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Penalty gradient design under China's public security administration punishment law: A proportionality-based legal analysis

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Abstract: This study compares the relationship between warnings and fines and the amended public security administration punishment law in China from the perspective of the three dimensions of proportionality: suitability, necessity and balancing. It blends normative legal analysis with descriptive analysis of some 10.38 million public administrative penalty decisions issued from 2010 up to the first half of 2025; and a limited comparison between selected foreign legal schemes. The empirical analysis finds a consistent pattern of decisions based on the index of administrative detention, while there is a relatively low number of decisions on warnings. The statutory analysis also shows that there are unclear criteria for moving between sanctions, differences between the clauses linking fines to detention and restrictions on external oversight of the procedures. The findings highlight distributional and structural patterns which are meaningful to give further consideration to the proportionality principle but not indicate that any individual decisions or the penalty system as a whole is legally disproportionate. The study suggests to provide more transparent and clear sanction sequencing, criteria for decisions and review procedures, as well as an empirical evaluation of the 2025 amendments following implementation. This is because it bridges the gap between statutory design and the substantial administrative enforcement patterns and explicitly acknowledges the evidentiary constraints of administrative data publicly available.

Keywords: Public Security Administration Punishment Law, Penalty Gradient Adaptation, Proportionality Principle, Administrative Detention, Empirical Analysis, Comparative Law

1. Introduction

1.1 Research background and rationale

China's Public Security Administration Punishment Law (PSAPL) occupies a pivotal position as a legal "bridge" connecting general administrative governance and criminal sanctions within the country's administrative legal framework. The law regulates behaviors such as petty theft, disorderly conduct, and minor assaults that, while not meeting the threshold for criminal offenses, nevertheless pose threats to social order. Since its initial promulgation in 2005, the PSAPL has undergone two major amendments: the 2012 revision primarily focused on refining procedural rules, whereas the 2025 revision aims to address emerging public security challenges, including cyber harassment, student bullying, and ambiguities surrounding justifiable defense provisions. The amended PSAPL, which comes into force on 1 January 2026, includes a number of rights-protective and procedural changes. Article 19 specifically speaks about defence against an ongoing unlawful infringement, Article 23 deals with situations where administrative detention may not be carried out for certain categories of people, with statutory qualifications and exceptions. The hearing rights are extended in Article 117 for minors that can be the object of executed administrative detention under the conditions given in Article 23. The amendments were an attempt to have a better understanding of the substantive defences and to increase the procedural protection, but the impact thereof can only be assessed upon implementation.

However, a fundamental issue remains unresolved: the gradient adaptation of penalty measures—that is, the rational hierarchical articulation between the three primary sanction types: warnings (reprimand penalties), fines (property penalties), and administrative detention (personal liberty penalties). The requirement for such articulation stems from the principle of proportionality, enshrined in Article 5 of

China's Administrative Punishment Law², which mandates that "the establishment and implementation of administrative punishments must be based on facts and correspond to the facts, nature, circumstances, and degree of social harm of the illegal act." In practice, however, the available literature and preliminary findings indicate that there may be some imbalance in the use of penalty measures. Administrative detention seems to be regularly used in practice, and one might wonder what its relative position in the hierarchy of penalties is³), while warnings—intended as the mildest, education-oriented measure—remain marginalized, with an average application rate below 5%. It is an open question against this background whether the 2025 amendments are effective in dealing with these concerns in a systematic and proportionate fashion.

This over-reliance on administrative detention has raised issues in the literature on its implications to proportionality, protection of rights and efficiency of enforcement. But the degree to which these issues are upheld by systematic empirical data is not adequately investigated. First, it potentially infringes upon the fundamental right to personal liberty explicitly guaranteed by Article 37 of the Constitution of the People's Republic of China⁴. For instance, a 2023 study of 929 juvenile public security cases in a county in Jiangsu Province found that 1.3% of eligible minors (aged 14–16, first-time offenders) were still subjected to detention, circumventing the "non-execution" rule outlined in Article 23 of the 2025 PSAPL⁵. Second, it undermines the legislative tenet of "combining punishment with education"⁶, as the excessive use of detention prioritizes punitive deterrence over behavioral correction. Third, it substantially increases enforcement costs: detaining an individual necessitates the allocation of personnel for supervision, maintenance of detention facilities, and processing of related documentation—resources that could be reallocated to more effective crime prevention measures.

This paper thus evaluates whether the design of the 2025 PSAPL penalty gradient design, both in its normative design and in practice, is consistent with the principle of proportionality. The analysis does not assume systemic deficiencies, but rather attempts to determine the degree to which the revised law is able to find solutions to longstanding concerns identified in previous scholarship.

To this end, this paper is informed by the following central research question: to what extent does the 2025 amendment to the PSAPL enhance the proportionality between the various measures of penalties in both the design of the legislation as well as in its application within a legal framework? One related question is whether there are observable patterns of enforcement, which are consistent with the normative expectations of the principle of proportionality.

1.2 Research objectives and research gap

This study is structured around three interconnected research objectives:

1. Normative Analysis: to evaluate possible structural limitations in the penalty

² Law of the People's Republic of China on Administrative Penalty. 2021. Art. 5. Available at: https://en.spp.gov.cn/2021-01/22/c_948432.htm (accessed on 24 April 2026).

³ PKULAW, *Public Security Administrative Penalty Decision Database (2010–first half of 2025)* [Dataset] (Beijing: Peking University Law Information House). 2025. Available at: <https://www.pkulaw.com/> (accessed on 11 May 2026).

⁴ Constitution of the People's Republic of China. 2018. Art. 37. Available at: https://english.www.gov.cn/archive/laws_regulations/201911/20/content_WS5ed8856ec6d0b3f0e9499913.html (accessed on 11 May 2026).

⁵ Public Security Administration Punishment Law of the People's Republic of China. 2025. Art. 23. Available at: https://www.chinalawtranslate.com/en/psap-2025/?utm_source=chatgpt.com (accessed on 11 May 2026).

⁶ Law of the People's Republic of China on Administrative Penalty. 2021. Art. 4. Available at: https://en.spp.gov.cn/2021-01/22/c_948432.htm (accessed on 24 April 2026).

gradient design of the 2025 PSAPL through the rigorous application of the three-tier proportionality test—assessing the suitability, necessity, and balancing (strict proportionality) of warnings, fines, and administrative detention.

2. Empirical verification: To quantitatively examine longitudinal trends and patterns in the application of these three primary penalties, utilizing a large-scale dataset of penalty decisions (2010–first half of 2025). This analysis aims to study the degree and trends of possible imbalances and identify significant regional disparities in enforcement practices.

3. Reform proposal formulation: To develop a set of concrete, feasible legislative and procedural reform recommendations aimed at optimizing penalty gradient adaptation. These proposals will be informed by a critical examination of comparative legal experiences from jurisdictions such as South Korea and the United States, which possess mature and differentiated systems for administering minor offense penalties.

This research is designed to address two critical gaps in the extant PSAPL literature:

Methodological gap: Previous scholarship has predominantly relied on doctrinal analysis or small-scale, localized case studies. These approaches lack the capacity to systematically measure the prevalence and intensity of proportionality violations across the full spectrum of public security penalties at a national level. The use of large-scale empirical data—specifically, the analysis of over 11 million cases from the PKULAW database—to empirically ground and validate theoretical critiques of the penalty gradient provides more general empirical foundation than much of the literature that exists.

Temporal and foresight gap: No comprehensive empirical evaluation is available yet that specifically addresses the impact of the amendments to the PSAPL for its implementation. Current research continues to be largely focused on the 2012 version of the law, and enforcement evidence for the amended law has not been collected to a large enough number to build on. Thus, this study sets up an empirical baseline before the implementation of the law, which allows the evaluation of enforcement patterns observed in the future. It does not predict or estimate the impact of the amendments once they are put in place.

1.3 Significance of the study

This research holds substantial significance, contributing to both theoretical discourse and practical application.

Theoretical Significance: The study makes a distinct contribution by deepening and operationalizing the application of the proportionality principle within Chinese administrative law, specifically in the context of penalty system design. While the principle is universally acknowledged as a cornerstone of administrative law, its concrete, structured application for evaluating the internal hierarchy and relational logic of administrative penalties—particularly the gradient alignment of warnings, fines, and detention—remains under-theorized and inconsistently applied. This study provides a structured analytical framework, translating the abstract tenets of the three-tier proportionality test into measurable criteria for the systematic assessment and critique of penalty gradient design.

Practical significance: The findings and recommendations generated are both timely and actionable for key stakeholders.

For legislators and policymakers, the study seeks to offer evidence-based understanding of the design and implementation of penalty measures, and to identify possible implications of legal design and practice.

For public security organs and practitioners, it delivers data-driven insights into pervasive enforcement distortions, including significant regional variations in the application of warnings, and proposes evidence-based training and guidance priorities to better align operational practice with the requirements of the proportionality

principle.

For citizens and legal advocates, the reform proposals advanced—particularly those advocating for enhanced procedural safeguards like effective judicial review of administrative detention decisions—directly strengthen the protection of fundamental rights, most notably personal liberty.

Ultimately, by promoting a more proportional, rights-sensitive, and rationally structured penalty system, this study contributes to the broader goals of advancing the rule of law in administrative governance, optimizing state social governance capabilities, and fostering substantive justice in the daily enforcement of public security laws.

2. Literature review and theoretical framework

2.1 Literature review

Academic discourse on the penalty system of the PSAPL coalesces around three primary themes, which this study seeks to build upon and extend.

2.1.1 The proportionality principle in administrative penalties

The proportionality principle, frequently characterized as a "cornerstone of modern administrative law," traces its origins to 19th-century German jurisprudence and has since gained widespread recognition across various legal systems⁷, including China's. Within the framework of Chinese administrative law, the principle is commonly understood to entail a three-tiered, sequential test⁸:

Suitability (appropriateness): A selected penalty measure must be rationally connected and capable of furthering the stated legislative objective (e.g., deterring unlawful conduct, maintaining public order)⁹. A measure fails this test if it cannot, either in theory or practice, contribute to achieving its intended purpose.

Necessity (least restrictive means): Where multiple effective measures are available to achieve the legislative goal, the option that infringes least upon the rights and freedoms of the individual must be selected¹⁰. For instance, if a warning suffices to rectify a minor infraction, imposing a fine or detention would contravene the necessity requirement.

Strict proportionality (balancing): The overall burden or restriction imposed on the individual by the penalty must not be excessive relative to the importance of the public interest being safeguarded¹¹. Even a suitable and necessary measure may be deemed disproportionate if the severity of its impact on individual rights grossly outweighs the marginal public benefit it secures.

Liu contends that the proportionality principle serves as an indispensable normative benchmark for assessing the legitimacy of administrative discretion in penalty selection. He criticizes the PSAPL's prevalent use of disjunctive clauses—such as "warning or detention"—for structurally violating the necessity sub-principle, as they permit law enforcement to bypass less intrusive alternatives without justification.

⁷ COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES. Case C-331/88, *The Queen v Ministry of Agriculture, Fisheries and Food, ex parte FEDESA and Others*, Judgment of 13 November 1990, ECLI:EU:C:1990:391. Available at: <https://curia.europa.eu/juris/showPdf.jsf?docid=96352&doclang=en> (accessed on 24 April 2026).

⁸ ALEXY, R. *A Theory of Constitutional Rights*. Oxford University Press. 2002, pp. 102–110.

