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THE IMPACT OF DELINQUENT BEHAVIOR CLASSIFICATION ON CORRECTIONAL EDUCATIONAL PRACTICES

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Abstract
Special correctional education serves as a unique intervention for delinquent behavior, with distinct attributes that differentiate it from special education framed as a "punitive measure with protective purpose." The newly revised Law of the People's Republic of China on the Prevention of Juvenile Delinquency does not clearly distinguish between "delinquent behavior" and "public order offenses," and lacks provisions for hierarchical prevention. To enhance the effectiveness of special correctional education, it is necessary to establish a classification system for application criteria, build independently designated schools, design diverse and dynamic disposition measures, refine decision rules for applying measures, and develop comprehensive correctional content. These reforms aim to address the challenge of releasing delinquent youth without appropriate follow-up, while achieving the objectives of rehabilitating minors, reinstating victims' rights, and restoring social order.

Keywords: *Classification of Delinquent Behaviour, Delinquent Behaviour, Special Correctional Education, Specialized Schools*

1. Introduction

1.1 Delinquent behavior confusion: "Serious misconduct."

"Delinquent behavior" is a comprehensive concept referring to behaviors of minors that encompass violations of the law, crimes, and violations of specific behavior norms. [1]In China, "delinquent behavior" is the inclusive concept commonly used in academic research. With the deepening of hierarchical intervention and the concept of classified correction, higher requirements have been posed for the construction of a scientific correctional education system to achieve precise correctional goals. The construction of a comprehensive delinquent behavior system is the logical premise for implementing the hierarchical intervention.

Under the current legal framework, actions violating the "Public Security Administration Punishment Law" are considered "administrative violations," while actions leading to exemption from criminal liability for juvenile offenders fall within the scope of "criminal wrongfulness." Although both types of wrongful conduct do not warrant criminal penalties, the former is attributed to a level of harm that has not yet

reached the threshold for protection under the "Criminal Law," while the latter is attributed to the absence of corresponding criminal responsibility capability in the actor. In the context of the dichotomy between violations and crimes, the degree of harm between criminal wrongfulness and administrative violations is evidently not comparable. Categorizing acts with different levels of harm as "serious misconduct" is a manifestation of the confusion in classifying juvenile wrongful behavior. This classification not only leads to the ambiguity of the term "serious misconduct" but also disrupts the hierarchical system of wrongful behavior. Therefore, under the classification of wrongful behavior, actions violating the "Public Security Administration Punishment Law" and those violating the "Criminal Law" but exempted from criminal liability due to not reaching the criminal responsibility age should be independently treated, laying the foundation for a hierarchical and precise intervention.

1.2 Independence of "Offending Behavior" under the Five-category Classification of Wrongful Conduct

Regarding the classification of wrongful behavior, there are mainly three perspectives, the three-category approach, the fourcategory approach, and the five-category approach. The core elements that explore the differences lie in the criteria for categorizing behavior and the varying needs for graded measures. The three-category approach inadequately considers the age of responsibility and legal consequences, overlooking situations where criminal and administrative violations are committed but not punished due to not reaching the age of responsibility. The four-category approach incorporates the consideration of the age of responsibility, addressing the deficiency in the current law's definition of "serious misconduct" by taking into account different types of behaviors. However, it overlooks situations at the administrative violation level where a violation of the "Public Security Administration Punishment Law" occurs but is not subject to administrative penalties due to not reaching the administrative responsibility age.

The five-category classification of delinquent behavior comprehensively integrates factors such as the consequences of harm and the consideration of the age of responsibility. Building upon the four-category classification, this approach seamlessly incorporates the age of responsibility throughout the administrative liability phase. Based on the principles of maximizing the best interests of the child and critical prevention in correctional needs, juvenile offenders who engage in alert-triggering behavior, like those involved in penal law violations, require timely intervention and intervention measures. Both "alert-triggering behavior" and "penal law violations" play crucial roles in critical prevention and timely rescue, underscoring the necessity of correctional education intervention for both. The detailed categorization of delinquent behavior into non-criminal behavior, alert-triggering behavior, law-violating behavior, penal law-violating behavior, and criminal behavior provides a more comprehensive coverage, meeting the needs of precise correction and establishing the prerequisite for dynamic transitions between different treatment measures for various delinquent behaviors. Adhering to the five-fold categorization of delinquent behavior establishes a comprehensive system for the delinquent behavior of minors, serving as a justifiable means to achieve graded treatment for delinquent behavior.

