

Research on the Graded Intervention Mechanism for Juvenile Delinquency in China

Wenqing Yang, Haoyuan Li*

School of Law, Shantou University, Shantou, Guangdong, China

Abstract: At present, juvenile crimes in China show a trend of underage and violence, and vicious cases occur frequently, which is widely concerned by the public. Based on this, Amendments to the Criminal Law of the People's Republic of China (XI) promulgated in 2019 lowered the age of criminal responsibility in China from fourteen to twelve years old, but it is far from enough to curb the climbing rate of juvenile delinquency only by lowering the age of criminal responsibility. In order to effectively prevent juvenile delinquency and recidivism, emphasize the concept of protecting the healthy growth of minors, and considerate the physical and mental peculiarities of minors, it is imperative to build a graded intervention mechanism for juvenile delinquent. The graded intervention mechanism for juvenile delinquent has not been constructed, and there are still many imperfections. This paper will start from the perspective of examining the practice of this mechanism in our country, reviewing the problems existing in the current intervention for juvenile delinquent, clarifying the grading of the acts of crime and exploring the corresponding effective mode of intervention, with a view to providing reference and help for the realization of the principle of "educating, probating and rescuing" minors.

Keywords: Delinquent Minors, Graded Intervention, Early Intervention

1. Introduction

Law of the People's Republic of China on Prevention of Juvenile Delinquency (2020 Revision) emphasizes the importance of graded intervention in the treatment of juvenile delinquent. The logic of graded intervention lies in grading first and then matching the suitable intervention measures for the teenagers of the grades, so the examination of the intervention for juvenile delinquent in China should focus on the appropriateness of the current grading and

the suitability of the intervention measures respectively. The current grading intervention mechanism for juvenile delinquents in China is not yet perfect, and the legislation of China divides juvenile delinquent behaviors into predelinquent behavior, serious predelinquent behavior, illegal behavior and criminal behavior. But the concepts of "prelinquent behavior" and "serious prelinquent behavior" in the law are ambiguous and there are something overlap, the elements of "serious prelinquent behavior" contains delinquent behavior and criminal behavior, and the inclusion and crossover of the grading of the scope of application has led to various contradictions and problems in practice. As for the intervention measures matching the grading of behaviors, in addition to criminal penalty, the more common intervention measures in China mainly include temporary assistance and supervision by administrative departments or welfare agencies, receiving specialized education in specialized schools and community services for correction. However, due to the lack of clear intervention subjects, proper referral procedures and reasonable resource allocation, informal intervention measures have not been effective in practice. Therefore, taking the "graded prevention, intervention and correction" proposed in the newly amended Law on the Prevention of Juvenile Protection as a starting point, improving the grading standards for juvenile delinquency and refining the corresponding intervention measures is the way to systematize the graded intervention mechanism for juvenile delinquency in China.

This paper uses the theoretical research and comparative research method, summarizes our country's procuratorate in the juvenile delinquency graded intervention, and compared to the countries with mature juvenile justice system, for providing reference to the development of China's graded intervention system, which is the foundation for the establishment of China's juvenile justice system, and to the education and correction of

delinquent minors.

2. The Logical Origin of the Graded Intervention for Juvenile Delinquency

To study the system of graded intervention, the first step is to analyze the justification and necessity of graded intervention for juvenile delinquency from the perspective of basic theory.

2.1 State Parental Authority Theory: Justification for Graded Intervention for Juvenile Delinquency

In the field of juvenile justice, the theory of the state parental authority includes three dimensions: First, the state is the ultimate guardian of minors, and plays an important role in safeguarding the rights and interests of them; second, the state parental authority derives from natural parental authority but is more powerful than it, and in the event that the guardian is incapable or slack to perform the duties and functions of guardianship, the state should take the place of the guardian in order to seek the greatest benefit for the minor; third, the state parental authority requires the nation is supposed to take benefits of minors into account first in every case, which is aimed at the best interest for minors.

The physical and mental vulnerability and special characteristics of minors determine that their growth requires the joint action of family, school and society, but in reality, parents are too busy with their work to neglect their children's education, they do not have sufficient knowledge to guide their children correctly, or they have bad habits or delinquent behaviors which likely affect their children. The teenagers who live in these circumstance are easily trapped into the blanket without controlling and guiding. Therefore, the state should replace the guardian to exercise the parental authority, become the guardian. The concept of state parental authority has been gradually manifested in the role played by state organs in the protection of minors, and has been reflected more clearly in the Law of the People's Republic of China on the Protection of Minors (2020 Revision), with the General Provisions emphasizing the state as the main subject of protection for the rights of minors in a more direct manner than the 2006 and 2012 revisions, and proposing that the state should assume the functions of guidance, support, assistance, and supervision in the performance of the guardian's

ultimate guardian of these minors, supervise and protect the rights of minors. In the graded intervention system of juvenile delinquency, in addition to formal intervention measures by the judicial system and the government, the family, school and community also play crucial supporting roles in the implementation of informal interventions, but the biggest problem with informal interventions was lacking of supervision, which results in the situations that they cannot be used effectively in practice. Whether there is no state as the ultimate guardian, the social supporting system for graded intervention will lose its solid backing, and minors will flow into the blank zone of intervention.