⁹ CORDA, A. "The legitimacy of criminal law and the performance crises of penalty". *Criminal Law Forum*, v. 36, 2025, pp. 351–380. <https://doi.org/10.1007/s10609-025-09509-2>

¹⁰ BREMS, E., and LAVRYSEN, L. "Don't use a sledgehammer to crack a nut": Less restrictive means in the case law of the European court of human rights". *Human Rights Law Review*, v. 15, n. 1, 2015, pp. 139–168. <https://doi.org/10.1093/hrlr/ngu040>

¹¹ VALVERDE, M. "Jurisdiction and scale: Legal 'technicalities' as resources for theory". *Social & Legal Studies*, v. 18, n. 2, 2009, pp. 139–157. <https://doi.org/10.1177/0964663909103622>

Han further diagnoses a "systemic gradient adaptation deficit" within the PSAPL, attributing it to inherently vague statutory standards for assessing offense severity (e.g., "relatively minor circumstances", "serious circumstances"). This vagueness, he argues, confers excessive discretionary power on frontline officers, resulting in inconsistent penalties for factually analogous offenses. Han illustrates this with Article 26 of the 2012 PSAPL, where identical conduct could result in either a warning or 15 days of detention, based on unstated and potentially arbitrary considerations.

A principal limitation of these influential studies, however, lies in their methodological reliance on doctrinal analysis or small-scale, localized case studies. Consequently, they lack the empirical capacity to quantify the prevalence and intensity of proportionality violations across the PSAPL system as a whole or to identify robust, long-term enforcement trends.

The recent Chinese administrative-law scholarship further underlines that the proportionality review of administrative punishment should be based not only on the abstract constitutional theory, but also on the concrete institutional framework of the proportionality review of administrative punishment under the PSAPL. The existing body of authoritative domestic law on the law of administrative punishment increasingly contends that undue discretion in the choice between warnings, fines, and detention, undermines the law of administrative punishment in promoting predictability in the law and risk an unequal treatment of similarly situated criminals. Specifically, researchers who have studied the application of the Administrative Punishment Law have stressed the importance of having more concrete statutory standards by which the transfer between educational sanctions and liberty-restrictive measures should be effected. These arguments in particular are particularly pertinent to the current study since the PSAPL grants both wide frontline discretion at the same time as involving sanctions that directly impact upon constitutionally safeguarded personal liberty. The proportionality principle in the PSAPL context, therefore, cannot be viewed as a mere general constitutional principle, but as a concrete standard of assessment in determining whether the internal hierarchy of penalties is rationally structured, applied consistently and limited in a way that is decently contained within the procedural safeguards.

Moreover, the current literature is still patchy in its approach to the issue of the relationship between the design of legislation and the practice of its enforcement. A large part of the previous research concentrates either on the doctrinal interpretation of proportionality and administrative discretion, or broad comparative arguments about minor-offense regulation, without systematically relating these arguments to the practical aspects of the PSAPL enforcement. Some foreign and peripheral sources address the topic of administrative coercion, migration enforcement, or general governance theory, but do not offer much specific direct analytical value towards assessing the system of public security punishment in China. In comparison, leading Chinese administrative-law scholarship, judicial interpretations of the practice of administrative punishment, official sources of legislation offer a more authoritative platform to gauge the legality and proportionality of enforcement practices that are detention-based. This work thus re-focuses the literature review to work with materials that are specifically oriented towards the PSAPL institutional structure, the Administrative Punishment Law, and the constitutional protection of personal liberty, and in the selective and functional use of comparative materials to illuminate this specific mechanism of reform rather than as broad normative analogies.

2.1.2 Penalty gradient design: Domestic and comparative perspectives

Domestic scholarship on penalty gradient design has primarily engaged with two core issues: the functional hierarchy of penalty types and the need for dynamic adjustment mechanisms. Wang advocates for a fundamental restructuring of the PSAPL's penalty hierarchy to systematically prioritize educational measures (e.g.,

warnings) over purely punitive ones (e.g., detention), positing that this realignment better serves the legislative aim of "correcting illegal behavior and preventing recidivism." Complementing this, Liu proposes the introduction of a dynamic fine adjustment mechanism, pegging fine amounts to objective regional economic indicators (e.g., per capita disposable income). This reform aims to rectify the problem of differential deterrence, whereby a fixed fine (e.g., 1000 RMB) may constitute a significant sanction in a low-income area but be perceived as a negligible cost in a wealthy one, thereby undermining the penalty's preventive function.

Comparative legal studies offer instructive models of mature penalty gradient systems. Jin examines Germany's dualistic approach, which rigorously distinguishes minor regulatory contraventions from criminal offenses. This model predominantly employs fines for regulatory breaches, reserving custodial measures for the criminal domain, thereby establishing a clear and principled gradient between minor and serious misconduct. South Korea's Minor Offenses Punishment Act (2018) implements an even more restrictive regime concerning liberty deprivation. It stipulates that detention should be a measure of last resort, applicable only when fines are demonstrably unenforceable (e.g., due to the offender's indigence), and mandates prior judicial approval for any detention order. This institutionalized judicial oversight correlates with a markedly lower detention rate for minor offenses—reportedly below 5% in South Korea, starkly contrasting with China's estimated 60%.

The United States' Model Penal Code (MPC) provides another salient reference point with its explicit, multi-tiered classification of offenses into felonies, misdemeanors, petty offenses, and violations, each associated with defined statutory maximum penalties. This structured gradation serves to curtail judicial and prosecutorial discretion, ensuring a calibrated alignment between the severity of the offense and the severity of the sanction. Furthermore, many U.S. jurisdictions institutionalize dynamic fine adjustment; California, for instance, annually calibrates specific traffic fines based on statewide median income data, ensuring ongoing proportionality across diverse economic contexts.

Notwithstanding the valuable insights from these comparative analyses, a significant gap persists: no study has yet undertaken a systematic and critical adaptation of these best practices to the specific institutional and legal context of the 2025 PSAPL. Crucial questions remain largely unaddressed. For example, how might the core principles of South Korea's judicial review model be viably integrated within China's distinct administrative law tradition? What would be the feasible legislative mechanics for embedding a U.S.-style dynamic fine adjustment mechanism into the PSAPL? The existing literature offers scant guidance on these context-specific implementation challenges.

2.1.3 The judicialization of administrative detention

A growing segment of Chinese legal scholarship advocates for enhanced procedural safeguards concerning administrative detention, emphasizing its gravity as a sanction that deprives individuals of personal liberty. Guo presents a critical argument that China's prevailing system—wherein public security organs wield the combined powers of investigation, accusation, and adjudication in detention cases—creates an inherent "structural conflict of interest," predisposing the system to potential overuse or abuse. He suggests that grassroots police units, often operating under performance pressures linked to crime rate statistics, may perceive detention as an expedient case-disposition tool, thereby overshadowing the consideration of less restrictive, but potentially more resource-intensive, alternatives like warnings or community-based corrections. Huang amplifies this concern, explicitly proposing a shift towards a "judicial review" model. Under this proposed framework, a detention decision imposed by a public security organ would require *ex ante* authorization from a basic-level people's court. Huang grounds this proposal in the fundamental rule-of-

law axiom that "any deprivation of personal liberty must be subject to independent judicial scrutiny."

A notable shortcoming in this otherwise compelling body of reform-oriented scholarship, however, is the absence of robust empirical analysis regarding the potential operational impacts and practical feasibility of such a significant procedural transformation within the Chinese context. Critical questions remain empirically unexamined: To what extent would the introduction of mandatory judicial review actually reduce detention application rates? What specific operational, resource, or cultural challenges might public security organs and courts encounter during implementation? These are questions which may not have been enough as yet, even with well thought out proposals for reform, because there are no empirical evidence from the post implementation phase to support them.

All of these strands of literature do point to a growing consensus as to the need to recalibrate the relationship between administrative efficiency, discretionary authority and procedural protection within the PSAPL framework, and also indicates the continued lack of large-scale empirical assessment of the normative theory in relation to actual performance in practice.

2.2 Theoretical framework: Proportionality and penalty gradient adaptation

This study develops an integrated theoretical framework to evaluate penalty gradient adaptation by synthesizing the three-tier proportionality test with a functional analysis of the core objectives of administrative penalties—namely, prevention, correction, and the balancing of public and private interests. This framework posits that a rationally structured penalty hierarchy must satisfy both the formal requirements of proportionality and the substantive goals of the sanctioning system.

The proportionality framework used in this study is meant to be more of an analytical and evaluative framework as opposed to merely a mechanically determinative test that could result in automatic conclusions as to the legality or legitimacy of the PSAPL in its entirety. The model is thus used in a careful and contextual manner. The results of the disproportionality are based on the interplay between statutory design, empirical pattern of enforcement and comparative institutional analysis rather than solely on the abstract theoretical assumptions. In this regard, where evidence available shows the recurring tendencies (such as the sustained predominance of administrative detention or the limited practical application of warnings), the study interprets such tendencies as indicators that may suggest tension with the proportionality requirements, although acknowledging that the results of enforcement may also be influenced by other institutional, regional, and operational factors not fully measurable within the current dataset.

The categories of analysis discussed below should thus be interpreted not as some determinate markers which clearly and unambiguously indicate a violation of proportionality in any one case. In illustration, the presence of parallel penalty clauses or high rates of detention do not necessarily imply disproportionality in individual cases; instead, such results may point to structural conditions which need to be further subjected to doctrinal and empirical auditing. On the same note, the references to other jurisdictions like South Korea and the United States are not used to imply that there is a direct similarity between the Chinese legal system and these other jurisdictions but rather to help shed some light on the alternative ways of balancing administrative efficiency, deterrence, and procedural protection. This more circumspect use of the framework is aimed at making sure theoretical analysis is closely linked with demonstrable legal texts and valid enforcement patterns.

Table 1 delineates the proposed normative positioning of each primary penalty measure under the 2025 PSAPL, mapping their alignment with proportionality requirements and functional goals.

Table 1. Theoretical framework for penalty gradient adaptation.

Penalty Type	Functional Positioning	Proportionality Requirements	Expected Application Scope
Warning (Reprimand)	Serves educational and declarative functions; aims to guide conduct and affirm normative boundaries without material deprivation of rights.	• Suitability: Effective for deterring and correcting minor infractions with minimal social harm. • Necessity: Constitutes the least intrusive measure. • Strict Proportionality: Imposes a negligible burden on the offender relative to the public interest in norm affirmation.	Initial, non-recurrent offenses involving negligible social harm or culpability (e.g., certain minor traffic infractions, unintentional public nuisance).
Fine (Property Penalty)	Imposes a moderate economic sanction to internalize the cost of unlawful conduct and provide tangible deterrence.	• Suitability: Appropriate for addressing offenses with moderate social harm. • Necessity: Justified only where a warning is demonstrably insufficient to achieve the legislative purpose. • Strict Proportionality: The monetary amount must be commensurate with the harm caused and the offender's economic capacity, often requiring regional adjustment mechanisms.	Offenses involving intentional conduct or resulting in tangible but limited harm (e.g., petty theft below a defined value threshold, deliberate minor property damage).
Administrative Detention (Liberty Penalty)	A severe, coercive measure for temporary isolation; reserved for cases necessitating immediate harm prevention or where lesser sanctions have failed.	• Suitability: Applicable only to behaviors posing a serious threat to public order or safety. • Necessity: Deployed strictly as a last resort when neither warnings nor fines are viable or effective. • Strict Proportionality: The significant liberty deprivation must be outweighed by a compelling public interest and fortified with rigorous procedural safeguards.	Serious offenses involving violence, repeat violations post-non-custodial sanctions, or situations presenting a clear and immediate danger (e.g., assault causing minor injury, persistent disorderly conduct).

The framework defines a "well-adapted" penalty gradient by two constitutive elements:

1. Sequential application priority: A strong presumption in favor of applying penalties in an ascending order of severity. Warnings should be the primary response to minor offenses, fines should follow when warnings are inadequate, and detention must be reserved as an ultima ratio (last resort) measure.

2. Clarity and consistency in substitution benchmarks: Where the law permits interchangeability between fines and detention (e.g., as equivalent sanctions for the same offense), the conversion standard (e.g., the monetary equivalent per day of detention) must be statutorily defined, uniform, and reflect a reasonable valuation of personal liberty.

