

# On the Realization Path of Effective Legal Assistance by Duty Lawyers in Cases of Pleading Guilty and Accepting Punishments With Leniency

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The judgment criteria for effective legal assistance by duty lawyers in plea bargaining cases should adopt the “behaviorism” standard, and specific behaviors arise from the subjective and objective normative analysis of the voluntary nature of plea bargaining. By examining the current operational status of the duty lawyer system based on judgment criteria, it can be concluded that duty lawyers have failed to provide effective legal assistance due to the lack of supervision over duty lawyers, incomplete litigation rights, non-standard work procedures of case handling agencies, and insufficient incentives for duty lawyer work. It is necessary to establish a scientific and reasonable regulatory system based on judgment criteria, improve the litigation rights of duty lawyers from aspects such as the right to review cases and the right to participate in sentencing negotiation procedures, reduce obstacles brought by case handling agencies from aspects such as strengthening the timeliness of duty lawyers’ intervention in cases and ensuring their right to meet, and establish differentiated material and spiritual incentive mechanisms in order for duty lawyers to provide effective legal assistance.

*Keywords:* duty lawyer, effective legal assistance, judgment criteria

## Formulation of the Problem

Article 36 of the Criminal Procedure Law outlines that duty lawyers, dispatched by legal aid authorities, provide essential legal assistance such as legal consultation, procedural advice, applications for changes in coercive measures, and case disposition opinions to unrepresented suspects and defendants at courts and detention centers. This marks an evolution from “the defendant’s right to defense” to “the right to legal assistance”, and further to “the right to effective legal assistance”, delineating three key developmental stages in China’s criminal defense system. The formal integration of duty lawyers into the 2018 Criminal Procedure Law ensures universal access to legal assistance for unrepresented suspects, completing the initial phases and shifting focus to the effectiveness of this assistance. To address this, the 2019 Guiding Opinions on the Application of the Leniency System for Pleading Guilty and Accepting Punishment, issued jointly by major national judicial bodies, introduced pioneering requirements for duty lawyers, aiming to enhance the quality and impact of their services.

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While normative documents' recognition of effective assistance merits approval, critical lacunae persist, neither the substantive criteria for "effectiveness" nor implementation methodologies have been systematically defined. This regulatory ambiguity engenders dual practical predicaments. First, the quality of assistance frequently falls below public expectations, exemplified by perfunctory case file reviews and formulaic client meetings, raising jurisprudential doubts about whether such conduct satisfies effectiveness thresholds. Second, the absence of evaluative benchmarks impedes targeted reforms to enhance service quality.

Academia has extensively analyzed systemic deficiencies underlying ineffective assistance, predominantly attributing causes to ambiguous professional identity and undefined rights, operational constraints on rights exercise, lack of procedural governance rules; inadequate institutional safeguards. Notably, scholarly discourse has inadequately addressed the evaluation standards for effective assistance. Persistent ambiguities in measurable indicators perpetuate theoretical disputes between proceduralist (behavioralist) and consequentialist approaches. Establishing such standards constitutes the linchpin for assessing assistance quality, precisely delineating duty lawyers' rights, reforming procedural rules and safeguard mechanisms. This article first clarifies the criteria for determining effective legal assistance. It then uses these criteria to examine the current operational status of the duty lawyer system in practice, and analyzes the reasons for the absence of effective legal help. Finally, it incorporates the criteria into the improvement of substantive rules and procedural rules, systematically and systematically facilitating the realization of effective legal assistance by duty lawyers.

### **Selection and Determination of Criteria for Judging Effective Legal Assistance by Duty Lawyers**

#### **Shift in the Standard for Judging Effective Legal Assistance: From "Consequentialism" to "Behaviorism"**

In the current discourse on determining whether duty lawyers have provided effective legal assistance, two main perspectives exist within criminal procedural law academia. One criterion adopts a result-oriented approach. According to the guidelines, the role of duty lawyers is to ensure that suspects voluntarily plead guilty and accept penalties. Thus, some scholars argue that effective legal assistance means duty lawyers must diligently fulfill their legislative roles—specifically, ensuring the voluntariness of a suspect's plea. Conversely, another standard emphasizes behaviorism, suggesting that effective legal assistance should not be equated with achieving results. Therefore, as long as duty lawyers perform specific actions like meetings, reviewing case files, and negotiations, it can be presumed they have provided effective legal assistance.