From the perspective of China's legislative history related to the protection of the rights and interests of minors, the concept of the State parental authority has always permeated our country. Law of the People's Republic of China on the Protection of Minors (1991) proposes in the chapter on Family Protection that the people's court may revoke the qualification of a guardian, including failure to perform guardianship duties and infringement of the legitimate rights and interests of minors. Although it does not directly specify that the state acts as a substitute guardianship subject, it does give the judicial systems the right to revoke the guardianship of a parent who is incapable of guardianship, and the public power of the judicial authorities is undoubtedly from the state. Law of the People's Republic of China on the Protection of Minors (2006 Revision) explicitly mentions the state as the subject of safeguarding the lawful rights and interests of minors in the General Principles, and in the chapter on Social Protection, it is added that the government and its civil affairs departments shall assume temporary guardianship responsibility for minors who have been wandering or begging. duties of guardianship. It can be seen that the theory of state parental authority is rooted in the soil of China's laws and has been honed over a long period of time in practice.

Since the problem of juvenile delinquency affects not only a family but also the future of a nation, the interests of the child should be elevated to the level of national interests, and the public power of the State should become the appropriate subject of the minor's guardianship. Therefore, when a minor commits a crime, for the purpose of saving and helping the minor to

grow up healthily (i.e., realizing the minor's best interests), the state has the legitimacy to intervene in acts that "adults can do, but minors can't".

2.2 The Theory of the Best Interests of the Child: Necessity for Graded Intervention for Juvenile Delinquency

The principle of the best interests of the child is the basic principle guiding the handling of issues relating to children set out in the Convention on the Rights of the Child, which means that the best interests of the child shall be a primary consideration in matters relating to children; it is also implemented in the legislation of various countries when dealing with matters relating to children. In Germany, the realization of the best interests of the child is the guiding principle in dealing with child-related matters, requiring that both the exercise of parental responsibility and the protection of minors by the state should be carried out in accordance with this principle. The French Civil Code stipulates that judges should strictly prioritize the interests of the child when adjudicating child-related cases.

Compared to adults, minors are physiologically and psychologically immature, and their physical and mental specialties and vulnerabilities decide that the principle of the best interests of the child should be the basic principle in dealing with cases relating to minors:

Firstly, Minors do not have the ability to actively cognize the world, and their world view and patterns of behavior are mainly formed through passive acceptance and imitation through education, which means that the behavior committed by minors is in fact a mirror reflecting the behavior of their parents, schools and society. Therefore, their delinquent behaviors should be the result of the joint efforts of many parts. It is too arbitrary to attribute the blame to the minors themselves alone, which is not conducive to their correction and revision in the future.

Secondly, minors' brain is not yet fully developed, the domination of their behavior and their judgment towards events is not as clear and accurate as that of adults, so the reasons why they commit criminal acts are that they are under the emotional influence or peer stimulation, rather than their subjective malice. According to scientific research and social tracking surveys, the bad habits of such delinquent minors will

disappear automatically as they grow older. Therefore, in the graded intervention, focusing on the joint intervention of family, school and society, which requires these three parts to take the corresponding responsibility, instead of only focusing on the punishment of the minor himself. These measures are all based on the best interests of the child, so as to create a good environment for the minors to revise and reshape.

Thirdly, due to their young age, minors have difficulty in realizing fluent and clear self-expression, and in the course of the case, there is a certain blockage in clarifying their own ideas and claiming their own rights, which puts them in a disadvantageous position.

Fourthly, according to Freud's theory of personality development, the period of minors is the key period for the development and formation of each person's personality, and the experience and life experience during this period will affect their whole life. Therefore, all decisions on minors during this period should be made with sufficient caution.

The principle of the best interests of the child is embodied in the graded intervention mechanism, which provides for early intervention in respect of behaviour that is "acceptable to adults but unacceptable to minors", the imposition of prudent penalties for delinquent behaviour, and the individualization of punishment to take account of the individual's family situation and psychological condition in deciding on intervention measures. Correcting bad behavioural patterns, preventing the deterioration of criminal consciousness and rebuilding a healthy psychological state are the goals of intervention for minors who have committed crimes, and intervention is based on the implementation of educational measures supplemented by a limited number of punitive measures to help them grow up again, all of which are in line with the requirements of the best interests of the minor.

3. Examination of the Current Situation of Graded Intervention for Juvenile Delinquency in China

The graded intervention for juvenile delinquency has been boldly explored and innovated in practice throughout China, and the examination of the practice will help to uncover the current problems of the system, and some of the effective experiences may also provide lessons

for subsequent promotion in other regions in China.

3.1 Application of Graded Intervention in Practice

The logic of graded intervention lies in grading first and then intervening, and in the face of the current state of the legislation, which grades minors only according to the nature of their actions, in practice, after doing social surveys of juvenile delinquency, individualized circumstances such as the times they have delinquent behaviors and the risk of them are also the factors which is taken into account. The most typical is the three-tier intervention model represented by the Pudong New Area in Shanghai and Ziyang City in Sichuan Province.

Since 2013, the Shanghai Pudong New District People's Procuratorate has established a graded intervention mechanism for minors who have delinquent behaviors, with "three levels of intervention, four levels of protection, and five stars joint activities". Three-level intervention refers to the classification of minors into three categories based on the times they have been in conflict with the law, the nature of their behavior, their personal risk and the degree to which they need protection, and the adoption of intervention measures of varying intensity and duration based on that classification. The first level of intervention is aimed primarily at minors who have been in conflict with the law for the first time, whose personal risk is low and whose need for protection is also low. For these teenagers, there are some measurements such as judicial admonition, short-term care and guidance, strict discipline for parents, and regular supervisions. The second level of intervention is for minors who have been in conflict with the law twice, who are at higher personal risk, and who are in higher need of protection. The measurements towards them are including joint admonition by the procuratorate and the police, long-term care and guidance, mandatory family education guidance, and the establishment of a family file for timely return. The third level of intervention is for minors who have been in conflict with the law several times, who are extremely dangerous and in need of protection and corrective treatment. The measurement towards them is sent to specialized schools for closed-type specialized corrective education.

