressive principle for judgment; and finally, detail the construction of the sealing mechanism from both substantive and procedural dimensions. The aim is to establish a systematically standardized and logically rigorous framework for the adult minor criminal record sealing system.

2 Necessity and Feasibility of Implementing the Sealing System for Adult Minor Criminal Records

Currently, the number of minor criminal cases in China continues to rise. The modest spirit of “leniency for minor offenses” under the criminal policy of balancing leniency and severity needs practical implementation; however, the existing practice of permanently retaining criminal records regardless of severity subjects minor offenders to inverted collateral consequences such as employment exclusion. This not only reinforces the labeling effect and hinders social reintegration but also contradicts the governance goal of human rights protection. In the initial stage, directly introducing extraterritorial systems of criminal record expungement and rights restoration is premature. Therefore, as a preliminary stage to criminal record expungement, implementing the adult minor criminal record sealing system is imminent. Concurrently, the juvenile criminal record sealing system, refined by the Implementation Measures, provides a referenceable template, and the digital and intelligent transformation of the judicial system offers technical support for precise sealing. Thus, the implementation of this system possesses both practical necessity and a solid foundation in practice.

2.1 Urgent Necessity

2.1.1 Aligning with the Modest Spirit of the Policy of Balancing Leniency and Severity

The policy of “balancing leniency and severity” requires “differentiated treatment based on severity” for criminal offenses, ensuring strictness where appropriate, leniency where justified, and proportionality in punishment. Guided by the modest spirit of criminal law, this policy abandons the former singular, extensive governance model, upholding a stance that unifies the punishment of crimes with the protection of human rights, striving for equilibrium between the instrumental and intrinsic rationality of criminal law. The adult minor criminal record sealing system serves as a key practical application of this policy. Currently, with the continuous rise in minor criminal cases, the indiscriminate and permanent retention of such records violates the modest spirit of “leniency for minor offenses” and easily exacerbates recidivism risks through the labeling effect. By restrictively disclosing minor criminal records, the sealing system retains necessary punitive and deterrent functions while reserving institutional space for offenders to reintegrate into society, achieving a policy balance of “punishment and restoration”. Based on the differences in “severity of the crime and subjective culpability” among adult offenders, a stratified approach is realized: serious offenders are denied sealing to highlight criminal deterrence, whereas those with minor sentences and genuine remorse are granted sealing to eliminate the criminal label and facilitate social reintegration, ultimately achieving the governance goals of resolving social conflicts and maintaining harmony.

2.1.2 Alleviating the Inverted Effect of Collateral Consequences of Minor Crimes

The “inversion” of collateral consequences for minor crimes is primarily manifested in the imbalance between the criminal penalties and the collateral consequences regarding severity and duration. The academic community generally agrees that collateral consequences are restrictions, prohibitions, or deprivations of rights and qualifications imposed on individuals with criminal records and their close relatives by laws,



administrative regulations, and other rules outside the criminal law. Direct collateral consequences applied to the offenders are particularly prominent in the realm of minor crimes, easily extending into open-ended employment exclusion, deprivation of honors, and degradation of social evaluation. Even if an offender receives a light sentence for a petty crime, the criminal record remains a lifelong brand restricting their rights. As noted, “What has a greater impact on the human mind is not the intensity of the penalty, but its continuity”. For example, due to potential conflicts between the principle of equal rights in Article 38 of the Prison Law and the reporting obligation in Article 100 of the Criminal Law, a minor offender who has completed their sentence still faces continuous employment discrimination; the severity and long-term nature of these collateral consequences far exceed the initial penal sanctions. Western sociological labeling theory indicates that a criminal record is essentially an institutionalized negative label, and the “inversion” of collateral consequences for minor crimes is precisely the institutional reinforcement of this labeling effect. The negative evaluation of criminal law extends into various spheres of social life through collateral consequences, causing minor offenders to internalize a solidified “criminal” identity, leading to self-denial and long-term marginalization, potentially turning them into factors of social instability.

