

Research on the Justification of Police Auxiliary Personnel Being the Object of Assaulting Police

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Abstract: Due to the lack of legislation and theory, it has been controversial whether the fifth paragraph of Article 277 of the Criminal Law can be applied to police assistants who are subjected to violent attacks while performing their duties according to law. The legal interest of the crime of assaulting a police officer should only be the law enforcement authority of the state, and it is impossible to deny that the police auxiliary personnel do not constitute the criminal object of the crime of assaulting a police officer by including the life safety of the people's police or the duty behavior of the people's police. Combined with the concept of police auxiliary personnel in administrative law, it is considered that the legal status of police auxiliary personnel belongs to the administrative assistant of the people's police, is the assistant of public security organs to exercise their power, is a reasonable extension of police activities, and constitutes "law enforcement integration"; Based on the actual situation of China's police activities and the analysis of relevant normative documents, it is believed that the police auxiliary personnel have the legitimacy of law enforcement when performing their duties, and the word "police" represents the police behavior in essence rather than the police subject. The definition of "people's police" in the crime of assaulting police is an expanded interpretation, not an analogy interpretation, which further confirms the legitimacy of law enforcement of the police auxiliary personnel and makes it clear that the police auxiliary personnel can be the target of the crime of assaulting police.

1. Introduction

Police auxiliary personnel (hereinafter referred to as police auxiliary personnel) include not only service auxiliary police in the traditional sense, but also security guards, defense team members, student police, civilian police auxiliary personnel who have signed labor contracts with public security organs and part-time auxiliary police officers who are now trying in some places. ^[1]Because the police assistants in China do not have the identity of the people's police and the qualification of law enforcement in local legislation, it is controversial whether they can apply the crime of assaulting a police officer in the face of violent attacks. However, the discussion in today's academic circles mainly focuses on the behavior of police assistants in performing their duties according to law to explain the application of the provisions of the crime of assaulting a police officer. Each theory has different degrees of defects and fails to give a perfect solution from the theoretical level. Therefore, it is important to understand the Criminal Law to demonstrate the legal

status of police assistants and the legitimacy of their police activities.

2. The definition of police auxiliary personnel

According to the Opinions on Standardizing the Management of Police Assistants in Public Security Organs issued by the General Office of the State Council in 2016, police assistants refer to people who assist the people's police in their daily policing activities. They are divided into two categories: civilian auxiliary police and service auxiliary police, which essentially equate police assistants with auxiliary police, but in fact these two terms belong to two different concepts. In China, police assistants are generally people who have labor contracts with public security organs and are essentially government employees.^[2] It is fundamentally different from the auxiliary police in common law countries and Hong Kong Special Administrative Region of China. For example, in Hong Kong Special Administrative Region of China, the auxiliary police refers to the well-trained reserve personnel who are composed of social volunteers and support the regular police when responding to emergencies. They can perform any duties of the police force when participating in law enforcement, and can exercise and perform any power, duty or function entrusted to police officers by any regulations.^① Therefore, the auxiliary police can be regarded as police officers in police activities, and there will be no dispute about punishing the perpetrator for assaulting a police officer when he is attacked by violence. For example, in common law countries, based on the concept that social security should be shared by the state and society, the auxiliary police are authorized to enjoy the authority of the police. The traditional auxiliary police in China are administrative auxiliary personnel who do not have independent law enforcement power and need to perform their duties under the supervision of public security organs and formal people's police. It is precisely because the so-called auxiliary police in our country have no independent law enforcement authority and the identity of the people's police that the criminal law scholars will have disputes on the application of the crime of assaulting a police officer in Article 277, paragraph 5, of the Criminal Law when the auxiliary police are violently attacked while performing official duties according to law. Therefore, it is more appropriate to change the traditional "auxiliary police" to "police assistants", which will also help to define its legal status, and then make a more reasonable explanation on whether it is applicable to the crime of assaulting a police officer when he is violently assaulted.