The "three-color warning" mechanism established by the Ziyang City People's

Procuratorate in Sichuan Province. Taking the nature of delinquent behaviors and the specific circumstances of the individual as the criteria for grading, the minors are divided into three grades: red, orange and yellow, according to the degree of danger. Differentiated corrective treatment and intervention is provided for minors of different grades. The intervention measures corresponding to the red level are under the management of specialized functional departments, with specialized community workers responsible for follow-up and supervision; the orange level involves real-time attention by specialized community workers, who will provide assistance and education as appropriate; and the yellow level requires only daily attention.

In summary, the key to achieving substantive results in graded intervention is the accurate grading of juvenile delinquency. Minors' delinquent behavior varies greatly in degree, nature, and type. It is biased to grade minors only according to the nature of their behavior, instead we should make systematic social investigation combined with individual circumstances in every case, then provide corresponding education, assistance and intervention to every minors accurately.

3.2 Current Status of Application of Interventions

3.2.1 Specialized school

Specialized schools are one of the most important places in China for juvenile delinquency. According to statistics from the China Ministry of Education, by 2020, a total of 95 specialized schools have been established, covering 21 provinces. However, there are large differences in regional distribution, including 22 in Guizhou which is the province with the largest number of specialized schools in the country, with the rest mainly located in Beijing, Shanghai, Liaoning, Sichuan, and Xinjiang, and with some provinces not yet having set up a specialized school. Between 2010 and 2020, the number of teaching staff in specialized schools fluctuated between 2,500 and 3,000, with the number of full-time teachers constantly increasing. As specialized education applied rigorously in practice, the demand for professional teaching staffs is increasing. Whereas by comparing the number of students leaving, entering and enrolling in specialized schools in China from 2010 to 2020, it can be

seen that the number of students enrolled in specialized schools fluctuates considerably, with an overall downward trend, and the scale of operation is shrinking. There were less than 6,000 minors in specialized schools all over the country in 2020, which reflected the difficulty of enrolling students in specialized schools in practice.

According to the data of the "White Paper (2021)", the number of the minors prosecuted by procuratorate all around the country is 35,228 and the number of the minors non-prosecuted by procuratorate is 22,585 in 2021. From this, in one year's time, nearly 23,000 minors who committed crimes were transferred out of the criminal justice process through the stages of examination and prosecution by the procuratorate, such as relative non-prosecution and conditional non-prosecution and so on. Most of these juvenile delinquency should be transferred to specialized schools to receive specialized education, but the disparities shown in the data above are really large, reflecting the ineffectiveness of the practical use of specialized schools in the graded intervention of juvenile delinquency.

3.2.2 Parenting education

China proposed in the Law on the Protection of Minors (2006) that relevant state organs and social organizations should provide parents of minors with guidance on family education, but due to the lack of specific rules, the implementation of the law in practice has not been effective. According to the data of a social survey in 2010, of all the parents who participated in the survey, the average number of times they have participated in parenting education seminars since the birth of their children is less than three, and more than half of them had not participated in any parenting education training^[1]. Since then, in China's judicial practice, it has never stopped exploring the application of mandatory parenting education in intervening with minors at fault for crimes. In 2019, for the first time in China, we applied in a case to compel a guardian to accept family education guidance in the form of a restraining order, in which the procuratorate declared the minor's probation, but made mandatory parenting education an additional condition for applying probation. In the same year, the procuratorial authorities of Fuzhou City issued a "Supervision of Guardianship Order" and clarified the concept of the Supervision of

Guardianship Order in the Implementing Measure, when the lack of guardian's education leads to their children breaking the law, committing a crime, or causing a minor's rights and interests to be infringed upon, the procuratorate makes a procuratorial order requiring the guardian to perform the duties of guardianship.

Law of the People's Republic of China on the Promotion of Family Education (2022) formally stipulated the specific circumstances in which compulsory parental education was to be applied. In practice, the Luqiao Procuratorate of Taizhou, Zhejiang Province, is a typical representative of the implementation of parenting education, and it released the first white paper on compulsory parenting education in China in May 2022, which analyzed in detail the local work of compulsory parenting education as well as the 96 family samples that were forced to receive family education guidance. The compulsory parenting education was carried out by the Luqiao Procuratorate, the district women's federation and local civil affairs departments. Moreover, the digital platform was constructed. Multi-dimensional way helps solve the original family problems of juvenile delinquency. This series of practical explorations has laid a solid practical foundation for the development of parenting education in China, but the system is still in its infancy, and it has a long way to go.

3.2.3 Social care

China's social care system was formally established in the Law of the People's Republic of China on Prevention of Juvenile Delinquency (2020 Revision), and is mainly aimed at two categories of subjects, minors who have serious predelinquent behaviors, and who are subject to bail but have no fixed place of residence and are unable to provide a guarantor. The practice is ahead of the legislation, exploring on social care in China began in the 1990s. Shanghai Changning District Procuratorate started to build up the social care system in 1992, and after ten years of exploration they constructed a "local supervision, cross-district collaboration, commissioned by the other districts^[2]" multi-level system. In 2010, the juvenile procuratorate of Haidian District in Beijing created a working model of "4+1+N" for juvenile delinquency, with "1" referring to the reliance on specialized judicial social workers to carry out social investigation and later correctional support, and "N" refers to the joint

construction of a social network for the rehabilitation and remodeling by combining the resources of the government and society.

