

Application of the Crime of Endangering Public Safety by Dangerous Methods: Implications for Epidemic Prevention and Control in Sports and Community Settings

Yifang Wang^{1,*}

Abstract

The extraordinary circumstances following the outbreak of COVID-19 have heightened the application of laws addressing the crime of endangering public safety by dangerous methods, particularly in epidemic-related offenses. However, challenges persist in distinguishing this crime from other epidemic-related offenses, securing convictions, and aligning with administrative penalties. This study examines the constitutive elements of the crime, addressing the new legal and practical issues arising from its application during the pandemic and analyzing its evolving characteristics in epidemic-related cases. The discussion focuses on four key components—objective elements, object elements, subjective elements, and subject elements—providing a comprehensive framework for understanding the application of this crime. Within the context of sports and community environments, these insights are particularly relevant for ensuring public safety during events and managing risks associated with disease prevention and control. By offering guidance for the practical judgment and application of this crime, this research underscores the importance of legal and psychological frameworks in fostering safe and responsible practices in sports and community settings during health crises.

Keywords: COVID-19, Crime of Endangering Public Safety by Dangerous Means, Administrative Sanction.

1. Introduction

1.1 Analysis of Changes in Constitutive Requirements

1.1.1 Changes in Objective Elements

In the provisions of the criminal law and the previous judicial practice, the objective elements of the crime of endangering public security by dangerous methods are manifested as acts endangering public security by other dangerous methods. The other dangerous methods of this crime have two meanings: first, it refers to the dangerous methods other than the four methods listed in the articles: arson, water breaking, explosion and throwing dangerous substances; Second, other dangerous methods are those that are equivalent to these four dangerous methods and have the risk of endangering public safety. There are many kinds of criminal methods (Hameiri et al., 2019). And the articles of law cannot be explained exhaustively. However, the criminal method used by the perpetrator must conform to the above two meanings. In the past judicial practice, the perpetrators of this crime used a variety of dangerous methods, including: first, the dangerous method of driving into people; Second, the dangerous method of throwing objects at high altitude; Third, the dangerous method of grabbing the steering wheel; Fourth, the dangerous method of shooting; Fifth,

the dangerous method of setting up the power grid without permission. The list here may not be comprehensive, and there are no more examples, but the dangerous methods used in most cases have been included. Among them, the former three are the most common. The cases of the first three cases have caused the most public discussion and have stronger social influence. The cases in recent years are also based on these three situations (Lee, 2024). In the crime involving epidemic, the objective elements of the crime are different. In the 2020 "opinions on epidemic prevention and control" issued by the two high schools and two ministries, the perpetrators were identified as confirmed patients, virus carriers and suspected infected patients. There are differences according to different personnel types. For patients and pathogen carriers who have been diagnosed with infection. Its objective behavior can be divided into two steps: first, refusing to receive isolation treatment in the hospital or breaking away from isolation treatment without permission before the end of the isolation period in the hospital; second, going in and out of public places or public transportation. For suspected patients, there is one more condition than the above. Its objective behavior should not only have the same objective behavior as the confirmed patients, but also need the

¹ Law school, Ocean University of China, Qingdao 266100, Shandong Province, China
Corresponding Author's Email: 1531020073@xzyz.edu.cn

actual harmful results, that is, to cause the spread of novel coronavirus in unspecified populations (Zhou et al., 2023). These behaviors will directly endanger the life and health rights of the public and unspecified people. Therefore, these objective acts meet the requirements of the crime of endangering public security by dangerous means. It can be concluded that in the crime involving epidemic, the objective behavior of this crime is different from the previous judicial practice. It is manifested in two categories that differ according to the different subjects of crime. For confirmed patients, in order to constitute the conviction element of the crime of endangering public security by dangerous methods, they need to have two behaviors: first, refuse to be isolated in the hospital for treatment, or flee the hospital without authorization before the end of the isolation period, and then enter public places for activities or take public transportation after the former behavior. In addition, for suspected patients, in terms of objective behavior, it is not only necessary for them to have the same behavior endangering public safety as the confirmed patients, but also the actual harmful result of causing the spread of novel coronavirus. That is, one of the two is a dangerous crime and the other is a real injury crime. From the perspective of object elements, the object of

the crime of endangering public security by dangerous means is social public security. In other words, the focus of legal interest protection is to protect the life, health and property safety of unspecified majority. In the epidemic-related crimes, the focus of legal interest protection in two categories is more inclined to protect the safety of human life and health, rather than the safety of property rights. In the judicial practice related to epidemic, the crime of endangering public security by dangerous means is mainly aimed at the intentional transmission of virus to unspecified majority people in public places and public transportation vehicles, which poses a serious threat to the life and health of unspecified people. However, the relevant normative documents related to the epidemic did not mention the harm of criminal acts to the safety of public and private property. From this perspective, the object of the crime of endangering public security by dangerous means in epidemic-related crimes is still social public security. However, the degree of infringement of legal interests required by this crime is different from previous judicial practice, and it is more inclined to the life and health safety of the unspecified majority in society. This will also change the conviction conditions of this crime. Figure 1 shows the governance system in the context of the epidemic.

