

Research on Accurate Sentencing Recommendations in Plea Bargains of China

Wang Linlin¹, Liu Zhaoling^{2,*}

¹Law School, Shanghai University, Shanghai, China

²Law School, Hebei Finance University, Baoding, Hebei, China

*Corresponding author: linerwang@sina.cn

Keywords: Accurate Sentencing recommendations; Standardization of Sentencing; pre-sentencing investigation

Abstract: There has been an intense disagreement between academic and practical circles on accurate sentencing recommendations in the cases of admission of guilty and acceptance of punishment, behind which shows the wide debate over its property, binding force and direction issue. Under the existing legislative framework of the Leniency System on Admission of Guilty and Acceptance of Punishment, consensus should be built on the property and direction of the sentencing recommendations to resolve the disagreement. The sentencing recommendations in the case of guilty plea is based on the "discretion" function alienation of the judicial organ, rather than the transfer of power. To explore the principles applied to fixed penalty and range penalty of sentencing recommendations based on pleaded guilty, shall concern the multiparty negotiability, dynamic and relativity according to the negotiation mechanism and the binding force. To implement the accuracy of the sentencing recommendations based on pleaded guilty, there are dimensions to carry forward, unify the sentencing standards to provide normative guidelines and optimize the pre-sentencing investigation system to provide practical guidance.

1. Introduction

Although on the surface, the differences on the accuracy of sentencing recommendations in guilty plea cases are a dispute over direction, in fact, the debate about the attribute, effectiveness and direction of sentencing recommendations is not completely independent, but the three aspects of the differences, which together constitute the essence of the problem. The results of the negotiation on lenient sentencing are reflected in the sentencing recommendations.^[1] Accurate sentencing recommendations are conducive to the suspect's voluntary choice of Admission on Guilty and Acceptance of Punishment, so as to activate the Leniency System of Admission on Guilty and Acceptance of Punishment. To build a rational and logical way to achieve accuracy, we need to further clarify the direction of accuracy on the basis of clarifying the legal attributes and effectiveness of sentencing recommendations for guilty plea cases.

2. Obtain binding force based on the function transfer of "discretion"

The sentencing suggestion in the case of Admission on Guilty and Acceptance of Punishment has the dual attributes of suggestion power and discretion. Although the sentencing suggestion system is designed to regulate the discretion of judges and promote judicial justice, the Leniency System of Admission on Guilty and Acceptance of Punishment emphasizes its function in helping judges' sentencing activities and improving litigation efficiency. The procuratorial organ has strengthened the binding effect of the procuratorial power by means of the affidavit of Admission on Guilty and Acceptance of Punishment, and has obtained a certain substantive judgment power in the field of Admission on Guilty and Acceptance of Punishment cases.^[2] However, what does not match the practice is that the procuratorial organ has the specific power to substantially affect and even determine the outcome of the case in the process of handling the case of Admission on Guilty and Acceptance of Punishment, and there is not enough conceptual foundation and institutional support.^[3] With the "upsurge" of crime in practice and the booming of litigation economic thought, the concept of retributive punishment that must be punished in theory has given way to the concept of preventive punishment, which makes the expansion of Prosecutors' discretion a trend.^[4] With this trend, the theory of "procuratorial judgment" responds to the problem that prosecutors replace judges in plea bargaining to become the arbiter to solve most legal disputes and punish prison terms by describing the expansion of public prosecution power and the production of substantive judgment effect.^[5] To a certain extent, it provides an explanation for the dual attributes of sentencing recommendations in cases of Admission on Guilty and Acceptance of Punishment.

