

## **Criminal Procedure Law of the People's Republic of China (2018)**

(Adopted at the 2nd Session of the Fifth National People's Congress on July 1, 1979; amended for the first time in accordance with the Decision on Amending the Criminal Procedure Law of the People's Republic of China adopted at the 4th Session of the Eighth National People's Congress on March 17, 1996; amended for the second time in accordance with the Decision on Amending the Criminal Procedure Law of the People's Republic of China adopted at the 5th Session of the Eleventh National People's Congress on March 14, 2012; and amended for the third time in accordance with the Decision to Amend the Criminal Procedure Law of the People's Republic of China adopted at the 6th Session of the Standing Committee of the Thirteenth National People's Congress on October 26, 2018.)

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Part One General Provisions

Chapter I Objectives and Basic Principles

**Article 1** To ensure correct enforcement of the Criminal Law , punish crimes, protect the people, protect national security and public security, and maintain the order of socialist society, this Law is formulated in accordance with the Constitution .

**Article 2** The objectives of the Criminal Procedure Law of the People's Republic of China are to ensure the accurate and timely finding of criminal facts and correct application of law, punish criminals, ensure that innocent people are not incriminated, raise citizens' awareness of abiding by law and combating crimes, safeguard the socialist legal system, respect and protect human rights, protect the personal rights, property rights, democratic rights, and other rights of citizens, and ensure smooth socialist construction.

**Article 3** Public security authorities are responsible for criminal investigation, detention, execution of arrest warrants, and interrogation in criminal cases. People's Procuratorates are responsible for procuratorial supervision, approval of arrests, investigation of cases directly accepted by procuratorial authorities, and initiation of public prosecution. People's Courts are responsible for trial and sentencing. Except as otherwise provided for by law, no other authority, organization, or individual shall exercise such powers.

In criminal procedures, people's courts, people's procuratorates, and public security authorities must strictly abide by this Law and relevant provisions of other laws.

**Article 4** National security authorities shall, in accordance with the law, handle criminal cases regarding compromising national security and perform the same functions as those of public security authorities.

**Article 5** People's courts shall exercise judicial powers independently in accordance with the law, and people's procuratorates shall exercise procuratorial powers independently in accordance with the law, without interference by any government authority, social organization, or individual.

**Article 6** In criminal procedures, people's courts, people's procuratorates, and public security authorities must rely on the masses and base their activities on facts and law. Law applies equally to all citizens, and no privilege is allowed before law.

**Article 7** In criminal procedures, people's courts, people's procuratorates, and public security authorities shall, according to their division of functions, coordinate and check each other to ensure correct and effective enforcement of law.

**Article 8** People's procuratorates shall conduct legal supervision over criminal procedure in accordance with the law.

**Article 9** Citizens of all nationalities shall have the right to use their native languages in litigation. People's courts, people's procuratorates, and public security authorities shall provide interpretation for litigation participants who are not familiar with the commonly used local language.

In a region where an ethnic minority concentrates or multiple ethnic groups live together, interrogation and trial shall be conducted in the commonly used local language, and sentences, notices, and other documents shall be issued in the commonly used local language.

**Article 10** After trial by a people's court of second instance, a case is closed.

**Article 11**

**Article 17** Where a foreigner commits a crime and shall be subject to criminal liability, this Law shall apply.

Where a foreigner with diplomatic privileges and immunities commits a crime and shall be subject to criminal liability, the case shall be resolved through diplomatic channels.

**Article 18** In accordance with the international treaties which the People's Republic of China has concluded or acceded to or under the principle of reciprocity, the judicial authorities of China and a foreign country may request judicial assistance from each other in criminal matters.

## Chapter II Jurisdiction

**Article 19** Investigation of criminal cases shall be conducted by public security authorities, except as otherwise provided for by law.

Where, in performing its statutory duty of supervision of legal proceedings, a people's procuratorate discovers that any justice functionary commits a crime of false imprisonment, extortion of a confession by torture, or illegal search or any other crime that infringes upon a citizen's rights or damages the fair administration of justice by taking advantage of his or her functions, the people's procuratorate may open an official investigation into the crime. Where a case regarding a serious crime committed by any staff member of a government authority by taking advantage of his or her functions under the jurisdiction of a public security authority needs to be directly accepted by a people's procuratorate, the people's procuratorate may open an official investigation into the case upon decision of the people's procuratorate at or above the provincial level.

Cases of private prosecution shall be directly accepted by people's courts.

**Article 20** A basic people's court shall have jurisdiction over ordinary criminal cases as a court of first instance, except those under the jurisdiction of the people's court at a higher level as provided for by this Law.

**Article 21** An intermediate people's court shall have jurisdiction over the following criminal cases as a court of first instance:

- (1) a case regarding compromising national security or terrorist activities; and
- (2) a case regarding a crime punishable by life imprisonment or death penalty.

**Article 22** A higher people's court shall have jurisdiction over criminal cases which are significant in a province (or an autonomous region or municipality directly under the Central Government) as a court of first instance.

**Article 23** The Supreme People's Court shall have jurisdiction over criminal cases which are

significant in the entire nation as a court of first instance.

**Article 24** When necessary, a people's court at a higher level may try a criminal case under the jurisdiction of a people's court at a lower level as a court of first instance; and when a people's court at a lower level as a court of first instance deems that a criminal case is significant or complicated and needs to be tried by a people's court at a higher level, it may request that the case be transferred to the people's court at the next higher level for trial.

**Article 25** A criminal case shall be under the jurisdiction of the people's court at the place of crime. Where it is more appropriate for the case to be tried by the people's court at the place of residence of the defendant, the case may be under the jurisdiction of the people's court at the place of residence of the defendant.