When applying these criteria in practice, the result-oriented standard poses challenges in accurately assessing whether duty lawyers truly provide effective assistance. Firstly, there is not a direct causal relationship between involuntary pleas and inadequate performance by duty lawyers due to the complexity of the entire legal aid process, which involves various stakeholders including government-designed aid procedures. Secondly, the result-oriented approach lacks practicality since evaluating voluntariness necessitates an examination of subjective intent, which is inherently difficult and not adequately addressed in the Criminal Procedure Law.

In contrast, a behavior-focused criterion offers several advantages. It enhances operability by setting measurable actions such as file reviews and meetings as benchmarks for effectiveness. Moreover, it mitigates

risks associated with resultism, such as conflicts between procedural efficiency and ensuring voluntariness. Behavior standards also address ambiguities regarding the role of duty lawyers, providing clear guidance on required actions and responsibilities. This shift towards behaviorism in defining effective legal assistance represents a nuanced approach that better aligns with practical realities, offering clearer guidelines for both duty lawyers and those assessing their performance.

### **The Bottom Line of Effective Legal Assistance: Guaranteeing the Voluntariness of Pleading Guilty and Accepting Punishments**

Given that the “the Guiding Opinions” stipulates that the primary role of duty lawyers is to ensure the voluntariness of suspects’ confessions and acceptance of punishments, the criteria for evaluating “effective” legal assistance should center on confirming this voluntariness. However, it does not follow that every action beneficial to a suspect’s voluntary confession and acceptance of punishments must constitute mandatory “standard procedures” for duty lawyers. The standard for effective legal assistance should be defined as the minimum necessary actions required to ensure the voluntariness of the suspect’s confession and acceptance of punishments.

Specifically, a comprehensive analysis of the elements constituting voluntary confession and acceptance of punishments can be conducted, in conjunction with the rights and duties of duty lawyers, to determine the actions that duty lawyers should undertake. The assessment of voluntary confession and acceptance of punishments should ensure the unity of both objective and subjective aspects. On the objective side, according to Articles 6 and 7 of “the Guiding Opinions”, it can be summarized that a suspect’s voluntary confession and acceptance of punishments should manifest in three behaviors: confession of criminal facts, acceptance of charges and acceptance of punishments, and sentencing recommendations. To facilitate the realization of the aforementioned behaviors by suspects, it is essential for duty lawyers to intervene promptly and provide legal consultations. This timely intervention is a prerequisite for duty lawyers to substantively participate in the process. Additionally, duty lawyers must clarify the nature and legal provisions of pleading guilty and accepting punishments with leniency, guiding suspects on how to fulfill the required actions for confessing and accepting punishments.

On the subjective side, in conjunction with the voluntary considerations in Articles 28 and 39 of “the Guiding Opinions”, “voluntary and truthful confession” subjectively requires that the suspect has: (1) autonomy of will, i.e., that the suspect has not been subjected to violence, threats, or enticement, and that the plea of guilty and the acceptance of the penalty are made without unlawful coercion; (2) knowledge of the content, i.e., the suspect should have normal cognitive ability and mental state at the time of pleading guilty and accepting punishments, and be fully aware of the facts of the case, the nature of the plea, and the legal consequences; (3) expectation of benefit, i.e., the suspect should have the expectation that he or she will be sentenced to a more lenient punishment in the future.

