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The Boundary of Self-Defense in Administrative Field—Taking Article 19 of the New Law on Penalties for Administration of Public Security as the Starting Point

Yujie Xue

Department of China University of Political Science and Law, School of Criminal Justice, Beijing, China
3123706707@qq.com

Abstract. The newly revised Article 19 of the Public Security Administration Punishment Law (2025) sets up a self-defense system in public security law for the first time. That's a big deal — it fills a gap in administrative law regarding the right to defend yourself, and gives citizens a legal basis to resist minor illegal harms. But in practice? Things get messy. The core elements are still fuzzy, coordination between administrative enforcement and criminal justice is poor, and there's no real uniform standard across law enforcement and court decisions. So it's really hard to figure out where the boundary of self-defense actually lies.Looking abroad, the UK's "castle doctrine" and Germany's idea that "law must not yield to unlawfulness" (the necessity doctrine) offer useful insights. Based on that, we need to rethink self-defense theory from three angles: its legitimacy, its core spirit, and how we judge situations in context. We also need clearer criteria for the key elements, better case guidance, a joint oversight system for enforcement and courts, and a stronger link between administrative and criminal procedures. The goal? Make Article 19 work as intended — balancing citizens' right to defend themselves with the stability of legal order.

Keywords: self-defense, Public Security Administration Punishment Law, administrative-criminal coordination, situational judgment

1. Introduction

Justifiable defense — in simple terms, it's a legal right that lets citizens resist unlawful harm. It's also the clearest expression of the idea that "the law should never give way to lawlessness."Now, here's the key bit. Article 19 of the newly revised Public Security Administration Punishment Law (June 2025) says this:"If you act to stop an ongoing unlawful attack — in order to protect yourself or someone else's body, property, or other rights — and your action harms the attacker, you won't be punished. But if your defense clearly goes beyond what's necessary and causes relatively serious harm, then you can be punished — though the punishment can be reduced or even waived." [1] That's huge. For the first time, the law formally sets up a justifiable defense system within public security administration. Before this, only criminal law had clear self-defense rules; administrative law had a gap. Now that gap is filled. The defense right now covers everything from minor

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violations to serious crimes. It also solves an old headache for law enforcement: citizens used to be afraid to fight back when hit — because they worried they'd be the ones held responsible.But — and there's always a but — in practice, this new article still faces some real problems. The core elements are vague. The connection between administrative enforcement and criminal justice is clunky. And many officers and judges still think in outdated ways. As a result, it's hard to tell where the line on self-defense really is. That could shrink citizens' space to defend themselves — or, on the flip side, open the door to abuse of the defense right.

So, starting from Article 19, this paper looks at real cases, digs into how courts actually reason, sorts out the key theories, and explores how to reshape the boundary of justifiable defense. The goal is to help make this article work as intended — balancing people's right to defend themselves with the need to keep legal order stable. And at the end of the day, to show what rule-of-law justice really looks like.

2. The norms and current practice of China's justifiable defense

China's self-defense system is slowly moving from "we'd rather not use it" to "okay, let's actually apply it." But there are still real pain points. Let me walk you through the rules first, then some real-life cases.

2.1. The current status and existing problems of China's self-defense norms

Under Chinese criminal law, self-defense is a key legal concept. Article 20 of the Criminal Law says: if you act to stop ongoing unlawful infringement — to protect the state, the public, yourself, or others — and you hurt the infringer, that's not a crime, and you're not criminally liable. But if you clearly go beyond what's necessary and cause serious harm, then you're liable — though the punishment can be reduced or waived. There's also a special clause: if you're facing violent crimes like murder, robbery, rape, or kidnapping, even if you kill or injure the attacker, it's not excessive defense [2].

That's the criminal side. Now, Article 19 of the newly revised Public Security Administration Punishment Law — that's the administrative side. And it's a real step forward. For the first time, it extends the right of self-defense into administrative law. That means when you're dealing with minor illegal acts (not serious enough for criminal law), you still have legal backing to defend yourself. Plus, the article says that if you do go a bit too far, you can still get leniency or even no punishment at all. That's a clear tilt toward protecting people's right to fight back.

But — and there's always a but — the wording is still fuzzy. What exactly counts as "unlawful infringement"? What's "relatively serious harm"? What's the "necessary limit"? No clear definitions. So judges and cops are left with a lot of discretion, and that leads to inconsistency.

Comparing Article 20 (criminal) and Article 19 (administrative): they share the same spirit, but there are big differences. First, the severity of the violation: criminal law deals with serious stuff like murder and robbery; administrative law deals with shoving, minor hitting, that kind of thing. Second, the standard for excessive defense: criminal law requires "serious harm" (usually serious injury or worse); administrative law uses a lower bar — "relatively serious harm" — which really needs clearer definition. Third, special rules: criminal law has that unlimited defense clause for violent crimes; administrative law doesn't, so every defensive act has to stay within "necessary limits." Finally, liability: criminal law reduces or exempts punishment for excessive defense; administrative law is even more lenient, explicitly listing situations where you might get no punishment at all.