Graded intervention for juvenile delinquency requires the support and protection of all sectors of society, and the treatment of delinquent minors is not yet comprehensive by the intervention of administrative and judicial organs alone; after receiving formal intervention in corrective treatment and education, social observation and care is a multiple advantageous means. It can not only enable delinquent minors to return to society, but also keep an eye on their recovery to prevent them from having delinquent behaviors again. In our practice, there are four existing social care models: first, the "prosecution-school collaboration" model, with vocational schools as the main carriers; second, "procuratorial organs-enterprises collaboration" model, with enterprises as the main implementing agencies; third, the "prosecution-society unity" model, in which social welfare agencies, community street offices, and social work organizations are the main implementing bodies; fourth, the "integrated care", whereby social care networks are built by social compartmentalized forces. In practice, however, social care has shown a notable characteristic, namely that the degree of maturity and professionalism of social care is positively correlated with the level of the local economy, and that its application lacks top-level design and unified guidance, so that the degree of application varies greatly, and the effects of its use vary widely.

4. Anatomy of a Problem: Reflections on the Dilemma of Graded Intervention for juvenile delinquency in China

After analyzing the current situation, it is found that there are still many problems in the graded intervention for juvenile delinquency in China, firstly, there is inappropriate logic of grading, secondly, the intervention measures fail to match the grading. This chapter will reflect on the dilemmas of graded intervention in China from the above two aspects and in combination with effective experience outside the region.

4.1 Inaccurate Grading Criteria for Juvenile Delinquency

The current system of legislation in our country grades delinquent behavior as follows: predelinquent behavior, serious predelinquent

behavior, illegal behavior and criminal behavior.

4.1.1 Malpractice confused with predelinquent behavior and serious predelinquent behavior

A review of the legislation reveals, firstly, that the concept of predelinquent behavior is defined as "acts committed by minors that are not conducive to their healthy growth", which is too broad to contain all these behaviors. There is undoubtedly a suspicion of over-intervention. Secondly, among the predelinquent behaviors listed, "participation in gambling" is an illegal act, the severity of which is totally different from the other predelinquent behaviors listed, and gambling is also included in the serious predelinquent behaviors, the difference between the two being only in the amount of money gambled. From this we can see that the line of distinction between predelinquent and serious predelinquent behavior is very blurred in nature.

4.1.2 Malpractice confused over the internal logic of serious predelinquent classification

Serious predelinquent behavior in the current legislation consists of three main parts: first, acts that violate the criminal law but are not subject to criminal punishment because they are under the age of criminal responsibility; second, the eight types of acts listed, which are in violation of the Public Security Administration Penalties Law, and third, acts that are seriously socially hazardous. It can be seen, the serious predelinquent behavior grading includes both illegal and criminal acts, but the formal characteristics and the substantive features of them in jurisprudence are totally different. It is clearly inappropriate for the current legislation to include all of them within the scope of serious predelinquent and to apply the same corrective and intervention measures.

The irrationality of behavioral grading will lead to the problem of mixing interventions in subsequent interventions. According to the social learning theory proposed by Akers R.L., differentiated interactions will stimulate the production of delinquent and criminal behaviors [3], placing minors with different degrees of seriousness of crimes and errors in the same level of intervention will easily lead to cross-contamination, which is likely to make minors who originally only have predelinquent behaviors transfer towards serious predelinquent behaviors or even criminal behaviors.

4.2 Absence of Judicial Measures in Early Intervention

Judicial intervention can be seen in China's institutionalization measures. The chapter on Judicial Protection of the Law of the People's Republic of China on the Protection of Minors (1991) provides for the adoption of institutionalization measures for minors who have reached the age of 14 and have violated the criminal law, but are not subject to criminal punishment because they are under the age of 16; such minors are later categorized as minors who have committed serious predelinquent, and institutionalization has been used in the context of intervention in cases of serious predelinquent. However, the subject of the provisions is the government. And because the measure involves the restriction of personal liberty, the custody time ranges from one to three years, far beyond the period of administrative detention, and in addition to work-study schools minors' correctional facilities are also the main place of custody of correctional facilities, and the minors' correctional facilities are part of the prison. However, whether from the deprivation of personal liberty or the length of incarceration and imprisonment of the place to be decided on the point of view of the administrative subject has gone beyond the scope of the general administrative enforcement of law. It can be seen that the contradictions between legislation and practice reflect the inappropriateness of the decision of the administrative body to institutionalize minors, and the lack of judicial intervention was one of the reasons for the abolition of this measure.

The introduction of judicial intervention in early intervention is based on the following three factors: first, the lowering of the age of criminal responsibility can no longer effectively deter the occurrence of crime, and even the formation of the misconception that age is a shelter for underage minors to commit crimes, and the judicial intervention is in fact a powerful way to prevent minors from progressing to malignant crimes; second, the preparatory and attempted crimes committed by minors are the blank area not touched by the intervention system, it is unreasonable to ignore these problems; third, the judicial procedure is more complete than the closed administrative procedure, which is beneficial to guaranteeing the safety and fairness for juveniles.

Referring to Japan's early intervention for juvenile delinquents, firstly, it adopts the method

of transferring juveniles under the age of 14 with indecent behaviors to the children's interview house rather than leaving such juveniles in the intervention gap; secondly, it pays attention to the involvement of justice intervention for juvenile delinquents, and cautiously adopts the two procedures of transferring to children's interview house and the family court, so that they can avoid entering into the trial procedure directly.