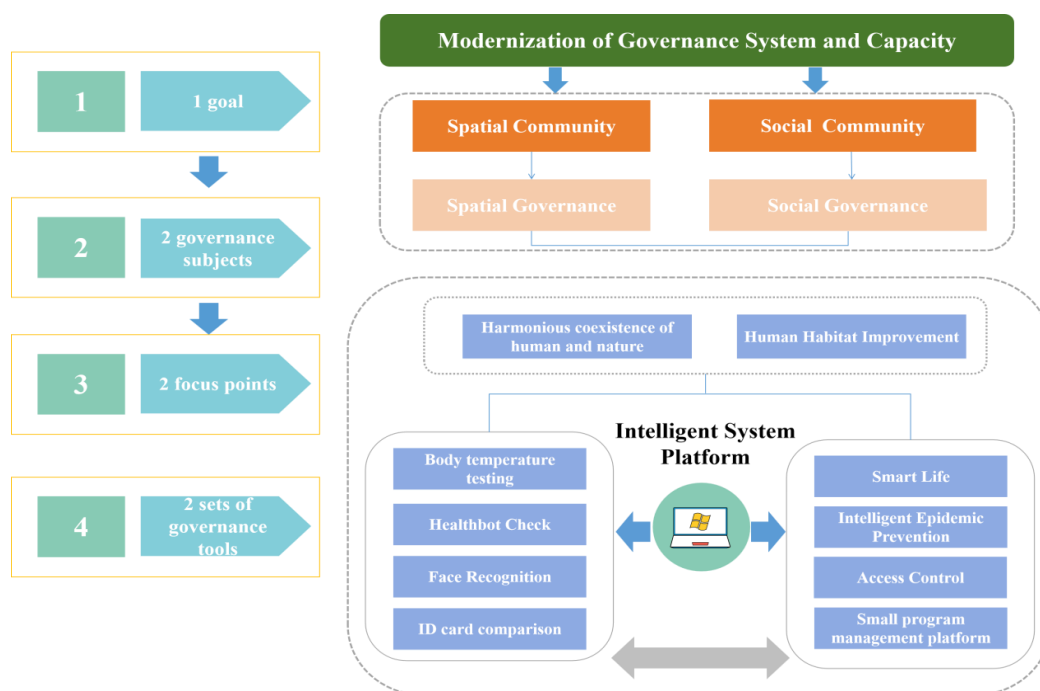


Figure 1: The Governance System in the Context of the Epidemic

1.1.2 Changes in Subjective Elements

This charge shows criminal intent in subjective psychology. That is, the perpetrator has a clear understanding that the harmful behavior he has committed will endanger public safety. With a clear degree of cognition, they have a psychological attitude of hope or laissez faire about the serious consequences of their behavior that endanger social public security. In the past judicial practice, there were many cases of

conviction for this crime. Among them, most of the perpetrators are indirect intent, that is, the perpetrators have laissez faire and indifferent psychology about the consequences of their actions that may endanger public security. There are few cases of direct intent, and only a few cases will have the perpetrator holding a hopeful attitude towards the consequences of acts endangering public safety. In cases involving epidemic crimes, the subjective aspect

of this crime is similar to that in previous judicial cases. From the perspective of subjective elements, the perpetrator should have subjective intention. From the provisions of the "opinions on epidemic prevention and control" in 2020, we can also see that the word "intentional" has been clearly written in the provisions. There is no doubt that the subjective aspect is intentional (Savelsberg, 1994). Subjective intention can be divided into two categories, namely, direct intention and indirect intention. There are many cases of epidemic related crimes, but in most cases, the perpetrator is an indirect intentional psychology, and there are few cases where the perpetrator has a direct intentional mentality. In other words, most of the perpetrators of epidemic-related crimes are laissez faire and indifferent. Their own behavior is active, and they are laissez faire about the result that their

behavior will cause the spread of novel coronavirus in the public. In epidemic-related crimes, comprehensive judgment should be made in many aspects when identifying the subjective psychology of the perpetrator. For example, the perpetrator made a comprehensive judgment on the cognitive degree, behavior mode, travel frequency, protective measures and other aspects of the virus. Because this charge can be said to be a typical intentional crime, and it is also true in the crime involving epidemic. Although the crime involving epidemic has particularity compared with the past, the nature of the charge itself will not change. Therefore, in the epidemic-related crimes, the subjective aspect of this crime is still intentional mentality, and most of it is indirect intent. Figure 2 shows the proportion of various types of crime cases that do not cooperate with the epidemic prevention work.