**Article 26** Where two or more people's courts at the same level all have jurisdiction over a case, the case shall be tried by the people's court which first accepts the case. When necessary, the case may be transferred for trial by the people's court at the principal place of crime.

**Article 27** A people's court at a higher level may designate that a people's court at a lower level try a case over which jurisdiction is unclear or designate that a people's court at a lower level transfer a case to another people's court for trial.

**Article 28** The jurisdiction of specialized people's courts shall be provided for separately.

### Chapter III Disqualification

**Article 29** Under any of the following circumstances, a judge, prosecutor, or investigator shall voluntarily disqualify himself or herself, and a party or his or her legal representative shall have the right to request the disqualification thereof:

- (1) the judge, prosecutor, or investigator is a party to the case or a close relative of a party to the case;
- (2) the judge, prosecutor, or investigator or his or her close relative is an interested party to the case;
- (3) the judge, prosecutor, or investigator once served as a witness, identification or evaluation expert, defender, or litigation representative in the case; or
- (4) the judge, prosecutor, or investigator has any other relationship with a party, which may affect the just handling of the case.

**Article 30** Judges, prosecutors, and investigators shall not accept treats and gifts from the parties and their agents and shall meet the parties and their agents in violation of relevant legal provisions.

A judge, prosecutor, or investigator who violates the provision of the preceding paragraph shall be subject to legal liability. A party or his or her legal representative shall have the right to request

disqualification thereof.

**Article 31** The disqualification of a judge, prosecutor, or investigator shall be decided respectively by the president of a people's court, the president of a people's procuratorate, and the chief of a public security authority; the disqualification of the president of a people's court shall be decided by the judicial committee of the court; and the disqualification of the president of a people's procuratorate or the chief of a public security authority at the same level shall be decided by the procuratorial committee of the people's procuratorate.

Before a decision is made on the disqualification of an investigator, the investigator shall not suspend the investigation of the case.

Against a decision that dismisses a request for disqualification, the party or his or her legal representative may apply for reconsideration once.

**Article 32** The disqualification provisions of this Chapter shall also apply to court clerks, interpreters, and identification or evaluation experts.

Defenders and litigation representatives may request disqualification and apply for reconsideration according to the provisions of this Chapter.

#### Chapter IV Defense and Representation

**Article 33** In addition to defending himself or herself, a criminal suspect or defendant may retain one or two defenders. The following persons may serve as defenders:

- (1) a lawyer;
- (2) a person recommended by a people's organization or the employer of a criminal suspect or defendant; and
- (3) a guardian, relative, or friend of a criminal suspect or defendant.

A person who is serving a criminal sentence or whose personal freedom is deprived of or restricted in accordance with the law shall not serve as a defender.

A person who is expelled from a public office or whose practicing license as a lawyer or notary is revoked shall not serve as a defender, except that the person is the guardian or a close relative of a criminal suspect or defendant.

**Article 34** A criminal suspect shall have the right to retain a defender from the day when the criminal suspect is interrogated by a criminal investigation authority for the first time or from the day when a compulsory measure is taken against the criminal suspect; during the period of criminal investigation, a criminal suspect may only retain a lawyer as a defender. A defendant shall have the

right to retain a defender at any time.

When a criminal investigation authority interrogates a criminal suspect for the first time or takes a compulsory measure against the criminal suspect, it shall inform the criminal suspect that the criminal suspect has the right to retain a defender. A people's procuratorate shall, within three days after receiving the case file transferred for examination and prosecution, inform a criminal suspect that the criminal suspect has the right to retain a defender. A people's court shall, within three days after accepting a case, inform a defendant that the defendant has the right to retain a defender. If a criminal suspect or defendant in custody files a request for retaining a defender, the people's court, people's procuratorate, and public security authority shall convey such a request in a timely manner. For a criminal suspect or defendant in custody, his or her guardian or close relative may retain a defender on his or her behalf.

After accepting representation of a criminal suspect or defendant, a defender shall inform the case-handling authority in a timely manner.

**Article 35** Where a criminal suspect or defendant has not retained a defender for financial hardship or other reasons, the criminal suspect or defendant or his or her close relative may file an application with a legal aid agency. If the legal aid conditions are met, the legal aid agency shall designate a lawyer to defend him or her.

Where a criminal suspect or defendant suffers vision, hearing, or speech impairment or is a mental patient who has not completely lost the ability to recognize or control his or her behavior, if he or she has not retained a defender, the people's court, people's procuratorate, and public security authority shall notify a legal aid agency to designate a lawyer to defend him or her.

Where a criminal suspect or defendant who may be sentenced to life imprisonment or death penalty has not retained a defender, the people's court, people's procuratorate, and public security authority shall notify a legal aid agency to designate a lawyer to defend him or her.

**Article 36** Legal aid agencies may station duty lawyers at the people's courts, jails, and other places. If a criminal suspect or defendant does not appoint a defender, nor does a legal aid agency designate a lawyer to defend him or her, a duty lawyer shall provide the criminal suspect or defendant with legal assistance including but not limited to legal advice, recommendations on the selection of procedures, application for the modification of compulsory measures, and offering opinions on the handling of the case.

A people's court, people's procuratorate, or jail shall inform a criminal suspect or defendant of his or

her right to a scheduled meeting with a duty lawyer, and facilitate the scheduled meeting between the criminal suspect or defendant and a duty lawyer.

**Article 37** The duties of a defender are to present materials and opinions regarding the innocence of a criminal suspect or defendant, pettiness of a crime, or mitigation of or exemption from criminal liability and protect the procedural rights and other lawful rights and interests of a criminal suspect or defendant, in accordance with facts and law.

