SPP Guiding Case No. 202: Case of Kang Moumou for Infringing Citizens' Personal Information via the Internet

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Decided at the 19th meeting of the 14th Procuratorial Committee of the Supreme People's Procuratorate on December 29, 2023; issued on February 22, 2024.

Keywords

Network protection of minors / abnormal phone cards / big data supervision model / standardization of minors' network access

Holding

Where, in handling a case of telecommunication network crime involving minors, the procuratorial organ discovers that minors have abnormally obtained phone cards, it may actively use digital procuratorial supervision means and, by constructing a big data model, promote early prevention of minors' involvement in telecommunication network crimes. In response to problems reflected in similar cases, such as a single minor obtaining multiple cards, it may use joint consultation, procuratorial suggestions and other means to link with the relevant departments to improve long-term mechanisms, standardize minors' network access and use, and ensure a healthy and safe network environment for minors.

Basic Facts

The defendant, Kang Moumou, male, born on September 26, 2003, with a junior high school education, the legal representative of a network technology company.

From December 2022 to February 2023, Kang Moumou, in the name of part-time work at the network technology company, recruited Liu Moumou and others (handled in a separate case) to help him purchase phone cards. Liu Moumou, a student at a college, posted part-time job recruitment information through his WeChat circle of friends and recruited more than 40 current students, 21 of whom were minors. Under Kang Moumou's arrangement, Liu Moumou and others went to designated outlets to obtain 577 phone cards, with an average of 14 cards per person. Kang Moumou sold the phone cards to upstream offenders for use in registering various social APP accounts and providing paid traffic-diversion and liking services. Some of the phone cards were used by upstream offenders, without Kang Moumou's knowledge, to commit telecommunication network fraud.

Procuratorate Performance of Duties

Handling of the criminal case. On February 10, 2023, a district branch of the Public Security Bureau of a city in the Inner Mongolia Autonomous Region opened a case to investigate Kang Moumou for infringing citizens' personal information. On August 3, 2023, the People's Procuratorate of a district of a city in the Inner Mongolia Autonomous Region filed a public prosecution against Kang Moumou. Kang Moumou was sentenced by the people's court for the crime of infringing citizens' personal information.

Construction of a big data legal supervision model. During the handling of Kang Moumou's case, the district procuratorial organ sorted out similar telecommunication network crime cases that had occurred locally in recent years and found that renting, lending and selling phone cards was the main way for minors to be involved in telecommunication network crimes. In response to the situation of current students abnormally obtaining cards, the procuratorial organ researched and constructed a "legal supervision model for abnormal phone cards of current students" and carried out a special legal supervision action on cases of current students' involvement in telecommunication network crimes. Under the overall planning of the municipal big

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data center, and relying on the routine data information of current students, the data information of minors obtaining phone cards and the case data information of telecommunication network crimes involving minors, it discovered that more than ten minors had been coerced or deceived into participating in crimes.

Transfer and handling of clues from the supervision model. The procuratorial organ examined the relevant clues discovered by relying on the big data legal supervision model and transferred them to the public security organ in accordance with law. Based on the above clues, the public security organ solved more than ten telecommunication network crime cases and seized multiple sets of “wireless voice gateway” criminal tools. For the three minors who participated in telecommunication network crime activities and had reached the age of criminal responsibility, the procuratorial organ handled them in accordance with law based on the circumstances of their crimes and their attitude of admitting guilt and repenting. For the fourteen minors who had not reached the age of criminal responsibility and had been deceived into obtaining and selling cards, the procuratorial organ, together with the public security organ, carried out rule-of-law education on the standardized use of cards, urged the functional departments to implement their supervision responsibilities, and promptly cancelled the abnormal phone cards.

Promotion of social governance. In response to the actual situation and prominent problems of current students suspected of telecommunication network crimes discovered during case handling, the procuratorial organ formed a special report and submitted it to the local party committee and government, and linked with the district industry, information technology and science bureau, the education and sports bureau and other relevant departments to establish an information exchange mechanism and strengthen the effective management of high-risk situations such as batch card issuance and repeated issuance, cancellation and replacement of cards within a short period; it promoted the district industry, information technology and science bureau to issue the Guidelines for Standardizing the Procedures for Handling Phone Cards, clarifying that minors of a younger age must apply for network access in the presence and with the consent of their guardians. It strengthened inquiry and anti-fraud notification for minors and intensified the review of abnormal cards. It urged the district education and sports bureau to issue a “Risk Reminder Letter on Renting, Lending and Selling Phone Cards” to teachers and students, and incorporated rule-of-law education into the school’s employment guidance plan.

Family education guidance. In response to the widespread absence or impropriety of family education among the minors involved in the case, the procuratorial organ issued supervision orders for guardianship to their guardians, and invited professionals to carry out family education guidance to strengthen guidance and supervision of minors’ network access behavior. At the same time, the procuratorial organ joined with the women’s federation, the communist youth league and other departments to establish a “family education guidance station” and a “minor care studio,” and introduced social forces to deeply participate in family education guidance in light of the family guardianship problems discovered during case handling.

Guiding Significance

(1) Use digital procuratorial means to conduct extended examination of handled cases of minors’ involvement in telecommunication network crimes, and effectively protect the rights and interests of minors through legal supervision. The non-contact, mass-involvement and wide dissemination nature of telecommunication network crimes has led to problems such as concealment and difficulty in verification. The procuratorial organ may, by constructing a relevant big data legal supervision model, collide and compare the relevant data resources involved in handled cases, connect the information on minors’ abnormal phone card acquisition with the case data of telecommunication network crimes, accurately identify potential high-risk and already-committed minors, analyze and assess the relationship network of minors’ involvement in telecommunication network crimes, and where relevant crime clues are discovered through examination, transfer them to the public security organ in accordance with law for case filing and investigation.

(2) Follow up with the relevant departments to achieve early prevention of minors' involvement in telecommunication network crimes. Minors are not yet mentally mature and have a strong herd mentality and are easily deceived and induced; it is particularly important to detect, effectively intercept and block minors' illegal and criminal acts at an early stage. The procuratorial organ shall give full play to the advantages of big data screening, precisely discover the abnormal situation of minors obtaining phone cards, promptly urge the industry, information technology and other functional departments to follow up and cancel abnormal phone cards, and truly achieve the purpose of crime prevention and protection of minors.

(3) Promote the improvement of the standards for minors' network access and strengthen the network protection of minors. Minors' suspected involvement in telecommunication network crime often begins with obtaining multiple phone cards, exposing the mechanism problems and supervision loopholes in minors' acquisition of phone cards. The procuratorial organ may join with the relevant departments to improve the mechanism for standardizing minors' network access, promote cross-department data interconnection, urge the industry competent departments to attach importance to the tracking and supervision of abnormal accounts, detect minors' abnormal card acquisition at an early stage, and ensure a healthy and safe network environment for minors.

Relevant Legal Provisions

Article 253a of the Criminal Law of the People's Republic of China.

Articles 64, 66, 71 and 105 of the Law of the People's Republic of China on the Protection of Minors.

Articles 30, 31 and 61 of the Law of the People's Republic of China on the Prevention of Juvenile Delinquency.

Articles 10, 11, 28, 31 and 38 of the Anti-Telecom and Online Fraud Law of the People's Republic of China.

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