By selectively disclosing eligible criminal records, the adult minor criminal record sealing system can effectively disrupt the implicit social discrimination of “once a criminal, always a criminal”. On one hand, restricting non-statutory entities from inquiring into and using criminal records reduces inverted manifestations such as occupational restrictions and employment discrimination. On the other hand, weakening the dissemination paths of criminal labels prevents collateral consequences from binding minor offenders for life, returning the protection of their rights to the equality principle established by the Prison Law, alleviating the alienated pattern of “light crimes, heavy penalties,” and clearing institutional barriers for their social reintegration.

2.2 Practical Feasibility

2.2.1 Relying on the Existing Practice of the Juvenile Sealing System

Article 275 of the 2012 Criminal Procedure Law established the juvenile criminal record sealing system at the legislative level for the first time. However, the principled nature of its provisions led to numerous controversies and operational confusions in judicial practice concerning the definition of sealing subjects, scope of application, procedural design, and inquiry permissions. To resolve these dilemmas, the Implementation Measures not only expanded the sealing scope to include “criminal records” such as coercive measures and non-prosecutions—achieving “seal everything that should be sealed”—but also provided refined regulations on sealing circumstances, responsible subjects, operational procedures, unsealing conditions, confidentiality obligations, and legal liabilities, effectively resolving core difficulties in the system's prior operation. This improvement path—from principled legislation to operational details and the systematic design of substantive and procedural norms—provides a logical framework that the adult sealing system can directly reference, reducing trial-and-error costs. Concurrently, over a decade of practice with the juvenile sealing system has continuously facilitated public cognitive iterations and the accumulation of social consensus; the core value of promoting social reintegration through “de-labeling” is widely recognized. This social validation of the governance philosophy emphasizing “equal weight on punishment and restoration”

clears ideological obstacles for the adult sealing system, providing a solid social foundation for moving from textual design to practical operation.

2.2.2 Relying on the Achievements of Judicial Digital Intelligence Construction

The digital and intelligent transformation of China's judicial system continues to deepen. Leveraging iterative construction in key projects like smart policing, digital prosecution, and smart courts, breakthrough progress has been made in generating electronic dossiers throughout the entire process, applying intelligent auxiliary case-handling systems, and implementing judicial blockchain evidence preservation technology. This technological iteration builds a viable technical foundation for precisely identifying, securely sealing, and rigidly controlling the permissions of specific criminal records. Simultaneously, the digital storage of criminal records—integrating information via distributed databases and encrypted control technologies—establishes cross-departmental collaborative channels for judicial organs to fulfill sealing duties and standardize inquiry processes within their statutory boundaries. Furthermore, precise identification models powered by the booming AI and big data technologies provide an efficient and scientific basis for defining sealing targets. It is possible to verify the completeness of adult criminal records through data collision, providing data support for setting inspection periods for “conditional sealing”.

Table 1 Typical Large Model Cases Currently Applied in the Field of Criminal Record Sealing Systems

Model Name	Implementing Agency	Functional Description
Legal Supervision Model for Procuratorial Juvenile Criminal Record Sealing System	Xiamen People's Procuratorate	Integrates public security and judicial administrative data, discovers clues of “should be sealed but not sealed” through batch comparison, and promotes the sealing of over 300 records citywide.
Personal Danger Assessment Model for Adult Minor Crime Cases	Wucheng District People's Procuratorate, Jinhua City	Constructs an assessment system through 106 indicators to precisely identify adult minor offenders eligible for criminal record sealing, reducing recidivism risks.
Supervision Model for Omitted Criminal Records	Ganzhou People's Procuratorate	Verifies the completeness of adult criminal records through data collision, providing data support for setting the observation period of “conditional sealing,” and avoiding inaccurate definitions of sealing targets due to omitted records.
Supervision Model for Electronic Data Sealing	Changping District People's Procuratorate, Beijing	Focuses on incomplete electronic data sealing, identifying unencrypted and undeleted juvenile criminal records by reversely scanning external platforms, promoting data source governance and online appeal mechanisms, achieving a shift from “ex-post accountability” to “ex-ante prevention.”
Juvenile Full-Process Smart Guardian Platform	Luolong District People's Procuratorate, Luoyang City	Integrates 140 million provincial data entries to screen clues of crimes against and by juveniles; automatically extracts sealing information from legal documents using NLP and entity recognition technologies to assist in supervising the sealing of juvenile records.
Big Data Legal Supervision Model for Juvenile Prosecution	Supreme People's Procuratorate	Supports cross-regional data comparison and similar-case supervision, promoting the unified execution of the juvenile criminal record sealing system.