**Article 38** During the period of criminal investigation, a defense lawyer may provide legal assistance for a criminal suspect, file petitions and accusations on behalf of a criminal suspect, apply for modifying a compulsory measure, learn the charges against a criminal suspect and relevant case information from the criminal investigation authority, and offer opinions.

**Article 39** A defense lawyer may meet and communicate with a criminal suspect or defendant in custody. As permitted by the people's court or people's procuratorate, a defender other than a defense lawyer may also meet and communicate with a criminal suspect or defendant in custody.

When a defense lawyer files a request for a meeting with a criminal suspect or defendant in custody on the basis of the lawyer's practicing license, a certificate issued by the law firm, and a power of attorney or an official legal aid document, a jail shall arrange a meeting in a timely manner, no later than 48 hours after the request is filed.

Where a defense lawyer files a request for a meeting with a criminal suspect in custody during the period of criminal investigation in a case regarding a crime of compromising national security or terrorist activities, the meeting shall be subject to the permission of the criminal investigation authority. In such a case, the criminal investigation authority shall issue a prior notice to the jail.

At a meeting with a criminal suspect or defendant in custody, a defense lawyer nde9(dut)-11(y)20( )-9(law)-1.

duplicate such materials.

**Article 41** Where a defender believes that any evidence gathered by the public security authority or people's procuratorate during the period of criminal investigation or examination and prosecution regarding the innocence of a criminal suspect or defendant or the pettiness of crime has not been submitted, the defender shall have the right to apply to the people's procuratorate or people's court for submission of such evidence.

**Article 42** A defender shall inform the public security authority or people's procuratorate in a timely manner of evidence gathered regarding a criminal suspect's alibi or the fact that the criminal suspect

A people's procuratorate shall, within three days from the date of receiving the case file transferred for examination and prosecution, inform a victim and his or her legal representative or close relative and the parties and their legal representatives in an incidental civil action of their right to retain a litigation representative. A people's court shall, within three days from the date of accepting a case of private prosecution, inform the private prosecutor and his or her legal representative and the parties and their legal representatives in an incidental civil action of their right to retain a litigation representative.

**Article 47** Litigation representatives shall be retained by reference to the provisions of Article 33 of this Law.

**Article 48** A defense lawyer shall have the right to keep confidential the conditions and information regarding a client known in the practice of law. However, if knowing in the practice of law that a client or any other person is preparing for or is committing a crime compromising national security or public security or seriously damaging the personal safety of others, a defense lawyer shall inform a judicial authority in a timely manner.

**Article 49** A defender or litigation representative who believes that a public security authority, a people's procuratorate, a people's court or any staff member thereof has impeded his or her exercise of procedural rights, shall have the right to file a petition or accusation with the people's procuratorate at the same level or at the next higher level. The people's procuratorate shall examine the petition or accusation in a timely manner and, if it is true, notify the authority involved to make correction.

## Chapter V Evidence

**Article 48** All materials that may be used to prove the facts of a case are evidence.

Evidence includes:

- (1) physical evidence;
- (2) documentary evidence;
- (3) witness statement;
- (4) victim statement;
- (5) confession and defense of a criminal suspect or defendant;
- (6) expert opinion;
- (7) transcripts of crime scene investigation, examination, identification, and investigative reenactment; and
- (8) audio-visual recordings and electronic data.

Evidence must be verified before being used as a basis for deciding a case.

**Article 51** The burden of proof of guilty of the defendant in a public prosecution case shall fall on the people's procuratorate, while that in a private prosecution case shall fall on the private prosecutor.

**Article 52** Judges, prosecutors, and criminal investigators must, under legal procedures, gather various kinds of evidence that can prove the guilt or innocence of a criminal suspect or defendant and the gravity of crime. It shall be strictly prohibited to extort confessions by torture, gather evidence by threat, enticement, deceit, or other illegal means, or force anyone to commit self-incrimination. It must be ensured that all citizens who are involved in a case or have information regarding a case can objectively and fully provide evidence, and, except under special circumstances, such citizens may be required to assist investigation.

**Article 53** A written request of a public security authority for approval of an arrest, an indictment of a people's procuratorate, and a sentence of people's court must be consistent with the truth. Where truth is withheld intentionally, liability shall be investigated.

**Article 54** A people's court, a people's procuratorate, and a public security authority shall have the authority to gather or require submission of evidence from the relevant entities and individuals. The relevant entities and individuals shall provide true evidence.

Physical evidence, documentary evidence, audio-visual recordings, electronic data, and other evidence gathered by an administrative authority in the process of law enforcement and case investigation may be used as evidence in criminal procedures.

Evidence involving any state secret, trade secret, or personal privacy shall be kept confidential.

Whoever forges, conceals, or destroys evidence must be subject to legal liability, without regard to which party owns the evidence.

**Article 55** In deciding each case, a people's court shall focus on evidence, investigation, and research, and credence shall not be readily provided for confessions. A defendant shall not be convicted and sentenced to a criminal punishment merely based on the defendant's confession without other evidence; a defendant may be convicted and sentenced to a criminal punishment based on hard and sufficient evidence even without his or her confession.

Evidence is hard and sufficient when the following conditions are met:

- (1) All facts for conviction and sentencing are supported by evidence;
- (2) All evidence used to decide a case has been verified under legal procedures; and
- (3) All facts found are beyond reasonable doubt based on all evidence of the case.

**Article 56** A confession of a criminal suspect or defendant extorted by torture or obtained by other illegal means and a witness or victim statement obtained by violence, threat, or other illegal means shall be excluded. If any physical or documentary evidence is not gathered under the statutory procedure, which may seriously affect justice, correction or justification shall be provided; otherwise, such evidence shall be excluded.