If we recognize that the essence of procuratorial judgment is discretion, we should further think about how to understand the relationship between procuratorial discretion and judicial discretion. Whether the procuratorial organ's substantive judgment power is based on the transfer of the judicial organ's discretion or the transfer of its function needs to be further clarified. We believe that the substantive judgment power of the procuratorial organ comes from the transfer of the judicial organ's discretionary function, which is based on the needs of mutual cooperation between the procuratorial organ and the judicial organ, rather than the transfer of power. According to Article 123 of the Constitution of China, the court is the judicial organ of the state, and judges exercise jurisdiction on behalf of the state. The judicial organ has not lost its subjectivity in the adjudication activities. It is still the subject of the jurisdiction. It only transfers part of the discretionary function in the case of Admission on Guilty and Acceptance of Punishment, highlighting the judicial initiative of the procuratorial organ. If we overemphasize the procuratorial leading and active justice, it is bound to destroy the good operation of the whole criminal procedure model, thus bringing chaos to the legal order for the protection of citizens' rights, and aggravating the internal inclination and imbalance of judicial power in the context of the rule of law.^[6] For example, the trial of such cases as the fixed penalty proposal with rigid effect means "Procuratorial Justice".^[7] The right of sentencing recommendation is too high, even above the judicial power, which undoubtedly intensifies the huge debate between the procuratorial organs and the judicial organs on the accuracy of sentencing recommendations.

Only when the judicial organ transfers the discretionary function, the sentencing suggestion involves the binding force and is fully respected by the judicial power. As a legal procedure design, the effect of sentencing recommendation needs to be further clarified to further clarify the rights and responsibilities of judges, prosecutors and defendants. Since the legislation has made clear the rigid effect of sentencing recommendations in cases of Admission on Guilty and Acceptance of Punishment, and listed five cases that cannot be adopted by the judicial organ, it may be unrealistic and not in line with the economic requirements of legislation to completely deny the rigid effect of sentencing recommendations to build an accurate theoretical system of sentencing recommendations.

Under the existing legislative framework, we can refer to extraterritorial practices and reach a more consistent judgment standard on the binding force of sentencing recommendations according to the realization of sentencing purposes and the protection of the rights and interests of all parties in the proceedings. For example, in the American state criminal justice system, more than 95% of criminal cases are settled through guilty plea, while the proportion of cases convicted through negotiation in the federal criminal justice is even higher.^[8]The standards for the court to measure the acceptance of sentencing recommendations mainly include: 1. Whether the result of negotiation is fair to the defendant; 2. Whether the interests of the prosecution and the public are indeed protected, such as whether the prosecutor abuses his discretion, whether he takes into account the interests of the public, and whether the purpose of deterrence in criminal law is achieved; 3. Whether the contents of the negotiation infringe upon the exclusive sentencing right of the court. In practice, some courts have failed to impose strict punishment for negotiation, *United States States v. greener*, 979 F.2d 517519 (7th cir.1992) or failed to deter the defendant and the general public *state v.roubik*, 404n W. 2D 105107 (wis.ct.app.1987).^[9]For another example, in the negotiation practice of pleading guilty in Germany, prosecutors led the punishment order procedure and undertook the trial of a large number of minor criminal cases.^[10] In misdemeanor and police offence cases, the punishment order reached through plea negotiation is binding, and the judge cannot adjust it, but can refuse to issue it or change the procedure.

3. Exploration on the direction of the accuracy of sentencing recommendations

The huge debate between the procuratorial and the judiciary organs over the accuracy of sentencing recommendations has greatly affected the public recognition of the Leniency System of Admission on Guilty and Acceptance of Punishment, and made the system face obstacles to implementation. Based on the negotiation formation mechanism and binding effect of sentencing recommendations in cases of Admission on Guilty and Acceptance of Punishment, it is also necessary to reflect the process democracy from the multi-party participation, negotiation and dynamics, and explore the precise realization direction of relative sentencing recommendations.