Notable failures to comply with these conditions could, under this rubric, have indicated possible inconsistency with the proportionality principle and have suggested structural weakness in the current gradient design, where such deviations were repeatedly manifested in practice in the enforcement of the law.

3. Methodology

3.1 Research design

To ensure analytical rigor and comprehensive insight, this study adopts a mixed-methods research design, integrating normative legal analysis, empirical quantitative analysis, and comparative legal analysis^{12,13}. This methodological triangulation facilitates cross-validation of findings: the normative analysis identifies textual and structural deficiencies within the law, the empirical analysis tests the real-world manifestations and scale of these deficiencies, and the comparative analysis generates contextually informed reform proposals.

The research design comprises three sequential yet interrelated components:

1. Normative legal analysis: This component entails a systematic, clause-by-clause comparative analysis of the 2012 and 2025 versions of the PSAPL to identify continuities and changes in penalty gradient configuration¹⁴. Key variables for analysis include:

The legislative frequency and contextual placement of clauses prescribing warnings, fines, and administrative detention.

The prevalence of "parallel alternative" penalty clauses (e.g., "warning or fine," "detention or fine") that fail to establish a sequential hierarchy.

The implied statutory substitution ratio between fines and detention, calculated for relevant clauses as the maximum fine amount ÷ maximum detention days.

2. Empirical quantitative analysis: This component leverages large-scale, longitudinal data from the PKULAW database—a leading authoritative repository for administrative enforcement cases in China—to examine actual trends in penalty application. The final analytical dataset encompasses 11,413,297 public security penalty decisions issued between January 1, 2010, and June 30, 2025, providing comprehensive coverage across all 31 provincial-level administrative divisions in mainland China.

3. Comparative legal analysis: This component conducts a structured review of penalty gradient models in select jurisdictions (South Korea and the United States) to distill potentially adaptable institutional features. The analysis evaluates foreign models based on three criteria: their demonstrable compliance with the proportionality principle, the robustness of procedural safeguards for personal liberty, and their potential for functional adaptation to China's specific legal-institutional context.

The empirical part of the research was developed based on a structured data collection and coding plan developed before starting substantive analysis. The protocol outlined the source of databases, search terms, inclusion and exclusion criteria, coding categories and verification procedures applied during the study. Since the study involves the combination of normative legal categories with the operational classification of the enforcement data, specific focus was given on ensuring consistency between normative legal categories and the operational classification of the enforcement data. Coded procedures and extra technical specifications can thus be included in an appendix or additional methodological note to enable external review and subsequent replication.

¹² CRESWELL, J. W. *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, 6th ed. Sage Publications. 2022. Available at: <https://us.sagepub.com/en-us/nam/research-design/book270550> (accessed on 11 May 2026).

¹³ ALEJANDRO, A., and ZHAO, L. "Multi-method qualitative text and discourse analysis: A methodological framework". *Qualitative Inquiry*, v. 30, n. 6, 2023, pp. 461-473. <https://doi.org/10.1177/10778004231184421>

¹⁴ REN, Y., YANG, W., and LI, W. "Alignment between China's elderly care policies and the integrated theory of social gerontology: A text analysis from 2000 to 2025". *Sustainability*, v. 18, n. 4, 2026, pp. 2017. <https://doi.org/10.3390/su18042017>

3.2 Data collection and sampling

3.2.1 Data source

The PKULAW database was selected as the primary data source based on three principal considerations: (1) its authoritative nature, as all decisions are authenticated by official public security organs and judicial institutions, ensuring data validity and reliability; (2) its comprehensive coverage, which includes cases from public security organs at all administrative levels (provincial, municipal, and county), thereby enabling robust analysis of regional disparities; and (3) its detailed granularity, as each case record contains structured variables critical for analysis, including penalty type, specific offense category, enforcing agency, and basic offender demographics (e.g., age, gender).

Variable construction, ambiguous cases, and coding validation: The empirical dataset was sampled using the PKULAW administrative enforcement database, through a systematic search procedure that includes search keywords and statute-based search procedures in July-September 2025. The search protocol was a combination of statutory references to the punishment law of the Public Security Administration Punishment Law and penalty-related terms such as; warning, fine, administrative detention, combined penalty, and public security punishment decision. Searches were limited to officially published administrative penalty decisions of public security organs between January 1, 2010 and June 30, 2025. Records with discernible penalty consequences and binding decisions were the only records applied in the preliminary dataset.

Each decision was classified into one of five mutually exclusive categories, depending on how it was decided: (1) warning-only; (2) fine-only; (3) administrative detention-only; (4) administrative detention and fine; and (5) other/legally distinct/other combinations of sanctions, if any. The "detention plus fine" outcome category was the only category where a decision was recorded and it was not recorded in "fine only" or "detention only" outcome categories simultaneously. This means that the categories of outcomes are mutually exclusive and the sum of all the mutually exclusive categories equals the number of classified decisions taken for each distributional analysis.

Also, two separate non-mutually-exclusive indicator variables were created for analyses of the presence of a given sanction in the final disposition. The variable, if included fine, was coded as 1 if the decision contained a fine – alone and/or other sanctions – or was coded as 0 if it did not contain a fine. The variable detention was included was coded 1 if it was decided to have detention (alone or with other decisions) and 0 if it was not. The mutually exclusive final-outcome variable was analyzed separately from these indicator variables and they were not included in the final-outcome distribution nor were they reported as part of the final outcome distribution. This distinction rule avoids double counting of cases in the same denominator in statistical analysis.

The coding manual laid out the guidelines for coding suspended/delayed detention, multiple offenses within one decision, various sanctions for the same offence, and/or the narrative and the dispositive parts of the record being inconsistent or unclear. For cases with detention and a fine, the final combined disposition of the case was used to code the cases. If the final disposition could not be reliably determined, the final disposition information was marked as ambiguous, and was not used in the analyses for the sanctions.

The coding manual contained a number of prescriptive rules for coding suspended or delayed detention, multiple offences in a single decision, multiple sanctions for a single offence and where the narrative coding and final dispositive section did not agree or lacked clarity. All decisions with detention and a fine were considered together and not separately in mutually exclusive outcome categories. If it was

unclear from the decision text what the final ruling was, the record was categorized as ambiguous and not included in analyses of the final ruling.

To ensure uniformity in classification, a structured decision-making process was adopted that was based on statutory language and the disposition that was recorded in each administration penalty decision. The definition of variables, rules of classification, rules for handling ambiguous cases, and examples of difficult classifications are included in Appendix (Table A1).

3.2.2 Sampling, data cleaning, and sample audit

The first export of the database had 13,892,541 records. The cleaning criteria were used one after the other, thus eliminating each record only once. First, the unique decision identifiers and supplementary matching of issuing authority, decision date, party information and disposition text were used to identify duplicate records, 1,245,689 in total. This reduced the number of records in this dataset to 12,646,852. Second, 1,233,555 records in the remaining data set were deleted because they were missing a one or more essential analytical attribute such as the final sanction, decision date, or enforcing authority, and resulted in a data set of 11,413,297 records. Third, 1,028,622 decisions were later appealed and rescinded either through administrative reconsideration or administrative litigation or another process for which a written determination was made. Thus the final Analytical Sample was 10,384,675 valid records.

Exclusion categories were not overlapping as they were applied in a predetermined order. The first exclusion stage to which a record was assigned for more than one exclusion condition was the only one that considered the record; the following exclusion stages did not consider the record. A unique identifier, the exclusion stage, the reason for the exclusion and the number of observations after each exclusion is recorded in the cleaning log. In the study all descriptive results, distributions for the sanctions, comparisons to regional levels, cross-tabulations and trend analyses are re-calculated on the basis of the verified final sample of 10,384,675 records.

The rules for the automatic data-cleaning process included pre-established guidelines on exclusion of duplicate records, missing analytical data, and formally withdrawn decisions. Sequential processing logs were generated for each of the exclusion steps which included a category and number of observations excluded. All data cleaning criteria were predetermined, and the final analytical data set was obtained only after they were applied. The cleaning procedure, exclusion logic and the audit trail is documented in the supplementary methodological materials. A summary of the sequential data-cleaning process and the number of records removed at each step is given in Table 2.

Table 2. Sequential data-cleaning audit trail.

Stage	Exclusion at stage	Records remaining
Initial database export	—	13,892,541
Duplicate removal	1,245,689	12,646,852
Missing critical variables	1,233,555	11,413,297
Revoked decisions	1,028,622	10,384,675

To enhance reliability, a multi-stage check procedure was engaged in undertaking data cleaning as well as coding. To limit the ambiguity in classification, the coding framework was created with detailed rules for each category to be sanctioned, for sanctions to be combined, for unclear dispositions, and for excluded ambiguous cases.

3.2.3 Data limitations and disclosure bias

Although the PKULAW database is one of the most comprehensive databases of administrative penalty decisions in China that are publicly available, it is not without its limitations. The extent of digitisation and local publication policies, as well as regional practices in disclosure, could cause a differential in the representation of administrative decisions by periods and provinces. For this reason, the statistical data presented in this study could be used as a benchmark to identify trends in national enforcement observed during the study period, but are not meant to reflect the totality of administrative punishment activities undertaken. To reduce potential bias, duplicate records, incomplete decisions and revoked cases were systematically excluded from analysis; and the results were analyzed by proportional distributions and longitudinal trends rather than relying exclusively on the number of cases. In addition, regional differences were taken with a grain of caution, taking into account the wider socio-economic and population contexts, as well as local public security issues. These allow the analysis to be more robust, but also recognise that there is always a level of disclosure bias in large-scale administrative data sets.

3.3 Data analysis techniques

3.3.1 Normative text analysis

The full texts of the 2012 and 2025 PSAPL were imported into NVivo 12 software for systematic qualitative and quantitative coding. For each penalty type (warning, fine, detention), the following metrics were calculated:

Absolute and relative frequency: The total count and the proportional percentage of clauses referencing each penalty type relative to all penalty-related clauses.

Parallel clause ratio: The proportion of penalty clauses that frame sanctions as parallel, discretionary alternatives (e.g., "warning or fine") rather than hierarchically ordered options.

Implied daily substitution rate: For clauses explicitly permitting interchangeability between fines and detention, the ratio of the statutory maximum fine to the statutory maximum detention period was computed (e.g., a 1000 RMB fine substitutable for 5 days of detention implies a rate of 200 RMB/day). This metric serves as a key indicator of the consistency and rationality of the legislative valuation of personal liberty relative to property.

3.3.2 Empirical data analysis

The empirical dataset was analyzed using SPSS 26.0, employing a suite of statistical techniques:

1. Descriptive statistics: Generated annual and aggregate counts and proportions for the application of warnings, fines, and administrative detention to visualize macro-level trends over the 15.5-year period. Regional disparities were investigated by comparing penalty application ratios across different tiers of public security organs (provincial, municipal, county).

2. Descriptive historical trend analysis: Changes in the application of sanctions during the study period were summarized by plotting the annual counts and percentages. For indexed administrative detention decisions, the annual value was plotted, and the association between calendar year and administrative detention for each year was simply summarized using an ordinary least-squares linear trend. The reported R^2 value is only for goodness of fit within the sample observed. There were no values estimated outside of the observation period and enforcement patterns after the amended PSAPL is not included in the analysis.

Historical fitted relationship should be used with some caution since it may be affected by autocorrelation, non-stationarity, changes in regional disclosure practices,

changes in the coverage of the database, policy interventions, and institutional structure breaks. Of particular concern is the change to the PSAPL from 1 January 2026, which could impact the quantity and nature of decisions published and enforcement actions taken. As a result, the historical trend is only used to help describe the available pre-implementation data and to make no inference about post-implementation results.

3. Cross-tabulation analysis: Contingency tables were constructed to examine the relationship between offense categories (e.g., public order disturbances, property crimes, violent offenses) and the imposed penalty types. This analysis aimed to identify potential patterns of disproportionate punishment, such as a systematic over-reliance on detention for specific offense types.