If it is discovered during the criminal investigation, examination and prosecution, or trial of a case that any evidence shall be excluded, such evidence shall be excluded and not be used as a basis for a prosecution proposal, a prosecution decision, and a sentence.

**Article 57** After receiving a report, accusation, or tip on any illegal obtainment of evidence by criminal investigators or after discovering any illegal obtainment of evidence by criminal investigators, a people's procuratorate shall conduct investigation and verification. If it is confirmed that evidence has been illegally obtained, the people's procuratorate shall provide an opinion on correction; if any crime is committed, criminal liability shall be investigated in accordance with the law.

**Article 58** Where, in a court session, a judge believes that there may be any illegal obtainment of evidence as described in Article 56 of this Law, the judge shall conduct an investigation in court regarding the legality of obtainment of evidence.

A party or the defender or litigation representative thereof shall have the right to apply to a people's court for excluding illegally obtained evidence. Relevant clues or materials shall be provided for an application for excluding illegally obtained evidence.

**Article 59** During the investigation in court regarding the legality of obtainment of evidence, a people's procuratorate shall prove the legality of obtainment of evidence.

If the existing evidentiary materials cannot prove the legality of obtainment of evidence, the people's procuratorate may request the people's court to notify relevant investigators or other persons to appear before court to explain; and the people's court may notify relevant investigators or other persons to appear before court to explain. The relevant investigators or other persons may also file a request for appearing before court to explain. The relevant persons notified by the people's court shall appear before court.

cross-examined in court by both sides, the public prosecutor and victim as one side and the defendant and defender as the other side, and verified. If a court discovers that a witness has committed perjury or concealed criminal evidence, the witness shall be handled in accordance with the law.

**Article 62** Any person who has information regarding a case shall have the obligation to testify.

A physically or mentally handicapped person or a minor who cannot distinguish between right and wrong or cannot correctly express themselves shall not serve as a witness.

**Article 63** People's courts, people's procuratorates, and public security authorities shall ensure the safety of witnesses and their close relatives.

Whoever intimidates, insults, beats, or retaliates against a witness or his or her close relatives shall be subject to criminal liability in accordance with the law if it constitutes a crime; or shall be subject to punishment in public security administration in accordance with the law if it is not criminally punishable.

**Article 64** Where a witness, identification or evaluation expert, or victim testifies in a crime of compromising national security, a crime of terrorist activities, an organized crime of a gangland nature, or a drug crime, endangering the personal safety of the witness, identification or evaluation expert, or victim or his or her close relatives, the people's court, people's procuratorate, and public security authority shall take one or more of the following protective measures:

- (1) not disclosing his or her true personal information, such as name, residence address, and employer;
- (2) not exposing his or her look, true voice, and so on, when he or she takes the stand;
- (3) prohibiting particular persons from contacting the witness, identification or evaluation expert, or victim and his or her close relatives;
- (4) providing special protection for his or her person and residence; and
- (5) Other necessary protective measures.

Where a witness, identification or evaluation expert, or victim believes that his or her personal safety or that of his or her close relatives is endangered by his or her testimony in criminal procedures, he or she may request protection from the people's court, people's procuratorate, and public security authority.

The relevant entities and individuals shall cooperate with a people's court, people's procuratorate, or public security authority in taking protective measures in accordance with the law.

**Article 65** Subsidization shall be provided for the travel, board and lodging, and other expenses of a

witness for performing the obligation to testify. Such subsidization shall be recorded under the operating expenditures of judicial authorities and ensured by the treasury of the government at the same level.

When a working witness testifies, his or her employer may not directly or indirectly deduct his or her salary, bonus, welfare, and other remuneration.

#### Chapter VI Compulsory Measures

**Article 66** A people's court, a people's procuratorate, and a public security authority may, according to the circumstances of a case, compel the appearance of, grant bail to, or decide residential confinement of a criminal suspect or defendant.

**Article 67** A people's court, a people's procuratorate, and a public security authority may grant bail to a criminal suspect or defendant under any of the following circumstances:

- (1) the criminal suspect or defendant may be sentenced to supervision without incarceration, limited incarceration, or an accessory penalty only;
- (2) the criminal suspect or defendant may be sentenced to fixed-term imprisonment or a heavier penalty but will not cause danger to the society if granted bail;
- (3) the criminal suspect or defendant suffers a serious illness, cannot take care of himself or herself or is a pregnant woman or a woman who is breastfeeding her own baby, and will not cause danger to the society if granted bail; or
- (4) The term of custody of the criminal suspect or defendant has expired but the case has not been closed, and a bail is necessary.

Bail shall be executed by a public security authority.

**Article 68** Where a people's court, a people's procuratorate, and a public security authority decide to grant bail to a criminal suspect or defendant, it shall order the criminal suspect or defendant to provide a surety or pay a bond.

**Article 69** A surety must meet the following conditions:

- (1) not involved in the case;
- (2) able to perform a surety's obligations;
- (3) enjoying political rights and not restricted in personal freedom; and
- (4) having a fixed residence and steady income.

**Article 70** A surety shall perform the following obligations:

- (1) supervising the bailed person in complying with the provisions of Article 71 of this Law; and

(2) after discovering that the bailed person may commit or has committed a violation of Article 71 of this Law, reporting it to the execution authority in a timely manner.

Where the bailed person has committed a violation of Article 71 of this Law and the surety fails to perform surety obligations, the surety shall be fined, and if any crime is committed, criminal liability shall be investigated in accordance with the law.