To ensure suspects are well-informed and their rights protected, duty lawyers must address three key aspects. Regarding “autonomy of will”, they should promptly engage with the case, inform suspects of their litigation rights and procedural safeguards, and act decisively to protect them from reported coercion by prosecution authorities. For “content awareness”, duty lawyers need to liaise with investigative authorities to understand charges and circumstances, thoroughly review case files during the prosecution review stage, and meet with

suspects to clarify evidence and materials. They must also explain the charges, statutory sentencing ranges, and potential leniency under plea bargaining. Concerning “interest expectations”, duty lawyers should evaluate the prosecution’s initial sentencing recommendations, consider the accused’s expectations, and negotiate the crime’s nature, circumstances, and social impact with the prosecution. Additionally, they must oversee the signing of the confession and plea agreement to safeguard the accused’s interests and ensure proper supervision.

### **The Diminished Function of Effective Legal Assistance by Duty Lawyers: Manifestations and Reasons**

I conducted a survey among three grassroots procuratorates and 20 duty lawyers in S City, L Province. The findings revealed that the functional marginalization of duty lawyers is a widespread phenomenon. Since the responsibilities of duty lawyers differ at the investigation and examination before prosecution stages, the manifestation of this marginalization varies across these stages. Moreover, there are multiple layers of reasons underlying this issue.

### **Specific Manifestations of Functional Deflation**

#### **Specific Manifestations of Functional Deflation at the Investigation Stage**

In the investigation stage of plea bargaining cases, the primary duties of duty lawyers include promptly providing legal consultation, applying for changes to coercive measures, and offering opinions to the police. Fulfilling these responsibilities requires timely intervention in cases, meetings with suspects, and inquiries with case handlers to understand the situation. However, the current practice reveals significant shortcomings. Firstly, there is a delay in the involvement of duty lawyers, who often only step in when suspects request a meeting. A survey of 27 duty lawyers showed that only three would intervene before being requested to meet a suspect. Secondly, the process of meeting with suspects frequently becomes a mere formality. The survey indicated that 85% of duty lawyers typically do not take the initiative to meet suspects, while 7% do but spend on average less than 15 minutes per meeting. Such brief meetings are insufficient for duty lawyers to fully grasp the case details or provide thorough legal advice and procedural guidance.

#### **Specific Manifestations of Functional Deflation at the Examination Before Prosecution Stage**

During the review and prosecution phase of plea bargaining cases, duty lawyers are primarily responsible for presenting reasonable and independent sentencing recommendations, engaging in sentencing negotiations with the prosecution, and signing plea agreements after confirming that the suspect’s guilty plea is voluntary. To fulfill these duties, duty lawyers need to understand the case details. However, besides often failing to meet with the parties involved, local prosecutors and lawyers report that duty lawyers typically do not review case files. In interviews, while lawyers and prosecutors cited different reasons, all pointed to the issue of not reviewing case files: Lawyer Z mentioned needing to witness over a dozen cases a day, leaving no time to review each case thoroughly. Lawyer L noted that prosecutors only notify duty lawyers when it’s time to sign the plea agreement, giving them no opportunity to review the files. Prosecutor M explained that lower-level procuratorates face significant caseload pressures, making thorough involvement by duty lawyers for minor or straightforward cases impractical and unnecessary due to time constraints.<sup>1</sup>

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<sup>1</sup> In this section, to protect the privacy of the interviewees, each respondent is replaced by the initials of his or her last name.

## **The Intrinsic Mechanisms Behind the Deflation of Duty Lawyers' Effective Legal Assistance Function**

### **Lack of Supervision by Duty Counsel**

Establishing a supervision and management system for duty lawyers is crucial for ensuring they can provide effective legal assistance. First, a supervision and management system provides specific and actionable guidance, ensuring that duty lawyers can effectively carry out their responsibilities. All along, under the logic of “identity determines rights”, the identity of duty lawyers has not been recognized by the consensus, so what rights can be exercised naturally also has differences. But the regulatory system focusing on “regulatory behavior” can precisely alleviate the above dilemma brought about by the lack of identity. Secondly, the performance of duty lawyers is primarily driven by the provisions of the Criminal Procedure Law, with legal assistance being their statutory obligation. Since the quality of this assistance is not regulated by market forces, it necessitates external supervision to ensure service quality.