3. Violent attacks on police auxiliary personnel can be established for assaulting a police officer

There are two theories about whether the fifth paragraph of Article 277 of the Criminal Law can be applied to police auxiliary personnel who are subjected to violent attacks, namely, positive theory and negative theory. In essence, the two theories are two different conclusions based on two different interpretation methods. Affirmative theory expands the definition of "people's police who perform their duties according to law" as stipulated in Article 277, paragraph 5 of the Criminal Law to the people's police who have the qualifications of civil servants and police assistants who assist the people's police to perform their duties. This theory holds that the legal interests protected by the crime of assaulting police are not only the personal safety of the people's police, but also the authority of their duties. From the perspective of law enforcement integration, as police assistants who perform their duties according to law to ensure the implementation of national laws, they are also the executors of their duties.^[3] However, the negative theory holds that, based on the literal interpretation, the "people's police" stipulated in the crime of assaulting a police officer only refers to the people's police with official status, and it is suspected of analogy and beyond the public's

^① See Article 17 of the Hong Kong Auxiliary Police Ordinance.

cognition of the police, which violates the modesty of criminal law to interpret the "people's police" as including police auxiliary personnel. ^[4]Because the purpose of adding the crime of assaulting a police officer is to improve the image and authority of the people's police, the object of the crime of assaulting a police officer should be identified on the basis of identity, and the dress and image of the auxiliary police are not like the "people's police" and cannot represent the image of the "people's police". To abide by the principle of a legally prescribed punishment for a crime, it is necessary to define the "people's police" with the concept of the People's Police Law. ^[5]

The above two theories are all demonstrated from the two levels of legal provisions and duty behavior, affirming that the integration of law enforcement behavior is highlighted, and that the law enforcement behavior of police auxiliary personnel is a reasonable extension of the people's police's duty activities, and it also represents the authority of law enforcement behavior, but it cannot solve the problems brought about by the provisions of criminal law in essence. The legal provisions of the crime of assaulting police clearly indicate that it is a violent attack on "the people's police who are performing their duties according to law". This article is divided into "performing duties according to law" and "people's police", which shows the double limitation of behavior and identity. It is not perfect in logic to prove that the police auxiliary personnel also belong to the people's police as stipulated in the criminal law. However, the negative theory only denies that the "people's police" stipulated in the criminal law provisions does not include "police auxiliary personnel", ignoring the legal status of police auxiliary personnel in assisting the people's police in their duty activities according to law and the current situation of realistic police activities, and there are also theoretical defects.

4. The analysis of the reasons why police auxiliary personnel become the target of the crime of assaulting police.

(1) The legal interests protected by the crime of assaulting a police officer make it the target of the crime of assaulting a police officer.

Legal interest is an important starting point for us to study the crime of assaulting a police officer, and it is also an important link to sort out whether the crime of assaulting a police assistant can be applied if he is violently attacked. By clarifying the legal interest protected behind the crime of assaulting a police assistant, we can judge whether the crime of assaulting a police assistant can be constituted. At present, there are four views on the legal interests protected by the crime of assaulting a police officer in academic circles. The first view is that the legal interests protected by the crime of assaulting a police officer are the life safety of the people's police; ^[6] The second view is that the crime of assaulting a police officer protects the authority of the people's police to perform their duties on behalf of the state; ^[7] The third view is that the crime of assaulting a police officer protects the duty behavior of the people's police; ^[8] And the fourth view holds that the crime of assaulting a police officer protects a compound legal interest, the main legal interest is the normal management order of the country, and the secondary legal interest is the life safety of the people's police. ^[9] No matter which of the above four viewpoints is closely related to the people's police, it is difficult to include the police auxiliary personnel in the legal interest protection scope of the crime of assaulting a police officer.

Judging from the system of specific provisions of criminal law, the crime of assaulting a police officer is stipulated in the first section of Chapter VI of the specific provisions of the Criminal Law of our country, that is, the crime of disturbing public order in the crime of disturbing social management order, which is separated from the crime of disturbing public service, but the two charges are still stipulated under the same law. Violent assault on police is essentially a special form of obstruction of official duties. ^[10] This clearly shows that the original purpose of adding the crime of assaulting a police officer to the criminal law is to protect the law enforcement authority of the country. Compared with other crimes, this conclusion can also be derived. For example, in the