**Article 71** A bailed criminal suspect or defendant shall comply with the following provisions:

- (1) not leaving the city or county where he or she resides without the approval of the execution authority;
- (2) reporting any change of his or her residence address, employer, or contact information to the execution authority within 24 hours of such change;
- (3) appearing before court in a timely manner when summoned;
- (4) not interfering in any way with the testimony of witnesses; and
- (5) not destroying or forging evidence or making a false confession in collusion.

Based on the circumstances of a case, a people's court, a people's procuratorate, and a public security authority may order a bailed criminal suspect or defendant to comply with one or more of the following provisions:

- (1) not entering particular places;
- (2) not meeting or communicating with particular persons;
- (3) not engaging in particular activities; and
- (4) delivering his or her passport and other international travel credentials and driver's license to the execution authority for preservation.

Where a bailed criminal suspect or defendant violates any provision of the preceding two paragraphs, if a bond has been paid, part or all of the bond shall be forfeited, and, based on the actual circumstances, the criminal suspect or defendant shall be ordered to make a statement of repentance, pay a bond or provide a surety again, or be placed under residential confinement or arrested.

Where any violation of the bail provisions entails an arrest, the criminal suspect or defendant may be detained first.

**Article 72** The authority deciding on a bail shall decide the amount of a bond after fully considering the need to ensure normal legal proceedings, the danger of the person to be bailed to the society, the nature and circumstances of the case, the gravity of the possible punishment, the financial condition of the person to be bailed, and other factors.

The person providing a bond shall deposit the bond into a special account at a bank designated by the execution authority.

**Article 73** Where a criminal suspect or defendant has not violated the provisions of Article 71 of this Law during the period of waiting for trial on bail, he or she may receive a refund of the bond at the bank on the basis of a notice of termination of waiting for trial on bail or relevant legal instrument, at the end of the period of waiting for trial on bail.

**Article 74** Under any of the following circumstances, a people's court, a people's procuratorate, and a public security authority may place a criminal suspect or defendant who meets the arrest conditions under residential confinement:

- (1) the criminal suspect or defendant suffers a serious illness or cannot take care of himself or herself;
- (2) the criminal suspect or defendant is a pregnant woman or a woman who is breastfeeding her own baby;
- (3) the criminal suspect or defendant is the sole supporter of a person who cannot take care of himself or herself;
- (4) considering the special circumstances of the case or as needed for handling the case, residential confinement is more appropriate; or
- (5) the term of custody has expired but the case has not been closed, and residential confinement is necessary.

Where a criminal suspect or defendant meets the conditions for bail but is neither able to provide a surety nor able to pay a bond, he or she may be placed under residential confinement.

Residential confinement shall be executed by a public security authority.

**Article 75** Residential confinement shall be executed at the residence of a criminal suspect or defendant; or may be executed at a designated residence if the criminal suspect or defendant has no fixed residence. Where the execution of residential confinement at the residence of a criminal suspect or defendant suspected of compromising national security or terrorist activities may obstruct criminal investigation, it may be executed at a designated residence with the approval of the public security authority at the next higher level. However, residential confinement may not be executed at a place of custody or a place specially used for handling cases.

If residential confinement is executed at a designated residence, the family of the person under residential confinement shall be notified within 24 hours after residential confinement is executed, unless such notification is impossible.

Where a criminal suspect or defendant under residential confinement retains a defender, the provisions of Article 34 of this Law shall apply.

People's procuratorates shall oversee the legality of decisions and execution of residential confinement at a designated residence.

**Article 76** The term of residential confinement at a designated residence shall decrease the term of punishment. For a sentence of supervision without incarceration, one day of residential confinement equals one day of the term of punishment; for a sentence of limited incarceration or fixed-term imprisonment, two days of residential confinement equals one day of the term of punishment.

**Article 77** A criminal suspect or defendant under residential confinement shall comply with the following provisions:

- (1) not leaving the residence where residential confinement is executed without the approval of the execution authority;
- (2) not meeting or communicating with others without the approval of the execution authority;
- (3) appearing before court in a timely manner when summoned;
- (4) not interfering in any way with the testimony of witnesses;
- (5) not destroying or forging evidence or making a false confession in collusion; and
- (6) delivering his or her passport and other international travel credentials and driver's license to the execution authority for preservation.

A criminal suspect or defendant under residential confinement who seriously violates any provision of the preceding paragraph may be arrested; and if arrest is necessary, the criminal suspect or defendant may be detained first.

**Article 78** Execution authorities may oversee criminal suspects or defendants under residential confinement regarding their compliance with residential confinement provisions by electronic monitoring, random inspection, and other surveillance means; and during the period of criminal investigation, may monitor the communications of criminal suspects under residential confinement.

**Article 79** The period of bail granted by a people's court, a people's procuratorate, or a public security authority to a criminal suspect or defendant shall not exceed 12 months; and the period of residential confinement shall not exceed 6 months.

During the period of bail or residential confinement, the investigation, prosecution, and trial of a case shall not be suspended. If it is discovered that a criminal suspect or defendant shall not be subject to criminal liability or when the period of bail or residential confinement expires, the bail or residential

confinement shall be terminated in a timely manner. The bailed person or person under residential confinement and relevant entities shall be notified of the termination in a timely manner.

**Article 80** The arrest of a criminal suspect or defendant must be subject to the approval of a people's procuratorate or a decision of a people's court and be executed by a public security authority.

**Article 81** Where there is evidence to prove the facts of a crime and a criminal suspect or defendant may be sentenced to imprisonment or a heavier punishment, if residential confinement is insufficient to prevent any of the following dangers to society, the criminal suspect or defendant shall be arrested:

- (1) the criminal suspect or defendant may commit a new crime;
- (2) there is an actual danger to national security, public security, or social order;
- (3) the criminal suspect or defendant may destroy or forge evidence, interfere with the testimony of a witness, or make a false confession in collusion;
- (4) the criminal suspect or defendant may retaliate against a victim, informant, or accuser; or
- (5) the criminal suspect or defendant attempts to commit suicide or escape.