Currently, there is no central legislation in the Criminal Procedure Law addressing the supervision of duty lawyers; only the “Measures for the Work of Legal Aid Duty Lawyers” touches on this issue. While Article 34 mandates judicial administrative authorities to supervise duty lawyers, it lacks specific regulatory methods tailored to them. At the local level, many regions rely on “Legal Aid Regulations” to assess lawyer service quality, but these are not directly applicable to duty lawyers due to differences in their roles and objectives. Additionally, legal aid quality assessments are often vague, lacking clear operational guidelines, leading to subjective evaluations. For instance, Fujian Province’s standards outline service levels for legal aid stages but provide no criteria to evaluate compliance. Similarly, Shandong Province’s measures base service qualification on procedural completeness without detailing required procedures or their extent.

### **Inadequate Rights of Duty Lawyer**

Regarding the right to review case files, duty lawyers do not enjoy full access to case materials. A complete right to review case files typically encompasses three components: “reviewing”, “extracting”, and “copying”. However, the Criminal Procedure Law of China does not explicitly grant duty lawyers full rights to review case files. Multiple normative documents only mention that duty lawyers have the permission to “review” case materials. When defining the scope of duty lawyers’ rights, the principle of “no explicit legal authorization means prohibition” is followed. This means that any rights not explicitly granted by law are generally not enjoyed by duty lawyers.

Regarding the right to participate in sentencing negotiations, duty lawyers are unable to engage in these discussions concurrently with the suspects. Synchronous negotiations involving duty lawyers, the prosecution, and suspects help ensure that sentencing negotiation opinions fully reflect the true intentions of the suspects. However, Article 173, Paragraph 2 of the Criminal Procedure Law of China integrates the sentencing consultation step into the interrogation process of criminal suspects at the examination and prosecution stage, thus reducing the sentencing consultation from an independent procedure to an integral part of the interrogation of criminal suspects. However, the duty lawyer does not have the right to be present during interrogations, and thus is unable to engage in dialogue with the prosecutor during the negotiation process. In practice, this may lead to a situation where the procuratorate solicits the opinion of the duty lawyer only after the prosecutor has already reached a

negotiated agreement with the suspect, merely seeking the on-duty lawyer's confirmation for signature afterward (Min, 2019, p. 3).

### **The Investigative and Prosecutorial Authorities' Procedures Are Not Standardized**

Procedures for informing investigating and prosecuting authorities of their rights are not standardized. In practice, there is a tendency to equate the time when "a suspect meets with a duty lawyer" with the time of "the duty lawyer's involvement in the case". Yet once the case-handling organs do not fulfill the obligation to inform suspects of their rights, the suspects may remain unaware of their entitlement to legal assistance, thereby making it difficult for the duty lawyer to provide effective legal support.

Procedures for arranging meetings with investigating and prosecuting authorities are not standardized. Article 6 of the Measures for Legal Aid Duty Lawyers stipulates that duty lawyers have the right to meet with criminal suspects, but does not stipulate the time at which the judicial authorities should arrange for a meeting. In practice, the judicial authorities may delay arranging for a meeting unduly, thus making it impossible for duty lawyers to meet with criminal suspects in a timely manner.

### **Insufficient Incentives for Duty Lawyers to Work**

Incentives for duty lawyers should consist of two parts: material incentives and spiritual incentives. Material incentives include subsidies provided by judicial administrative authorities to duty lawyers. For instance, in Zhejiang Province, an economically developed region in China, the latest subsidy standards for duty lawyers in Hangzhou's various districts are mostly based on a per-case basis. The subsidy for the first case is 580 yuan (approximately 79 dollars), and for each subsequent case, it is 150 yuan (approximately 20 dollars). Despite this, the subsidies provided in relatively developed cities still fall short compared to the fees earned from commissioned defense services. Furthermore, while a subsidy system based on the number of cases handled facilitates practical implementation, it overlooks the differences between individual cases. Duty lawyers who diligently handle complex cases will inevitably invest more effort, but if they receive the same compensation as for simpler cases, it may lead to reduced motivation. Regarding spiritual incentives, insufficient attention and emphasis have been placed on providing spiritual incentives for duty lawyers, and relevant regulations and practices remain largely undeveloped.