crime of resisting taxes, if the legal interests protected by it include the life safety of tax collectors, and the staff of tax authorities are violently attacked while performing their duties of collecting taxes, even if there are serious injuries and deaths, the perpetrator should not be convicted of intentional injury or intentional homicide, and it can only be three times. If we think that this situation should constitute the imaginative concurrence of the crime of intentional injury, intentional homicide and the crime of resisting tax, we should admit that the crime of resisting tax only protects the tax collection and management order of the country. The same is true for the legal interests protected by the crime of assaulting a police officer. At the same time, the relevant guidance on the crime of assaulting a police officer also points out that violent assaulting a police officer causes serious injuries and deaths to the police, which conforms to the criminal law on intentional homicide and intentional injury, and shall be punished as intentional homicide and intentional injury. This also shows that the legal interests protected by the crime of assaulting a police officer are the law enforcement authority of the state, and should not include the life safety and duties of the people's police. On the other hand, like the people's police, the staff of different administrative organs are also performing their duties, and they are also in danger of being attacked by violence when performing their duties. It is difficult to think that all the duties of the police are more important than those of the staff of other countries, and it is difficult to think that the life safety of the trained people's police needs criminal law protection. ^[11]Therefore, from the legal interests of the protection of the crime of assaulting a police officer, police assistants, as administrative assistants of public security organs, as a reasonable extension of police activities, as a tool used by the people's police in maintaining public order, also represent the national law enforcement authority when performing their duties, and the relevant provisions of the crime of assaulting a police officer should be applied when they are subjected to violent attacks. Therefore, it is fundamentally wrong to deny that police assistants are subjected to violent attacks and apply the crime of assaulting police because the legal interest protected by the crime of assaulting police is the life safety of the people's police or the duty behavior of the people's police.

(2) The legal status of police assistants makes them the target of the crime of assaulting police.

1) Police auxiliary personnel from the perspective of privatization of public administration. In the theory of administrative law, privatization of public administration is mainly divided into formal privatization, functional privatization and substantive privatization. Privatization in form is more common in the restructuring of government public welfare departments, such as the restructuring of the urban management Committee responsible for the management of new urban areas into a limited liability company, but it has not changed the characteristics of state monopoly of public power in essence, and the state still needs to be responsible for the results caused by the actions of the restructuring departments; Privatization in essence is the opposite of privatization in form. The state transfers the specific power of maintaining public utilities to private individuals and no longer assumes any responsibility, which is a complete denationalization in the field of public administration. Functionally, privatization is between formal privatization and substantive privatization, which is a kind of partial privatization. Under this privatization perspective, public administration only involves the division of power and has nothing to do with the implementation of public power, which leaves a theoretical space for private participation in public administration's public security activities such as patrol and security, and some acts that do not seriously infringe on citizens' compulsory measures. ^[12]In some countries, based on the functional privatization theory, some police activities will allow private forces to participate. For example, the German police department will sign a contract with the security company to establish a cooperative relationship, so that the security company can assist the police to participate in administrative activities such as patrol and public security. ^[13]Therefore, it is very important to identify the legal status of police auxiliary personnel when they participate in police activities from the perspective of functional privatization for whether police auxiliary personnel can apply the crime of assaulting police

stipulated in China's Criminal Law when they are subjected to violent attacks.

2) The position of administrative assistant of police auxiliary personnel. From the perspective of privatization of public administration, private individuals mainly participate in the exercise of public administration through administrative authorization, administrative entrustment and administrative assistance. Administrative authorization means that laws, regulations and rules grant an aspect or an administrative authority to organizations other than administrative organs, and the authorized person carries out administrative activities and exercises administrative authority in his own name, and bears corresponding legal responsibilities for administrative activities externally. ^[14]In our country, even the official people's police can't exercise police power in their own name, let alone police auxiliary personnel who are not authorized by law, so police auxiliary personnel are not the authorized persons in administrative authorization; Administrative entrustment refers to an administrative activity in which an administrative subject entrusts its administrative authority or administrative matters to another administrative subject or individual in accordance with the law for the needs of administrative management, and the entrusted organ carries out administrative authority in the name of the entrusted organ, and the entrusted organ bears legal responsibility. In administrative entrustment, the entrusted organ and the entrusted person are not subordinate to each other, or even have any cross-relationship, while the police auxiliary personnel in China are subordinate to the public security organs, directly obey their commands and perform police work under their supervision. Administrative assistance refers to a way of administrative activities in which the supernumerary staff of administrative organs carry out administrative activities in the name of the administrative subject under the command of the administrative subject, and the administrative subject bears legal responsibility. ^[15]Its nature is the auxiliary manpower of administrative organs, ^[16] is an extension of the power of administrative activities. With administrative assistance, although administrative assistants do not have the official establishment of administrative organs, they are subordinate to administrative organs and exercise administrative power under the supervision and command of administrative organs, which is quite similar to the relationship between police auxiliary personnel and public security organs in China. According to the Opinions, police auxiliary personnel do not have the qualification of law enforcement subjects and cannot directly participate in public security law enforcement. Therefore, from the perspective of subordination and authority, the concept of "law enforcement integration" is essentially derived from the legal status of police auxiliary personnel, that is, the legal status of police auxiliary personnel in China should be defined as administrative assistants of public security organs, who engage in police activities according to instructions and are under the command of public security organs. They are assistants of public security organs exercising administrative power and reasonable extensions of police activities.