3 Potential Risks of Direct Sealing of Adult Minor Criminal Records

In 2012, China's Criminal Procedure Law categorized juvenile criminal proceedings as special procedures for the first time, explicitly setting “education, probation, and salvation” as the core guidelines. Grounded in the value of educating and saving minors, this procedure adopts a “direct sealing model” for their criminal records. Judicial organs must automatically and promptly seal criminal records ex officio, with no discretionary room and no additional obligations attached. By blocking record dissemination, this model protects privacy, simplifies procedures, conserves judicial resources, and precisely aligns with the physical and psychological developmental traits and correctional needs of minors. Although the adult minor criminal record sealing system should methodologically absorb successful experiences from the juvenile system, the existing “direct sealing model” exhibits certain design flaws in judicial practice. Furthermore, adults and minors differ fundamentally in subjective cognitive abilities, behavioral accountability, and societal role expectations. Simply expanding the “direct sealing model” designed for juveniles to adult minor criminal records while ignoring differences in adults' subjective culpability and social risk assessments would create a “full or nothing” mechanism prone to social maladaptation, which can be analyzed from three aspects.

3.1 Rigid “One-Size-Fits-All” Model Leads to Imbalanced Criminal Sanction Effects

A criminal record is intrinsically an organic component of the criminal sanction system. One of the core functions of the sealing system is to strike a balance between the severity and leniency of sanctions. However, the rigid nature of the direct sealing model easily breaks this balance. Unlike many foreign countries, China's current dual sanction system is delineated by the Criminal Law and the Administrative Penalty Law, incorporating acts with lower social harm into administrative sanctions and those with higher harm into criminal sanctions. Directly applying the juvenile sealing model would blur the boundaries between criminal and administrative sanctions, leading to the misinterpretation of “administrative treatment of minor crimes”. To maintain the seriousness of penalties and warn citizens against severe social deviance, a clear hierarchical distinction must be maintained between criminal and general sanctions, and between minor and serious crimes. Under a direct sealing “one-size-fits-all” model, if the sealing scope is too broad (e.g., covering all minor crimes), the social deterrent effect of penalties is excessively weakened, creating a cognitive bias of “impunity for minor crimes”. Conversely, if the scope is too narrow (only covering petty crimes), it fails to effectively protect the majority of minor offenders; issues like employment discrimination and social exclusion triggered by criminal records would remain unmitigated, ultimately resulting in an imbalance of criminal sanction effects.

3.2 Superficial Interaction Hinders the Realization of Resocialization and Correctional Goals

Compared to the traditional penalty orientation prioritizing “retribution and deterrence,” modern rule-of-law nations have generally shifted the purpose of penalties toward “inclusion and resocialization,” defining offenders as members who have deviated from the civil community and using judicial intervention to help them reintegrate. In fact, “sealing criminal records” differs from “criminal record expungement systems”; it focuses more on the physical control of criminal record information. Its goal encompasses not only elimi-

nating normative evaluations but also mitigating the negative effects of non-normative evaluations, such as hidden collateral consequences. Therefore, the core purpose of establishing the sealing system is to eliminate the social integration dilemmas of offenders, repair the social relationships damaged by their crimes, and ultimately promote social integration.

The superficiality of the direct sealing model's correctional efficacy has been questioned in juvenile sealing practices. The key to genuine resocialization for offenders is correcting deviant mentalities and cultivating legal awareness. While this model restricts record dissemination to reduce explicit obstacles, it cannot stimulate offenders' subjective willingness to integrate into society, eliminate the public's potential hostility, or provide scientific assessment and continuous inspection mechanisms to aid resocialization. These intertwined factors make it difficult for offenders to rebuild benign interactions with others and society, directly weakening the system's governance efficacy.