3.3.3 Comparative legal analysis

A structured comparative matrix was developed to systematically evaluate the penalty gradient models of South Korea and the United States. The matrix assessed four critical dimensions: (1) the logical structure of the penalty hierarchy, (2) procedural safeguards governing deprivation of liberty, (3) mechanisms for dynamic adjustment of fines, and (4) overall coherence with the proportionality principle. For each dimension, the strengths and limitations of each foreign model were critically appraised, leading to the derivation of tailored, context-sensitive recommendations for potential adaptation within the framework of the PSAPL.

There are also a number of methodological flaws of large-scale legal data sets that must be considered. The administrative enforcement databases could include inconsistencies in reporting between regions, uneven digitization processes or the descriptive terminology used by the various public security bodies. Thus, the interpretation of statistical results was done prudently and cross-referenced, where feasible, with doctrinal analysis and cross-referenced comparative legal materials. The empirical analysis is employed to discover the patterns of recurrence of enforcement tendencies which could be considered to be warranting further doctrinal and institutional scrutiny under the proportionality paradigm.

3.4 Ethical considerations

This research was conducted in strict adherence to established ethical standards for academic research. The dataset utilized consists exclusively of anonymized, publicly available legal documents from the PKULAW database. All records were scrubbed of personally identifiable information (PII)—such as full names, national identification numbers, and specific addresses—prior to their public availability. Consequently, the study involves no direct interaction with human subjects, rendering considerations of informed consent and confidentiality non-applicable. This approach aligns with the provisions of China's Personal Information Protection Law (2021), particularly Article 13 concerning the processing of anonymized data, and is consistent with the ethical principles outlined in the Declaration of Helsinki for research based on publicly available data.

3.5 Data, code, and replication materials

The underlying issues of administrative penalties were located in the institution's licensed subscription to PKULAW, the full-text of administrative penalties. The decision texts are not to be redistributed in the public domain as they are still subject to conditions of the database license, copyright and to legal requirements. These restrictions are for the source documents, and do not bar disclosure of derivative research materials required to assess processing and analytical procedures performed on the source documents.

Administrative penalty cases in this study were derived from the PKULAW

database that is licensed by the institution. To preserve the database license, copyright and other legal restrictions, the original decision texts cannot be distributed publicly. The restrictions do not preclude disclosure of derivative materials required to consider the analytical procedures, but rather apply to the source materials.

The variable dictionary, coding manual, data-cleaning procedures, analytical scripts, aggregated results, and documentation files will be made available in a replication package (institutional and database license information will apply). Authors will supply non-identifying source derived materials and documentation that would be essential to follow the analytical process in the absence of direct public deposition of source materials. The corresponding author can be contacted for any requests concerning materials to be replicated.

The replication package also includes the date of the extraction of the database, the search conditions, the constraints that were enforced by statute, the criteria for including or excluding and the methods used to standardise variables for region and time. Subject to the licence of the PKULAW, researchers wishing to view the original source decisions must make their own independent access to it via the PKULAW or through an authorised subscribing institution. Such materials will be used in conjunction with the deposit in public repository or institutional archiving, which may occur in the future in accordance with the law.

4. Findings

The results provided in this section are divided into three layers of analysis (1) descriptive empirical observations based on the PKULAW data and statutory coding procedure, (2) interpretive analysis with regard to the potential implications of the results on the penalty-gradient consistency and enforcement practice, and (3) limited normative assessment, performed through the proportionality framework as described in Section 2.2. To maintain an analytic clarity, statistical observations are separated as far as possible, in general legal interpretations. Otherwise indicated, the quantitative figures below are based on the cleaned data described in Section 3.2 as well as calculated using the coding procedures described in Section 3.3. The trends reported should thus be interpreted as indicators of observable patterns of enforcement in the available data and not as a result of systemic illegality or as a consistent practice by the entire nation.

4.1 Normative flaws in the 2025 PSAPL's penalty gradient design

4.1.1 Ambiguous normative positioning of warnings

These observations are made based on the NVivo-assisted coding of statutory clauses in the both 2012 and 2025 PSAPL texts, as outlined in Section 3.3.1. The frequencies of clauses and structure of penalties were determined by systematic textual classification instead of subjective impressionistic assessment. However, since the language of writing a legislative draft sometimes encompasses overlapping conceptualizations of penalty, certain categorizations involve necessarily the exercise of an interpretive judgment as to the dominant functional character of a provision.

While the 2025 PSAPL exhibits a quantitative increase in clauses referencing warnings—rising from 15 (2012 version) to 22, representing a 46.7% increase (Table 2)—this nominal expansion belies a persistent structural flaw. The law continues to position warnings as direct, parallel alternatives to fines and, in certain instances, detention, thereby undermining their intended function as the most lenient, education-oriented sanction.

The analysis reveals several critical deficiencies:

Proliferation of "Warning or Fine" Clauses: A significant portion (59.1%, or 13 clauses) of warning-related provisions frame warnings and fines as interchangeable sanctions. Among these, 10 clauses (76.9%) specify "warning or a fine not exceeding

500 RMB," while 3 clauses (23.1%) allow for "warning or a fine not exceeding 1000 RMB" for offenses of comparable severity. For instance, Article 52 (minor fraud involving forged documents) and Article 57 (illegal housing rental without registration) employ these parallel structures for analogous minor infractions. This legislative equation of a non-property sanction (warning) with a property penalty (fine) contravenes the suitability test of the proportionality principle, as they serve fundamentally different purposes: education versus economic deprivation.

Absence of Defined Application Benchmarks: The 2025 PSAPL provides no objective criteria to guide the discretionary choice between warnings and other penalties. Vague qualifiers like "relatively minor circumstances" remain unquantified. For example, Article 26's reference to "minor affray" lacks specification regarding the absence of physical injury, first-time offender status, or the level of financial harm constituting "minor." This ambiguity fosters inconsistent application, empirically evidenced by stark regional disparities: in 2022, county-level agencies applied warnings in merely 5.3% of eligible cases, compared to 27.4% at the municipal level¹⁵.

Persistent Marginalization in Enforcement: The legislative increase in warning clauses has not translated into meaningful practical application¹⁶. From 2010 to the first half of 2025, warnings constituted an average of only 3.2% of all penalties, peaking temporarily at 5.1% (43,957 cases) in 2022—likely a result of a specific national policy emphasizing leniency—before declining to 4.8% in 2023¹⁷. This indicates that structural and cultural barriers, rather than legislative opportunity, continue to limit the use of warnings¹⁸. Table 3 shows the comparative changes in the configurations of penalty clauses between the PSAPL 2012 and PSAPL 2025¹⁹.

Table 3. Comparative analysis of penalty clause.

Configuration Type	2012 PSAPL (Frequency, %)	2025 PSAPL (Frequency, %)	Change (Percentage Points)
Warning Mentions	15 (12.2%)	22 (13.5%)	+1.3
Fine Mentions	111 (89.7%)	137 (84.0%)	-5.7
Administrative Detention Mentions	107 (86.3%)	163 (99.4%)	+13.1
"Warning or Fine" Clauses	7 (5.7%)	13 (7.9%)	+2.2
"Warning or Detention" Clauses	2 (1.6%)	2 (1.2%)	-0.4
"Detention or Fine"	21 (17.0%)	31 (19.0%)	+2.0

¹⁵ PKULAW, *Public Security Administrative Penalty Decision Database (2010–first half of 2025)* [Dataset] (Beijing: Peking University Law Information House). 2025. Ibid.

¹⁶ PLEGGENKUHLE, B., KRAS, K. R., SCHAFER, J. A., and HUEBNER, B. M. "Leadership and reform: How law enforcement leaders view rehabilitation and the reduction of collateral harms". *Justice Evaluation Journal*, 2026, pp. 1-21. <https://doi.org/10.1080/24751979.2026.2717604>

¹⁷ KELSALL, J., TAN, X., BERGIN, A., CHEN, J. H., WAHEED, M., SORELL, Y., PROCTER, R., LIAKATA, M., CHIM, J., and CHI, S. "A rapid evidence review of evaluation techniques for large language models in legal use cases: Trends, gaps, and recommendations for future research". *AI & Society*, v. 41, 2026, pp. 4025-4043. <https://doi.org/10.1007/s00146-025-02741-9>

¹⁸ Villarreal, M., MacPherson-Krutzky, C., and Painter, M. A. "Barriers and best practices for inclusive emergency alerts and warnings". *International Journal of Disaster Risk Reduction*, v. 125, 2025, pp. 105581. <https://doi.org/10.1016/j.ijdr.2025.105581>

¹⁹ SHORT, J. L., and TOFFEL, M. W. "Making self-regulation more than merely symbolic: The critical role of the legal environment". *Administrative Science Quarterly*, v. 55, n. 3, 2010, pp. 361. <https://doi.org/10.2189/asqu.2010.55.3.361>

Configuration Type	2012 PSAPL (Frequency, %)	2025 PSAPL (Frequency, %)	Change (Percentage Points)
Clauses			

Configuration in the 2012 and 2025 PSAPL.

Source: Author's coding of 2012 and 2025 PSAPL texts using NVivo 12.

4.1.2 Disparate standards for fine-detention substitution

In this study a provision's maximum fine is divided by its maximum period of detention, and it is used as an exploratory textural index only. It's not a prescribed rate of conversion, and isn't an expression of the direct commensurability of monetary deprivation and deprivation of liberty. Only calculated where same statutory provision offers a fine and detention as alternative or associated responses. The differences in the resulting value does not mean that the provisions are necessarily treated differently, but it does not mean that the treatment of these provisions is arbitrary or disproportionate without a detailed analysis of relevant conduct, harm, culpability and legislative purpose.

The differences that have been determined above are to be taken with a grain of salt. The presence of the differing implied substitution ratios does not by itself prove that the PSAPL is functioning in a completely arbitrary fashion, since lawmakers may have had policy issues of an offence-specific nature, which cannot be readily seen in statutory text alone. But the noted inconsistencies do suggest the lack of a clearly stated and unanimously executed legislative standard of reference in relation to the valuation relationship between property penalties and liberty restrictions. These results in the proportionality framework used in this study thus indicate possible structural strain instead of an incontrovertible lack of proportionality in all instances of enforcement.

Key findings include:

Substantial Variation in Implied Daily Rates: The implied daily rate (maximum fine ÷ maximum detention days) for a 5-day detention period now ranges from 200 RMB/day (Article 28: fine ≤ 1000 RMB) to 1000 RMB/day (Article 48: fine ≤ 5000 RMB)—a fivefold differential. This disparity is not rationally linked to a commensurate difference in the social harm of the offenses, such as disrupting a cultural event versus illegal wildlife trading.

Vertical Incoherence in the Penalty Hierarchy: The logical link between offense severity and penalty intensity is undermined by clauses where more severe offenses (punishable by 5–10 days detention) carry lower maximum fines than less severe ones (punishable by ≤5 days detention). For example, the serious offense of illegal possession of explosives (Article 30) has a maximum fine of 1000 RMB, whereas the less serious offense of illegal wildlife trading (Article 48) allows a 5000 RMB fine. This inversion creates confusion and undermines legal predictability.

Systemic Incoherence with Broader Legal Framework: The disparate substitution ratios within the PSAPL conflict with the more consistent standards found in other administrative laws, such as China's Anti-Drug Law,^{20,21,22} which uses a standard of approximately 100 RMB/day. This lack of harmony across the legal system challenges

²⁰ Anti-Drug Law of the People's Republic of China (2021). Available at: https://english.court.gov.cn/2015-07/17/c_761568_8.htm?utm_source=chatgpt.com (accessed on 11 May 2026).