(3) The legitimacy of police auxiliary personnel in carrying out police activities makes them the target of the crime of assaulting a police officer.

It is of great significance to discuss the legitimacy of police assistants' participation in public security law enforcement, which is the cornerstone of understanding their job legitimacy and identity legitimacy. This section mainly demonstrates the legitimacy of police auxiliary personnel in carrying out police activities from the current situation of police activities in China, the understanding of normative documents and the analysis of the concept of "police"

1) The current situation of police activities. China's public security work can be divided into administrative public security management work and criminal justice work. Public security organs also undertake tasks such as maintaining social stability, dealing with emergencies and investigating criminal crimes. The work is hard and the task is large, but it is limited by the limited establishment, which has created a long-term situation that the police force of public security organs in China is seriously inadequate and relies heavily on the substitute role of police assistants for limited police force. Public security organs in all regions of our country will recruit police assistants on a large scale. According to statistics, the number of police assistants in some regions far exceeds that of the

official people's police. In fact, police assistants also bear the burden of maintaining social order and punishing illegal and criminal activities with the people's police. Simply denying the law enforcement power and legal subject status of police assistants by the literal provisions of laws and regulations, regardless of the actual situation of police work, will inevitably make public security organs fall into more arduous work, reduce law enforcement efficiency and reduce law enforcement efficiency. At the same time, police auxiliary personnel have also made great sacrifices for public security work. According to statistics, in 2021, there were 261 policemen and 131 police auxiliary personnel in public security organs across the country, accounting for 33.4% of the total number. 4,375 policemen and 3,420 police assistants were injured in the line of duty, and police assistants accounted for 43.9%. With their blood, sweat and even their lives, the police auxiliary staff practiced the clank oath of naming the police as the people, which is enough to affirm the necessity of the police auxiliary staff in the current police work. Based on this, and also based on the rational allocation of police resources, improve the efficiency of law enforcement, and reduce the financial burden of regional governments, police auxiliary personnel must also exist in the public security team for a long time. Therefore, from a realistic point of view, police auxiliary personnel should be given legitimate conditions when carrying out police activities, so as to further clarify their protection when they are attacked by violence.

2) Normative documents do not deny the legitimacy of law enforcement of police auxiliary personnel. First of all, according to Article 4 of the Standard Opinions, "police auxiliary personnel do not have the qualification of law enforcement subject and cannot directly participate in public security law enforcement", and what is emphasized here is to prohibit police auxiliary personnel from "directly participating" in public security law enforcement. As mentioned above, police assistants are the administrative assistants of the people's police of public security organs when carrying out police activities, and they are a reasonable extension of police administrative power. As administrative assistants, police assistants do not involve decision-making and decision-making when carrying out police activities, but only need to carry out corresponding police activities orders under the command and supervision of the people's police of public security organs, which is actually an "indirect participation" in law enforcement and does not violate the provisions of the Opinions.