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2.2. Analysis of typical cases of self-defense in the field of public security management

Let me give you an example. The "Zibo Ms. Zhang case" ((2024) Lu 03 Xing Zai No. 12) — it happened in March 2021. Zhang got into a dispute with her neighbor Li over clutter in the hallway. Li pushed her first, then pushed her into a corner three times, all while yelling threats. To get out of the situation, Zhang grabbed a mop and fought back, causing a minor injury to Li's left arm.

The police? They fined Zhang 500 yuan, saying it was "mutual assault." Zhang didn't accept that and asked the prosecutor to review it. The prosecutor found that the police had ignored Li's aggressive, repeated actions and Zhang's clear defensive intent — they just saw "both sides had physical contact" and called it mutual assault. That was a factual error.

The prosecutor protested, and in July 2024, the court retried the case. The court agreed with the prosecutor: Zhang's actions were passive resistance to stop an unlawful attack, so it counted as self-defense — even in the administrative law sense [3].

What's interesting is the court's reasoning. The original decision was very result-focused — both sides got hurt, so both were to blame. The retrial looked at the whole situation: who started it, how aggressive Li was, whether Zhang had any real choice (she used a mop but only caused a minor injury). The court even said: "Judging self-defense in public security cases has to be based on the defender's actual situation at the moment — you can't use calm, post-hoc rationality to demand they precisely control their counterattack." That's pretty close to what Professor Zhang Mingkai has argued — that you need to look at both the necessity of the act and the proportionality of the result [4].

This shift shows that courts are starting to move away from just looking at injury results and toward a fuller picture — including intent and the process of the act.

But the case also shows the problems with Article 19 in practice:

No unified standards for core terms like "unlawful infringement" and "greater harm."

Some law enforcement and judges still think in old "both sides are wrong" terms, mechanically labeling minor defensive acts as mutual assault.

And the link between criminal and administrative self-defense standards is really unclear — what happens when a violation escalates from administrative to criminal? No guidance. That's a recipe for inconsistent rulings.

3. Theoretical basis of justifiable defense

3.1. Theoretical basis of self-defense from the perspective of comparative law

Different places have different takes on self-defense, and they can give us useful ideas.

The UK's approach comes from the old saying "a man's home is his castle." It strongly protects personal property and bodily safety, giving defenders a lot of leeway. Dennis J. Baker (De Montfort Law School) explains it this way: by defining your home as your castle, the law allows self-defense inside it, and sets a high threshold — the validity of your defensive force has to be judged based on the defender's own belief [5]. That's a very subjective, situational standard.

Germany, by contrast, distinguishes between justification (self-defense as a right) and excuse (excessive defense as a reason to reduce or avoid blame). Eric Hilgendorf (University of Würzburg) says self-defense has three conditions: the situation, the act, and the intent. The core principle is that "law must not yield to unlawfulness." And when judging the scope of defense, you use necessity — if the act is necessary to stop the unlawful attack, it's valid self-defense [6]. So necessity is key.

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3.2. Theoretical reconstruction of justifiable defense in China

Taking these ideas together, plus China's own practical difficulties, I think we need to rebuild self-defense theory around three things: legitimacy, core spirit, and situational judgment.

Legitimacy: We should prioritize the principle of maintaining legal order, while also accommodating the need to protect higher interests. The older "balancing legal interests" approach can easily lead to result-oriented thinking and overly narrow defense boundaries. The "legal order" principle, by contrast, emphasizes showing the law's authority through defensive action — saying a clear "no" to unlawful violations. That allows for more flexible boundaries. At the same time, we should recognize that the defender's interests come first. And because the attacker is at fault, their legal interests naturally take a back seat. That creates a dynamic balance between rights protection and order maintenance.

Core spirit: We have to stick to the principle that "law must not yield to unlawfulness." This is basic justice. The Supreme People's Court, Procuratorate, and Ministry of Public Security have already made this clear in their guiding opinions. But we need to go further: when evaluating whether a defensive act is legitimate, we should focus on its legality and appropriateness, not obsess over whether the harm is exactly proportional. And just because the defender causes a little extra damage doesn't mean it's not self-defense. Otherwise, people will be afraid to step in and stop unlawful acts.

Situational judgment: We need a two-part standard — "the defender's immediate subjective feeling + objective circumstances." We have to abandon the old "calm, post-hoc rational review" model. We need to fully understand the defender's psychological pressure, heightened anxiety, and limited options when facing an attack. Courts shouldn't demand that defenders accurately predict the attacker's next move the moment danger appears. As long as the defensive act doesn't clearly exceed what a reasonable person would do on the spot, we should affirm its lawfulness. Don't be too rational — no one stays perfectly calm and accurate in those moments.

4. The path to improving the boundaries of China's justifiable defense

Now that Article 19 exists, how do we actually make it work? We need to refine the standards, improve the mechanisms, and reshape the boundaries.

4.1. Refining the criteria for determining the core elements of self-defense

The vagueness of core elements is the biggest headache. We need to clarify "unlawful infringement," "significant harm," and "ongoing."