3.1 Multi-parties' participation and negotiation of accurate sentencing suggestions

The development of the times highlights the diversity of the purpose of punishment, which not only requires retribution, general intimidation and public confidence in the legal order, but also highlights its functions of compensation, education and correction, and strives to be humane and scientific in the application of punishment. The leniency of confession and punishment provides a procedural framework for deliberative justice, which is a participatory judicial system. The essence of its substantive leniency lies in its institutional mission to realize the function of penalty prevention, repair damaged social relations, and highlight the spirit of forgiveness.^[11] By voluntarily pleading guilty, the defendant reduced the confrontation with the government, the victims and even the society. He himself also received due punishment, and the social relations were repaired to the greatest extent.^[12]The precise multi-party participation and negotiation of sentencing recommendations are not only reflected in the cooperation between the suspect, the defendant and the state, but also include the participation of the victim in the consultation.

3.1.1 Cooperation between the state and the accused

In the traditional mode of criminal justice, there is a hostile relationship between the state and individuals. Accordingly, the punishment of the accused reflects the distributive justice. The Leniency System of Admission on Guilty and Acceptance of Punishment emphasizes the effective

settlement of disputes through dialogue, consultation and compromise. The state and the accused negotiate on crime and punishment issues, thus weakening the "antagonism" of the procedure, emphasizing the "dialogue" and "agreement" of the procedure, and reflecting the value pursuit of negotiated justice.^[13] Consultative justice is not a negation or replacement of traditional criminal justice, but a necessary development or improvement. Dialogue and compromise are the basic mechanism of Deliberative justice. Procuratorial organs and judicial organs negotiate with the accused on behalf of the state and form sentencing recommendations.

Whether it is the formation or adjustment of sentencing recommendations, the defense, as one of the negotiating parties, is given time and conditions to fully express its opinions, so as to ensure the voluntariness and authenticity of the confession and punishment, and then obtain lenient sentencing treatment. The procuratorial organ shall put forward preliminary sentencing suggestions, fully explain the reasons and basis for the sentencing suggestions to the suspect and his defender or lawyer on duty, and listen to his opinions on the sentencing suggestions. If the defense raises different opinions on the sentencing proposal or submits evidence materials affecting sentencing, the prosecution will adjust the sentencing proposal if it thinks it is reasonable, and further explanation and explanation are required if it thinks it is unreasonable. However, each time the procuratorial organ adjusts the sentencing proposal, it needs to listen to the opinions of the defendant, his defender or the lawyer on duty again. On the one hand, with the continuous accumulation of sentencing experience of procuratorial organs, the proportion of accurate sentencing suggestions has gradually increased, and the adoption rate has also been improved, which to some extent benefits from equal communication with defenders and lawyers on duty; On the other hand, the accuracy of sentencing recommendations, in turn, helps to enhance the enthusiasm of the accused to admit guilt and punishment, so as to better promote the cooperation between the state and the accused.

3.1.2 Victims participate in consultation

For the sentencing of the accused, it is also necessary to consider the degree of infringement of the criminal act on the existing social relations and the degree of repair.^[14] The Leniency System of Admission on Guilty and Acceptance of Punishment urges the accused to plead guilty to the victim and reach a settlement or incidental civil mediation agreement with the victim by means of making an apology, returning stolen goods and compensation for the victim's losses, so as to achieve reconciliation with the victim. It can be seen that the effective integration of restorative justice is also one of the keys to the implementation of the Leniency System of Admission on Guilty and Acceptance of Punishment.

Restorative justice is embedded in consultative justice, so the rights involving the victim's sentencing participation should be further carefully designed to provide a more solid theoretical and practical basis for the accuracy of sentencing recommendations, protect the rights and interests of victims, and repair social relations to the greatest extent. In other words, the sentencing proposal should not only examine the guilty attitude of the suspect and the defendant and the actual performance of their repentance, but also focus on whether to make an apology, compensate for losses and obtain understanding. Therefore, the prosecution and the defense should actively promote the suspect, the defendant and the victim to reach a reconciliation agreement, give reasonable compensation to the victim, and obtain their full understanding, so as to reflect the "acceptance of punishment" of the suspect and the defendant, and also obtain the practical effect of the lenient treatment of the judiciary. In this regard, some scholars suggested that for the cases where there are victims who plead guilty and admit punishment, a certain proportion of the power to determine the sentencing range could be considered to be handed over to the victims for punishment, so as to protect the victims' right to participate in the proceedings and promote the accused to compensate the victims.^[15]