Secondly, the third paragraph of Article 17 of the Administrative Enforcement Law stipulates that "administrative enforcement measures shall be implemented by qualified administrative law enforcement personnel of administrative organs, and other personnel shall not implement them"; Article 18 stipulates that "administrative compulsory measures should be implemented by more than two administrative law enforcement personnel". From the legal provisions, police auxiliary personnel do not have the qualification of law enforcement subject and cannot implement administrative compulsory measures in public security activities. However, this is actually a mechanical interpretation of the legitimacy of police auxiliary personnel in law enforcement and a wrong conclusion without combining the legal status of police auxiliary personnel. As mentioned above, police auxiliary personnel's participation in law enforcement activities is a kind of "indirect participation", an auxiliary force and a tool to implement specific decisions. The "implementation" stipulated in the Administrative Enforcement Law refers to the identification and decision of whether to take administrative enforcement measures, which is a decision. This power of course belongs to the people's police with law enforcement qualifications, but the subsequent concrete implementation process can completely allow police auxiliary personnel to intervene. For example, when the people's police decide to take compulsory measures against drunken people to prevent them from endangering public order, the police auxiliary personnel should be allowed to participate in the subsequent stage of controlling drunken people. For another example, the people's police decide to take compulsory measures to seal up and seize property in a certain place, and the police auxiliary personnel should also be allowed to participate in the subsequent actions of affixing seals and carrying property. If it is not allowed, it is meaningless to set up police auxiliary personnel.

Therefore, judging from the scope of duties of police assistants, as administrative assistants affiliated to public security organs, they can carry out corresponding compulsory measures under the command and supervision, which does not violate the relevant provisions of administrative law. Therefore, the scope of duties of police auxiliary personnel can be divided into three levels, that is, absolute prohibition, relative prohibition and complete permission. ^[17]When public security organs investigate crimes endangering national security and terrorist activities, police auxiliary personnel are of course prohibited from participating in such cases because they involve national security interests and the requirements of specialization and confidentiality; When it comes to the investigation of criminal cases, due to the personal freedom of citizens and the requirements for criminal evidence, the participation of police auxiliary personnel is generally prohibited in the core areas of case investigation, but such as assisting in visits and taking care of suspects should be allowed. The reasoning above suggests that in public security and administrative law enforcement activities overseen by public security agencies, only these agencies possess the authority to make decisions regarding law enforcement. Hence, police auxiliary personnel are merely tasked with executing the directives of these agencies. Their involvement in law enforcement does not replace the role of public security agencies but rather serves as a tool for them. Therefore, police auxiliary personnel should be fully permitted to participate, as their involvement remains fundamentally under the auspices of the public security agencies. Therefore, after in-depth analysis of the normative documents, it can be clear that the police auxiliary personnel have legitimacy in carrying out police activities.

3) Formal police and substantive police. The word "police" has always been interpreted differently in history. From the perspective of function and behavior, "police" refers to an administrative act of the state to maintain social stability and order in accordance with the law and backed by compulsion. From the perspective of social forces, "police" only refers to police organs and police personnel, and its meaning is relatively narrow, which is not enough to explain the police phenomenon. The former mainly explains the word "police" from the perspective of police behavior, and its final foothold is administrative behavior, which does not highlight the requirements of identity and is a police in the real sense. The latter mainly explains the "police" from the main body, highlighting the identity requirements, that is, it must be a formal police authorized by the state and a formal police. ^[18]In fact, the word "police" was translated from Japan in the late Qing Dynasty, which itself represents an administrative act rather than just the police subject. Therefore, we should transfer the concept from the formal police to the substantive police, recognize that the word "police" mainly refers to the behavior of a certain subject to maintain social order, and recognize the legitimacy of police auxiliary personnel participating in law enforcement activities. Therefore, the "people's police" stipulated in Article 277, paragraph 5, of the Criminal Law is interpreted as including police auxiliary personnel, not by analogy, but by extension, thus providing a legal basis for the crime of assaulting police auxiliary personnel by violence on the basis of conforming to the principle of legality.

5. The analysis of the significance of police auxiliary personnel becoming the target of the crime of assaulting police.

It is of great significance to include police auxiliary personnel in the target of the crime of assaulting police, to understand the purpose of adding this crime in the Criminal Law Amendment (XI), to implement the concept of active and preventive criminal law in China, to unify the application of this crime from the judicial point of view, and to achieve the balance between legal effect and social effect.

(1) Clarify the theoretical confusion

This paper analyzes the relevant preceding laws to clarify the ambiguous legal concept of "people's police" within the legal framework. It also elucidates the theoretical foundation of "law

enforcement integration". Furthermore, it discusses the rationality and legitimacy of considering police auxiliary personnel as the targets of assault against law enforcement personnel, examining their legal status and authority in law enforcement. Such an analysis aids in developing a proper understanding of whether police auxiliary personnel can indeed be considered as targets of assault against law enforcement personnel, thereby resolving theoretical ambiguities.