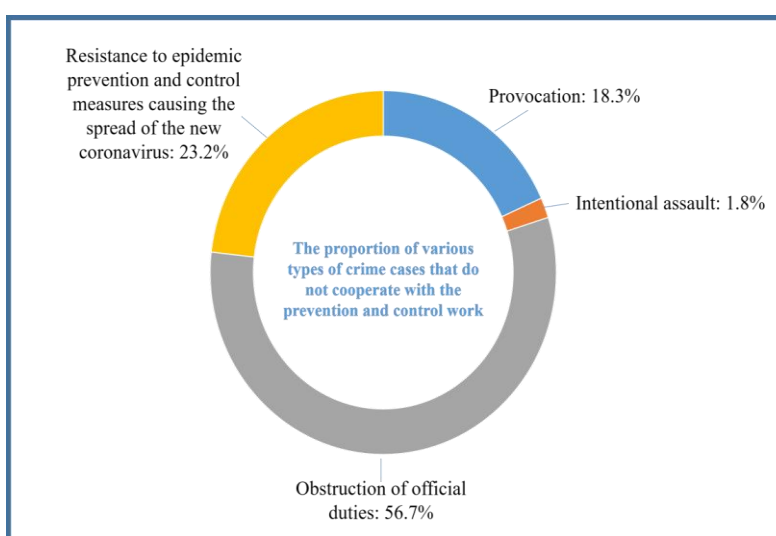


Figure 2: The Proportion of Various Types of Crime Cases that do not Cooperate with the Epidemic Prevention Work.

1.1.3 Changes in Main Elements

In the past judicial practice, the applicable subject of the crime of endangering public security by dangerous means is the general subject. That is, the subject of the crime is composed of natural persons who have reached the legal age of criminal responsibility and have the ability of criminal responsibility. However, in epidemic-related crimes, the scope of the subject of the crime is further limited (Raghupathi & Raghupathi, 2018). Referring to the provisions of the opinions on epidemic prevention and control in 2020, the subject of this crime is further limited to two subjects. It refers to "patients and pathogen carriers with confirmed novel coronavirus infection of pneumonia" and "suspected patients with novel coronavirus infection of pneumonia". Among them, "pathogen carriers" are asymptomatic infected people who have not appeared symptoms but have been confirmed by testing. In short, it is divided into confirmed patients and suspected patients. The limitation of the scope of the subject will inevitably lead to the reduction of the application of the charge, so as to reduce the abuse of the charge, which

is in line with the original intention of the regulations. From this, we can see that in the crime involving the epidemic, the main difference between this crime and the crime before the epidemic is the restriction and reduction of the main elements. This is determined by the particularity of epidemic-related crimes. It is a general trend to reduce the use of this crime in epidemic-related crimes.

2. The Distinction Between the Crime of Endangering Public Security by Dangerous Means and Other Crimes in Epidemic Practice

2.1 Relationship Between Two Crimes

Generally speaking, the crime of endangering public security by dangerous means is located in the second chapter of the sub-provisions of our criminal law, while the crime of impairing the prevention and control of infectious diseases is located in the sixth chapter. There is a big gap between the two crimes. According to

common sense, these two charges rarely produce problems that are difficult to distinguish and identify in judicial practice. However, in this special period of COVID-19, new normative documents were issued, which made the two crimes intersect in the legal documents. In the practice of epidemic cases, the two crimes also meet frequently, and even the crime of endangering public security by dangerous means has been replaced by another crime in the case. Therefore, the relationship between the two crimes is now clarified in combination with the special background of

the COVID-19. Figure 3 shows crimes against public safety. During the epidemic period, criminal acts in violation of epidemic prevention and control measures surged. Subsequently, a large number of epidemic-related cases have been filed for investigation under the crime of endangering public security by dangerous means. However, this trend is not normal. If the criminal acts of some cases are filed with this felony, it will lead to excessive punishment and improper punishment.