In the process of approving or deciding an arrest, the nature and circumstances of the suspected crime, the admission of guilt, and the acceptance of punishment, among others, of a criminal suspect or defendant shall be considered as factors of a possible danger to the society.

Where there is evidence to prove the facts of a crime and a criminal suspect or defendant may be sentenced to fixed-term imprisonment of 10 years or a heavier punishment or there is evidence to prove the facts of a crime and a criminal suspect or defendant who once committed an intentional crime or has not been identified may be sentenced to imprisonment or a heavier punishment, the criminal suspect or defendant shall be arrested.

Where a criminal suspect or defendant waiting for trial on bail or under residential confinement seriously violates the provisions on bail or residential confinement, the criminal suspect or defendant may be arrested.

**Article 82** Under any of the following circumstances, a public security authority may first detain a person who is committing a crime or is a major criminal suspect:

- (1) the person is preparing to commit a crime, is committing a crime, or is discovered immediately after committing a crime;
- (2) a victim or an eyewitness identifies the person as the one committing the crime;
- (3) criminal evidence is discovered from the person's body or residence;
- (4) the person attempts to commit suicide or escape after committing a crime or is fugitive;

- (5) the person may destroy or forge evidence or make a false confession in collusion;
- (6) the identify of the person is unknown because the person refuses to disclose his or her true name and residence address; or
- (7) the person is a strongly suspected of committing crimes from place to place, repeatedly, or in a gang.

**Article 83** Where a public security authority executes detention or arrest of a person in a different place, it shall notify the public security authority at the place of residence of the detainee or arrestee, and the public security authority at the place of residence of the detainee or arrestee shall provide cooperation.

**Article 84** Under any of the following circumstances, a person may be immediately tackled by any citizen to a public security authority, a people's procuratorate, or a people's court for handling:

- (1) the person is committing a crime or is discovered immediately after committing a crime;
- (2) the person is wanted;
- (3) the person has escaped from incarceration; and
- (4) the person is being pursued for capture.

**Article 85** When detaining a person, a public security authority must produce a detention warrant.

After a person is detained, the detainee shall be immediately transferred to a jail for custody, no later than 24 hours thereafter. The family of a detainee shall be notified within 24 hours after detention, unless such notification is impossible or such notification may obstruct criminal investigation in a case regarding compromising national security or terrorist activities. However, once such a situation that obstructs criminal investigation disappears, the family of the detainee shall be immediately notified.

**Article 86** A public security authority shall interrogate a detainee within 24 hours after detention. If it is discovered that the person should not have been detained, the person must be immediately released, and a certificate of release shall be issued to the person.

**Article 87** A public security authority shall prepare a written request for approval of arrest of a criminal suspect, which shall be submitted along with the case file and evidence to the people's procuratorate at the same level for examination and approval. When necessary, the people's procuratorate may send procurators to participate in the public security authority's discussion of a significant case.

**Article 88** During the examination and approval of an arrest request, a people's procuratorate may

interrogate the criminal suspect; and, under any of the following circumstances, must interrogate the criminal suspect:

- (1) it has any doubt on whether the arrest conditions are met;
- (2) the criminal suspect requests a statement before prosecutors; or
- (3) any gross violation of law may have occurred during criminal investigation.

During the examination and approval of an arrest request, a people's procuratorate may interview a witness and other litigation participants and hear the opinion of a defense lawyer; and, if a defense lawyer files a request for presenting an opinion, shall hear the opinion of the defense lawyer.

**Article 89** A people's procuratorate's approval of arrest of a criminal suspect shall be subject to the decision of the president of the people's procuratorate. Significant cases shall be submitted to the procuratorial committee for discussion and decision.

**Article 90** After examining a case where a public security authority has filed a request for approval of arrest, a people's procuratorate shall, according to the actual circumstances of the case, make a decision to approve or disapprove the arrest. If the people's procuratorate decides to approve the arrest, the public security authority shall execute the decision immediately and notify the people's procuratorate regarding execution in a timely manner. If the people's procuratorate decides to disapprove the arrest, it shall explain the reasons for disapproval and, when necessary, notify at the same time the public security authority to conduct a supplementary investigation.

**Article 91** Deeming that a detainee needs to be arrested, a public security authority shall, within three days after detention, file an arrest request with the people's procuratorate for examination and approval. Under special circumstances, the time limit for filing such a request may be extended for one to four days.

For a person strongly suspected of committing crimes from place to place, repeatedly, or in a gang, the time limit for filing an arrest request for examination and approval may be extended to 30 days.

A people's procuratorate shall make a decision to approve or disapprove an arrest within seven days after receiving a written request for approval of arrest from a public security authority. If the people's procuratorate disapproves the arrest, the public security authority shall release the detainee immediately after receiving a notice regarding the decision and notify the people's procuratorate regarding execution in a timely manner. If further investigation is necessary and the conditions for bail or residential confinement are met, the criminal suspect shall be released on bail or placed under residential confinement in accordance with the law.

**Article 92** Deeming that a decision of a people's procuratorate to disapprove an arrest is erroneous, a public security authority may request reconsideration but must immediately release the detainee. If the public security authority's opinion is not accepted, it may request a review by the people's procuratorate at the next higher level. The people's procuratorate at the higher level shall immediately review the case, decide whether or not to modify the original disapproval decision and notify the people's procuratorate at the lower level and the public security authority to execute its decision.

**Article 93** When arresting a person, a public security authority must produce an arrest warrant.

After a person is arrested, the arrestee shall be immediately transferred to a jail for custody. The family of the arrestee shall be notified within 24 hours after arrest, unless such notification is impossible.