## **Systemic Transformation of Legal Assistance by Duty Lawyer Towards Effectiveness**

This study proposes a systematic reform through: (1) establishment of a scientific system for the supervision of duty lawyers; (2) enhancing the litigation rights of duty lawyers; (3) reducing procedural barriers for case-handling authorities; and (4) improving the incentive mechanism for duty counsel. These measures must be rooted in causal analysis and centered on well-defined behavioral benchmarks to ensure accountability and service quality.

### **Establishment of a Scientific System for the Supervision of Duty Lawyers**

**Assessment indicators.** First, behavioral assessment indicators for the investigation stage. During this stage, evaluation indicators for duty lawyers should focus on their actions to provide legal consultation and ensure that suspects do not plead guilty or accept penalties against their will. These indicators can be subdivided as follows: (1) inquiring with case-handling personnel: Duty lawyers must promptly inquire about case details from the

moment a suspect without a defense attorney is first interrogated or subjected to compulsory measures. This includes understanding the alleged charges, verified facts of the case, the type of measures taken, and whether there are any extensions of detention; (2) meeting with suspects: Duty lawyers must identify themselves and state which legal aid institution they represent, emphasizing the principle of free legal assistance. During meetings, they should inquire about and verify the charged offenses, case facts, evidence, circumstances, and motives. They should also ask if there are any mitigating factors or exculpatory evidence and whether the suspect has experienced any violations of their legal rights, such as prolonged detention or torture. Duty lawyers should answer legal questions, inform suspects of their litigation rights and the legal provisions for pleading guilty and accepting punishments, explain the charged offenses and statutory sentencing ranges, clarify mitigating circumstances and the extent of leniency available, and offer advice on procedural choices; (3) providing opinions: Duty lawyers must listen to suspects' concerns regarding litigation procedures and provide written legal opinions and recommendations on procedural applicability to the police before the conclusion of the investigation.

Second, indicators for assessing behavior at the prosecution stage. These indicators can be subdivided as follows: (1) inquiring with case-handling personnel: Duty lawyers must promptly inquire about relevant details from the moment a suspect enters the transfer review and prosecution process. This inquiry should cover specific aspects such as the alleged charges, verified case facts, and any compulsory measures taken; (2) reviewing case files: Duty lawyers should thoroughly examine, excerpt, copy, and document the case files, including reading interrogation records, arrest reports, arrival processes, necessary expert opinions, on-site inspections, examination records, physical evidence, key witness testimonies, and materials proving self-surrender or meritorious service; (3) meeting with suspects: During meetings, duty lawyers must address legal questions, inform suspects of the case information and evidence held by the prosecution, and listen to the suspects' sentencing expectations; (4) providing opinions: In this stage, duty lawyers should offer opinions beneficial to the suspects, addressing both factual and legal issues concerning the prosecution's sentencing recommendations; (5) witnessing the signing: Duty lawyers must be present during the signing of the confession and plea agreement document to oversee and verify the signing process.

**Assessment entities and methods.** Effective legal assistance evaluation requires neutral, timely, and professional assessors. Current Chinese practices involving case-handling authorities, peers, judges, or experts face systemic flaws: Institutional assessments risk aligning duty lawyers with prosecutorial interests, judicial oversight delays evaluations, and expert input adds redundancy given the objective nature of assessment criteria. Thus, legal aid institutions and suspects are optimal evaluators. Legal aid bodies enable case-specific, post-service reviews using documented records to prevent superficial pre-trial procedures, while suspects, as direct beneficiaries, provide authentic feedback and real-time oversight, allowing replacement requests for inadequate representation to ensure sustained legal support.