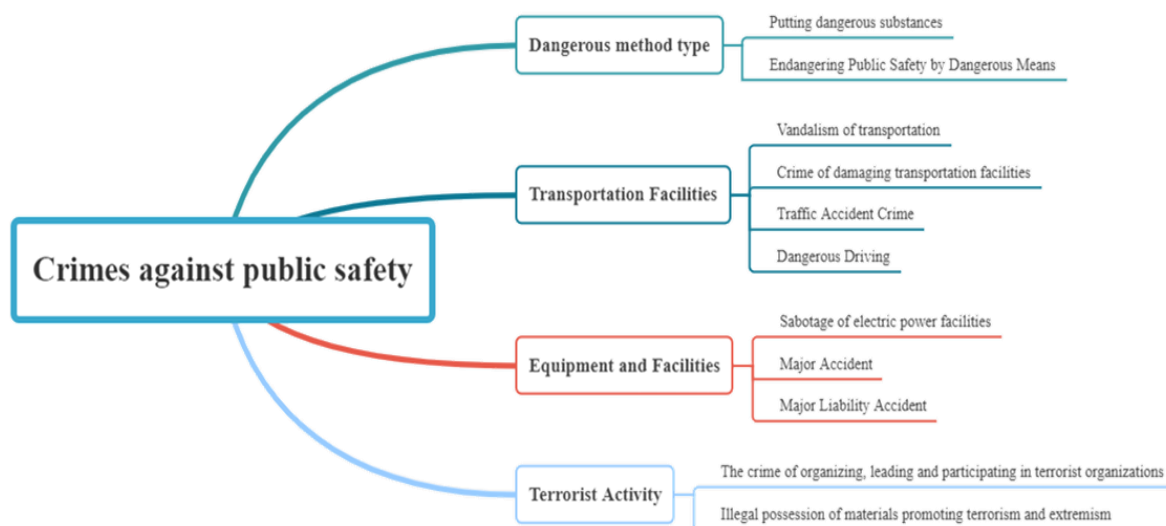


Figure 3: Crimes Against Public Safety.

The conviction and punishment of misdemeanor crime of impairing the prevention and control of infectious diseases are more reasonable, and the crime and punishment are equivalent. Therefore, in cases involving the epidemic, these two charges appear frequently. Even some cases of crimes against public safety that were initially filed by the police with dangerous methods were corrected by the procuratorial organ (Gerberich et al., 2004). And finally prosecuted with the crime of impairing the prevention and control of infectious diseases. The opinions on epidemic prevention and control in 2020 are a supplement and limitation to the interpretation in 2003. There is a problem in the original judicial interpretation. That is, some criminal acts do not constitute the standard of conviction for the misdemeanor of the crime of impairing the prevention and control of infectious diseases. According to the judicial interpretation, they will be recognized as the relatively serious crime of negligent endangering public safety in a dangerous way. This is biased. In order to solve this problem, the "opinions on epidemic prevention and control" in 2020 no longer stipulates the crime of negligent endangering public safety by dangerous means.

Therefore, during the epidemic period, the crimes related to the epidemic were mostly convicted and punished for the crime of endangering public security by dangerous methods or the crime of impairing the

prevention and control of infectious diseases. Most judicial organs choose a crime according to the seriousness of criminal acts in specific cases. However, there are fewer cases that the crime of negligent endangering public security is recognized. When answering reporters' questions, the head of the Supreme People's Procuratorate and public prosecution office also expressed the view that there are too many cases of crimes of endangering public security by dangerous methods, which should be gradually adjusted to be convicted and punished as crimes of impairing the prevention and control of infectious diseases. It can be seen that the two charges were frequently used in this special period, and there was a substitution (Kammersgaard, 2019).

2.2 Distinction Between Two Crimes

From the perspective of the seriousness of the crime, the crime of endangering public security by dangerous means is certainly a more serious crime than the crime of hindering the prevention and control of infectious diseases. First of all, the statutory sentencing range of the crime of endangering public security by dangerous means is higher than that of another crime. Secondly, the result of the crime of endangering public security by dangerous methods is more stringent, the punishment is heavier, and the sentencing is higher. Finally, from the order of the chapter where the charges are located and the title of the chapter, it can be seen

that the crime of endangering public security by dangerous means is a heavier crime.