Therefore, drawing on the effective experience of other countries, the lack of judicial intervention in China's early intervention needs to be urgently resolved, but at the same time, the design of the referral process should not be delayed, and the two together, not only to give full play to the substantive benefits of judicial intervention in the early intervention stage, but also to limit the harm that unlimited power can bring to minors.

4.3 Lack of Informal Interventions

Malignant cases involving minors occur frequently, and behind every case is a family and social tragedy. Intervention for juvenile delinquency is not enough to rely solely on administrative and judicial organs, and emphasizing the involvement of formal intervention alone may even be counterproductive, thus requiring the joint participation of parents, schools and society in informal intervention, forming a closed loop of management, education, correction and assistance, and truly helping minors to correct their behavioural deviations and return to healthy growth. However, the construction of informal intervention measures in China is very simple, and there is still much room for development.

4.3.1 Inadequate parenting education

China's parenting education system is in its infancy, with relevant provisions scattered throughout the two newly amended laws on minors, and it is only in 2022 that the newly enacted Law on the Promotion of Family Education provides the beginnings of specific guidelines for the development of parenting education in China.

Under the current legislative framework, China's application of family education to guardians mainly includes several situations: first, for spouses in divorce cases with minor children; second, for guardians of minors who have committed serious misdeeds and crimes; and

third, for guardians who have violated the lawful rights and interests of minors by not correctly implementing family education. Our country has not formed a specific discretionary standard on whether to apply family education mandatorily, and it is mainly left to the discretion of the judicial authorities depending on the specific circumstances, however, in reality, it is often difficult for the judicial authorities to grasp the correlation between the occurrence of juvenile delinquent behaviors and the deficiencies of family education, which leads to the situations that the scope of application is too broad or too cautious. Moreover, the main bodies that decide to apply family education include the public security organs, courts and procuratorates. It is applied by the judicial organs on their own initiative in the process of handling cases, so that over-reliance on the subjective initiative of judicial staff and the arbitrary or selective issuance of orders for family education are likely to lead to abuse of power by the judicial branch, rather than being a mandatory review process in the intervention of minors at fault for offenses and crimes, which is likely to result in mandatory parental education loses credibility and equality.

In addition, China's parenting education lacks professional construction, the implementation of parenting education institutions and personnel professionalism is insufficient to guide guardians to carry out appropriate family education cannot stay in the formal level, but need to have professional education, psychology, jurisprudence and other knowledge and has rich experience in education and communication personnel to participate in the formulation of individualized parenting education plan for each of the juveniles at fault for the different family situation. The relevant functional departments that decide, guide, and collaborate in the implementation of parental education, including women's federations, procuratorates, courts, and so on, should also be staffed with personnel who have the appropriate professional knowledge, and the training of judges and prosecutors in our country is based on knowledge of jurisprudence, and although the procuratorate has a special department for juvenile prosecutors and does not have an independent juvenile court, the common shortcoming of both lies in the fact that they do not have prosecutors and judges who are specifically suited to participating in juvenile cases and who have the professional educational

skills to do so. The common shortcoming in both is that there are no prosecutors and judges with specialized educational skills suitable for involvement in minors' cases.

4.3.2 Immaturity of community care

Community care is of great significance to the correctional intervention and post-intervention recovery phase of minors who have committed crimes, but the community care system in China is immature, with the following main problems: Firstly, the scope of application of community care is too small. Existing legislation specifies only that community care applies to minors who have committed a serious misdemeanour and who, at the time of release on bail, have no fixed abode and are unable to provide a guarantor. In our local practice, the targets of community care are more diverse. Compared with extra-territorial countries, the applicable objects are too narrow, the United States will be social observation care as a transgressing juvenile probation as well as the transfer of additional conditions, Japan through social observation care to undertake from the juvenile institution transferred out of the non-professional juvenile post-intervention recovery status assessment. The advantage of community care is that minors can be repaired and remodeled in a more intimate environment, which is more protective of their fragile psyche than a physically incarcerated place. Therefore, the scope of application of community care should be expanded to make it more effective.

Secondly, the subject of community care is not sufficiently specialized. The legislation makes it clear that the public security organs, procuratorates and courts decide whether or not to apply community care, but the subject of the decision is not clearly defined. In practice, the subjects of community care include communities, street offices, enterprises, schools, social organizations, and so on, but the professionalism of these subjects varies, and it is questionable whether they can truly undertake the tasks of education, protection, and evaluation of community care.

Thirdly, the content of community care is not sufficiently hierarchical or rich. As can be seen from the previous practical study, the content of community care in China is mainly based on ideological education, vocational education and skills training, which is relatively homogenous, and does not provide for the application of different care measures to minors with different

levels of delinquency. Reference to the United States of America's social care system, in terms of hierarchy, for the status of delinquent juveniles and problematic juveniles to accept in the original community of residence of social workers to help and education, and for delinquent juveniles, will be sent to closed specialized institutions to accept care, through the children's home, camping, wilderness projects, such as residential arrangements; in terms of the richness of the content of the United States designed to full range of care of the "maturity program" is very borrowed. With regard to the richness of its contents, the "Mature Program" designed by the United States as an all-round care program is very useful, in which the social care program includes family cooperative care, functional family therapy and aggression substitution training. Collaborative family care is a preventive programmer in which caregivers work in the homes of at-risk mothers with criminal records or delinquent behaviors from the time they become pregnant until the child is two years old, teaching them about child development; Functional family therapy refers to the cooperation between psychotherapists and the parents of juvenile delinquents in order to help the juveniles solve their psychological problems and change their problematic behaviours by enhancing their positivity, sense of belonging and participation in the family; Aggression substitution training is also used to help them change their problematic behaviour. Aggression Replacement Training (ART) is a program in which juveniles with aggressive behaviors and psychological tendencies are assisted by trained staff and taught theories of interpersonal communication, anger management. In addition, gender-specific programs for female delinquent adolescents in community-based care are designed to take into account the needs of girls and adopt treatment programs that are more appropriate to their psychological, social and emotional state. There is a need to design a graded social care system and to increase the diversity of care measures.