(2) Implementing the concept of active and preventive criminal law.

The modernity of the risk society has opened the modern transformation of criminal law, which has changed the concept of criminal law from the traditional negative criminal law concept to the positive criminal law concept. It has become the goal of criminal law to actively regulate the increasing social risks and maintain social security order. ^[19]The Criminal Law Amendment (XI) has added 18 new crimes, expanded the punishment scope of some crimes and increased the number of dangerous criminals through the revision of the original law, and tightened the criminal law network by "criminalization" legislation, which is the embodiment of China's active and preventive criminal law concept in criminal legislation. The Criminal Law Amendment (XI) establishes the crime of assaulting a police officer by aggravating the statutory penalty and taking the form of abstract dangerous crime. The purpose is to realize the early protection of the legal interest of the people's police in performing their duties through the early intervention of the criminal law, regulate the endless problems of assaulting a police officer in practice, and ensure the normal conduct of police activities. The police auxiliary personnel participate in law enforcement activities together with the people's police, which also represents the authority of the people's police to perform their duties. They apply the crime of assaulting a police officer when they are subjected to violent attacks, implement the active and preventive criminal law concept of the Criminal Law Amendment (XI), strengthen the preventive color of criminal law, and make up for the legislative defects caused by the limitations of written expression.

(3) To solve the problem of judicial practice

1) Inherit the practical tradition of "attaching importance to position but neglecting identity". In China's judicial practice, there has always been a practical tradition of "attaching importance to position and neglecting identity". A large number of legal interpretations, research opinions and other normative documents can confirm this point. The highest inspection is in the Reply on whether the infringer can be punished as a crime of obstructing official duties by threatening violence to prevent the establishment personnel from performing administrative law enforcement duties according to law, the Supreme Law and the Supreme Inspection. Interpretations on several issues concerning the specific application of law in handling criminal cases, such as illegal production and sale of tobacco monopoly products, have been provided by the Supreme Court. Likewise, the Supreme Court has issued interpretations on several issues concerning the application of laws in the trial of criminal cases involving the destruction of grassland resources. Additionally, both the Supreme Court and the Supreme Procuratorate have issued opinions on punishing illegal acts that hinder the prevention and control of pneumonia epidemics caused by the novel coronavirus. According to these interpretations and opinions, obstructing the activities of non-state personnel through violence or threats constitutes the crime of obstructing official duties. Moreover, all non-state personnel assisting state organs in performing official duties are considered as state personnel. The Supreme People's Procuratorate pointed out in the "Reply on whether the contract police can become the main body of the crime of dereliction of duty" that during the period of performing official duties according to law, the contract police belong to other personnel engaged in official duties according to law and should be regarded as the staff of state organs.

These judicial interpretations and research opinions all reflect the technical methods of substantive judgment adopted in China's judicial practice in dealing with the identity of the criminal subject. It should be noted that the Supreme People's Procuratorate, in the Reply on whether the contract police can become the subject of dereliction of duty, believes that the contract police belong to other personnel engaged in official duties according to law during the period of

performing official duties according to law, and should be regarded as the staff of state organs. According to the spirit of this regulation, there is no doubt that violent attacks on police auxiliary personnel should also be punished as assault on police. Covering the target of the crime of assaulting a police officer to the police auxiliary personnel is of certain significance for strengthening the long-standing substantive interpretation view of "taking the position theory as the basis and diluting the identity crime" in China's judicial practice.