3.3 Mechanical Division Violates the Principle of Social Fairness and Equity

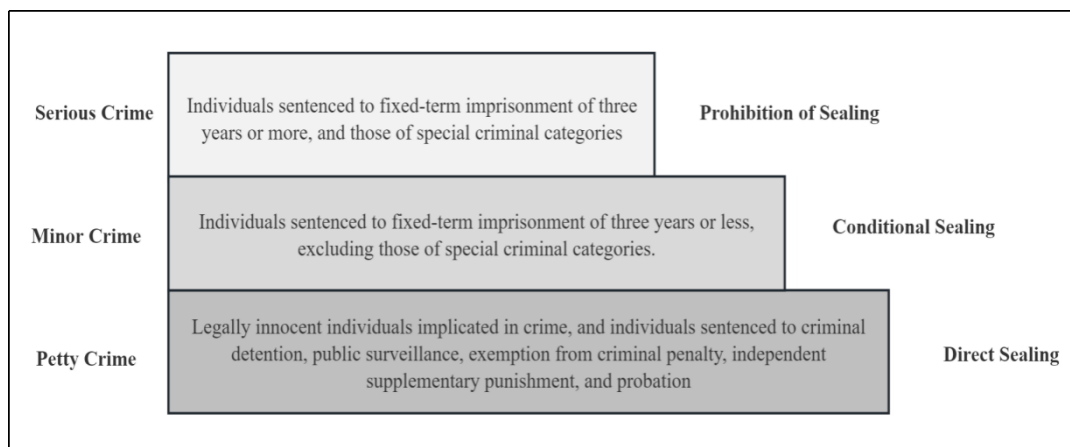
The sealing of criminal records is fundamentally a beneficial system aimed at offenders. The breadth of its application scope directly determines whether the vital interests of a large number of offenders can be safeguarded. When defining the sealing scope, the dilemma of “inequality of rights for marginalized groups” inevitably arises: offenders in similar situations may be categorized differently due to minute differences in the amount of money involved, allowing some to enjoy the institutional dividends of sealed records while others cannot. Taking fraud as an example, if the sealing condition is set at “a declared sentence of under one year,” some perpetrators might be excluded simply because the involved amount exceeds the threshold by a few hundred yuan, pushing their sentence over one year. Admittedly, in legal implementation, partial unfairness is difficult to avoid completely in the pursuit of broader social fairness; however, the prerequisite is that interest disparities within and outside the scope must not exceed reasonable limits. Because the impact of a criminal record on an offender is lifelong, the mechanical division standards of the direct sealing model significantly elevate the fairness risk of “different treatments for the same crime,” clearly exceeding the scope of reasonable interest disparities and severely deviating from the fair intent of the institutional design.

4 The Three-Tier Hierarchy of the Sealing System for Adult Minor Criminal Records

To address the aforementioned triple dilemma of the direct sealing model and promote the refinement and scientific targeting of the criminal record sealing system, differentiated sealing rules must be designed for petty crimes, minor crimes, and serious crimes based on the principle of proportionality. This entails defining “differentiation standards” to overcome the “one-size-fits-all” approach, establishing “inspection mechanisms” to resolve “superficiality,” and utilizing “exception clauses” to counteract “mechanical application”. Corresponding to the aforementioned progressive principle, a three-tier differentiated sealing processing model of “petty crime—minor crime—serious crime” should be applied, based on the severity gradient of criminal cases and the types of charges involved, as shown in Figure 1.