²¹ BALA, N. "Developmental evidence rules". *California Law Review*. (forthcoming 2027). <http://dx.doi.org/10.2139/ssrn.6132146>

²² JIANG, C. X. "Beyond the 'one-size-fits-all' model: Reassessing securities litigation reform through comparative institutional complementarity". *UCL Discovery*, 2025. Available at: https://discovery.ucl.ac.uk/id/eprint/10217465/13/Jiang_10217465_thesis_id_removed.pdf (accessed on 20 July 2026).

coherent law enforcement. Table 4 provides a summary of the fine–detention substitution standards, which are not defined explicitly in the PSAPL, but which are implied by the levels of specific substitutions that are permitted within the main–body standards.

Table 4. Disparate fine-detention substitution standards in the 2025 PSAPL.

Detention Period	Fine Range (RMB)	Number of Clauses	Implied Daily Rate (RMB/day)	Example Article
≤5 days	≤1000	20	≤200	28, 29, 40
≤5 days	1000–2000	2	200–400	79, 87
≤5 days	1000–3000	2	200–600	70, 80
≤5 days	≤3000	2	≤600	55, 69
≤5 days	≤5000	1	≤1000	48

Source: Author's analysis of 2025 PSAPL using NVivo 12.

4.1.3 Insufficient procedural safeguards for administrative detention

The 2025 PSAPL's limited procedural enhancements, such as mandatory hearings for juveniles (Article 117), fall short of establishing the comprehensive safeguards necessary to prevent arbitrary deprivation of liberty for adult offenders.

Significant gaps persist:

Lack of ex ante judicial review: The system retains the problematic model where public security organs unilaterally impose detention. Ex post facto appeals through administrative reconsideration or litigation are ineffective, with grassroots courts rejecting fewer than 10% of such appeals, indicating a "rubber-stamping" effect that fails to provide substantive oversight²³.

Restricted hearing rights: The limitation of mandatory hearings to juvenile cases excludes the vast majority of adult offenders. The discretionary nature of hearings for adults, combined with a lack of awareness and institutional discouragement, renders this safeguard largely theoretical. Even when convened, hearings often lack essential adversarial elements like legal representation.

Inconsistent implementation of protective provisions: While Article 23 prohibits detention for specific vulnerable groups, implementation is inconsistent. A 2023 Jiangsu Province study found that 1.3% of eligible minors were still detained, partly due to inadequate age verification protocols, with only 48% of agencies routinely consulting the national population database.

4.2 Empirical trends in penalty application (2010–first half of 2025)

The statistical patterns presented in this section are based on the cleaned PKULAW dataset of 11,413,297 administrative penalty records, after the exclusion procedures as described in Section 3.2.2. Annual percentages were computed based on the total number of valid PSAPL penalty decisions made each respective year unless otherwise specified. In this section, the statistical patterns used are derived from the cleaned up PKULAW analytical data as described in Section 3.2.2. Unless otherwise specified, the number of valid PSAPL penalty decisions counted in each year were used to calculate annual percentages. The descriptive historical trend analysis and Comparative Regional calculation was done using SPSS 26.0 according to section 3.3.2. Database coverage, digitisation and disclosure may not be complete for all periods and jurisdictions and results should be interpreted as patterns found

²³ Meßerschmidt, K. *Special interest legislation and legislative capture*. In: Oliver-Lalana, A. (eds) *Conceptions and Misconceptions of Legislation*. Legisprudence Library, Springer, Cham. V. 5, 2019. https://doi.org/10.1007/978-3-030-12068-9_10

in the data available to the project, and not as a complete measure of all national enforcement activity.

4.2.1 Dominance of administrative detention

Administrative detention remains the predominant penalty, characterized by three key trends:

1. High and rising application rates: Detention cases grew from 320,456 in 2010 to a peak of 984,924 in 2023. As a proportion of total penalties, detention consistently accounted for over 60%, far exceeding fines (22–30%) and warnings (<5%).

2. Pronounced regional disparities: County-level agencies, handling the bulk of cases, rely most heavily on detention, accounting for 63.8% of all detention cases from 2010 to H1 2025. This reflects greater pressure for expedient case resolution at the grassroots level.

3. Historical direction of the observed series: Count of the indexed administrative detention decisions rose throughout much of the period, but there is some fluctuation from year to year. The in-sample linear fit is a summary of the association between calendar year and the observed detention series in the past. Is not extrapolated beyond what has been observed and does not give any estimate of enforcement practices after the implementation of the amended PSAPL. Figure 1 shows the temporal evolution of warnings, fines and administrative detention from 2010 to 2025. The enforcement measures used were distributed unevenly throughout the study period, with administrative detention the most consistently used measure, and the use of fines and warnings fluctuating in their use. The relative changes of these measures reflect variations in enforcement preferences and penalty configurations over the years. The overall figure gives a longitudinal view of the development of the balance between the use of warning, fine and administrative detention during the study period.

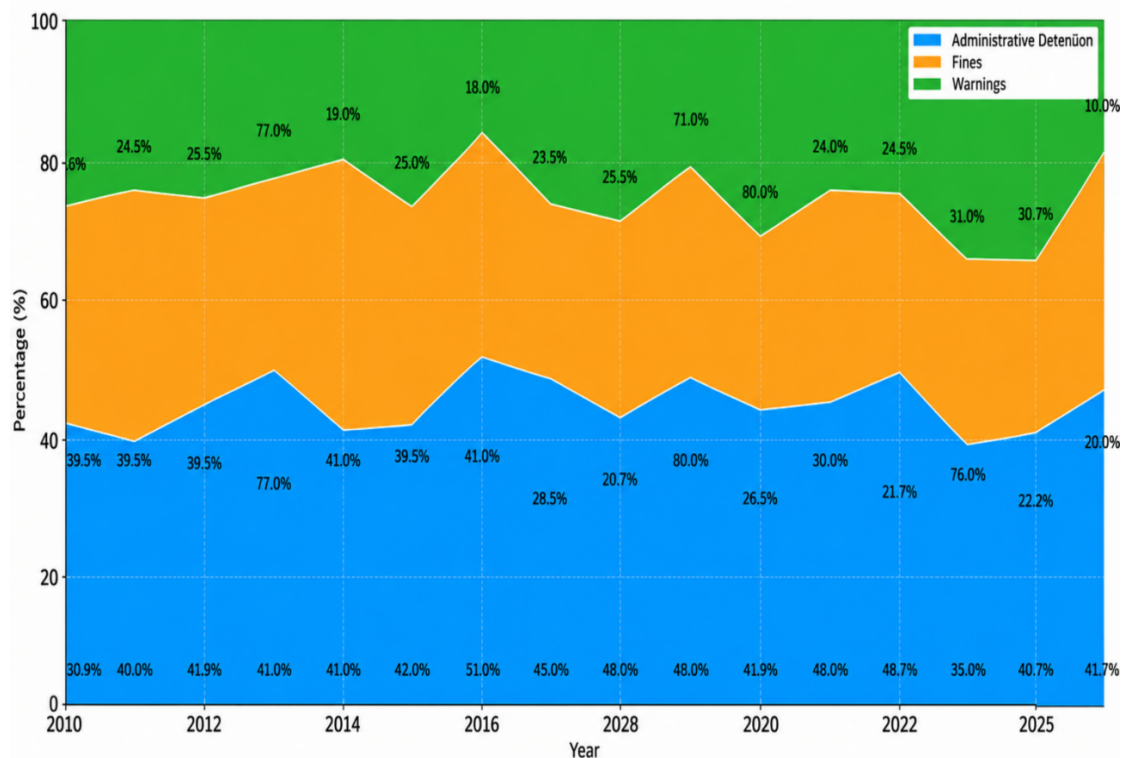


Figure 1. Trend analysis of warning, fine, administrative detention applications (2010-2025).

The cumulative distribution of administrative penalty cases for the various PSB levels between 2010 and the first half of 2025 is shown in Figure 2. The figure shows how the distribution of cases differs across PSB level, showing differences in numbers of applications of administrative penalties and how they build up at each tier of administration. This distribution represents a summary of the patterns of enforcement and the portion of enforcement by each level of PSB during the study period.

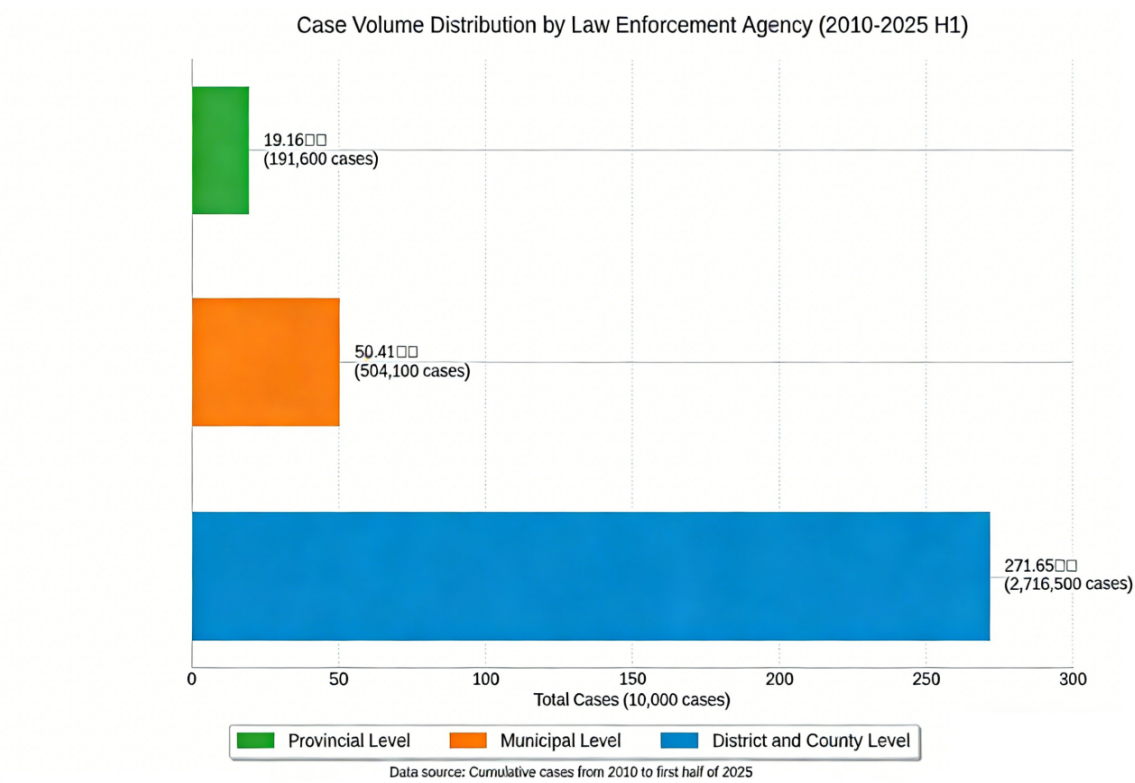


Figure 2. Cumulative distribution of administrative penalty cases by PSB level (2010-H1 2025).

Observed historical values are only reported in Figure 3. The post-study period values are not estimated and there is no justification for inferring the direction of administrative detention once the amended PSAPL comes into force.

The trend of administrative detention decisions and linear fit from 2010 to 2023 are shown in Figure 3. The figure shows the overall trend of administrative detention decisions from year to year and the direction of the trend, the fitted linear trend line provides an indication of the general trend across the observation period. The analysis reflects changes in the application of administrative detention as well as contributes to an assessment of long-term trends in administrative detention practices.