**Article 94** A people's court or a people's procuratorate must interrogate a person arrested on its decision or a public security authority must interrogate a person arrested with the approval of a people's procuratorate within 24 hours after the arrest. If it is discovered that the person should not have been arrested, the person must be immediately released, and a certificate of release shall be issued to the person.

**Article 95** After arresting a criminal suspect or defendant, a people's procuratorate shall continue to examine the necessity of custody. If custody is no longer necessary, it shall suggest a release of the arrestee or modification of the compulsory measure for the arrestee. The relevant authority shall notify the people's procuratorate of the handling result within 10 days.

**Article 96** Where a people's court, a people's procuratorate, or a public security authority discovers that the compulsory measure taken against a criminal suspect or defendant is inappropriate, the measure shall be revoked or modified in a timely manner. A public security authority which releases an arrestee or replaces arrest with another compulsory measure shall notify the people's procuratorate originally approving the arrest.

**Article 97** A criminal suspect or defendant or his or her legal representative, close relative, or defender shall have the right to apply for modifying a compulsory measure. A people's court, people's procuratorate, or public security authority shall make a decision within three days after receiving such an application; and, if a disapproval decision is made, the applicant shall be informed of the decision and reasons for disapproval.

**Article 98** Where a case involving a criminal suspect or defendant in custody cannot be closed

within the period of custody during criminal investigation, period of examination and prosecution, or period of trial at first instance or second instance as set forth in this Law, the criminal suspect or defendant shall be released; or, if further investigation or trial is necessary, may be bailed or placed under residential confinement.

**Article 99** When the statutory term of a compulsory measure taken against a criminal suspect or defendant expires, a people's court, a people's procuratorate, or a public security authority shall release the criminal suspect or defendant, terminate a bail or residential confinement, or legally modify a compulsory measure. A criminal suspect or defendant or his or her legal representative, close relative, or defender shall have the right to require termination of a compulsory measure taken by a people's court, a people's procuratorate, or a public security authority when the term of the compulsory measure expires.

**Article 100** Where, during the examination and approval of an arrest request, a people's procuratorate discovers any illegal investigative activities of a public security authority, it shall notify the public security authority to make correction, and the public security authority shall notify the people's procuratorate regarding correction.

#### Chapter VII Incidental Civil Actions

**Article 101** Where a victim has suffered any material loss as a result of the defendant's crime, the victim shall have the right to institute an incidental civil action during criminal procedures. If the victim is dead or has lost capacity of conduct, his or her legal representative or close relative shall have the right to institute an incidental civil action.

Where state property or collective property has suffered any loss, a people's procuratorate may institute an incidental civil action along with a public prosecution.

**Article 102** A people's court may, when necessary, take a preservative measure to seize, impound, or freeze the property of a defendant. In an incidental civil action, the plaintiff or the people's procuratorate may apply to the people's court for taking a preservative measure. Where a people's court takes a preservative measure, the relevant provisions of the Civil Procedure Law shall apply.

**Article 103** When trying an incidental civil case, a people's court may conduct mediation or render a judgment or ruling based on the material loss.

**Article 104** An incidental civil action shall be heard concurrently with the criminal case. An incidental civil action may be heard by the same judicial organization after the trial of the criminal case only to prevent the excessive delay of the trial of the criminal case.

Chapter VIII Periods and Service of Process

**Article 105** Periods are counted by hour, day, or month.

The starting hour or day of a period shall not be counted in the period.

A statutory period shall not include travel time. An appeal or other document that has been mailed before the statutory period expires shall not be deemed past due.

Where the last day of a period falls on a holiday, the expiry date of the period shall be the first day after the holiday, but the custody period of a criminal suspect or defendant shall terminate on the expiry date and may not be extended for holidays.

**Article 106** Where a party cannot meet a deadline for an irresistible reason or any other justifiable reason, the party may, within five days after the obstacle disappears, apply for continuing the procedure that should have been completed before the deadline.

A people's court shall make a ruling to approve or disapprove an application as mentioned in the preceding paragraph.

**Article 107** Summons, notices, and other court documents shall be served upon the addressee personally; or, if the addressee is absent, may be received on his or her behalf by an adult member of his or her family or a responsible person of his or her employer.

If the addressee or a recipient on his or her behalf refuses to receive or refuses to sign or seal such documents, the process server may request the addressee's neighbors or other witnesses to be present, explain the situation to them, leave such documents at the addressee's residence, record the fact of refusal and date of service on the service acknowledgment, and sign it, and such documents shall then be deemed served.

Chapter IX Other Provisions

**Article 108** For the purposes of this law:

'0( b d f g e b db f d cd bd c f g d e b e case conducted, and the measures taken, by public authorities and people's procuratorates in accordance with the law in handling criminal cases.

'1( d db ntif defendant in an incident of violation.

'2( df d d d d f c d d d representative from a government authority or social organization with authority to protect the person represented;

'3( f b . . . d df d d . . . f . . . d . . .  
defenders, witnesses, identification or investigation experts, and interpreters;  
(5) "litigation representative" means a person employed by a victim or her or her legal representative or close relative in a public prosecution and by a private prosecutor or his or her representative in a case of private prosecution to participate in criminal procedure on his or her behalf or a person employed by a person or his or her legal representative in an incidental civil action to participate in civil procedures on his or her behalf.  
(6) "close relatives" means a person's husband or wife, father, mother, sons, daughters, and full siblings.

## Part Two Opening a Case, Criminal Investigation, and Initiation of Public Prosecution

### Chapter I Opening a Case

**Article 109** A public security authority or a people's procuratorate which discovers any facts of a crime or a criminal suspect shall open a case for criminal investigation according to its jurisdiction.