Figure 1 Three-Tier Hierarchical Sealing Measures for Adult Criminal Records



4.1 Petty Crime Level: Direct Sealing

As previously stated, the direct sealing model may suffer from imbalances in sanction effects and weak correctional functions. However, it plays a significant role in de-labeling and conserving judicial resources. Therefore, for cases with minor social impact, notably slight criminal nature, and highly correctable offenders, the direct sealing model can be fully adopted. Such personnel include two categories:

First, individuals who are legally innocent. This includes two scenarios: (1) those who actually committed an illegal act constituting a crime but were not convicted due to the minor nature of the crime, manifestations of remorse/merit, or insufficient evidence; (2) those who did not commit an illegal act constituting a crime but were prosecuted or arrested. From a narrow perspective, suspected crime records do not equal criminal records; since these individuals are not convicted of a crime, sealing their records seems unnecessary. However, electronic dossiers, arrest records, and other information retained during the prosecution process may still impact their lives. In the internet era, information dissemination is highly interactive and flexible; crime-related information is easily extracted and spread in fragments, or captured by big data technologies causing data discrimination, forming continuous negative impacts that make restoring social credibility difficult. Therefore, criminal records must be defined broadly as comprehensive information reflecting the case, including records of suspected crimes.

Second, petty crime offenders. “Petty crime” generally refers to cases resulting in criminal detention, public surveillance, exemption from criminal punishment, independent application of supplementary punishments, or probation. Some scholars argue that petty crimes should be limited to penalties of under one year of fixed-term imprisonment. This paper defines the boundary at criminal detention and below, as well as probation, for two reasons: (1) this scope covers high-incidence petty crimes such as dangerous driving and throwing objects from high altitudes, and nearly 30% of cases involving aiding cybercriminal activities are sentenced to criminal detention or probation; (2) regarding the penal structure, cases involving criminal detention, public surveillance, exemption, supplementary punishments, and probation account for a signifi-

cant proportion—over 70% of all minor crime judgments in 2024. Compared to the one-year imprisonment standard, setting this as the upper limit for direct sealing is more reasonable.

4.2 Minor Crime Level: Conditional Sealing

The conditional sealing model refers to the practice where criminal records are not sealed directly after a criminal judgment takes effect; instead, they are sealed automatically or upon application by the offender after a certain probationary period or after meeting specific inspection conditions. Academic research indicates that “setting and fulfilling certain conditions to demonstrate the minor offender's determination to rehabilitate can enhance social recognition and acceptance of criminal record sealing”. From the perspective of policy implementation, this model serves as a buffer zone between direct sealing and the prohibition of sealing, resolving issues of penal sanction imbalance and fairness caused by the over-application of direct sealing. It also urges offenders to compensate for legal damages and repair social relationships, achieving goals of correction and social reintegration, thus manifesting the efficacy of minor crime governance. Furthermore, it provides an opportunity for offenders to demonstrate change; by participating in rehabilitation programs and obeying laws, they can prove to society that they pose no social danger and possess the ability to return to normal life.

Academics mostly use three years of fixed-term imprisonment as the boundary for sealing minor crime records, but disputes remain over whether to use the statutory sentence or the declared sentence. This paper argues that record sealing should use the declared sentence as the core judgment standard, uniformly applying the conditional sealing model to cases sentenced to less than three years of fixed-term imprisonment. The justification and feasibility can be proven from three angles: First, China's criminal law does not categorize charges by major or minor crimes; using the declared sentence is easier to execute, whereas using the statutory sentence faces complex issues of whether cases crossing sentencing bands can be sealed. Second, China's criminal procedure law articles all use the declared sentence or “possible declared sentence” (e.g., juvenile sealing conditions are “under five years of fixed-term imprisonment,” and arrest conditions are “possible sentence of imprisonment or above”). Third, judges have comprehensively considered crime factors during sentencing; the declared sentence better reflects the nature of the crime, and record sealing, falling within the scope of criminal execution, must maintain consistency with the trial results. Therefore, cases sentenced to less than three years of fixed-term imprisonment should apply the conditional sealing model.

4.3 Serious Crime Level: Prohibition of Sealing

Whether based on statutory or declared sentences, mainstream academic consensus advocates integrating the nature of the charge and the severity of the penalty into a comprehensive assessment. Besides penalties exceeding three years of imprisonment, certain special types of crimes sentenced to under three years must be explicitly excluded from the sealing scope. Criminal record sealing is essentially the legal embodiment of minor crime policy; its boundaries must respond to the core requirements of balancing leniency and severity. Thus, the types of serious crimes prohibited from sealing should be defined across three dimensions: crime nature, policy orientation, and public perception.