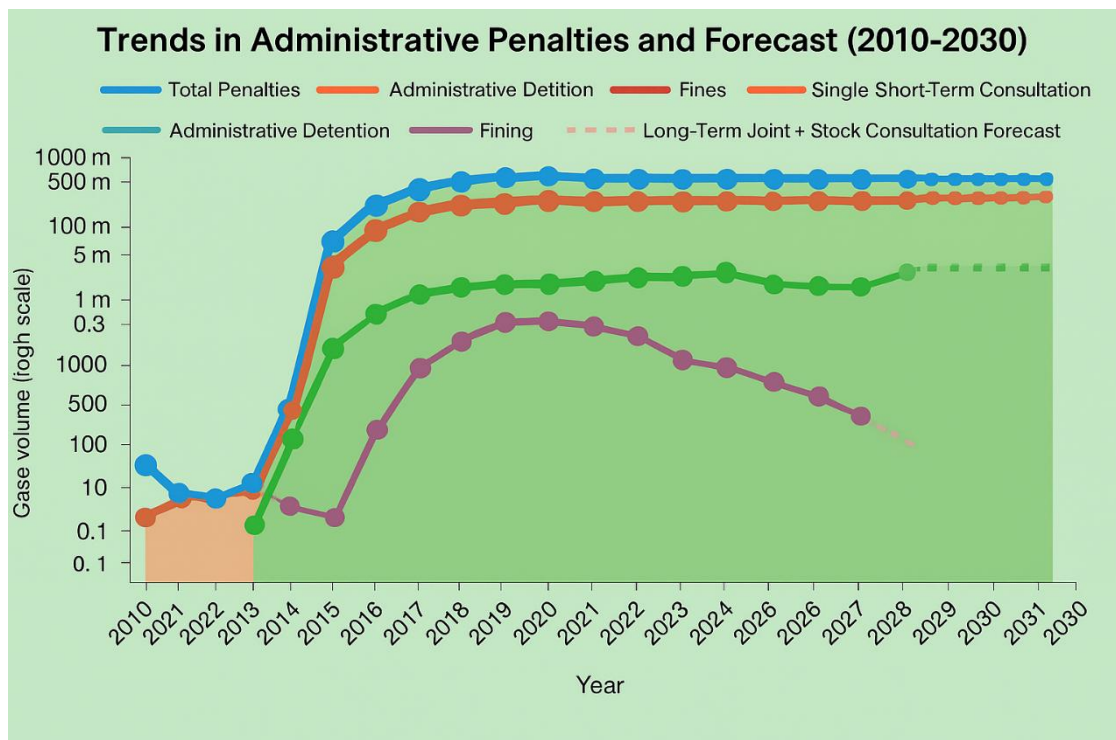


Figure 3. Administrative detention decisions and linear fit within the sample 2010–2023.

The fitted line is a summary of the observed sample of the association between calendar year and indexed detention decisions; markers indicate the actual annual values. The line does not go beyond the period of observation and is not a forecast.

Although the consistently high rate of detention in the dataset is empirically important, one must take caution before making an inference that there is a uniform institutional preference in all the public security organizations to custodial punishment. The data do reflect a consistent aggregate trend, but cannot in isolation pick up all the contextual factors affecting the choice of penalties, including local enforcement priorities, local conditions of public-order, limitations of administrative resources, or informal supervisory pressures. Based on this, the results can support the conclusion that detention plays a structurally dominant role in PSAPL enforcement practice, and broader causal explanations are, in some respects, interpretive and, as such, should be addressed with further qualitative research.

4.2.2 Marginalization of warnings

Empirical data confirms the persistent underuse of warnings despite legislative changes:

1. Persistently low application rate: Warnings averaged just 3.2% of all penalties from 2010 to H1 2025. A temporary peak of 5.1% in 2022, linked to a specific policy campaign, quickly receded, indicating the lack of sustained institutional drivers for their use.

2. Significant regional variation: Warning rates correlate with regional economic development, being higher in wealthy coastal provinces (e.g., Shanghai: 6.3%) than in less developed inland regions (e.g., Gansu: 1.8%). This suggests resource availability and differing enforcement priorities influence their application.

3. Questionable effectiveness: A 2024 survey indicated a 23% recidivism rate within one year for offenders receiving warnings, suggesting that warnings are often applied as mere formalities without complementary educational or monitoring measures to ensure behavioral correction.

4.2.3 Prevalence of "combination penalties"

The frequent use of "combination penalties," particularly "detention + fine," highlights a punitive enforcement bias:

1. Dominance of "Detention + fine": This combination accounted for 42.8% of all combined penalty cases (2010–H1 2025), indicating that fines are often used to supplement, rather than substitute for, detention.
2. Disproportionate severity for minor offenses: The application of "detention + fine" to minor offenses, such as petty theft (62% of cases in a 2023 sample), violates the necessity test, as the cumulative burden exceeds what is required for deterrence.
3. Rationale rooted in punitive deterrence: The explanation used here is based on existing academic research and on publicly available policy analyses and does not include information gathered from interviews by the authors. Therefore, the interpretation should not be considered empirical data, but rather as an explanation built on evidence. This study did not attempt to conduct any interviews or surveys with enforcement personnel.

The fact that combined sanctions are so common could indicate that there is a more general enforcement orientation towards cumulative deterrence policies; but the current data do not allow one to draw definitive conclusions on the subjective motivations of individual enforcement officers or agencies. This means that the analysis will be limited to recognition of repetitive sanctioning patterns that can be observed in the available records, whereas normative evaluation in terms of proportionality are developed independently in the Discussion section.

4.3 Comparative insights from South Korea and the United States

The comparative study conducted in this work is not supposed to imply the fact of the direct equivalence of the foreign legal systems and the Chinese administrative-law system. Instead, the chosen jurisdictions are explored as working models in which to gain insight into the various ways in which legal systems organize proportionality, discretionary control and procedural protections in the framework of minor offences regulation. The analysis thus is not just concerned with the formal statutory provisions, but it is also concerned with the institutional mechanisms that assist in operating the statutory provisions which include judicial oversight mechanisms, administrative review mechanisms, and mechanisms of calibration of enforcement discretion. The issue of transferability is given special consideration, as there are significant challenges for institutional reforms that would be effective in one legal system to be effective in China's context of its constitutional and administrative laws.

4.3.1 Judicial oversight of deprivation of liberty

There is a qualified comparison for South Korea with respect of the institutional treatment of minor offences. The Punishment of Minor Offenses Act provides various penalties for offences listed and the summary-trial process requires a competent court to decide whether the action is a minor offence after it is referred to them by the police. If a person is not satisfied with the summary disposition he or she may seek ordinary trial procedures as provided by the applicable rules. The comparative relevance is in the use of court-centred adjudicative safeguards in the minor-offence process and not through a general rule making detention a fine default mechanism.

The Korean model can't be directly replicated in China. Its procedural operation requires Korean courts to have jurisdiction, it must be based on the Korean legislation on summary trials, it must be based on the load of the Korean institutions, it must be based on the access to ordinary trial review, and it must be based on the specific classification of minor offences. For this reason, this Study outlines the Korean experience as an example of one possible arrangement for introducing external

adjudicative scrutiny and does not suggest that this institutional arrangement could be wholesale transplanted to the PSAPL. The manuscript also does not report a comparative detention percentage when the detention rate in that class of cases cannot be confirmed by official statistics for an equivalent class of cases.

While the ex-ante judicial review system in South Korea serves as an important comparative example for enhancing the procedural safeguards, a direct application of the South Korean system to China's administrative system would pose a number of institutional and constitutional hurdles. The public security organs of the Chinese state have a wide range of executive powers for social control and grassroots courts have to deal with significant judicial workloads. This, in turn, could create an administrative burden by decreasing the efficiency of administration and burden the judiciary with an excessive workload. This study does not recommend a mass reform of the current system, but suggests a step-by-step reform strategy based on the context. Pilot judicial review procedures should be developed for specific types of administrative detention, starting with longer periods, or cases involving vulnerable groups, before extending to a wider scope of cases. This would enhance the procedural safeguards of the administrative enforcement system, while maintaining its efficiency and institutional structure.

4.3.2 Dynamic fine adjustment mechanisms

Two narrower comparative insights are given for the United States. The first is that federal law distinguishes between crimes based on the maximum sentence for imprisonment and petty crimes. The model demonstrates how a statutory classification with explicit definitions can clarify the relationship between the seriousness of the offence and the maximum possible sanctions. Second, state procedures are selected that deal with the impact of an offender's financial situation at the enforcement phase. For instance, in California, the courts can look at financial ability and can take steps like payment plans, community service, partial reduction or another legally accepted alternative.

These mechanisms should not be called a "national income indexed fine system. The United States has both federal and state and local laws that regulate criminal and minor offences, and the processes for processing these offences vary widely from one jurisdiction to another. So the comparative lesson for the PSAPL does not deal with whether a formula using a "national" or state-wide "median" income can be transplanted; rather, it focuses on the potential benefit of better offence classification and on the clarity of the ability-to-pay process.

4.3.3 Contextual adaptation for China

Direct transplantation of foreign models is impractical; adaptation to China's institutional context is essential.

The issue of institutional adaptation is thus a fundamental one for the comparative analysis. This study does not seek to promote a wholesale transplantation of foreign models, but rather takes a functional-comparative approach in identifying institutions that can be incrementally transplanted into the existing Chinese administrative-law system. This adaptation process should take into account a number of contextual issues, such as the central nature of the legislative process in China, the practical constraints faced by grassroots public security offices, the uneven allocation of judicial resources between different regions, and the different priorities of social stability and efficiency of enforcement that have long existed in the Chinese administration. Comparative proposals are therefore assessed on their ability to 'fit' with current institutional structures and to enhance the protection of proportionality without radically changing the current governance frameworks.

Judicial review: A phased implementation of judicial review, starting with detentions exceeding 5 days, could mitigate the impact on overburdened grassroots courts while establishing the principle of external oversight.

Dynamic fines: China's existing framework of provincial legislative authority²⁴ provides a viable legal basis for delegating fine calibration to provincial levels within nationally-set benchmarks, mirroring the U.S. model's flexibility while ensuring a degree of national coherence.

4.4 Normative implications of the 2025 PSAPL amendments

The empirical evidence reported in this study comes from administrative enforcement data from 2010 to the first half of 2025, although this data is mostly from before the amendment to the PSAPL²⁵. They should not be viewed as conclusive evidence of the strengths and weaknesses of the 2025 amended PSAPL, which will come into effect on 1 January 2026^{26,27}. Rather, the historical enforcement trends uncovered in this study can serve as an empirical baseline for evaluating the provisions of the revised law and its reform potential²⁸. The 2025 amendments from a normative point of view add a number of important safeguards, such as the introduction of a right to be heard for minors, an explicit affirmation of legitimate defence and an extension of protection for vulnerable groups²⁹. The changes show an attempt by the legislature to make the system more proportional and fair. However, the impact of the amended provisions to reduce the use of detentions and enhance the protection of rights can only be assessed through empirical research in the future once the provisions have been implemented in practice^{30,31}.

5. Discussion

The findings of this study should be considered within the limitations of the evidence. Empirical analyses are most often used to detect patterns in enforcement and the statistical trends, but not necessarily to draw clear conclusions about how the laws are enacted and the consequences of such laws. Therefore, the normative interpretations and policy recommendations formulated in this discussion does not aim at showing causal effects, but rather complementing the empirical results. Future evaluations using post-implementation data, multivariate statistical modeling and other qualitative data would be a more solid basis for assessing the long-term

²⁴ Legislation Law of the People's Republic of China. 2023. Art. 62. Available at: https://en.moj.gov.cn/2023-12/15/c_948358.htm (accessed on 24 April 2026).

²⁵ SWARTZ, J. *Policing, punishment, and the public trust*. SSRN. 2026, pp. 1-18. <https://doi.org/10.2139/ssrn.7377620>

²⁶ SARAVAKOS, C., KARKATSOULIS, P., STEFOPOULOU, E., and ARCHONTAS, G. "Assessing better regulation reforms in the in law making process: An empirical study of Greece's compliance with better regulation criteria from 2015 to 2023 and the effects of regulatory framework reforms". *Regulation & Governance*, 2026, pp. 1-21. <https://doi.org/10.1111/rego.70186>

²⁷ PLEGGENKUHLE, B., KRAS, K. R., SCHAFFER, J. A., and HUEBNER, B. M. "Leadership and reform: How law enforcement leaders view rehabilitation and the reduction of collateral harms". 2026. Ibid.