Figure 4 shows the percentage of crimes related to the epidemic. After an in-depth interpretation of the "opinions" on epidemic prevention and control in 2020, it can be seen that it is clearly proposed that the disposal of illegal crimes hindering epidemic prevention and control should not only be severely punished, but also be accurately applied to the law and handled prudently in accordance with the law. Therefore, when dealing with epidemic-related crimes,

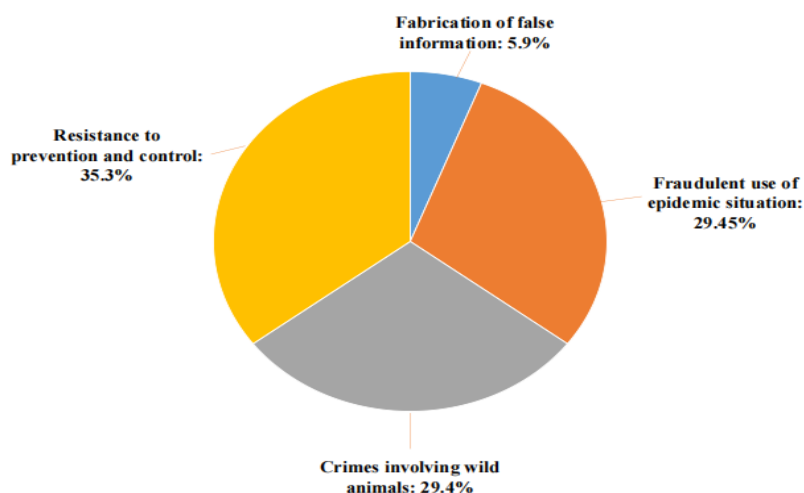


Figure 4: Percentage of Crimes Involving Epidemic

When dealing with epidemic cases, after comprehensively considering the perpetrator's harmful behavior, behavior trajectory and harmful results, if it is found that the constituent elements cannot fully meet the requirements of the constituent elements of the crime of endangering public security by dangerous methods interpreted according to the provisions of the opinions on epidemic prevention and control in 2020, we should consider whether we can choose to apply the crime of impairing the prevention and control of infectious diseases in paragraph 2. Take the case of Mr. Wei in Laibin city who is suspected of interfering with the prevention and control of infectious diseases. The actor Wei worked in a wholesale market in Wuhan. On January 23, 2020, Mr. Wei returned to the guests from Wuhan. Live with your family in a community of Laibin. However, they did not take the initiative to isolate at home as required. During this period, I went shopping, visited relatives and friends, and attended funerals for many times. Until the 30th, his wife had cough symptoms, and the two went to the local hospital together. On February 6, his wife was diagnosed and treated in isolation (Lavanchy, 2004). The next day, Wei was also diagnosed and treated in isolation. Subsequently, eight people who had close contact with the two people were diagnosed with COVID-19. Another 122 people were under medical observation in isolation. On the same day, Wei was put on file for investigation by the guest police on suspicion of obstructing the prevention and control of

conviction for a certain crime must be based on the conviction standard elements of the crime to connect the facts of the case with the criminal behavior and be able to match successfully. Only in this way can we meet the standards of legality and criminal responsibility. Therefore, in the judicial practice of epidemic-related crimes, it is necessary to apply the crime of endangering public security by dangerous methods prudently in accordance with the law (Lazzarini & Klitzman, 2002).

infectious diseases. According to the suggestion of the procuratorial organ, the police continued to investigate Mr. Wei on suspicion of obstructing the prevention and control of infectious diseases, and punished him according to law after his treatment.

2.3 The Distinction Between the Constitution of Two Crimes

From the perspective of crime constitution, the above two charges are different in subjective psychology. Subjective interpretation can see that one crime is an intentional crime, and the other is a negligent crime (Lallie et al., 2021). There is no dispute about the subjective mentality of the crime of endangering public security by dangerous means, which is a typical intentional crime. In other words, the perpetrator has a deliberate attitude towards causing infection or serious risk of infection of the virus to unspecified public groups. As we all know, to constitute a crime must be the result of the unity of subjective and objective aspects. Therefore, the perpetrator of the crime should not only objectively have the behavior that conforms to the elements of conviction, but also have the subjective intention required by the crime, otherwise he cannot be convicted and punished for the crime. In this way, if there is no exact evidence to prove that the perpetrator has criminal intent, the existence of criminal intent cannot be recognized according to the principle of no doubt of crime (Kamieński, 2023). The judgment of the perpetrator's intention should be combined with the actual behavior process and the consequences of the

perpetrator. In the practice of epidemic situation, the judgment of the actor's subjective mentality should pay attention to objective evidence, and regulate the judgment of criminal behavior. Figure 5 shows the determination of the crime of endangering public safety by dangerous means during a major epidemic. There are disputes on the subjective psychology of the crime of impairing the prevention and control of infectious diseases. However, the academic circles agree that this crime is a negligent crime. The point of dispute is that if the perpetrator commits this crime, his behavior of hindering epidemic control is obviously

intentional (Chen et al., 2022). However, if this crime is regarded as an intentional crime, it is no different from the crime of endangering public security by dangerous means stipulated in the preceding paragraph. Therefore, the current view of the academic community is that the crime is a negligent crime. Specifically, although the criminal act committed by the perpetrator is intentional, the harmful result of his behavior is a negligent mentality. In this way, the situation of this crime is similar to that of the actor in the crime of traffic accident.