Regarding crime nature: crimes endangering national security, terrorist activities, severe violent crimes,



and crimes severely endangering public security directly infringe upon core national interests, public safety, and fundamental citizen rights. Their social harm far exceeds general crimes; applying record sealing to them would undermine the penal deterrence against major harmful acts. Regarding policy orientation: drug crimes, duty-related crimes by public officials, and telecom/cyber fraud are primary targets of current criminal governance. Prohibiting the sealing of such records is an inevitable requirement of the “strict” governance orientation. Regarding public perception: crimes such as occupational embezzlement, refusal to execute judgments, commercial fraud, as well as multiple offenses or recidivism, severely violate the social credit system and concepts of fairness and justice.

A more controversial issue is whether subjects who commit a subsequent crime without constituting a recidivist qualify for record sealing. A compromise view in academia argues that if the subsequent crime differs in type from the prior crime, sealing may apply; if they are the same type, it indicates the offender's sustained disregard for legal order and ongoing resistance to norms, thus disqualifying them. The author believes that given the diverse motivations for criminal behavior, one cannot directly deduce an offender's personality traits and resocialization potential simply from the result of a “subsequent crime”. Particularly for negligent crimes, repeated offenses often stem from negligence or overconfidence rather than a stable criminal personality or active confrontation against social order; hence, an absolute rule of “uniform prohibition of sealing” is inappropriate. According to the hierarchical application logic of minor criminal record sealing, “direct sealing” (unconditional sealing) should be limited to first-time or casual offenders, based on their lower personal danger. However, for repeat offenders, if their subsequent crime meets the statutory requirements for “conditional sealing,” they can be subject to conditional sealing with added requirements like observation periods and behavioral constraints, rather than being directly disqualified.

5 Detailed Expansion of the Sealing System for Adult Minor Criminal Records

The aforementioned hierarchical processing model primarily uses a three-tier model to briefly classify offenders, without fully elucidating the principles of the sealing judgment process or the substantive and procedural systems. The detailed content is as follows:

5.1 The Three-Step Progressive Principle of Record Sealing

Within the criminal record sealing system, the core criteria for defining case severity include three components: first, the severity of the declared sentence corresponding to the criminal act, reflecting the penal evaluation of the act's harm; second, the nature of the criminal act itself, i.e., the type and degree of legal interest infringement; and third, the probability of recidivism risk for the individual offender, judged comprehensively based on their subjective culpability and manifestations of remorse. To archive and stratify a case, the application order and articulation rules of these three must be clarified to avoid contradictions in practice (e.g., “the declared sentence fits a petty crime but the recidivism risk is high” or “the legal interest infringement is severe but the case is sealed due to a low declared sentence”). Accordingly, the stratification logic should establish a progressive principle: “declared sentence as the objective baseline, legal interest

infringement as the qualitative limitation, and recidivism risk as the dynamic correction". The specific judgment pathway is as follows:

5.1.1 Step One: Establish an Objective Classification Framework Based Primarily on Declared Sentence

Build an initial objective framework for stratification. Based on penal severity, minor crimes and related circumstances are initially divided into three categories: petty crimes (criminal detention, public surveillance, exemption, supplementary punishments, or probation); minor crimes (under three years of fixed-term imprisonment, excluding probation); and serious crimes (over three years of fixed-term imprisonment). This division continues China's judicial tradition of defining penal severity by declared sentences (e.g., juvenile sealing is conditioned on sentences under five years), providing an objective benchmark for subsequent screening.

5.1.2 Step Two: Screen and Exclude Inappropriate Sealing Scenarios Based on Legal Interests

Based on the first step, limit and exclude cases combined with the type and degree of legal interest infringement. If a petty crime severely infringes upon the core legal interests of citizens' personal rights or specific scenarios endangering public security, direct sealing is excluded despite meeting petty crime standards. If a minor crime infringes on public interests requiring targeted policy crackdowns, it is removed from conditional sealing and shifted to prohibited sealing or restrictive inquiry. This step uses a "qualitative judgment" of legal interest infringement to offset the limitations of the "quantitative severity" of the declared sentence, ensuring the sealing scope matches the social harm.