1.3 Differentiation of Special Correctional Education from Special Education Under the Graded Intervention Philosophy The fundamental reason for the internal procedural complexity in the implementation of correctional education for minors lies in the unclear nature of specialized education and correctional education, leading to ambiguous boundaries between treatment measures. The direct cause of this confusion can be traced to the use of similar terms in legislation, which fail to reflect their respective characteristics. Through a semantic interpretation, the difference between "specialized education" and "specialized correctional education" is only one word, and the term "correctional" cannot effectively distinguish between the two systems in nature, resulting in an unclear boundary between them. Upon examining the deeper institutional construction in the current juvenile education and correctional system established by Chinese law, both specialized correctional education and specialized education use specialized schools as correctional facilities. However, the legislation has not issued corresponding detailed rules and explanatory documents regarding the operation of specialized schools, leading to a lack of necessary diversion and linkage mechanisms between the two measures.

Special education is applicable to delinquent behavior, while special correctional education is applicable to criminal behavior, and these two types of delinquent behaviors have fundamentally different connotations. Due to the more serious infringement of legal interests associated with criminal behavior, special correctional education implements a closed-loop management model that differs from special education, imposing a higher degree of restriction on the personal freedom of the individuals involved. Special education has an administrative and educational nature, while special correctional education has a clear coercive nature. This difference in nature directly determines the differentiated construction of intervention measures. Adhering to the differentiation between special correctional education and special education under the classification of delinquent behavior is not only an inherent requirement for graded intervention measures but also a key factor in scientifically coordinating the resources of juvenile correctional education. It is conducive to formulating precise educational, correctional plans and achieving accurate classification and graded correction.

2. Theoretical Guidance: In-Depth Integration of the Guardianship Responsibility Concept with Protective Attributes

2.1 The Nature of Special Correctional Education as a "Protective Sanction"

The nature of juvenile correctional education, which evolved from custodial upbringing, has been a subject of controversy and divergence. As an improved corrective measure, the nature of special correctional education is explicitly defined in Article 6 of the "Prevention of Juvenile Delinquency Law" as a "protective sanction." This "protective sanction" surpasses both "penalties" and "security sanctions," becoming the third legal consequence implemented after infringing upon legal interests protected by criminal law. Special correctional education integrates educational guidance with compulsory correction, aiming to facilitate the smooth reintegration of juveniles into society after violating the law, molding them into citizens with sound personalities. It emphasizes a cautious approach to punitive measures, highlighting

the balance between educational correction and moderate punishment. Some scholars argue that the nature of special correctional education is "judicial," and one of the reasons for asserting its "judicial attributes" is to provide a theoretical basis for the judicial reform of the decision-making process for special correctional education. This involves changing the existing decision-making model of the special education guidance committee adopting a simplified litigation or quasi-litigation model, with the court serving as the decision-making body and the prosecutor's office playing a supervisory role. Decisions are made through methods such as case transfer and decision-making meetings.

2.2 Core Emphasis on Enhancing Responsibility under the Guardianship Responsibility Concept

Following the principle most favorable to minors, the requirement is to achieve "highly welfare-oriented protection and a combination of limited liability," conducting protective correctional education. Adhering to the principle most favorable to minors does not mean blindly providing protection; the key to rescuing delinquent minors lies in correcting their cognitive distortions through non-violent communication and advocating for educational correction rather than punitive measures. While emphasizing correction through education, it is crucial to focus on cultivating and enhancing the responsibility of minors. The continually growing sense of responsibility and the increasing capacity for responsibility are essential manifestations of the psychological development of minors. "Studies in child psychology have found that imposing certain forms of constraining, disciplinary, and punitive responsibility on children who make mistakes can cultivate their sense of responsibility, enhance their ability to take responsibility, and contribute to the long-term healthy development of children."