²⁸ Villarreal, M., MacPherson-Krutsky, C., and Painter, M. A. "Barriers and best practices for inclusive emergency alerts and warnings". 2025. Ibid.

²⁹ RAP, S. 8. *Children's rights law in adolescence*. Children's Rights and Children's Development: An Integrated Approach. New York University Press. 2025, pp. 217-252. <https://doi.org/10.18574/nyu/9781479825509.003.0011>

³⁰ LORNA, M. *Detention and its alternatives under international law*. The University of Edinburgh. 2026. Available at: <https://hdl.handle.net/1842/44869> (accessed on 20 July 2026).

³¹ KEITH, L.C., TATE, C.N. and POE, S. C. Is the law a mere parchment barrier to human rights abuse?". *The Journal of Politics*, v. 71, n. 2, 2009, pp. 644. <https://doi.org/10.1017/s0022381609090513>

effectiveness of the 2025 PSAPL reforms.

5.1 Interpretation of findings

The discussion hereafter clarifies the different analytical levels: findings that are empirically supported or substantiated by the data set, findings that are directly based on the law, and interpretive conclusions that can be reasonably drawn from the findings. The following discussion reveals the different analytical levels: empirically demonstrated findings of the data set and statutory analysis; interpretive analysis that can be reasonably drawn from the findings; and more tentative analysis regarding institutional dynamics or institutional enforcement culture. The patterns uncovered in the study are generally consistent with those of many previous studies and with public concerns previously expressed about the meaning of proportionality and the discretionary application of the law; however, the evidence available does not allow for definite causal conclusions to be drawn about all of the institutional motivations or policy goals. The claims contained herein that are interpreted below should therefore be considered analytically informed but not necessarily qualified claims which are drawn from the dialogue of legal text(s) and enforcement as well as comparative institutional analysis.

The empirical findings back the findings regarding distribution of sanctions within the data sample of publicly available decisions that comprise the analytical sample. They are not, of themselves, evidence of the reasons for a choice of a sanction or whether a given decision was in fact legally disproportional. Any of these kinds of explanations (enforcement culture, institutional incentives, deterrence preferences, resource constraints etc. or administrative convenience) are considered hypotheses, and not investigated separately at the qualitative or case-level. Normative evaluation is then based on the overall assessment of statutory structure, overall empirical patterns, and constraints on available case-level data and information, not just on the proportions of sanctions.

The combined normative and empirical results suggest possible conflicts between the organization of the PSAPL penalty structure and proportionality. In the decisions that have been made so far, the continued use of parallel sanction clauses, coupled with the limited number of times that warnings have been used collectively, is indicative that the law is not always sending a clear message of a preferred sequence of the least intrusive effective response. However, the aggregate data cannot tell the whole factual story nor show the full degree of fault or fail to show the full story of the circumstances or mitigating factors in each case. The distribution that is observed is thus worthy of further investigation, but they cannot confirm that warnings were legally required in specific decisions.

There are also inconsistencies in provisions relating to fines and detention, which suggest that there is no explicit statement of a benchmark that applies across the board to the relationship between freedom and property sanctions. While the exploratory fine-to-detention quotient may identify provisions to look at for further consideration, it does not constitute a conversion rate or provide any indication that different statutory maximums are necessarily irrational. Comparing and contrasting offence-specific objectives, forms of harm and choices of legislation leads to a definite proportionality conclusion.

The clustering of detention within the limited data also poses a procedural issue as detention has a direct impact on personal freedom and is administered through an administrative enforcement process. However, does not prove that the individual officers' motivations would have been the same, nor does it prove that there would have been less restrictive alternatives in each of the cases. The more defensible argument is that because detention is so well-known, lacks pre-execution external review, and there is limited information on the cases, there is a need for more robust procedural protections and further research on detention at the case level.

However, care must be taken not to blame the failure of warnings to be widely accepted solely on the design of the legislation. The observed enforcement patterns could also be due to other operational factors, such as local public order priorities, resource restrictions, institutional training or enforcement cultures which are not fully captured in the existing data set. The study thus suggests that the connection between statutory ambiguity and warning underutilization is not overwhelmingly determinative, but rather a strong suggestion.

Second, the disparate standards for fine-detention substitution violate the strict proportionality (balancing) test. The fivefold variation in implied daily rates (200–1000 RMB/day) institutes arbitrary disparities in penalty severity for offenses of comparable gravity, thereby undermining the constitutional guarantee of "equality before the law". The presence of vertical inconsistencies—whereby more severe offenses carry lower statutory maximum fines—further obfuscates enforcement and erodes the law's normative coherence and legitimacy.

However, the discrepancies found should not be read as finding that any rationale for the variation of penalties within the range is irrational or unconstitutional. Legislative decisions about offences, deterrence or sector-specific enforcement issues might be present that cannot be seen from the texts and quantified data of the legislation alone. Instead, the results lend more weight to the more limited conclusion that the existing structure does not have sufficiently clear and well-specified rules defining the scope of the liberty restrictions and property penalties.

Third, the deficient procedural safeguards for administrative detention breach the necessity principle. The absence of mandatory *ex ante* judicial review and comprehensive hearing rights means detention is frequently imposed without a rigorous assessment of less intrusive alternatives. The high detention rate (exceeding 60%) coupled with the exceedingly low rate of successful appeals (<10%) signifies an institutional bias that favors enforcement expediency over the robust protection of fundamental rights.

In a similar fashion, while the empirical evidence suggests that detention is still the predominant form of punishment in PSAPL, the current study cannot definitively conclude whether this is due to institutional incentives, institutional culture, the law or more general governance factors. References to enforcement expediency or institutional preference with regard to detention are therefore "inferences," meaning that they are observations that fell within the bounds of the dataset and existing scholarship, but that cannot be directly measured in the dataset.

These structural deficiencies are compounded and reinforced by the operational incentives at the grassroots level. County-level public security organs, operating under significant pressure for rapid case resolution and the meeting of crime-reduction metrics, increasingly rely on detention as a default "quick fix." This engenders a self-perpetuating cycle of over-reliance: the predominant use of detention diverts resources and institutional focus away from developing and implementing education-focused measures, which in turn further diminishes the application of warnings and fines.

This interpretation also needs to be taken with a pinch of salt. The findings of this study might reasonably be interpreted as reflecting administrative pressure to achieve a quick investigation in the field, but the study does not measure the internal systems of performance evaluation, instructions to supervisors or the decision-making processes of the officers. So, the proposed explanation is a reasoned inference that is consistent with the observed enforcement distribution and the previous literature but not a fact that can be conclusively established as an institutional fact. There is a need for additional qualitative studies with interviews and field investigation to make the causal dynamics in this study more concrete.

5.2 Implications for policy and practice

The policy implications put forward here are meant to be taken from the proportionality framework and the empirical trends which emerged in this study, but should not be understood as a single possible reform track. As evidence-based recommendations, rather than prescriptions, the recommendations only take account of the structural trends identified in statutory design and enforcement practice. Their implementation and effectiveness in terms of institutions will need to be assessed further in the legislation, pilot testing and then empirical evaluation after the reform.

The findings carry significant implications for legislative actors and enforcement agencies:

1. **Imperative for Legislative Reform:** The PSAPL necessitates fundamental structural amendments to institute a logically sequential penalty hierarchy. Key priorities include: (a) abolishing parallel penalty clauses (e.g., "warning or fine"); (b) standardizing fine-detention substitution benchmarks to ensure national consistency and rationality; and (c) introducing mandatory judicial review for detention decisions. Such reforms are critical to aligning the statutory framework with the dictates of the proportionality principle and constitutional rights protections.

2. **Enhanced Professional Training for Enforcement Personnel:** There is an urgent need for targeted, scenario-based training for public security officers on the practical application of the proportionality principle, particularly concerning the appropriate deployment of warnings. Training modules should incorporate concrete case studies illustrating contextually 'appropriate' penalty selection and include practical exercises on calculating and applying consistent fine-detention ratios. This would serve to curtail arbitrary discretion and mitigate pronounced regional disparities.

3. **Implementation of Robust Monitoring and Evaluation Mechanisms:** A national-level monitoring system should be established to systematically track key enforcement metrics, such as warning and detention application rates. Regular, independent evaluations—potentially conducted by bodies such as the National People's Congress—are essential to identify systemic distortions in enforcement practice and to provide an evidence base for subsequent policy refinements.

5.3 Limitations of the study

This research is subject to several limitations that warrant acknowledgment and present avenues for future scholarly inquiry:

1. **Potential data coverage gaps:** While the PKULAW database is extensive, it may not fully capture enforcement practices in remote or underdeveloped regions where digitization of records is less consistent. Future research could strengthen findings by supplementing database analysis with targeted fieldwork in these areas.

2. **Scope of qualitative inquiry:** The study's primary focus on quantitative trends, while revealing broad patterns, necessarily leaves certain questions unanswered. Deeper qualitative investigation—through interviews with offenders, law enforcement officers, and judicial personnel—would yield richer insights into the underlying motivations for penalty selection and the factors influencing recidivism.

3. **Limitations of historical trend analysis:** The in-sample linear fit does not capture fully the effects of autocorrelation, non-stationarity, and changing area of coverage of the database, regional differences in disclosure, policy measures, and institutional structural breaks. It can therefore not be used to project the impacts of the 2025 PSAPL changes and enforcement after 2026. But adequate post-implementation observations and an adequate long, or interrupted time-series design will be necessary for a valid evaluation of the new law.

6. Conclusion and recommendations

6.1 Conclusion

This study elucidates a number of structural and distributional aspects of the PSAPL penalty system that deserve to be explored in the context of proportionality. This includes the lack of a consistent sequencing criteria for warnings, variation across warnings and detention/fines and the infrequent aggregate use of warnings. Also there is a prominent use of administrative detention in the publicly available decisions analysed. The findings do not make any finding that those specific enforcement decisions or the enforcement system is disproportionate. This would rely on more comprehensive evidence to evaluate the severity of the behavior, responsibility, past history of violations, aggravating and mitigating factors, and the rationale behind the decision.

The methodological and institutional contribution of the study comes as its original contribution and not as a conclusion. It links internal design elements of graduated sanctions to an examination of the big picture of publicly accessible enforcement data and provides a structured approach to determine questions that call for more doctrinal, procedural and empirical exploration. The proposed reforms (one of which is greater clarity on the sequencing criteria, the other is a transparent justification of the selection of more invasive sanctions, the third is better external review, the fourth is better coding and disclosure practices, and the fifth is a post-implementation evaluation) should be interpreted as measures to strengthen coherence in the system and the protection of rights, and not as measures for responding to a proven breach of rights in the entire system.

Studies should also examine whether the use of warnings and how they are used, detention patterns and whether there is a regional difference or a change in the practice after 1 January 2026, as the changes to the law are in force as of that date. This research should integrate and utilize confirmed administrative data along with case-level legal variables, qualitative interview, reason-giving documents, and a sufficient and appropriate longitudinal methodology.

6.2 Legislative and procedural recommendations

The recommendations below are conceptually divided into two categories: (1) those reform recommendations that are more directly substantiated by the doctrinal and empirical evidence presented in this study and (2) those proposals for broader institutional changes that seem to be potentially helpful but would need to be piloted, assessed by administrators, and voted on by legislators before widespread implementation. This distinction takes into account the exploratory and policy oriented aspects of some areas of the comparative analysis as well as the fact that some proposed reforms are not easy to conclusively establish by means of the present data set alone.

Drawing upon the empirical findings and comparative analysis, this study proposes a tripartite reform agenda:

6.2.1 Reconstructing the penalty gradient hierarchy

The doctrinal and empirical results of the study generally offer some level of support to the recommendations in this subsection. The trends in the use of fine-detention substitution, and the lack of consistency in fine-detention substitution, are directly tied to the statutory analysis outlined in Section 4.1, and to the enforcement trends reported in Section 4.2. Therefore, reform which aims at clarifying the hierarchy of penalties and the consistency of the statutes can be interpreted as relatively quick and evidence-led reforms within the current legislative structure.