5.1.3 Step Three: Precisely Adapt Stratification via Dynamic Correction Based on Recidivism Risk

Relying on professional assessments by community correction and judicial administrative organs, construct an assessment scale integrating subjective culpability, behavioral triggers, correctional performance, and social support systems. High-risk individuals, even if initially eligible for direct sealing, are upgraded to conditional sealing with extended observation periods and intensified assistance. For low-risk individuals under conditional sealing, probationary periods may be shortened or requirements simplified. For certain negligent crimes initially classified as serious crimes, if the recidivism risk is extremely low and full compensation is paid, they may exceptionally be included in restrictive inquiry. This step reflects the "differentiated treatment" of balancing leniency and severity, aligns with resocialization probabilities, and avoids the drawbacks of a "one-size-fits-all" approach.

5.2 Construction of Substantive Systems

5.2.1 Defining the Scope of Sealed Records

The core category of the criminal record sealing system should primarily be defined as criminal conviction records. The Opinions explicitly define criminal records as "the objective recording of offenders' circumstances by specialized state organs". Criminal records encompass all crime-related information generated throughout the criminal procedure, including interrogation transcripts and evidence in the investigation phase, indictments and sentencing recommendations in the prosecution phase, judgments and rulings in the trial phase, and supervisory dossiers and electronic records in the execution phase.



A critical question requiring further clarification is whether adult suspected crime records should be included in the sealing scope. In juvenile criminal cases, per Articles 2 and 3 of the Implementation Measures, all case materials and electronic information of suspected juvenile crimes are included, such as records of non-prosecution or coercive measures where criminal responsibility is not pursued. Although these juveniles were not convicted, under the traditional cognitive bias that “suspicion equals negativity,” the public often extends the exclusion and discrimination intended for convicts to mere suspects. To fully guarantee the smooth social reintegration of juveniles, the Implementation Measures expanded the scope from convicted records to suspected records. Based on the same logic of rights protection, adult suspected crime records should also be included in the sealing scope.

5.2.2 Applicable Conditions for Unsealing

Article 18 of the Implementation Measures specifies the unsealing conditions for juvenile criminal records, which serves as a reference for setting unsealing conditions for adult minor criminal records. Specifically, for adults whose minor criminal records have been sealed, the responsible organ should initiate unsealing procedures if any of the following occur: First, discovering omitted crimes resulting in aggravated penalties. If an unprosecuted crime preceding the original judgment is discovered, and combined with the sealed crime leads to a final executed sentence exceeding three years, the unsealing criteria are met. Exceeding the minor crime threshold invalidates the original basis for sealing. Second, altered judgments through trial supervision procedures leading to aggravated penalties. If the original effective judgment is altered via supervision procedures to a sentence of three years or more, the sealed record must be unsealed. Third, intentionally committing a new crime. If a beneficiary intentionally commits a new crime, it indicates a high personal danger and failure to achieve the correctional effect expected from minor crime governance. Based on realistic social defense needs, the sealed record should be unsealed first, potentially subject to resealing upon passing subsequent inspections.

5.3 Construction of Procedural Systems

5.3.1 Differentiated Pre-positioning of Inspection Mechanisms

China's current juvenile sealing system lacks an embedded inspection mechanism, but the adult sealing system should establish differentiated arrangements based on group differences. Since the core value of the record system points to social defense, the prerequisite for sealing must center on the offender achieving rehabilitation and posing no recidivism risk. To ensure accurate assessment of personal danger, the adult system urgently requires an inspection mechanism. This encourages offenders to actively repair social relations and enhances correctional outcomes, while exerting a risk-filtering function to exclude those with hidden recidivism risks, balancing the protection of offender reintegration with the maintenance of social order. Because different judgment results reflect distinct levels of personal danger, the inspection mechanism design must align with these variations. Minor offenders require no inspection and can initiate sealing once the judgment takes effect, whereas other penalty types require differentiated inspection periods and contents based on penalty severity.

