

# Procedural Challenges and Pathways for Improving the “Non-Custodial” Disposition of Criminal Case Assets from a Minor Offense Management Perspective

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**Abstract:** At present, criminal offenses in China exhibit an increasingly pronounced trend toward minor offenses, with such cases now accounting for over 80% of all criminal cases. The management of minor offenses has become a key driver of criminal justice reform in the new era. The associated requirements for restraint, restorative justice, and efficiency in managing minor offenses present entirely new challenges to the disposal model for criminal-related assets. In judicial practice, a contradictory phenomenon persists: “non-custodial detention coupled with high-intensity property disposal.” While the goal of “non-custodial detention” has largely been achieved through the widespread adoption of measures like bail pending trial, the disposal of involved assets still follows the high-intensity control model typically applied to serious crimes. Measures such as seizure and confiscation are applied extremely broadly, while the application of non-custodial disposal remains minimal and lacks regulatory clarity. This creates a series of challenges for non-custodial disposal, such as ambiguous application standards, unreasonable procedural norms, and obstructed avenues for rights remedies. This not only contradicts the principles of minor offense management but also leads to wasteful use of judicial resources. This paper employs both literature review and case analysis to precisely define core concepts, consolidate relevant theoretical foundations, and conduct an in-depth analysis of the existing challenges and their root causes. It proposes pathways for improvement, aiming to provide robust support for standardizing grassroots judicial practices, refining the minor offense management system, and advancing the modernization of criminal proceedings.

**Keywords:** Minor Offense Management, Criminal Case Assets, Non-Custodial Disposition

## 1. Introduction

The structure of criminal offenses in China has undergone significant changes, with minor crimes such as theft, fraud, and dangerous driving becoming predominant, accounting for over 80% of all criminal cases. Alongside the evolving judicial philosophy toward minor offenses, the scope of non-custodial measures like bail pending trial has gradually expanded. The goal of “non-custodial supervision” has been progressively achieved, safeguarding suspects' personal rights while aligning with the principle of “education as the primary focus, punishment as a secondary measure” in managing minor offenses. However, the handling of seized assets has not undergone parallel optimization. It continues to follow the high-level control model applied to serious crimes. Even when the value of seized assets is minimal, their relevance is weak, or they are items essential to the suspect's livelihood, grassroots judicial organs tend to adopt measures like seizure and confiscation to mitigate risks. Due to the lack of clear guidance and the high associated risks, the adoption rate of non-custodial disposal remains extremely low, creating a prominent contradiction. This contradiction excessively infringes upon the property rights of the parties involved, hinders the restoration of social relationships, and wastes judicial resources. Current research has largely focused on non-custodial measures for minor offenses, with insufficient attention paid to non-custodial disposal of involved property. This paper approaches the issue from the perspective of minor offense governance and explores avenues for improvement, which is conducive to enhancing the quality and efficiency of minor

offense case handling.

## 2. Literature Review

### 2.1 Research on Minor Offense Governance

Minor offense governance constitutes a core category of criminal justice reform in the new era. Current research primarily focuses on legislative reflection, conviction rules, and system construction, yielding targeted findings that provide solid theoretical support for this paper. Shao Jun (2024) concentrates on defining minor offense cases and establishing classification governance mechanisms, delineating clear boundaries for minor offense governance<sup>[1]</sup>; Shi Jinghai (2024) concentrated on judicial governance scenarios for minor offenses, emphasizing the establishment of conviction rules and clarifying relevant standards for conviction application, thereby resolving the ambiguity in minor offense convictions within judicial practice<sup>[2]</sup>. Chen Wei (2025) defined the goal orientation and classification benchmarks for minor offense governance, while also proposing responsive measures based on practical exploration, enhancing the feasibility of minor offense governance<sup>[3]</sup>. Jiang Wei et al. (2024) concentrate on building a Chinese-characteristic minor offense governance system, offering improvement proposals from multiple dimensions to advance the standardization of minor offense governance<sup>[4]</sup>.