In the practice of the Leniency System of Admission on Guilty and Acceptance of Punishment, there is a situation that the protection of the rights and interests of victims is ignored in order to pursue litigation efficiency. For example, the guidance on the application of the leniency system for Admission on Guilty and Acceptance of Punishment clearly stipulates that if the victim and his agent ad litem do not agree to lenient treatment for the suspect and defendant who plead guilty and admit punishment, the application of the leniency system for Admission on Guilty and Acceptance of Punishment will not be affected. This one size fits all approach has weakened the important position of restorative justice in the Leniency System of Admission on Guilty and Acceptance of Punishment to a certain extent, and failed to give consideration to litigation efficiency and the protection of victims' rights and interests, resulting in the conflict between victims' rights and interests and judicial public power. "The Guidance on Sentencing Recommendations (2021)" has improved this, stipulating that the procuratorial organ should listen to the opinions of the victim and his litigant agent when proposing sentencing recommendations, and consider whether the suspect has reached a mediation agreement or settlement agreement with the victim, or compensated for the victim's losses, obtained the victim's understanding, and whether he is willing to undertake public welfare damage repair and compensation liability as an important consideration for lenient punishment. In the proposal of sentencing, the procuratorial organ is reminded to give full consideration to the possible circumstances of sentencing, such as returning stolen goods and compensation, criminal reconciliation, and repairing damage. We know that a lighter punishment is a comprehensive investigation on the sentencing of the perpetrator on the basis of respecting the principle of suiting crime to punishment. It can not only ensure the smooth implementation of the lenient system of confession and punishment, but also ensure that it does not deviate from the basic principles of criminal law.^[16] The will and attitude of victims, the degree of negotiation and participation of victims, the repair of damaged social relations, etc. are also important factors affecting the accuracy of sentencing recommendations, which need to be further clarified.

The participation and negotiation of sentencing recommendations in cases of Admission on Guilty and Acceptance of Punishment may lead to the imbalance of sentencing recommendations. How to avoid the accompanying sentencing imbalance deserves our attention. Defendants who enter into plea bargaining often receive 25 to 75 per cent lenient treatment than those who commit the same crime but are tried by the court. Behind this huge gap is the violation of the principle of balance between crime and punishment.^[17] How to ensure that the proposed sentencing recommendations remain basically balanced in cases with basically the same facts and circumstances of suspected crimes is a key issue to achieve the accuracy of sentencing recommendations.

3.2 The dynamics of the accuracy of sentencing recommendations

The dynamic nature of the accuracy of sentencing recommendations is mainly reflected in the macro and micro levels in the formation of accurate sentencing recommendations. From a macro point of view, the accuracy of sentencing recommendations is a dynamic development process. From the initial "general sentencing recommendations" that the court is recommended to measure within a certain legal range of punishment, to the relatively specific "range of punishment recommendations" within a certain range of legal punishment, and then to the "definite punishment recommendations" that suggest a specific punishment, a precise sentence and a specific way of execution, The accuracy of sentencing recommendations is a process from "range" to "point".^[18] The gradual refinement of sentencing recommendations is closely related to the refinement and perfection of unified sentencing norms and the accumulation of sentencing recommendations experience. At present, there are only 23 charges involved in the guidance of sentencing standardization in China. A large number of charges have no unified and detailed sentencing standards, which need to be further improved. In

addition, although the procuratorial organs have accumulated experience in determining punishment recommendations in cases with simple circumstances, such as quick adjudication, it can not be ignored that the lack of experience in sentencing recommendations leads to uncertainty in the determination of punishment recommendations for difficult and complex cases with heavy and light circumstances. Therefore, on the basis of accumulating enough experience in sentencing recommendations, we should gradually put forward accurate sentencing recommendations.