(1) Differentiated Setting of Inspection Periods

Inspection periods must balance rationality and efficacy. A period that is too long exacerbates negative effects and delays reintegration, while a period too short fails to evaluate personal danger substantively. Therefore, matching periods should be set based on declared sentences: (a) For criminal detention or public surveillance, the execution period serves directly as the sealing inspection period; (b) For probation, the probationary period serves synchronously as the inspection period; (c) For imprisonment under one year, a one-year inspection period is set from the completion of the sentence or parole; (d) For imprisonment between one and three years, a three-year inspection period is set from the completion of the sentence or parole.

(2) Stratified Design of Inspection Content

Inspection content must form a stratified system based on the distinction between petty and minor crimes, as they reflect fundamentally different levels of personal danger. For petty crime offenders, the core focus is whether illegal or criminal behaviors exist during the inspection period; if none exist, records are sealed. For minor crime offenders, the content covers two levels: first, the absence of illegal acts during the period; second, elements related to recidivism risk, including remorse attitude, social relationship repair, educational correction completion, and positive actions taken toward resocialization. Minor offenders must satisfy both “no illegal acts during the period” and “assessed as having no future recidivism risk” to initiate sealing.

5.3.2 Precise Stratification of Responsible Subjects

The responsibility system is divided into inspection, decision-making, and execution subjects. (1) Functions and Allocation of Inspection Subjects: Inspection involves correcting offenders and gathering evidence of recidivism risk. Based on the principle of “facilitating duty performance”: for criminal detention, the execution organ (public security) is the inspection subject; for public surveillance or probation, the community correction institution is most appropriate; for fixed-term imprisonment on parole, community correction handles it, whereas after sentence completion, the local police station in the offender's residence assumes inspection to better monitor daily dynamics. (2) Allocation of Decision-making and Execution Subjects: China uses an ex officio model for juveniles. For adults, a dual model (ex officio and application-based) is proposed. In ex officio cases, the decision-maker is the case-handling organ at the end of the procedure (Public Security, Procuratorate, or Court). In application-based cases, the original court of first instance acts as the neutral decision-maker. Execution subjects (all agencies involved) coordinate: once a court decides to seal, it seals its own records and sends a “Notice of Criminal Record Sealing” to other agencies for synchronous, encrypted sealing.

5.3.3 Dual Activation of Initiation Procedures

Initiation involves ex officio and application-based methods. To balance reintegration needs and public safety, initiation depends on crime severity: for petty crimes, ex officio initiation is used, with the decision organ having no discretion; for minor crimes, cautious application-based initiation is used, requiring sub-



stantive review to filter out high-risk offenders. Moreover, since exposing records can sometimes prove innocence or foster public rationality, offenders in ex officio cases should retain the right to waive sealing.

6 Conclusion

The integrated construction and collaborative operation of criminal laws constitute the foundation for the effective advancement of minor crime governance. Currently, China's minor crime governance displays a misalignment where judicial practices lead while legislative norms lag. The lag is particularly significant in the fields of criminal procedure law and criminal law. Existing norms fall short in the systematic design of legal consequences for crimes, struggling to meet practical demands such as regulating collateral consequences and providing paths for rights relief in minor crime governance. This urgently necessitates revision and perfection through legislation. To be explicit, alleviating this problem requires coordinating value conflicts with existing legal systems, such as trial openness, while directly confronting the inherent cognitive biases of the general public toward offenders during system implementation. With China's massive population base, deeply influenced by proactive criminal law concepts and a tradition of heavy penalties, the task of updating concepts, culture, and cognition is exceptionally arduous. The construction of the minor criminal record sealing system cannot stop merely at the normative level. In the future, it is essential to guide the public in shifting their perceptions of crime and punishment, striving for popular understanding and acceptance of related policies and systems so they consciously participate in and support institutional reform. Only in this way can the expected implementation effects of the system be achieved, truly realizing good laws and good governance in a socialist state.

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