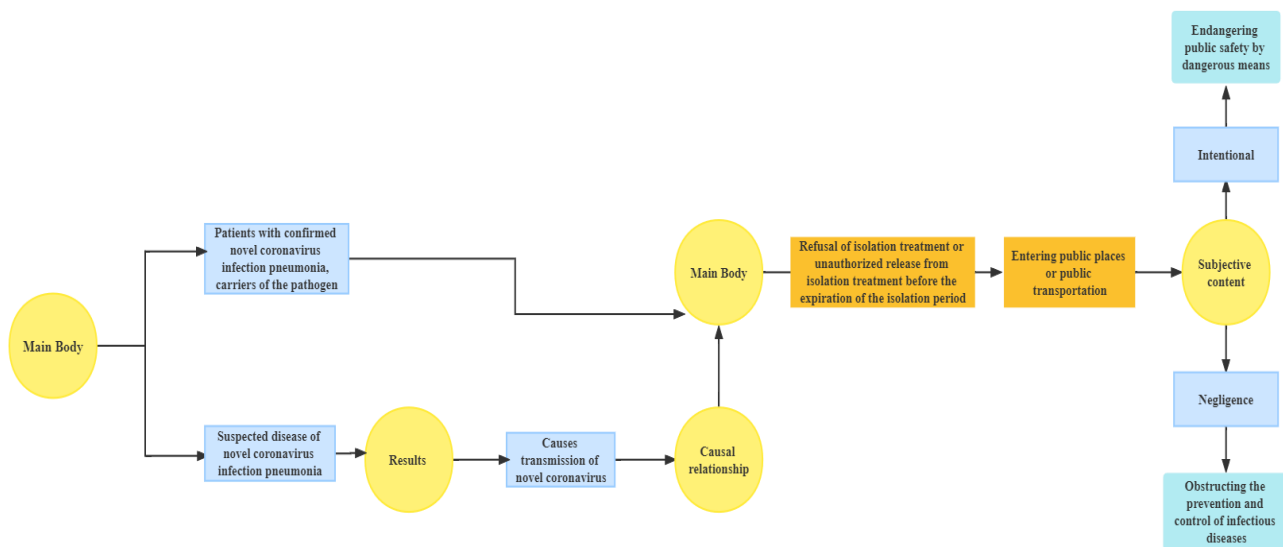


Figure 5: The determination of the crime of endangering public safety by dangerous means during a major epidemic.

They are also intentional acts, but the result is negligent psychology. In addition, the subjective fault psychology of this crime must be the fault of overconfidence. Because, during the epidemic, the epidemic prevention and control propaganda is very strong, OK. It is impossible for people not to know the implementation of prevention and control measures. They can only foresee but are confident that harmful results can be avoided. It can also be said that they have a fluke mentality. Take the case of sun in Nanchong as an example. Sun is a nurse in a hospital in Wuhan. On January 20, 2020, he drove back to Nanchong, Sichuan with his relatives from Wuhan. On January 23, he went to the hospital because of fever and cough. The doctor suspected that he was infected with covid-19, but he has not been confirmed or listed as a suspected case. Sun was unwilling to be treated in isolation, so he left the hospital and drove home. Contact with many people during this period. Subsequently, Mr. Sun was diagnosed and quarantined by the hospital, but he concealed his trip, which hindered and adversely affected the local epidemic prevention and control work. On February 5, 2020, Nanchong police filed a case against Mr. Sun for investigation on the crime of obstructing the prevention and treatment of infectious diseases (Gallina et al., 2020).

3. The Crime of Endangering Public Security by Dangerous Means is Distinguished from Other Similar Crimes

3.1 Basis for Distinguishing Charges

The understanding of constitutive elements is the key prerequisite for the selection and distinction of charges in epidemic-related crimes. The understanding of the constituent elements comes from the legal provisions and relevant normative documents. For the selection, application and distinction between the crime of endangering public security by dangerous means and other similar charges in epidemic-related crimes, we should first understand the constitutive elements of the charges. The understanding of the constitutive elements of these charges comes from the provisions of the criminal law and the newly issued targeted normative documents. Although the "opinions on epidemic prevention and control" in 2020 distinguish the three kinds of charges, its content reflects that the crime of obstructing the prevention and control of infectious diseases is positioned as the use of cover clauses (Pišot et al., 2022). After all, it is also a