From the microscopic point of view, the sentencing proposal in the case is the result of multi-party consultation, which is also a dynamic process. Sentencing recommendations not only involve the consultation between the procuratorial organ and the accused, but also include the communication and consultation mechanism between the procuratorial organ and the judicial organ in sentencing. In the formation mechanism of sentencing recommendations, Chapters III and IV of the Supreme People's Procuratorate's "Guiding Opinions on Sentencing Recommendations (2021)" respectively stipulate the consultation process between the procuratorial organ and the accused from the two aspects of putting forward sentencing recommendations and listening to opinions. The suspect, his defender or the lawyer on duty raise different opinions on the sentencing proposal, or submit evidence materials affecting sentencing. After examination, the people's Procuratorate considers that the suspect, his defender or the lawyer on duty are in agreement. If it is reasonable, it shall adopt and adjust the sentencing suggestions accordingly. If the review finds that the opinions are unreasonable, it shall make explanations and explanations in combination with the legal provisions, the circumstances of the whole case, the judgments of similar cases, etc. In the adjustment mechanism of sentencing recommendations, the accuracy of sentencing recommendations and the dynamics of multi-party participation are more prominent. There are often many types of sentencing circumstances, multi-functional sentencing circumstances and discretionary sentencing circumstances in the cases, and there is great uncertainty about the impact on the sentencing results. It is necessary for the procuratorial organ to try to build a sentencing suggestion efficiency increasing mechanism with "hardness and softness" and flexible restriction as the core, so as to realize the benign interaction between the right to seek punishment and the right to sentencing in the lenient procedure of Admission on Guilty and Acceptance of Punishment.^[19] For example, Chapter V of this opinion makes detailed provisions on the adjustment of sentencing suggestions, which not only emphasizes the openness of sentencing communication, but also strengthens the reasoning of sentencing judgment.

3.3 Relativity of the accuracy of sentencing recommendations

From the above classification of sentencing recommendations, we can see that the connotation and extension of precise sentencing recommendations and definite sentencing recommendations are not completely coincident. Generally speaking, sentencing recommendations include general sentencing recommendations and specific sentencing recommendations. In the general sentencing suggestions, the procuratorial organs only invoke the penal norms, point out the circumstances of sentencing, and only generally put forward the suggestions of lighter or heavier punishment; In the specific sentencing recommendations, the procuratorial organ makes recommendations on the types and degrees of punishment that the defendant may impose and the way of execution. According to the difference in the accuracy of the sentencing recommendations, the specific sentencing recommendations are further divided into the sentencing recommendations that determine the punishment and the sentencing recommendations that range the punishment. The sentencing suggestion of the procuratorial organ can put forward suggestions to determine the term of sentence. For example, it is suggested that the defendant in a theft case be sentenced to 24 months' imprisonment without probation. Here, 24 months' imprisonment is a specific sentencing suggestion; It can also put forward

a relatively clear range of sentencing. For example, it is suggested that the defendant in a job occupation case should be sentenced to 12 to 16 months' imprisonment and suspended. Here, fixed-term imprisonment is the type of punishment recommended to apply, 12 to 16 months is the recommended range of punishment, and probation can be applied to the way of execution. Whether it is the suggestion of range punishment or the suggestion of determining punishment, they all belong to specific sentencing suggestions. Therefore, the accuracy of sentencing recommendations should be understood as that in addition to promoting the recommendation of determining punishment, it also includes the recommendation of applying more accurate range punishment.

The relatively accurate sentencing recommendations help to eliminate the doubts of the suspect or defendant about whether the leniency commitment of the procuratorial organ can be implemented after pleading guilty, strengthen the predictability of the leniency results, and improve the enthusiasm of the defendant to plead guilty and admit punishment. In the long run, it is a general trend for procuratorial organs to take measures to improve the accuracy of sentencing recommendations, but it is not appropriate to put forward a fixed term of imprisonment for all cases. Sentencing recommendations can have precise factors, but a reasonable range needs to be defined. The implementation of precise sentencing recommendations in all cases of Admission on Guilty and Acceptance of Punishment is not only inconsistent with the judicial concept of due process, but also imposes an unbearable burden on the handling authorities.^[20] The procuratorial organ advocates to realize the leading responsibility through accurate sentencing recommendations, but the court system may adopt the way of review and acceptance in order to avoid assuming responsibility.^[21] The judge's review is more formal, in which the prosecutor plays a leading role.