Therefore, conducting moderate accountability for juveniles who commit crimes is an expression of upholding protection as a priority and achieving the maximization of the interests of minors. In the evolution of juvenile justice models, the primary contradiction has always been the opposing conflict between the protection-oriented approach and the punitive model. In fact, treating the welfare model, centered on protection, and the punishment model, centered on punitive measures, as mutually exclusive concepts and making a singular choice will inevitably leave the judicial treatment of juvenile offenders oscillating between the extremes of protection and punishment. The result is a limited effectiveness in both prevention and punishment. Currently, there is a growing consensus in the field of juvenile justice: leading with a protection-oriented approach and supplementing it with a responsibility-oriented approach to construct a juvenile criminal justice system while adhering to the concept of guardianship responsibility. Leading with a protection-oriented approach and supplementing it with a responsibility oriented approach to construct a juvenile criminal justice system while adhering to the concept of guardianship responsibility. Accountability under the guardianship responsibility theory reflects a certain social defense function, meeting the needs of deterrent governance and responding to the public's expectations for safety.

3. Practical Implementation: Shaping the Operational Mechanism of Special Correctional Education for Minors committing Penal Offenses

3.1 Formulation of Categorized Applicability Criteria for Special Correctional Education

3.1.1 There should be no age threshold for the applicability of special correctional education

Current laws do not stipulate a specific lower age limit for the applicability of special correctional education. Some scholars propose that individuals under the age of 12 should receive special protection and should not undergo correctional measures, advocating for the establishment of a lower age limit for the applicable population. However, setting an absolute age limit that excludes certain age groups from the applicability of special correctional education would inevitably lead to challenges in handling exceptional cases. Age, as a formal criterion, lacks the ability to distinguish the social harm of the individual's wrongful behavior and the danger posed by the individual. Compared to setting a one-size-fits-all age limit, establishing precise and differentiated standards based on substantive applicability conditions is better suited to meet practical needs.

3.1.2 Reference to "Non-Prosecution with Attached Conditions" to Establish Classification Standards

In practice, the supervision and inspection under conditional non-prosecution primarily focus on social guardianship and supportive education. This involves the government purchasing social resources or collaborating with public welfare organizations to provide educational management, and the measures for supervision and inspection often do not strictly restrict personal freedom. Special correctional education, distinct from social guardianship, does not aim solely for educational correction. Since the subjects of special correctional education often commit more severe infringements of legal interests, it is a natural choice to enhance the responsibility and accountability of juvenile offenders who have committed crimes by restricting their personal freedom. Juveniles who meet the criteria for conditional non-prosecution and fall within the corresponding criminal responsibility age standards typically undergo qualified supervision and inspection for six months to one year as an alternative to prosecution. Juveniles who have not reached the criminal responsibility age and have committed harmful acts similar in nature and degree to those qualifying for conditional non-prosecution are required to undergo special correctional education involving a restriction of personal freedom, typically not less than three months. This paradox leads to the situation where juveniles with lower personal danger, lower correctional difficulty, and higher demands for specialized protective correction should ideally receive more protective education, yet they paradoxically undergo more severe confinement-based correctional measures. This phenomenon is partly due to the fact that closed-loop managed special schools cannot escape the connotation of confinement and partly due to the oversight in applying special correctional education regarding the substantive standard of "when necessary." Therefore, establishing substantive application conditions based on the division of criminal responsibility age is crucial for improving the applicability of special correctional education.