5. Appropriate Model: The Way for the Improvement of the Graded Intervention Mechanism for Juvenile Delinquency in China

Graded intervention is of great significance in the prevention of juvenile delinquency and recidivism and in the protection of minors'

healthy growth, but China's graded intervention mechanism for juvenile delinquency is still immature, with a lot of problems, and urgently needs to be solved and improved. In this chapter, we will put forward suggestions for improvement in the two aspects of classification and intervention measures, with regard to the problems that exist in legislation and practice.

5.1 Establishment of the Four-Level Grading System for Juvenile Delinquency

This paper believes that the positioning of predelinquent behavior in the grading of juvenile delinquent behavior should be different from the behavior of violating the law and become a level of its own, combined with the four-level theory, want to divide the juvenile delinquent behavior into four categories of predelinquent behavior, illegal behavior, criminal behavior without criminal punishment and criminal behavior, to build the delinquent minors four-level system.

The concept of juvenile delinquency in Japanese juvenile justice can be referred to as the concept of predelinquent behavior. Delinquent refers to those who have a tendency to commit crimes and will have the possibility of committing crimes. A juvenile is defined as a person who has a history of juvenile delinquency or criminal behavior. The definition of predelinquent behavior should be "behavior that violates the rules and regulations for minors and the general moral code of society and has a tendency to commit crimes and violations of the law", and the enumeration of predelinquent behaviors in the legislation can be refined through the design of rules and regulations that minors should abide by, which can serve as the legal basis for determining what constitutes delinquent behavior, in order to reduce the ambiguity and the fluctuation of intervention in the determination of the behaviors.

Secondly, the former serious predelinquent of minors violating the Public Security Administration Punishment Law and violating the Criminal Law but not being criminally punishable because they are under the age of criminal responsibility are taken up by the two levels of illegal acts and criminal acts respectively. The criminal behavior without criminal punishment has already committed a criminal act in essence, just because the age of criminal responsibility is not enough to be able to get out of the crime, whether it is in the form of criminal illegality or the substance of the

serious social hazards, and will be in danger of committing a crime (without committing any criminal act) have an essential difference; and the illegal act has already violated the "Public Security Administration Punishments Law", the degree of the malpractice is more serious, and then based on our country adopts a In addition, based on the binary legislative model of lawbreaking and crime, the laws under which public security violations and criminal offenses are based are completely different, so it is more scientific to classify the three separately, and it is easier to match interventions with the appropriate level of severity. Criminal acts are committed in accordance with the relevant provisions of the former Criminal Code by minors who have violated the Criminal Code and who have reached the age of criminal responsibility and should be held criminally liable.

5.2 Adjustment of Existing Administrative Interventions

For early intervention in behaviors that do not need to be punished, administrative intervention is more universal than judicial intervention and more deterrent than social intervention; under the guidance of the concept of juvenile justice, which focuses on education, and in the face of the social reality of high rates of juvenile delinquency, the use of administrative interventions is a necessary balancing act between education and punishment. In response to the four-tiered approach proposed earlier, the existing administrative interventions are now adjusted to three levels:

Firstly, Targeting predelinquent behaviors. On the basis of parental, guardian and school discipline, the first step is to improve the terms of reporting to the public security authorities, with parents, guardians or schools as the main body of the report, which makes the act of reporting arbitrary, and should emphasize the necessity of requiring the report to be made mandatory to the public security authorities to report to the public security authorities on the repeated occurrence of delinquent behavior by minors, so as not to allow this initiative to remain in writing and be reduced to a formality. Moreover, the follow-up of the "report" should be clarified, with reference to the core indicator collection mechanism for the prevention of juvenile delinquency established in Shanghai and other places, and an information collection

system for delinquent minors should be gradually set up at^[4]. The content of the report will be entered into the information collection system to serve as an indicator for tracking the prognosis of delinquent behavior, and can also be used as the basis for background investigation if there is a deterioration of the delinquent minor's future development towards more serious offenses. However, the information stored in the system should be deleted after the minor has accepted the intervention and ceased committing criminal acts within a limited period of time, so as to avoid labeling effects on his or her future education and work; finally, a comprehensive child welfare system should be established, with administrative agencies serving as the support for the child welfare system, and special welfare enforcement departments set up, so that professionals who have specialized knowledge in pedagogy, psychology, and other fields, and are suitable to work with minors, can provide childcare for minors.

Secondly, for illegal behaviors. Public order violations are less socially harmful than criminal acts, and China's penalties for minors who commit public order violations are now divided into three main stages: minors under 14 years of age are not punished and are ordered to be strictly disciplined; minors under 14 years of age but not yet 16 years of age are given a lighter or more lenient punishment, and are not subject to administrative detention; and minors under 16 years of age but not yet 18 years of age who commit a first-time violation of the Law on Punishments in respect of Public Security Administration are not subject to administrative detention. Intervention measures for minors who violate the Law on Punishments for Public Security Administration are now proposed from the perspective of a special law: on the basis of admonitions and orders imposed by the public security authorities, parents, guardians or schools may decide through consultation whether or not to submit an application to the administrative department of education for the transfer of such minors to a specialized school, and the public security authorities have the right, when they deem it necessary, to propose to the administrative department of education that an application be made for the transfer of such minors to a specialized education committee for evaluation and approval. After the Specialized Education Committee has assessed and agreed, the administrative department of education shall

decide to send the minor to a specialized school; minors who have committed or perpetrated public order offences "many times" and "repeatedly fail to change their ways" shall be forcibly transferred to a specialized school to receive specialized education. Specialized education committees play a very important role in the specialized school system, and should refine their assessment and examination criteria, conduct social surveys of minors, and form individualized assessment and examination reports that take into account the minor's family background, record of previous bad-behavior information, and assessment of his or her personality and psychological condition, in order to provide a reference for the education administrative department in deciding whether or not to transfer the minor to a specialized school, and in deciding on the specific contents of the education to be received, as well as the duration of the correctional period.