4. The way to realize the accuracy of sentencing recommendations

The communicability of penalty sets a relatively mild goal for the penalty system, giving some criminals an opportunity to examine their souls.^[22] The criminal procedure law establishes the lenient confession of guilt and punishment as a legal system, fundamentally changing the traditional practice of simply treating the parties in criminal cases as passive subjects or bystanders in criminal proceedings, and activating the parties' right to participate in criminal proceedings. The party concerned has become an active subject of criminal proceedings, which reflects the significant change of the results of conviction and sentencing from "national arbitrariness" to "consultation". To explore the accurate realization path of the goals at different levels of sentencing recommendations, we should improve the two prerequisites of sentencing norms and sentencing practice under the direction of this concept.

4.1 Standardized guidance of unified sentencing standards

“The Sentencing Guidance on Common Crimes (Trial) (2021)” of the Supreme People's court and the Supreme People's court has set the benchmark punishment and discretion range for 23 common crimes, and stipulated the adjustment proportion of 14 statutory and discretionary sentencing circumstances to the benchmark punishment. More importantly, the sentencing guidance also added the lenient circumstances of guilty confession and punishment for the first time in the application of common sentencing circumstances. In order to further guide and standardize the working mechanism for prosecutors to put forward sentencing suggestions, the Supreme People's Procuratorate has made principled provisions on the sentencing methods of guilty plea cases in the part of sentencing suggestions in the “Guidance on sentencing suggestions (2021)”, such as strictly grasping or not lenient from the breadth, the applicable rules of sentencing circumstances conflict, and the proposal of sentencing suggestions under the circumstances of multiple crimes and joint crimes. In addition to the release of national sentencing standards, all localities have made useful exploration in refining

sentencing standards based on the requirements of sentencing practice. For example, in order to implement the Leniency System of Admission on Guilty and Acceptance of Punishment, a local court, Public Security Bureau and judicial bureau have coordinated and formulated standardized sentencing rules. At the same time, in order to facilitate the undertaker to build an accurate and unified sentencing scale according to the specific circumstances of the case, the "sentencing menu" for 12 crimes, such as traffic accident, intentional injury and theft, is formulated to determine the starting point of sentencing according to the common basic criminal facts, clarify the adjustment range of each sentencing plot, and the sentencing steps, plots and methods are simple and easy.

In the case of pleading guilty and admitting punishment, the accused should be standardized in a wide range. In order to pursue accurate sentencing and ensure the balance between crime and punishment to the greatest extent, whether it is a felony or a misdemeanor, the ladder of crime and punishment is established according to the quality of the crime.^[23]In general, the benchmark sentencing method established by the standardization reform of sentencing in China is a judgment result based on the evaluation of the quality and quantity of the crime and the comprehensive consideration of the defendant's responsibility, the general prevention of the crime and the effects of preventing the defendant from committing a crime again and returning to society. Based on the requirements of the comprehensive purpose of punishment and crime prevention, the sentencing standards for cases of Admission on Guilty and Acceptance of Punishment should not only consider the different time and degree of the defendant's Admission on Guilty and Acceptance of Punishment, but also systematically judge the circumstances related to Admission on Guilty and Acceptance of Punishment. Such as the defendant's age, psychology, intelligence, environment, whether the damage can be recovered, the relationship with the victim, criminal motivation, means and criminal results, post crime performance, whether there is a criminal record and other aggravating or mitigating sentencing factors.