The relatively fixed age of criminal responsibility is a formal criterion. Using this classification as a foundation and referencing the applicability criteria of non-prosecution with attached conditions, the applicability conditions are graded based on the substantive criteria of the danger posed by minors committing penal offenses and the social harm caused by such offenses. Minors committing penal offenses, engaging in behaviour falling under Chapters Four, Five, and Six of the Criminal Law, and assessed by the specialized education guidance committee with the court and prosecutor's office as necessary entities, are considered as follows:

- Minors aged over fourteen and under sixteen who have committed socially harmful acts warranting imprisonment of up to one year.
- Minors aged over twelve and under fourteen who have committed socially harmful acts warranting imprisonment of up to two years.
- Minors under twelve who have committed socially harmful acts warranting imprisonment of up to three years but exhibit a repentant attitude and actively cooperate with the implementation of social correctional education may be eligible for non-confinement correctional measures such as community supervision as alternatives to special correctional education.

3.1.3 Parental Discipline NOT as a Prerequisite for Application of Special Correctional Education

Although Article 17 of the Criminal Law stipulates the obligation for parents or other guardians to strengthen discipline, there is no hierarchical condition between parental discipline and the application of special correctional education. "Whether 'parents or other guardians providing discipline' is neither a necessary nor a sufficient condition for 'conducting special correctional education'." [9]The reason is that when a delinquent minor commits a penal offense, it signifies that the previous stages of parental discipline, moral education, and the like have already failed. Since parents are not necessarily capable of immediately enhancing their educational level afterward and lack professional correctional capabilities, applying family education should not be considered a criterion for determining the application of special correctional education. Furthermore, applying parental discipline alone is insufficient to replace the corrective function performed by special correctional education, and using parental discipline as a separate category of correctional measure would result in a disproportionately lenient intervention. Ordering parents to discipline their children more strictly should be implemented as a concurrent measure alongside special correctional education. It is justified under the principle of maximizing the interests of the child and the "parental rights" principle. Parents with lower levels of disciplinary skills or those negligent in fulfilling their guardianship responsibilities should be ordered to receive guidance on family education to complement the simultaneous implementation of special correctional education.

3.2 Establishing Independently Zoned Special Correctional Education Schools

At the current stage, specialized schools, as stipulated by the Prevention Law, are designed for three categories of individuals: juveniles who have committed criminal acts, juveniles who have engaged in serious violations of public order, and juveniles who have committed general violations of public order

and have applied for admission. Following the principles of graded intervention and precise correction and considering the proportional distribution and correctional difficulty of different categories of juvenile offenders, it is advisable to propose the zoning and classification construction of specialized schools, drawing on the lessons learned from the experience of cross-contamination in vocational schools. This entails establishing specialized correctional education schools specifically for juvenile offenders who meet the criteria for criminal acts and constructing specialized education schools for juveniles who have committed serious violations of the Public Security Administration Punishment Law. Although both fall under the category of specialized schools, they should be organized into different zones and branches based on the nature of the offense, social harm, correctional difficulty, and resource requirements for the educational objects. Specialized correctional education schools are primarily oriented towards juveniles who have committed serious criminal acts. Compared to offenses against public order, the threshold for the application of specialized correctional education is higher in terms of the severity of harmful behaviour.

Each province can use existing local data on juvenile violations as a reference to establish regionally shared specialized education schools between neighbouring cities, achieving resource integration and efficient utilization. It is suggested to explore the establishment of 3-4 specialized education schools in each region and make adjustments as needed. The classification of specialized schools facilitates the optimization of the professional division of labour and resources, allowing for the treatment of different types of offending behaviours, thus minimizing the risk of cross-contamination. Additionally, based on the establishment of specialized schools, each region should actively explore and improve the operation of social guardianship. This forms a system of correctional measures with clear distinctions and progressive levels, including specialized correctional education schools, specialized education schools, and social guardianship. It enhances the dynamic transition between various treatment measures, with specialized correctional education at its core, aiming to maximize the precision of correctional education.