Thirdly, for criminal behaviors without criminal punishment. Criminal behavior without criminal punishment is essentially the commission of an act of serious harm to society, to a greater extent than illegal behavior, and minors are more likely to progress towards criminal behavior and are on the verge of danger, requiring timely and vigorous intervention. Such minors should be compulsorily transferred to specialized schools and must be placed in separate schools from minors who have illegal behavior. At the same time, parents and guardians should be obliged by the educational authorities to undergo parental education. After evaluation by the specialized education committee, the minor is suitable for transfer to a regular school, he or she should also be placed in community care under the direction of the administrative welfare department for a limited period of time.

5.3 Expanding the Application of Judicial Intervention

In the history of juvenile justice, judicial intervention in juvenile delinquency has gone through three stages, from comprehensive intervention to strictly limited intervention to the controversy over the existence and abolition of juvenile delinquency^[5]. The purpose of intervention is to educate, help and reshape, excessive judicial intervention will lead to overly punitive intervention of bad behavior, which will lead minors to the two extremes of intensified retrogressive psychology,

self-abandonment, or physical and psychological remodeling, and difficult to return to normal life. However, in the face of the increasing rate of juvenile delinquency and the reality of violent cases at an early age, the application of judicial intervention to criminal minors alone lacks a deterrent effect on other delinquent minors, and it is therefore a prerequisite for the introduction of judicial intervention to define a reasonable limit to that intervention.

This paper proposes that the expansion of the proportionate involvement of judicial intervention measures, in addition to applying to minors who have committed crimes, should also be applied to minors who have committed the crimes of intentional homicide, intentional injury resulting in serious injury or death, rape, robbery, drug trafficking, arson, explosions, the preparation for the crime of placing hazardous substances, attempts to commit such crimes, and who have repeatedly committed acts of criminalization, as well as acts of serious violence, under the premise of safeguarding the rights of minors to confrontation, the presence of suitable adults, and procedural remedies. The decision on the trial shall be made by the judicial authority after a thorough investigation, provided that the minor's rights to confrontation, the presence of a suitable adult, and procedural remedies are guaranteed. With reference to Japan's children's interviews and family courts, which determine what kind of intervention measures are to be taken for juvenile delinquents, if China is to expand the scope of judicial intervention, it is inevitable that the construction of juvenile courts must be improved accordingly; in addition, in order to reduce the pressure that the harshness of the judicial process exerts on the psychology of minors, other adjudication venues should be set up for minors who have committed minor offenses that are less serious but to whom judicial intervention is applicable, for example, Judicial bodies for minors should be set up, and interviews and consultations should be used in lieu of a trial.

5.4 Enhancing Application of Informal Interventions

5.4.1 Parenting education

In reality, most of the parents of minors' education is actually in a blind state, especially in the minors appear bad behavior, excessive doting protection or excessive violence interference is our parents are more typical of

the current way to deal with.

In order to solve this situation, the introduction of parental education can be divided into two forms, voluntary and mandatory, for parents who want to learn about the education of minors can voluntarily apply for parental education; for the parents of minors who appear to be persistent offenders of bad behaviors, illegal behaviors, criminal offenses, and criminal offenses, they should be mandatorily subjected to parental education, and the people's court decides whether or not to apply it mandatorily, and specifies the specific The people's courts shall decide whether or not parental education should be made compulsory, and shall clearly set forth the specific criteria and procedures for its application; parents who refuse to participate in parental education shall be punished by fines, and the public security organs shall assist in the enforcement and supervision of such punishment.^[6] . Parents who are subject to compulsory parental education are required to receive it for a certain number of hours and with a certain percentage or more of attendance, and it is supervised by the same bodies that carry out administrative and judicial interventions with minors.

In terms of educational authorities, parenting education should be carried out by institutions with specialized educational knowledge under the auspices of local governments, such as the joint education model between competent authorities and colleges and universities piloted in Liaoning Province^[7]; in terms of applicable targets, parenting education for voluntary participation is based on universality, with a focus on high-risk families such as left-behind families, single-parent families, economically disadvantaged families, and families with custodial infringements; and, in concrete practice, in conjunction with the public security authorities, In practice, a comprehensive discovery mechanism is being constructed in coordination with the public security authorities, civil affairs departments, and the courts, in order to popularize parenting education to the greatest extent possible.

5.4.2 Social care

Malignant cases involving minors occur frequently, and behind every case is a tragedy for the family and society. It is not enough to rely solely on the administrative and judicial authorities to intervene in cases of undesirable behaviour; the social watch system is able to

help minors in a comprehensive way to correct their behavioural deviations and return to healthy growth.