4.2 Practical guidance of pre-sentencing investigation

In the implementation of the sentencing suggestion system, there has always been the problem of "placing more importance on the results of punishment and ignoring the information of sentencing", ignoring the public's need to express their opinions equally and fully in the process of the formation of the results.^[24] The sentencing suggestion system in common law countries came into being gradually with the emergence of the pre-criminal investigation system and plea bargaining system.^[25] On the contrary, the lack and lag of the pre-sentencing investigation system has seriously affected the effect of the reform of sentencing standardization.^[26] Assuming that the procuratorial organ only selects the sentencing information from the case file without any investigation, the sentencing circumstances recorded in the sentencing proposal are not rich enough, and the possibility of the court accepting and adopting the sentencing proposal is low.^[27] Only by ensuring the integrity of the information on which sentencing recommendations are based can we achieve accurate sentencing, enhance the objectivity and scientificity of sentencing recommendations, and maximize judicial efficiency.^[28] Exploring and constructing a systematic and standardized pre-sentencing investigation system to guide the verification of sentencing circumstances is of great importance to the realization of the accuracy of confession and punishment cases.

It is generally believed that the basis for forming recommendations includes the following three aspects, and the pre-sentencing investigation also needs to focus on these matters for detailed construction. First, reveal all the facts about the degree of social harm of the crime; Second, matters indicating the personal danger and possibility of recidivism of the suspect. To some extent, the personal danger of suspect indicates the difficulty of their reform and the possibility of recidivism. Therefore, these matters or facts are also an important basis for making sentencing recommendations.

These facts or matters mainly include but are not limited to pre-crime circumstances and post crime circumstances. The procuratorial organ shall, according to the consistent performance of the suspect before the crime, whether he is a recidivist, whether he has a criminal record, the cause of the crime, and in combination with whether he actively rescues the victim after the crime, whether he actively compensates, whether he repents, confesses, surrenders and other circumstances and facts, propose corresponding punishment; Third, matters to be considered in accordance with the criminal policy. The criminal policy can be used as the basis for sentencing. There is no major dispute between academic circles and practical departments. The matters that need to be considered according to the criminal policy also belong to one of the factual bases for sentencing recommendations, such as the education and correction of juvenile offenders, the careful treatment of first-time offenders and occasional offenders, and the criminal policies such as the eradication of underworld and evil in a specific period.

5. Conclusions

The differences between the procuratorial organs and the judiciary on the accuracy of sentencing recommendations should not become a stumbling block to the Leniency System of Admission on Guilty and Acceptance of Punishment. It is the basic requirement of the economic applicability of punishment to realize the appropriate punishment of criminals. It can be said that the realization of crime prevention based on the communication of punishment is the logical starting point for the leniency of confession and punishment. To a large extent, the realization of the accuracy of sentencing recommendations depends on the supply of sentencing standardization theory and the improvement of practice, which will not be achieved overnight. Only by further gathering consensus can the institutional advantages contained in the Leniency System of Admission on Guilty and Acceptance of Punishment be transformed into the effectiveness of crime governance.