Assessment methods should differ based on the assessment entity. Each specific task in the legal assistance evaluation standards is concrete and verifiable, with its completion status indicated as either completed or not completed. The final judgment on whether the duty lawyer's legal assistance was effective is not based on the proportion of tasks completed but on achieving the expected level, meaning the completion of all standard actions. Therefore, legal aid institutions can use a task list to determine if the duty lawyer's legal assistance was fully

realized. However, suspects cannot review the task list; instead, they judge whether there were any faults in the specific help provided by the duty lawyer. If suspects can reasonably argue and provide evidence to prove such faults, it can be determined that the duty lawyer did not provide effective legal assistance.

**Penalization and redress mechanisms.** The punishment mechanism serves as a critical means to deter duty lawyers and thereby enhance the quality of legal assistance they provide. Current penalties primarily involve reducing duty lawyers' work subsidies or removing them from the duty roster. However, since serving as a duty lawyer is not a position actively sought but rather a legally mandated obligation, these penalties lack sufficient deterrent power within the legal profession. Lawyers place greater importance on their professional reputation; thus, a reputational penalty could be more effective. This would involve legal aid institutions publicly reporting the personal information of duty lawyers who fail to meet standards.

The direct victims of ineffective assistance are the suspects, yet current laws do not specify remedial measures for such situations. I propose that during the provision of legal assistance, suspects should be able to raise objections at any time, providing evidence of the duty lawyer's negligence and requesting a replacement. Furthermore, after the duty lawyer has completed their assistance, legal aid institutions should review their performance. If ineffective assistance is found, the suspect's guilty plea and acceptance of punishments should be deemed invalid.

### **Enhancing the Litigation Rights of Duty Lawyers**

**Guarantee of complete access to files for duty counsel.** The principle that "identity determines rights" is flawed, as evidenced by Article 65 of the Judicial Interpretation of the Criminal Procedure Law, which grants litigation agents full access to case files, a right not exclusive to defense attorneys. This indicates that all lawyers, including duty lawyers, should have the right to review case files to ensure suspects fully understand their cases and the potential legal consequences, facilitating informed decision-making. Duty lawyers need this access not only to verify evidence with suspects but also to guarantee the voluntariness and authenticity of guilty pleas and penalty acceptances, enabling rational procedural choices. The 2021 "Legal Aid Law" supports this by expanding duty lawyers' file access rights from merely "reviewing" to also allowing "excerpting" and "copying", ensuring comprehensive access without restrictive interpretations. Thus, whether considering practical necessities or legal provisions, duty lawyers should indeed have the full rights to "review", "excerpt", and "copy" case files.

**Reconfiguration of the sentencing negotiation process.** Given that most suspects have low levels of education and limited legal knowledge, they generally lack the capacity to engage in sentencing negotiations. Therefore, it is necessary to separate the sentencing negotiation process from the interrogation of suspects. During these negotiations, suspects require effective legal assistance from duty lawyers. However, duty lawyers currently do not have the right to be present during interrogations, which means they cannot participate synchronously in the negotiation process. This highlights the need for duty lawyers to be present during sentencing negotiations. While granting duty lawyers the right to be present during interrogations still faces resistance, provisions can be made for their presence under special procedures. A similar approach can be seen in the absent trial procedure, where the close relatives of suspects are granted independent appeal rights. By considering the separation of the sentencing negotiation procedure from the interrogation phase and allowing duty lawyers to be present during negotiations, this would create space for them to provide effective legal assistance. Such measures would enhance



the fairness and effectiveness of the legal process and ensure that suspects receive adequate support during critical stages of their cases.

### **Reducing Procedural Barriers for Case-Handling Authorities**

**Enhancing the timeliness of duty lawyer's involvement in cases.** Firstly, the method of duty lawyer involvement should be mandatory assignment rather than application-based. In practice, the judicial administrative authorities have equated “suspects requesting meetings with duty lawyers” with “duty lawyers intervening upon application”, which has negatively impacted the timeliness of their involvement. In reality, intervention and meeting are distinct issues. On one hand, logically, intervention precedes the meeting. On the other hand, Article 36, Paragraph 1 of the Criminal Procedure Law establishes the duty lawyer system, while Paragraph 2 confirms suspects' right to meet with duty lawyers, supporting this distinction.