normative document of the Supreme People's court, the Supreme People's court and the Supreme People's court. It is highly targeted for the application of charges in the current crimes related to the COVID-19, and it has a very direct guiding role for judicial organs at all levels to handle such cases. The word "other" in the "opinions on epidemic prevention and control" in 2020 is the most obvious embodiment. Figure 6 shows the epidemic prevention and control advice. According to the interpretation in 2003 and the opinions on epidemic prevention and control in 2020, the crimes involving epidemic diseases mainly involve the crimes of endangering public security by dangerous methods, the crimes of negligently endangering public security by dangerous methods, and the crimes of impairing the

prevention and control of infectious diseases. The nature of these two legal documents is different (Sandberg & Fondevila, 2022). As we all know, the judicial interpretations formulated and issued by the Supreme Court and the Supreme Procuratorate have legal effect. At the same time, the introduction of judicial interpretation needs to go through strict procedures. So, it will take more time. The interpretation issued by the two Supreme People's congresses in 2003 has legal effect. However, the opinions of the Supreme People's court, the Supreme People's court and the Supreme People's court in 2020 does not belong to judicial interpretation, and its introduction does not have the strict procedures required by judicial interpretation.



Figure 6: The epidemic prevention and control advice

As the epidemic situation requires, targeted normative documents need to be issued as soon as possible to guide the handling of cases. However, although the "opinions" is different from judicial interpretation in terms of effectiveness, it is also a normative document of the two Supreme People's congresses and two ministries. It is highly targeted for the application of charges in the current crimes related to the COVID-19, and it has a very direct guiding role for judicial organs at all levels in handling such cases (Willis & Painter, 2019).

3.2 Distinction from Other Charges

Covid-19 (covid-19) virus is one of the "infectious disease pathogens" in articles 114 and 115 of the criminal law. Therefore, if the perpetrator carries out one of the six acts listed in the five Department opinions, resulting in close contact with an unspecified majority of people in public places at the time of transit, the harm of legal interests caused by his behavior belongs to a specific risk. Therefore, it can be determined that it conforms to the objective elements of the crime of endangering public security by dangerous methods. Then, the subjective aspect of the

perpetrator, whether it is an intentional mentality or negligent attitude, is identified. If it is intentional, and indeed exposes unspecified or most people to the strong risk of possible infection, and even causes serious injury, death and other harmful consequences due to infection with the virus, it can be recognized as the crime of endangering public security by dangerous methods if it meets the recognition criteria (Gowd et al., 2021). However, if the perpetrator is negligent and causes serious injury and death due to infection with the virus, the crime of negligent endangering public security in a dangerous way can be applied. At the same time, these acts also meet the conviction requirements of the crime of obstructing frontier health and quarantine, thus constituting imaginative concurrence and choosing a felony. However, due to the strict epidemic prevention and control measures in China, the applicable standards and circumstances of the crime of impairing frontier health and Quarantine have been clearly stipulated after the release of the five Department opinions, and there are few cases of such behavior violating the crime of impairing frontier health and quarantine. There is only one case that has attracted attention due to media reports. On March 14,

2020, a Public Security Bureau in Ningxia issued a police notification on the crime of obstructing frontier health and quarantine. In the notification, Ding Moumou, a foreign entry confirmed covid-19, was mentioned. During the epidemic prevention and control period, he returned home from Iran in late February 2020. According to the police investigation, he was suspected of violating the epidemic prevention and control law at the time of entry, specifically violating the relevant provisions of the criminal law of the people's Republic of China and the frontier health and Quarantine Law of the people's Republic of China. Therefore, Ding was filed by Ningxia police for the crime of obstructing frontier health and quarantine. Under the pressure of foreign defense input, the prevention and control measures at the customs and border lines should be stricter than those at home in order to effectively prevent and control the epidemic. In this case, Ding's behavior meets the applicable standards of the crime of impairing frontier health and quarantine, but it does not cause harmful consequences such as serious injury and death of unspecified persons due to infection with the virus, and does not constitute the crime of endangering public safety in a dangerous way. Therefore, it is appropriate to convict the crime of impairing frontier health and quarantine (He & Gao, 2022). However, if the perpetrator Ding, knowing that he was diagnosed, deliberately contacted an unspecified majority of people in close contact in public places at the time of transit, customs clearance and entry, exposing the unspecified or majority of people to the serious risk of possible infection, and even causing serious injury, death and other harmful consequences due to the infection of the virus, it meets the recognition standard

of the crime of endangering public safety by dangerous means, and also meets the recognition standard of the crime of impairing frontier health. Should choose a felony punishment, that is, according to the crime of endangering public safety by dangerous means.