### 2.2 Research on the Disposition of Criminal Case-Related Assets

Research in this field primarily revolves around systemic innovation, procedural refinement, and judicial challenges. Shao Jun (2024) emphasizes the holistic optimization of the disposition system, comprehensively analyzing existing shortcomings and deficiencies while proposing targeted reform pathways to provide guidance for standardized asset handling<sup>[5]</sup>. Huang Yong (2024) addresses the protection of victims' rights during asset disposal, examining imbalances in rights within disposal procedures and proposing solutions that balance efficiency and fairness<sup>[6]</sup>. Liu Wenjie (2024) analyzes judicial review challenges in criminal asset disposal procedures, suggesting enhanced judicial oversight and standardized disposal practices<sup>[7]</sup>. Yao Li (2025) demonstrates that China's procedures for handling assets involved in criminal cases

exhibit fragmented characteristics. She proposes leveraging the revision of the Criminal Procedure Law as an opportunity to refine relevant mechanisms, providing crucial insights for this paper's optimization of non-custodial disposal procedures<sup>[8]</sup>.

### 2.3 Research on Non-Custodial Measures

Most studies on non-custodial measures focus on their practical application in minor offense cases and institutional restructuring, providing crucial theoretical and practical support for this paper's research on non-custodial disposal of involved property. Tao Yang (2024), drawing on grassroots practice experience, examined non-custodial issues in disposing of involved property in minor offense cases. By analyzing operational challenges at the grassroots level, the study offers reference points for implementing non-custodial dispositions locally<sup>[9]</sup>. Ma Xiao and Bai Junhua (2025), against the backdrop of the era of minor offenses, contemplate pathways for reconstructing non-custodial coercive measures. They propose integrating blockchain technology with non-custodial measures, offering technical insights for non-custodial control of involved property<sup>[10]</sup>.

## 3. Research Approach and Methodology

### 3.1 Research Approach

This paper follows the core logic of “theoretical review—challenge analysis—pathway refinement.” Grounded in grassroots judicial practice, it clearly defines three core concepts: minor offenses, involved assets, and non-custodial disposal. It clarifies theoretical foundations such as the principle of restraint, laying a solid foundation for the research. It examines the practical scenarios and specific challenges of non-custodial dispositions, dissecting their deep-rooted causes across dimensions such as ideology, norms, capacity, and mechanisms. By integrating the governance demands for minor offenses with grassroots practices, it proposes targeted improvement pathways to foster organic integration between theory and practice, offering reference for related non-custodial disposition work.

### 3.2 Research Methods

This study employs two core methodologies to ensure scientific rigor and practical relevance: Second, case analysis is employed to select

typical minor offense cases at the grassroots level. This method examines the disposal categories of involved assets, their existing conditions, and resulting consequences, summarizing practical experiences and shortcomings. This provides substantive support for analyzing challenges and refining pathways, ensuring the research aligns with judicial practice needs.

#### **4. Foundational Theory for Non-Custodial Disposition of Criminal Property from a Minor Offense Governance Perspective**

##### **4.1 Defining Core Concepts**

Minor offense cases are defined primarily by statutory penalties of less than three years' imprisonment, while also considering social harmfulness and subjective malignancy. This paper focuses specifically on minor offense cases eligible for non-custodial measures to ensure research relevance. Criminal case-related property refers to all assets associated with a criminal case that require legal disposition. Considering the characteristics of minor offenses, such property can be categorized by value into small-value and large-value assets. By nature, it is divided into illicit gains, criminal tools, and suspected case-related property. Non-custodial disposal of criminal property involves judicial authorities adopting flexible approaches—such as ordering safekeeping or registration—rather than high-intensity coercive measures for minor offense-related assets. This approach minimizes interference with parties' property rights while ensuring asset security, aligning with minor offense governance requirements.