First of all, legislation should be adopted to refine the relevant provisions of schools and communities in the prevention of pre-delinquent juvenile before it occurs, counseling in the process of correction, and tracking after the intervention, to provide a legal basis and specific guidance for social participation, and to solve the problem of rigidity and lack of formality; the schools, while attaching importance to knowledge-based education, should pay attention to the mental health status of minors, and in the day-to-day, can form a regular assessment report of the psychological situation, and for minors with violent tendencies should be given timely guidance and education. Minors with violent tendencies should be given timely guidance and education, and students transferred back to ordinary schools from specialized schools can be followed up on their prognosis from the psychological situation; the community takes up the responsibility of social observation and care after the intervention, and regularly conducts education and training for social workers to enable them to acquire basic professional knowledge and match them with appropriate social workers according to the specific situation of minors with bad prognosis, public security violations, and criminal acts. Corresponding social workers, who provide individualized support and talk to them, can both observe the prognosis and ease the sense of alienation from society that arises during the process of the minor's remodelling and return.

Moreover, increase investment in the construction of professional institutions; in practice, the maturity of the intervention system for juvenile delinquent behavior shows a positive trend in relation to the degree of economic development of the locality, so it is possible to realize co-construction through the setting up of a typical experimental zone and the form of counterpart assistance; finally, pay attention to the cultivation of social workers with specialized knowledge in psychology and pedagogy, so as to improve the overall quality of the forces involved in the social watchdogs. Finally, the training of social workers with specialized knowledge in psychology and education should be emphasized to improve the overall quality of social care participation.

In addition, graded social protection measures

should be constructed to meet the needs of graded intervention. Specific graded contents can be borrowed from mature extra-territorial experiences, for example, in Korea, the Juvenile Act has set protection penalties as No. 1-10, in which differentiated contents and duration of interventions are stipulated, ranging from "entrusting a protector, attending classes, social services, protection observation, entrusting a juvenile protection facility to supervise the juvenile, entrusting a juvenile medical facility to treat the juvenile, up to the juvenile home, etc." . etc."^[8]. In the United States, for example, social watch matches individualized interventions to the circumstances of the offending juvenile and the risk he or she poses to the community. According to the severity of the interventions, the ladder of interventions includes: "counseling and release, informal supervision, restitution and community service, house arrest, electronic monitoring, daily reporting, nightly reports, training camps, safe restraints," etc. The length of the interventions ranges from "commitment to a conservator, attendance at classes, social services, protective observation, commitment to a juvenile protection facility, commitment to a juvenile medical facility for treatment, to institutionalization." ^[9] . China can establish a stepped social care system based on reference to overseas experience, setting up articulated and progressive care measures according to criteria such as the severity of the intervention measures, the strictness of the physical restraints on minors at fault, and the nature of the subject carrying out the intervention measures, and combining them with the recommendations of relevant experts in pedagogy, psychology, and sociology to make refinements.

6. Conclusions

Minors are the future of the country, so it is particularly important to protect the healthy growth of minors and prevent juvenile delinquency. Graded management, intervention, correction and education for juvenile delinquency are the powerful forms. This paper is based on the current practice in China, from the behavioral classification and intervention measures in two dimensions, so as to find out the problems in the systematic construction of graded intervention mechanism. And put forward from the establishment of the "four levels" system, in the introduction of judicial intervention in the early intervention and the

improvement of the informal intervention measures. However, due to the juvenile justice system in our country has not been perfected, it is difficult to realize the coherence between grading and intervention, and the coordination of social forces is insufficient, also for the system in the reality of the landing has increased the greater difficulty. Therefore, the establishment of a graded intervention mechanism for juvenile delinquency in China has a long way to go.

Acknowledgments

This article is a phased research result of the Youth Fund for Humanities and Social Sciences Research of the Ministry of Education project "Research on Victim Statements in Sexual Assault Cases of Minors" (Project Number: 22YJC820041), and the 2022 Co-construction Project of Youth Research in Guangdong Province (2022GJ014)

References

- [1] Gai Xiaosong, Wang Haiying. The Development Status and Promotion Strategy of Parenting Education in China. *Journal of Northeast Normal University: Philosophy and Social Science Edition*, 2006 (6).
- [2] WU Qizheng, LIU Xiaowei. Problems and Countermeasures of the Application Procedures of the Social Care System for Minors: A Comparative Examination Based on Practice. *Crime Research*, 2023(01): 87-97.
- [3] Akers,R.L. (1998). *Social Learning and Social Structure: A General Theory of Crime and Deviance*. Boston: Northeastern University Press.
- [4] YAO Jianlong, LI Qian. On the Early Intervention of Yu Crime Behavior. *Journal of Southeast University (Philosophy and Social Science Edition)*,2017,19(03). p.62.
- [5] YAO Jianlong, LI Qian. On the Early Intervention of Yu Crime Behavior. *Journal of Southeast University (Philosophy and Social Science Edition)*,2017,19(03) p. 53.
- [6] YAO Jianlong, LI Qian. On the Early Intervention of Yu Crime Behavior. *Journal of Southeast University (Philosophy and Social Science Edition)*,2017,19(03): p.2.
- [7] QU Zhiyong, ZOU Hong. Research on the Basic Characteristics and Developmental Trajectory of Juvenile Delinquency. *China Youth Research*, 2007(1).
- [8] WU Qizheng, LIU Xiaowei. Problems and

Countermeasures of the Application Procedures of the Social Care System for Minors: A Comparative Examination Based on Practice. *Crime Research*,2023(01):87-97.

[9] WU Qizheng, LIU Xiaowei. Problems and Countermeasures of the Application Procedures of the Social Care System for Minors: A Comparative Examination Based on Practice. *Crime Research*,2023(01):87-97.