The reason why duty lawyers are mandatorily assigned rather than requested lies in three key points. First, globally, the government's responsibility for legal aid is widely recognized. Since the state initiates criminal prosecution threatening individuals' rights, it must ensure procedural fairness, making duty lawyers essential. Second, mandatory involvement is necessary for duty lawyers to fulfill their role. As explained by the Legislative Affairs Commission of the NPC Standing Committee regarding Article 36 of the Criminal Procedure Law, duty lawyers provide immediate legal assistance when suspects or defendants lack defense counsel, filling that gap. Clearly, only mandatory intervention ensures swift legal support; shifting this responsibility to individuals would risk neglect of the state's duty. Third, legally, duty lawyer assignment is compulsory. Article 36 mandates that investigative authorities inform suspects of their right to meet a duty lawyer, and since such intervention precedes meetings, duty lawyers must be mandatorily assigned in all criminal cases, not just plea bargaining ones.

Secondly, under the framework of mandatory intervention, the timing of duty lawyer involvement should occur immediately when conditions for intervention are met, as stipulated in Article 36 of the Criminal Procedure Law, i.e., “when suspects or defendants have not engaged defense counsel and the legal aid institution has not assigned a lawyer”. Considering the timeframe within which suspects can engage defense counsel, the earliest point at which duty lawyers can intervene is during the first interrogation by the investigative authority or when compulsory measures are taken.

Therefore, investigative authorities should inform suspects of their right to meet with duty lawyers and receive legal assistance during the first interrogation. Prosecutors should inform suspects of their rights upon receiving case files from the police. Additionally, to ensure the timeliness of duty lawyer involvement, systemic reforms inspired by practices in other countries can be adopted. For example, the UK mandates 24-hour duty lawyer presence, requiring them to provide legal assistance within 45 minutes of notification.

**Guaranteeing the exercise of duty lawyer's right to meet with lawyer.** Regarding the issue of lawyer-client meetings being monitored, Article 8 of the UN's “Basic Principles on the Role of Lawyers” affirms that lawyers must communicate confidentially with clients, regardless of their role as defense attorneys or duty lawyers. For defense attorneys, private meetings with suspects are a fundamental right, and the same applies to duty lawyers. Private meetings enable duty lawyers to effectively assist suspects and meet required standards. Thus, ensuring unmonitored meetings between duty lawyers and suspects is essential to safeguard suspects' rights and uphold the integrity of legal proceedings.

Regarding delays in lawyer-client meetings, to address this, a clear limit such as “within 48 hours” should be introduced. A proposed provision states: “Except for cases involving national security, terrorism, or significant bribery during investigation requiring permission, detention centers must promptly arrange meetings with duty lawyers, no later than 48 hours”. Additionally, adopting a “name list standby system”, similar to Japan’s model, could replace the current “on-site shift system”. This would involve maintaining contact details of local duty lawyers at detention centers and procuratorates, enabling flexible arrangements like on-site or video meetings based on needs. Such changes would ensure timely access and enhance duty lawyers’ effectiveness.

### **Improving the Incentive Mechanism for Duty Counsel**

To motivate duty lawyers, judicial administrative agencies should implement both material and spiritual incentives. Material incentives include increasing subsidies and introducing a performance-based payment system, where high-performing lawyers receive additional funds based on quality assessments, such as the number of client meetings. Spiritual incentives involve public recognition, like commendation ceremonies and certificates, and establishing an “Outstanding Duty Lawyer Award” to honor top performers annually or quarterly. Additionally, offering advanced training, seminars, and international exchange opportunities, along with media coverage to highlight their achievements, can further encourage these lawyers. Inviting family members to award ceremonies also helps in sharing the lawyer’s success and boosting their motivation. This combined approach ensures financial support and professional recognition, enhancing duty lawyers’ dedication and effectiveness.

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