##### **4.2 Core Theoretical Foundations**

The non-custodial disposal of property involved in minor offenses rests upon four core principles. The principle of restraint advocates for criminal justice to adhere to “minimum necessary intervention.” Given the limited harm posed by property in minor offenses, non-custodial disposal reduces infringement on parties' rights, aligning with the philosophy of minor offense management. The restorative justice concept prioritizes the repair of social relationships. Non-custodial disposal utilizes methods such as restitution and compensation to guide suspects in compensating victims for their losses, thereby achieving the restoration of social relationships. The principle of procedural justice requires

lawful and transparent procedures, ensuring parties' rights to information and objection, thereby upholding judicial fairness and impartiality. Efficiency theory argues that non-custodial dispositions streamline processes and enhance case handling efficiency. Minor offense management and non-custodial dispositions mutually reinforce each other, promoting both conceptual and practical advancements.

#### **5. Practical Challenges and Root Causes in Non-Custodial Disposition of Criminal Property in Minor Offense Cases**

##### **5.1 Current Practice**

The disposal of property involved in minor offenses exhibits a tendency to “prioritize seizure and detention while neglecting non-custodial measures,” which conflicts with the governance orientation for minor offenses. Although non-custodial measures are applied in over 70% of minor offense cases, achieving the goal of “non-custodial detention,” the handling of involved property still follows the model for serious offenses. To mitigate risks, grassroots judicial organs predominantly employ high-intensity coercive measures, with non-custodial dispositions accounting for less than 10% of cases and facing severely limited applicability. Disposal procedures often lack compliance, with some judicial personnel arbitrarily altering disposal methods or violating regulations. Parties' avenues for rights redress remain obstructed, and their objections rarely receive impartial adjudication. The integration of non-custodial disposal with administrative penalties and civil compensation remains disjointed, frequently leading to redundant dispositions or inadequate remedies. This not only wastes judicial resources but also infringes upon the rights of parties involved, necessitating urgent resolution.

##### **5.2 Specific Practical Challenges**

Non-custodial disposal of property involved in minor offenses faces four specific challenges. First, application standards are ambiguous and difficult to discern. Laws and regulations lack clear provisions on the conditions and criteria for applying non-custodial disposal, nor do they differentiate based on property characteristics. To avoid risks, grassroots judicial personnel tend to favor high-intensity disposal methods,

limiting non-custodial disposal to only a very small number of cases involving minor amounts of uncontested property. Second, procedural gaps exist, with practices failing to meet regulatory standards. The absence of dedicated simplified procedures and instances of arbitrary disposal by some judicial personnel undermine judicial credibility. Third, remedies for rights protection are inadequate. Effective safeguards for parties' rights to information and objection are lacking, and limited recourse channels make it difficult to protect their legitimate interests. Fourth, poor coordination with administrative penalties and civil compensation often leads to duplicate processing or gaps in coverage, failing to adequately balance the interests of all parties.

### **5.3 Analysis of Root Causes**

These challenges stem primarily from four dimensions: ideology, norms, capacity, and mechanisms. First, ideological deviations exist, with some grassroots judicial personnel adhering to a “heavy on punishment, light on safeguards” approach. They lack a thorough understanding of the orientation toward minor offense management and fail to recognize the value of non-custodial dispositions. Second, there is a notable lack of specific regulations. The Criminal Procedure Law and related judicial interpretations lack dedicated provisions for non-custodial measures concerning property involved in minor offenses. The existing clauses are broadly interpreted, leaving grassroots judicial personnel with no specific legal basis to rely on. When faced with such situations, they can only apply procedures designed for serious crimes. Third, capacity falls short. Grassroots judicial personnel lack specialized training, are unfamiliar with relevant laws, regulations, and operational procedures for non-custodial dispositions, and exhibit weak risk prevention awareness, hindering fully standardized implementation of disposal operations. Fourth, supporting mechanisms are flawed. Responsibilities for managing seized assets remain ambiguous, and interdepartmental coordination is inefficient. This dampens judicial personnel's enthusiasm for non-custodial disposal, hindering its effective implementation.