3.3 Establishing Diverse Correctional Measures and Achieving Dynamic Transitions

3.3.1 Establishing Diverse and Scientifically Graded Correctional Measures

During the decision-making phase of specialized correctional education measures, a foundation of diverse and graded measures should be established. Based on the differentiated correctional needs of delinquent minors who have committed penal offenses, targeted and graded correctional measures should be implemented by evaluating the personal danger level and the harm level of the penal offenses. The correctional measures can be categorized into three major types based on the extent of restriction on personal freedom: specialized correctional schools, specialized education schools, and community-based protective measures represented by social work services. Constructing a hierarchical and diversified correctional education system is based on individual differences to develop targeted plans and achieve precise correction.

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Referring to the conditions for the application of non-prosecution, a strict evaluation of the harm level of the offenses committed by delinquent minors who are exempt from criminal liability should be conducted. The delinquent minors who do not require specialized correctional education measures should be separately categorized as the type warranting community-based protective measures applicable to minor offenses against public order and non-prosecution. For minors who are relatively non-prosecutable, it is determined, through social investigations and psychological assessments, that they do not need counselling measures, as their personal danger level and the social harm of their behaviour are low enough not to require intervention. Minors sentenced to probation undergo specialized community correction.

3.3.2 Conducting Timely Assessments and Dynamic Transitions of Correctional Measures

During the implementation of correctional measures, a dynamic transition of correctional measures is carried out through a flexible correctional model and timely assessments of necessity. In the implementation phase of specialized correctional education measures, it is generally advisable to adhere to established correctional models. However, considering the principles of optimizing the benefits of minors and motivating delinquent youth for self-correction, periodic evaluations of the effectiveness of specialized correctional education can be conducted, achieving dynamic transitions between correctional measures. The Specialized Education Guidance Committee, based on requests from specialized schools, relies on materials such as individualized correctional reports of the individuals and changes during the period of receiving correctional education. These materials serve as crucial criteria for the transition of measures. Recommendations for the applicable duration are made by the Specialized Education Guidance Committee to determine the minimum inspection time unit for distinguishing transition assessments based on the decision making at the time of specialized correctional education. Based on the recommendations on the applicable duration made at the time of the decision for specialized correctional education, the Special Education Guidance Committee decides on the minimum inspection time unit for differentiated transition assessments. After a comprehensive assessment of the behavioural harm and personal danger, the Special Education Guidance Committee forms a dynamic transition from specialized correctional education to specialized education or to community-based social guardianship.

Table 1: Applicable Conditions for Dynamic Transition of Graded Intervention Measures

Intervention Measures Behavioural Category	**Specialized Corrective Education Schools**	**Specialized Educational Schools**	**Social Guardianship**	**School Education**
General Misconduct	/	/	Applicable when school discipline is ineffective	Managed and educated by the school of enrollment

Behaviour triggering police intervention.	/	Strictly applicable in exceptional cases	Applicable in principle	Coordinated implementation
Behaviour violating public order.	Strictly applicable in exceptional cases	Applicable in principle	/	Coordinated implementation
Penal offenses	Applicable in principle	/	Applicable in conditional non-prosecution cases	Coordinated implementation
Criminal Offenses	/	/	Supervision and inspection of the conditional non prosecution cases	Coordinated implementation

3.4 Improve the Decision-Making Mechanism for Specialized Correctional Education

3.4.1 Clarifying the Responsibilities and Transfer Requirements of Public Security Organs

Considering the division of functions, it is advisable for the public security organs to take the lead in establishing a specialized juvenile case-handling team that collaborates with various agencies of the procuratorate to establish a "real-time reporting" system and form an "end-to-end reporting" coordination mechanism. Through cooperation with the procuratorate, a complete system is established to facilitate a mechanism of discovering clues, specialized case acceptance, early intervention, care and assistance, and supervision and evaluation. Moreover, public security organs should conduct social investigations and reports on juvenile offenders in a timely manner and submit the report content along with case information to the Special Education Guidance Committee as a crucial reference for their evaluation. Finally, public security organs should continuously optimize the path of conducting assessments, either by entrusting specialized judicial social work organizations or relevant judicial and administrative authorities to carry out social investigations, ensuring the smooth progress of the evaluation work of the Special Education Committee.