Unlawful infringement in the public security context: positively, it needs three things — actual aggression, direct danger to personal or property rights, and not being provoked by the defender. Shoving and continuous pulling that pose immediate risk count. Negatively, verbal disputes without physical harm, or minor accidental contact, don't count. That way, the right to defense isn't nullified, but it's not abused either.

Significant harm: We can go with the judicial consensus that "minor injury or above" counts. Minor injury and below doesn't. But also, if the attacker only shoves and the defender causes minor injury, we still need to check if the defense method was reasonable — to avoid a serious mismatch.

"Ongoing" infringement: This should be based on the defender's on-the-spot perception of danger. The objective test is whether the infringement is still happening and whether there's immediate risk. For sudden attacks, "ongoing" starts when the attack begins and ends when the

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attacker stops or loses the ability to keep attacking. For continuous violations (like illegal detention or persistent harassment), defense can happen anytime during that period. Pre-emptive strikes (before the attack starts) and revenge attacks (after it stops) are not allowed. And to avoid mechanical time limits, we should clarify: if the attacker stops and there's no continuing immediate risk, the infringement is over.

4.2. Better case guidance and reference systems

Higher-level public security organs, prosecutors, and courts should regularly release guiding cases on self-defense in the public security field. Pick typical cases covering different types of violations and defense scenarios. Each case should clearly explain the facts, the disputes, the reasoning, and the logic for drawing the defense boundary. And highlight the rules for core elements — like "how far can you go when someone shoves you?" or "how to tell mutual assault from self-defense."

Take the Zibo case: guiding cases could establish three principles. First, comprehensive situational judgment — look at the whole story, who started it, degree of fault, sequence of actions. Don't isolate the defensive act. Second, strictly limit mutual assault findings — only when both sides have the intent to provoke or attack. Definitely not "passive counterattack = mutual assault." Third, vulnerable parties (elderly, minors, injured, people with special conditions) get preferential protection — relax the limit judgment a bit, because their options on the spot are limited.

Also, build a unified database and search platform for self-defense cases, covering both criminal and public security fields. Tag them by "type of infringement, defense means, harm result, conclusion." Add keyword search. Keep it updated so law enforcement and judges can quickly find similar cases and reduce discretionary differences.

4.3. Strengthen the link between administrative and criminal self-defense systems

The poor coordination between criminal and administrative self-defense rules is a big reason for confusion. We need to improve both the standards and the procedures.

On standards: When a violation escalates from public security to criminal, the defender should be able to adjust their defensive measures accordingly. At the minor illegal stage, defense has to follow Article 19's "necessary limits." If the attack becomes criminal, then defense can use the broader scope under Criminal Law Article 20 — you don't have to judge the entire defense process by the same narrow standard. Also, unify the test for "when does unlawful infringement stop" — whether criminal or administrative, the basic standard should be "the attacker has lost the ability to keep attacking and no longer poses a risk."

On procedures: Build a solid cross-agency transfer and coordination system for self-defense cases. If a defender's actions might be criminally suspect, the public security agency must promptly transfer the case to the prosecutor, along with a full assessment of the legal validity of the defense and all related evidence. Prosecutors shouldn't review isolated parts — they need to evaluate the whole defensive process, considering the escalation of the violation. This prevents contradictory results from separate criminal and administrative reviews. Also, set up a joint discussion mechanism for difficult cases with unclear boundaries or major disagreements — public security, prosecutors, and courts work together to clarify the legal basis and specific standards. And improve evidence coordination and sharing, so criminal and administrative evidence can cross-check, building a solid foundation for accurately defining the defense boundary.

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5. Conclusion

Article 19 of the newly revised Public Security Administration Punishment Law formally establishes a self-defense system in public security administration. That's a big step — it expands China's self-defense legal framework from criminal law into administrative law, puts the principle "law must not yield to unlawfulness" into everyday practice, and gives citizens a clear legal basis to resist minor violations.But in reality, the standards for core elements are still fuzzy, coordination between administrative and criminal procedures is weak, and many law enforcement and judicial personnel still think in old ways. So drawing the defense boundary accurately is still hard — and we urgently need theoretical rethinking and institutional improvements.Theoretically, we should prioritize maintaining legal order while also responding to the need to protect legal interests. Stick to the principle that "law must not yield to unlawfulness," and set up a situational judgment standard based on the defender's on-the-spot situation — break free from old habits. Practically, we need clearer criteria for core elements, better case guidance, a joint oversight system, and stronger coordination between administrative and criminal enforcement. That will help unify standards and correct mechanical, grassroots thinking. The goal is to ensure citizens can both defend themselves and do so appropriately — while preventing abuse of self-defense rights.

Only by clarifying self-defense standards and regulating law enforcement and judicial work can we remove citizens' fear of being held responsible when they fight back — and encourage them to actively stop unlawful acts. Going forward, we need to keep tracking how this article is implemented and dynamically improve the relevant systems, so citizens can feel real justice in every self-defense case.

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