References

- [1] Chen Guoqing. *Several Issues of Sentencing Recommendations*[M]. *China Journal of Criminal Law*, issue 5, 2019;
- [2] Zhou Xin. *On the New Development of Procuratorial Power in China*[M]. *Chinese Social Sciences*, No. 8, 2020.
- [3] Zhao Heng. *On the Dominant Position of Procuratorial Organs in Criminal Proceedings*[M]. *Politics and Law*, No. 1, 2020.
- [4] Zhu Xiaoqing. *The 'Leading' and 'Center' in the System of Pleading Guilty, Admitting Punishment and Leniency*[N]. *Procuratorial Daily*, June 5, 2019, 3rd Edition.
- [5] Gerard E. Lynch. *Screening versus Plea Bargaining: Exactly What Are We Trading off?* [M]. *Stanford Law Review*, Vol. 55, No. 4, 2003.
- [6] Wang Xiangchuan. *Triple Realistic Dilemma of Procuratorial Leading Theory*[M]. *Shanghai Law Research*, Vol. 2, 2021.
- [7] Zhang Jianwei. *On the Leading Role of Procuratorial Organs*[M]. *China Journal of Criminal Law*, Issue 6, 2019.
- [8] US Dep. Justice, Bur. Justice Stat. 2004. *Felony Sentences in State Courts, 2002; Admin. Off. US Courts. 2004. Statistical Tables for the Federal Judiciary, June 30, 2004. Statistical Tables for the Federal Judiciary, June 30, 2004.*
- [9] Wang Zhaopeng. *American Criminal Procedure Law*. Beijing: Peking University Press, 2014 edition, P. 677.
- [10] Ju Mingliang. *Theory and Practice of German Criminal Punishment Order Procedure*[N]. *Procuratorial Daily*, 3rd Edition, July 8, 2020.
- [11] Lu Jianping. *Leniency in Confession and Punishment from the Perspective of Criminal Policy*[M]. *Sino Foreign Law*, 2017, issue 4.
- [12] Yang Xiande. *Overseas Enlightenment from the Accuracy of the Proposal for Lenient Sentencing in Confession and Punishment* [N]. *Procuratorial Daily*, July 16, 2019, 3rd Edition.
- [13] Tang Li. *On the Theoretical Basis of Deliberative Justice*[M]. *Modern Law*, 2008, Issue 6.
- [14] Wu Zongxian. *Review of Restorative Justice*[M]. *Journal of Jiangsu Public Security College*, No. 3, 2002.
- [15] Xiong QiuHong. *Suggestions on Sentencing in the System of Confession and Leniency*[M]. *Chinese and Foreign Law*, 2020, Issue 5.
- [16] Liu Xianquan, Lin Yujia. *How to Realize Scientific Sentencing in the Lenient System of Confession and*

Punishment[N]. *Procuratorial Daily* on June 19, 2019, 3rd Edition.

[17] Richard L. Lippke, *Retributivism and Plea Bargaining*[M], *Criminal Justice Ethics*, Vol. 25, No. 4, 2006.

[18] Dong Kun. *Accuracy of Sentencing Recommendations and Court Adoption in Cases of Admission on Guilty and Acceptance of Punishment*[M]. *Journal of the National Academy of Supervisors*, No. 3, 2020.

[19] Yan Zhaohua. *On the Restrictive Power of Sentencing Recommendations in Cases of Confession of Guilt and Punishment* [M]. *China Journal of Criminal Law*, No. 1, 2020.

[20] Zhao Heng. *Theoretical Perspective on the Accuracy of Sentencing Recommendations* [M]. *Legal System and Social Development*, Issue 2, 2020.

[21] Lin Xifen. *On the Normative Structure and Mode of Sentencing Suggestion System - from the Criminal Procedure Law to the Guiding Opinions*[M]. *China Journal of Criminal Law*, No. 1, 2020.

[22] See [UK] anthonyduff, translated by wangzhiyuan, Liu Guanming and Jiang Panpan. *Punishment, Communication and Community*. Beijing: China University of Political Science and Law Press, 2018 edition, P. 129.

[23] Liu Weiqi, Liu Renwen. *Step-by-step Lenient Sentencing: Confession and Punishment in Different Litigation Stages* [M]. *Academic Forum*, 2019, Issue 6.

[24] See Lawrence R. Jacobs, et al, *Talking Together: Public Deliberation and Political Participation in American*, University of Chicago Press (2009), pp13-14.

[25] Chen Lan. *Sentencing Suggestion System in Western Countries and its Comparison*[M]. *Law Review*, 2008, Issue 1.

[26] Feng Weiguo. *On the Sentencing Investigation System and its Construction in China*[M]. *Tianjin Binhai Law Journal* 2015.

[27] Chen Ruihua. *On the Investigation of Sentencing Information*[M]. *Jurist*, 2010, Issue 2.

[28] Zhu Wei, Guilin. *Improving the Quality of Sentencing Recommendations Depends on the Establishment of a 'Supporting' Mechanism* [N]. *Procuratorial daily*, June 18, 2019, 3rd Edition.