1. Institute a mandatory sequential application principle: The PSAPL should be

amended to explicitly establish a hierarchical order of "warning → fine → administrative detention." For legally defined minor offenses (e.g., first-time violations causing no tangible social harm), warnings must be the presumptive penalty. Fines should be permissible only upon a demonstrated failure of a warning to achieve corrective effects, and detention reserved as an ultima ratio for serious offenses or where lesser sanctions have proven ineffective. All parallel penalty clauses (e.g., "warning or fine") should be systematically eliminated from the text.

2. Standardize fine-detention conversion benchmarks: A nationally defined, floating "daily rate" for fine-detention substitution should be introduced, with a legislated range of 100–300 RMB/day. The State Council should be tasked with defining a base rate (e.g., 200 RMB/day), while provincial-level people's congresses should be expressly authorized to adjust this rate within the statutory range, predicated on localized economic indicators such as per capita disposable income. This mechanism ensures national coherence while permitting necessary regional adaptation.

3. Augment the functional effectiveness of warnings: The law should mandate that the imposition of a warning be coupled with specific follow-up measures for cases involving repeat offenders, such as mandatory counseling or short-term behavioral monitoring. The establishment of a "first offense warning registry" would facilitate tracking and help prevent recidivism.

6.2.2 Advancing the judicialization of administrative detention

1. Implement phased judicial review: A "public security organ application + grassroots court review" mechanism should be adopted for detention decisions. A phased implementation is recommended, beginning with mandatory judicial review for all detention orders exceeding 5 days, followed by a comprehensive expansion to all detention cases after a successful 2-year pilot period. The court's review must rigorously assess (a) the factual sufficiency of the alleged offense, (b) the necessity of detention (evaluating whether warnings or fines would suffice), and (c) strict adherence to procedural rules.

2. Expand and substantiate hearing rights: Hearing rights should be extended to all detention cases, not limited to juveniles. The right to legal representation must be guaranteed, with state-provided legal aid for indigent individuals. Courts should be required to issue detailed written decisions justifying their ruling on the detention application.

3. Strengthen protections for vulnerable groups: The use of the national population database for immediate age verification should be made mandatory in all cases involving juveniles, with a target of 100% compliance by 2027. A transparent and accessible complaints mechanism should be established for individuals who believe the protective provisions of Article 23 have been violated.

6.2.3 Establishing a dynamic fine adjustment mechanism

1. Provide explicit legal authorization: The PSAPL should be amended to include an enabling clause that formally authorizes provincial-level people's congresses to adjust fine ranges on a biennial basis. These adjustments must be explicitly linked to objective economic indicators, specifically local urban/rural per capita disposable income and the average daily wage of urban employees.

2. Incorporate public participation: Provincial legislatures should be required to conduct public hearings prior to finalizing any adjustments to fine ranges, allowing for input from citizens and civil society organizations. The final adjustment decisions and their underlying rationale must be published officially to ensure transparency.

3. Create a national monitoring framework: The Ministry of Public Security should develop and maintain a national database to monitor fine application rates and their

correlative deterrent effects (e.g., recidivism rates for specific fineable offenses). Annual reports synthesizing this data should be submitted to the Standing Committee of the National People's Congress to facilitate ongoing legislative oversight and ensure the adjustments are achieving their intended policy objectives.

6.3 Avenues for future research

Future scholarship should prioritize the following directions:

1. Post-Implementation Impact Assessment: Conduct rigorous evaluations of the 2025 PSAPL's effects on penalty gradient adaptation following its 2026 implementation. Key questions include whether the amendments have successfully reduced detention rates, increased the meaningful application of warnings, and narrowed regional disparities.

2. Qualitative Inquiry into Discretionary Decision-Making: Undertake in-depth qualitative studies, utilizing interviews and ethnographic methods with law enforcement officers, judges, and offenders, to uncover the tacit factors and institutional cultures that influence penalty selection.

3. Feasibility Analysis of Non-Custodial Alternatives: Explore the potential for integrating non-custodial sanctions—such as community service or electronic monitoring—into China's public security penalty system. Research should assess their comparative effectiveness in reducing recidivism and propose concrete models for their integration into a reformed PSAPL penalty hierarchy.

The implementation of the proposed reforms, coupled with a committed program of further empirical research, will significantly advance the development of a public security penalty system in China that is both proportionate in its design and resolute in its protection of fundamental rights—a system capable of maintaining social order while steadfastly upholding the rule of law.

7. References

- ALEJANDRO, A., and ZHAO, L. "Multi-method qualitative text and discourse analysis: A methodological framework". *Qualitative Inquiry*, v. 30, n. 6, 2023, pp. 461-473. <https://doi.org/10.1177/10778004231184421>
- ALEX, R. *A Theory of Constitutional Rights*. Oxford University Press. 2002, pp. 102–110.
- Anti-Drug Law of the People's Republic of China (2021). Available at: https://english.court.gov.cn/2015-07/17/c_761568_8.htm?utm_source=chatgpt.com (accessed on 11 May 2026).
- BALA, N. "Developmental evidence rules". *California Law Review*. (forthcoming 2027). <http://dx.doi.org/10.2139/ssrn.6132146>
- BREMS, E., and LAVRYSEN, L. "'Don't use a sledgehammer to crack a nut': Less restrictive means in the case law of the European Court of Human Rights". *Human Rights Law Review*, v. 15, n. 1, 2015, pp. 139-168. <https://doi.org/10.1093/hrlr/ngu040>
- Constitution of the People's Republic of China. 2018. Art. 37. Available at: https://english.www.gov.cn/archive/laws_regulations/201911/20/content_WS5ed8856ec6d0b3f0e9499913.html (accessed on 11 May 2026).
- CORDA, A. "The legitimacy of criminal law and the performance crises of penalty". *Criminal Law Forum*, v. 36, 2025, pp. 351-380. <https://doi.org/10.1007/s10609-025-09509-2>
- COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES. Case C-331/88, *The Queen v Ministry of Agriculture, Fisheries and Food, ex parte FEDESA and Others*, Judgment of 13 November 1990, ECLI:EU:C:1990:391. Available at: <https://curia.europa.eu/juris/showPdf.jsf?docid=96352&doclang=en> (accessed on 24 April 2026).
- CRESWELL, J. W. *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, 6th ed. Sage Publications. 2022. Available at: <https://us.sagepub.com/en-us/nam/research-design/book270550> (accessed on 11 May 2026).
- JIANG, C. X. "Beyond the 'one-size-fits-all' model: Reassessing securities litigation reform through comparative institutional complementarity". *UCL Discovery*, 2025. Available at: https://discovery.ucl.ac.uk/id/eprint/10217465/13/Jiang_10217465_thesis_id_removed.pdf (accessed on 20 July 2026).

- KEITH, L.C., TATE, C.N. and POE, S. C. Is the law a mere parchment barrier to human rights abuse?". *The Journal of Politics*, v. 71, n. 2, 2009, pp. 644. <https://doi.org/10.1017/s0022381609090513>
- KELSALL, J., TAN, X., BERGIN, A., CHEN, J. H., WAHEED, M., SORELL, Y., PROCTER, R., LIAKATA, M., CHIM, J., and CHI, S. "A rapid evidence review of evaluation techniques for large language models in legal use cases: Trends, gaps, and recommendations for future research". *AI & Society*, v. 41, 2026, pp. 4025-4043. <https://doi.org/10.1007/s00146-025-02741-9>
- Law of the People's Republic of China on Administrative Penalty. 2021. Art. 4. Available at: https://en.spp.gov.cn/2021-01/22/c_948432.htm (accessed on 24 April 2026).
- Law of the People's Republic of China on Administrative Penalty. 2021. Art. 5. Available at: https://en.spp.gov.cn/2021-01/22/c_948432.htm (accessed on 24 April 2026).
- Legislation Law of the People's Republic of China. 2023. Art. 62. Available at: https://en.moj.gov.cn/2023-12/15/c_948358.htm (accessed on 24 April 2026).
- LORNA, M. *Detention and its alternatives under international law*. The University of Edinburgh. 2026. Available at: <https://hdl.handle.net/1842/44869> (accessed on 20 July 2026).
- Meßerschmidt, K. *Special interest legislation and legislative capture*. In: Oliver-Lalana, A. (eds) *Conceptions and Misconceptions of Legislation*. Legisprudence Library, Springer, Cham. V. 5, 2019. https://doi.org/10.1007/978-3-030-12068-9_10
- PKULAW, *Public Security Administrative Penalty Decision Database (2010–first half of 2025)* [Dataset] (Beijing: Peking University Law Information House). 2025. Available at: <https://www.pkulaw.com/> (accessed on 11 May 2026).
- PLEGGENKUHLE, B., KRAS, K. R., SCHAFFER, J. A., and HUEBNER, B. M. "Leadership and reform: How law enforcement leaders view rehabilitation and the reduction of collateral harms". *Justice Evaluation Journal*, 2026, pp. 1-21. <https://doi.org/10.1080/24751979.2026.2717604>
- Public Security Administration Punishment Law of the People's Republic of China. 2025. Art. 23. Available at: https://www.chinalawtranslate.com/en/psap-2025/?utm_source=chatgpt.com (accessed on 11 May 2026).
- RAP, S. 8. *Children's rights law in adolescence*. Children's Rights and Children's Development: An Integrated Approach. New York University Press. 2025, pp. 217-252. <https://doi.org/10.18574/nyu/9781479825509.003.0011>
- REN, Y., YANG, W., and LI, W. "Alignment between China's elderly care policies and the integrated theory of social gerontology: A text analysis from 2000 to 2025". *Sustainability*, v. 18, n. 4, 2026, pp. 2017. <https://doi.org/10.3390/su18042017>
- SARAVAKOS, C., KARKATSOULIS, P., STEFOPOULOU, E., and ARCHONTAS, G. "Assessing better regulation reforms in the in law making process: An empirical study of Greece's compliance with better regulation criteria from 2015 to 2023 and the effects of regulatory framework reforms". *Regulation & Governance*, 2026, pp. 1-21. <https://doi.org/10.1111/regg.70186>
- SHORT, J. L., and TOFFEL, M. W. "Making self-regulation more than merely symbolic: The critical role of the legal environment". *Administrative Science Quarterly*, v. 55, n. 3, 2010, pp. 361. <https://doi.org/10.2189/asqu.2010.55.3.361>
- SWARTZ, J. *Policing, punishment, and the public trust*. SSRN. 2026, pp. 1-18. <https://doi.org/10.2139/ssrn.7377620>
- VALVERDE, M. "Jurisdiction and scale: Legal 'technicalities' as resources for theory". *Social & Legal Studies*, v. 18, n. 2, 2009, pp. 139-157. <https://doi.org/10.1177/0964663909103622>
- Villarreal, M., MacPherson-Krutzsky, C., and Painter, M. A. "Barriers and best practices for inclusive emergency alerts and warnings". *International Journal of Disaster Risk Reduction*, v. 125, 2025, pp. 105581. <https://doi.org/10.1016/j.ijdr.2025.105581>

Appendix

Table A1. Variable-dictionary table.

Variable	Type	Permitted values	Coding rule
Final_Sanction	Mutually exclusive categorical	warning only; fine only; detention only; detention + fine; other	Based on operative disposition
Includes_Warning	Binary indicator	0/1	Warning appears in final disposition
Includes_Fine	Binary indicator	0/1	Fine appears alone or in combination
Includes_Detention	Binary indicator	0/1	Detention appears alone or in combination
Revoked	Binary indicator	0/1	Formal revocation identified
Ambiguous_Outcome	Binary indicator	0/1	Final sanction cannot be classified reliably
Province	Categorical	Official provincial code	Based on issuing authority
Year	Numeric	2010–2025	Year of final decision