3.3 Concurrence of Laws, Imaginative Concurrence and Combined Punishment for Several Crimes

First of all, according to the Announcement No. 1 of the National Health Commission, covid-19-infected pneumonia was included in the management of quarantinable infectious diseases stipulated in the frontier health and quarantine law. Since then, the "five Department opinions" also clearly stipulates the conviction and punishment of the crime of obstructing frontier health and quarantine. In the provisions of the "opinions on epidemic prevention and control" in 2020, the crime of hindering the prevention and control of infectious diseases is regarded as a crime (Zhudi et al., 2021).

Therefore, at the time of entry and exit, if the perpetrator evades or resists quarantine, which will lead to the dangerous consequences of virus transmission or serious transmission, he may commit the crime of impairing frontier health and quarantine and impeding the prevention of infectious diseases. Commit two crimes. If it is treated as imaginative concurrence, it should be punished as a felony. If the case is handled in accordance with the provisions of the law, it shall be convicted and punished for the crime of impairing frontier health and quarantine. Figure 7 shows the countermeasures for public health emergencies

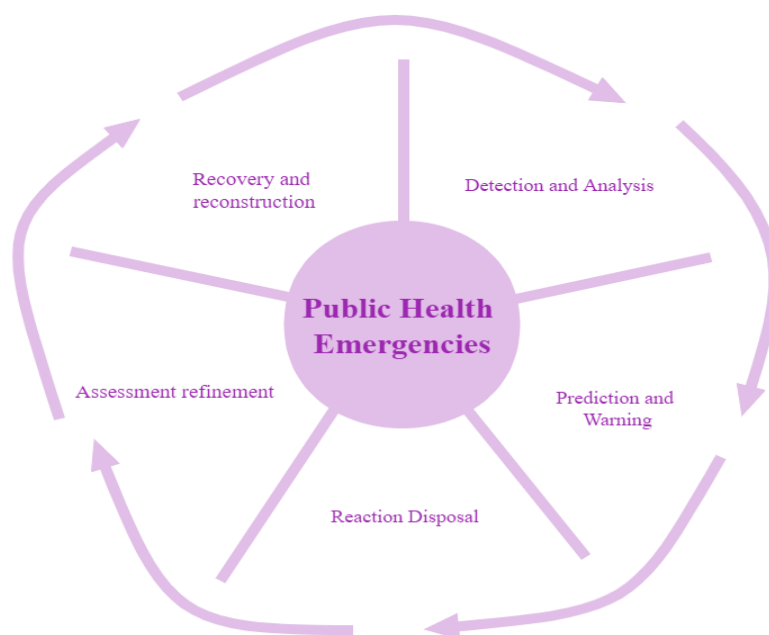


Figure 7: The countermeasures for public health emergencies

Secondly, in the epidemic-related crimes, while the perpetrators constitute the key charges of this article, they may also commit a series of related charges due to

the implementation of other criminal acts, and the combined punishment of several crimes should be carried out according to the specific situation. For

example, after being diagnosed, the perpetrator escaped isolation treatment and deliberately entered the environment of public places. And beat the epidemic prevention personnel who prevented their behavior, causing minor injuries or more (Zhang et al., 2022). At the same time, his behavior also brings serious and dangerous consequences of the spread of novel coronavirus. At this time, he will simultaneously commit the first key crime and the crime of intentional injury, and the judicial organ will punish him for several crimes in accordance with the law. However, most Chinese residents have a better understanding of epidemic prevention and control measures, and such malignant events are not common.

4. Conclusion

In the face of the sudden outbreak of epidemic-related crimes, for the sake of the overall situation of epidemic prevention and providing a stable social environment for epidemic prevention and control, local public

security and judicial organs insist on dealing with it strictly and quickly. However, due to the lag of legislation and the lack of experience, there are differences in the grasp of crime and non-crime, this crime and that crime, resulting in confusion in application, especially at the beginning, it is easy to artificially reduce the applicable threshold of the crime of endangering public security by dangerous methods, Applying this typical felony on a large scale may infringe the legitimate rights and interests of the defendant and lead to the phenomenon of pocket crime. In the specific application, there are difficulties in identifying and convicting, as well as difficulties in distinguishing "crimes of endangering public security by dangerous methods", "crimes of impairing the prevention and control of infectious diseases", "crimes of impairing frontier health and Quarantine", "crimes of negligently endangering public security by dangerous methods", as well as difficulties in connecting with administrative penalties.

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