3.4.2 Specifying the Decision-Making Mechanism of the Special Education Guidance Committee

Firstly, it should be specified that the nature of the Special Education Guidance Committee is a deliberative and coordinating body. As a comprehensive administrative organization for the construction of specialized schools, it undertakes not only macro functions, including campus construction and education management but also assumes micro functions related to the evaluation and recommendations of the application and transition of specialized correctional education measures. The assessment of the application of specialized correctional education measures is its core function, and the establishment of

standardized assessment rules and the improvement of legal remedies are essential to ensure the fairness of the application of specialized correctional education.

Simultaneously, within the Special Education Guidance Committee, an independent Specialized Correctional Education DecisionMaking Team should be established. This team should consist of professionals from the prosecution, the judiciary, social workers, psychologists, etc. During the decision-making team meetings, the legal guardian of the juvenile or their lawyer should be present to participate and express opinions. The education administrative department, as the administrative management department of the Special Education Committee, should, in principle, not intervene or change the decisions of the Special Education Committee unless there are illegal possibilities in its legal application.

Furthermore, we should improve the supervision methods and relief channels. In the event of a non-passing vote or when the legal guardian of the minor has opposing opinions, the decision-making team can submit a reconsideration application to the samelevel Special Education Guidance Committee for reassessment once. Within the Special Education Guidance Committee, separate decision-making and supervisory departments should be established to ensure the scientific and rational nature of the decisions through a system of checks and balances.

3.5 Optimizing the Content of Special Corrective Education

Firstly, based on the relevant provisions of the "Prevention of Juvenile Delinquency Law," we should refine policies and regulations concerning the construction of specialized schools, specifying the types, nature, and functions of these schools.

Secondly, we should establish unified school evaluation standards, addressing improvements in conditions such as infrastructure, campus environment, teaching equipment, financial investment, and personnel allocation.

Thirdly, we should intensify the training for teachers in specialized schools and optimize conditions for attracting a specialized teaching staff.

Fourthly, we should enhance and refine educational correction methods by optimizing curriculum design, specifying necessary restrictive measures, and improving the scientific, precise, and effective aspects of educational correction. It is also expected to implement specialized courses in legal education to cultivate a legal perspective that respects and reveres the law. There is also a need to conduct diverse extracurricular activities to foster the interests and hobbies of delinquent youth, promoting the development of their character.

Fifthly, we should build a collaborative and interconnected correctional effort. In practice, specialized schools should establish a rich and flexible range of correctional measures to assist delinquent youth in participating in social activities appropriately, avoiding long-term closed management that could lead to negative self-identity and facilitating their smooth reintegration into society in the future.

4. Conclusion

Specialized correctional education is a core element in achieving "critical prevention" and plays a central role in "timely rescue." Referring to the classification and division of applicable objects based on the conditions for non-prosecution is a prerequisite for precise intervention. The key to avoiding cross-contamination to the maximum extent and achieving resource integration lies in the construction of independently partitioned specialized correctional education schools. Clarifying personnel composition, refining voting rules, and improving relief pathways are necessary measures to create standardized admissions. The organic integration of three core measures—specialized correctional education schools, specialized education schools, and social guardianship—realizes hierarchical connection and dynamic transitions, forming the core of precise correction. Ensuring the effective implementation of specialized correctional education involves strengthening policy support, defining school standards, attracting professional teaching staff, offering specialized courses, and promoting diversified collaborative participation. The shift from custodial care to specialized correctional education is not just a difference in measures or behavioral nomenclature but also a transformation in deep-seated institutional construction, adherence to principles, and functional positioning. Reflecting on the current operational challenges, coupled with addressing the practical correctional needs, enhancing the level of specialized correctional education is a necessary step in advancing the perfection of socialism with Chinese characteristics and the rule of law.

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