2) Unify judicial application, eliminate disputes and increase judicial credibility. "Adjudication in the same case" has the effect of stabilizing legal expectation, protecting judicial trust and limiting arbitrary power. So that our judiciary cannot be separated from it at all, because it has been deeply rooted in the deep structure of judicial reasoning and has become an obligation imposed on judges by judicial activities. ^[20]After the promulgation of the Criminal Law Amendment (XI), there are still disputes in people's courts at all levels about the nature of violent attacks on police auxiliary personnel, which leads to a certain degree of "different judgments in the same case" in people's courts in the same region and at the same level, and even fails to implement the legislative purpose, causing frequent disputes and reducing judicial credibility. In the case of Dong Shiju's crime of nuisance of official duties, when the defendant Dong Shiju was summoned by police officers Hu Mou, Wang Mou and auxiliary police Zhou Mou, the defendant Dong Shiju refused to combine and beat the victim's auxiliary police Zhou Mou, causing the victim Zhou Mou to be slightly injured. The court of first instance found that the defendant constituted a crime of nuisance of official duties.^②And similar cases in the people's court at the same level, it is found that the defendant constitutes a crime of assaulting a police officer.^③And no matter how the court of first instance defines such cases, it lacks sufficient reasoning, which may be caused by the unclear description of the crime of assaulting a police officer and the failure to specify the scope of the criminal object. For the application of such unclear laws, judicial personnel will tend not to reason or reason at will. ^[21]This reduces the judicial trust to a certain extent, resulting in confusion in judicial practice. It is clear that violent attacks on police assistants also constitute the crime of assaulting police officers, which can unify judicial application, ensure judicial justice, reasonably limit the discretion of judges when they encounter unclear legal concepts, and make the conclusion conform to the formal and substantive requirements of the rule of law. ^[22]This measure thus enhances the substantive fairness of adjudicating cases.

(4) To achieve good social effects

The present situation of complicated police activities and the reality of scarce police resources in China determine that police auxiliary personnel in China play an important role in front-line police law enforcement. Due to the limited local finance, the salary guarantee and working conditions of most police auxiliary personnel are far lower than those of civil servants in the same region. Searching the judgment documents, we can also find that there are cases of beating and shoving police assistants in most cases of assaulting police officers.^④During the period when the Supreme People's Procuratorate stipulates that the contract police perform their official duties according to law, if the dereliction of duty can be applied to their dereliction of duty, it will inevitably lead to the injustice of judicial application and infringe on the public's feelings of trusting judicial fairness and justice when they are violently attacked. Based on the social reality, we recognize the contribution made by police assistants to police activities, and from the legal status and law enforcement legitimacy, we conclude that police assistants also constitute the criminal object of assaulting police, further strengthen the professional honor of police assistants, establish the authority of police activities, maintain and consolidate the judicial credibility, better implement the requirements of the

^② Dong Shiju, the criminal judgment of the first instance of the crime of obstructing public business. The People's Court of Xiqing District, Tianjin Municipality. (2021) Jin 0111 Chu No.646

^③ Li Fuwei first instance criminal judgment. The People's Court of Binhai New Area, Tianjin Municipality. (2021) Jin 0116 Chu No.1842

^④ The search conditions were set to "Tianjin" and "the crime of attacking the police". A total of 16 cases were retrieved, among which 9 cases beat, abused and pushed the auxiliary police officers. Three of the other seven cases not involving auxiliary police officers occurred during rail transport.

party for judicial work in the new era, and realize the unity of legal effect and social effect.

6. Conclusion

Judging from the legal interests protected by the Criminal Law, the legal interests protected by the crime of assaulting a police officer should be the authority of the people's police to enforce the law on behalf of the country, not including the personal safety of the people's police. When the police auxiliary personnel and the people's police enforce the law together, their actions are also included in the legal interests. As far as the legal subject status of police assistants in administrative law is concerned, they are the administrative assistants of the people's police in public security organs, and their behavior is related to the behavior of the people's police, which constitutes "law enforcement integration"; Judging from the legitimacy of law enforcement, police auxiliary personnel are indirectly involved in law enforcement activities, and are tools used by public security organs in heavy public security management. Relevant normative documents have never denied the legitimacy of law enforcement of police auxiliary personnel, and from the broad meaning of the word "police", "police" represents more an administrative act to maintain social order than just a subjective identity. Therefore, as administrative assistants of public security organs and as a tool used by public security organs after decision-making, police assistants and the people's police of public security organs form a whole in law enforcement activities, belonging to the police in the real sense, and they also have the legitimacy to carry out police activities. In a word, police auxiliary personnel also have the two conditions of "performing their duties according to law" and "being a policeman" as stipulated in Article 277, paragraph 5 of the Criminal Law, so violent attacks on police auxiliary personnel who are performing their duties according to law should be punished as assaulting a police officer. Only in this way can we clarify the theoretical disputes, implement the concept of active and preventive criminal law in a risk society and ensure the unity of judicial application.

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