## **6. Improving Pathways for Non-Custodial Disposal of Criminal Seized Assets from a Minor Offense Governance Perspective**

### **6.1 Conceptual Reorientation and Regulatory Enhancement**

To overcome these challenges, it is imperative to first reshape concepts and optimize regulations, laying the ideological and institutional groundwork for non-custodial dispositions. Conceptually, this entails incorporating the principles of minor offense management and property rights protection into routine training for grassroots judicial personnel. Through case studies, specialized lectures, and other methods, they should be guided to embrace the concept of “minimum necessary intervention,” thereby strengthening their proactive awareness of non-custodial dispositions. Regarding regulations, comprehensive laws, regulations, and judicial interpretations must be established to clearly define the legal basis and application standards for non-custodial dispositions. Distinctions should be made between different types of property, with clear conditions for applying various disposal methods and delineating responsibilities. Local operational guidelines should be developed for common minor offense cases, providing specific procedures and risk management strategies to address the lack of explicit legal provisions for grassroots judicial personnel.

### **6.2 Procedural Optimization and Enhanced Oversight**

Optimizing processing procedures and strengthening oversight are crucial for ensuring the standardized and orderly implementation of non-custodial dispositions. Procedurally, establish a simplified non-custodial process for property involved in minor offenses, streamline approval workflows, and enable rapid processing for small-value, uncontested property. Create relevant ledgers for disposition information to achieve full traceability and oversight throughout the process, ensuring transparency and openness. Regarding rights remedies: clarify the core rights of parties involved; judicial organs must provide written notice of relevant matters to parties before making disposition rulings; Establish objection handling procedures to promptly review and respond to objections raised by parties. Expand redress channels by incorporating disposal actions into the scope of administrative reconsideration and administrative litigation, and improve the state compensation mechanism. From a supervisory perspective, strengthen internal and external

oversight frameworks, conduct specialized inspections, open supervision channels, optimize accountability mechanisms, and incorporate the application of non-custodial disposal into performance evaluations to prevent arbitrary abuse of power.

### 6.3 Strengthening Supporting Safeguards

Establishing robust supporting safeguards is crucial for ensuring the effective implementation of all pathways. First, develop custody mechanisms to clarify the responsible entities for safeguarding involved assets, standardize custody procedures, conduct regular inventory verifications, and alleviate concerns among judicial personnel during application. Second, enhance professional competence through targeted training programs focusing on laws, regulations, operational procedures, and risk prevention techniques. Utilize methods such as professional exchanges and case studies to improve the ability of grassroots judicial personnel to handle matters in accordance with regulations. Third, improve collaborative and mutual assistance mechanisms to strengthen information sharing among departments such as public security, procuratorates, and courts. Ensure seamless coordination with administrative penalties and civil compensation to prevent duplicate processing or disconnects in the chain of actions. Fourth, refine incentive and corrective mechanisms by incorporating the standardized application of non-custodial dispositions into performance evaluations. Reward exemplary practices, tolerate errors within reasonable limits, and incentivize judicial personnel to adopt non-custodial approaches.

### 7. Conclusion and Outlook

This paper systematically explores non-custodial disposal of property involved in minor offenses from the perspective of minor offense governance, employing literature review and case analysis. Minor offense cases exhibit pronounced characteristics of minor offense treatment, yet non-custodial disposal faces challenges such as ambiguous application standards and procedural irregularities. These issues stem from deficiencies in four areas: conceptual frameworks, regulatory norms, professional capabilities, and operational mechanisms. This paper proposes improvement methods across three dimensions: conceptual norms, procedural oversight, and supporting

safeguards. These approaches align with grassroots practice and fill a research gap at the intersection of minor offense governance and property disposition. A limitation of this study is the lack of empirical research. Future work will focus on the disposition of new types of involved property, further analyzing improvement pathways to provide robust references for modernizing criminal proceedings.

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