**Article 110** Any entity or individual which discovers any facts of a crime or a criminal suspect shall have the right and the obligation to report the crime or criminal suspect to a public security authority, a people's procuratorate, or a people's court.

A victim shall have the right to report a crime which infringes upon his or her personal or property rights or accuse a criminal suspect of such a crime to a public security authority, a people's procuratorate, or a people's court.

A public security authority, a people's procuratorate, or a people's court shall accept all reports on crimes and criminal suspects and accusations. If a case is not under its jurisdiction, it shall transfer the case to the competent authority and notify the person reporting the crime or criminal suspect or accuser; and, if the case is not under its jurisdiction but emergency measures must be taken, it shall take emergency measures before transferring the case to the competent authority.

Where a person committing a crime voluntarily surrenders to a public security authority, a people's procuratorate, or a people's court, the provisions of paragraph 3 hereof shall apply.

**Article 111** Reports on crimes and criminal suspects and accusations may be filed in writing or verbally. The personnel receiving verbal reports and accusations shall prepare transcripts, which shall be signed or sealed by the persons filing such reports and accusations after reading and confirmation.

The personnel receiving accusations and reports on criminal suspects shall explain to the persons

filing accusations and reports the legal liability for filing a false accusation or report. However, an accusation or report which is inconsistent with facts or even wrong shall be strictly distinguished from a false accusation or report, as long as no fabrication of facts or forgery of evidence is involved. A public security authority, a people's procuratorate, or a people's court shall ensure the safety of persons reporting crimes and criminal suspects, accusers, and their close relatives. If a person reporting a crime or criminal suspect or an accuser is reluctant to disclose to the public his or her name and report or accusation, such information shall be kept confidential.

**Article 112** A people's court, a people's procuratorate, or a public security authority shall, according to its jurisdiction, promptly examine the materials regarding a reported crime or criminal suspect, an accusation, or a voluntary surrender. If it believes that there are any facts of a crime which require criminal investigation, it shall open a case; or, if it believes that there are no facts of a crime or the facts of a crime are obviously minor and require no criminal investigation, it shall not open a case but shall notify the accuser of the reasons for not opening a case. Against such a decision, the accuser may apply for reconsideration.

**Article 113** Where a people's procuratorate deems that a public security authority fails to open a case that shall be otherwise opened for criminal investigation, or a victim expresses to a people's procuratorate the opinion that a public security authority fails to open a case that shall be otherwise opened for criminal investigation, the people's procuratorate shall require the public security authority to state the reasons for not opening a case. If the people's procuratorate deems that the reasons for not openinBT064(ninBTF1 12 Tf)-1509ov5,ci(pre90nm)10(4n)-59(-59(that )-59a)4( )-59(publi)-( )-1

strongly suspected of a crime may be first detained in accordance with the law, and a criminal suspect who meets the conditions for arrest shall be arrested in accordance with the law.

**Article 116** After investigation, a public security authority shall conduct interrogation for a case with evidence on the facts of a crime to verify the evidence gathered and submitted.

**Article 117** A party or a defender or litigation representative thereof or an interested party shall have the right to file a petition or accusation with a judicial authority regarding any of the following conduct of the judicial authority or any of its personnel:

- (1) refusing to release a criminal suspect or defendant or terminate or modify a compulsory measure taken, when the statutory term of the compulsory measure expires;
- (2) refusing to refund a bail bond that shall be refunded;
- (3) seizing, impounding, or freezing any property irrelevant to a case;
- (4) refusing to terminate a measure of seizing, impounding, or freezing property that shall be terminated; or
- (5) embezzling, misappropriating, distributing in private, replacing, or illegally using any seized, impounded, or frozen property.

The authority accepting the petition or accusation shall handle it in a timely manner. Against the handling result, the party or the defender or litigation representative thereof or the interested party may file a petition with the people's procuratorate at the same level; or, if the case is directly accepted by the people's procuratorate, may file a petition with the people's procuratorate at the next higher level. The people's procuratorate shall examine the petition in a timely manner and, if it is true, notify the relevant authority to make correction.

## **Section 2** Interrogation of Criminal Suspects

**Article 118** The interrogation of a criminal suspect must be conducted by the investigators of a people's procuratorate or a public security authority. During interrogation, there must be two or more investigators.

After a criminal suspect is transferred to a jail for custody, the investigators shall conduct interrogation of the criminal suspect inside the jail.

**Article 119** A criminal suspect for whom an arrest or detention is not necessary may be summoned to a designated place in the city or county where the criminal suspect resides or his or her residence for interrogation, but credentials from the people's procuratorate or public security authority shall be produced. A criminal suspect discovered on the scene may be verbally summoned after a work pass

is produced, but it shall be noted in the interrogation transcript.

The duration of interrogation by summons or forced appearance may not exceed 12 hours; or, if it is necessary to detain or arrest a criminal suspect in an extraordinarily significant or complicated case, the duration of interrogation by summons or forced appearance may not exceed 24 hours.

A criminal suspect shall not be actually held in custody by successive summons or forced appearance. During the period of interrogation by summons or forced appearance, the meals and necessary rest time of the criminal suspect shall be ensured.

**Article 120** When interrogating a criminal suspect, the investigators shall first ask the criminal suspect whether he or she has committed any criminal act, allow him or her to state the facts of a crime or explain his or her innocence, and then ask him or her questions. The criminal suspect shall truthfully answer the questions of the investigators, but have the right to refuse to answer questions irrelevant to the case.

The investigators shall, when interrogating a criminal suspect, inform the criminal suspect of his or her procedural rights and the provisions of law on leniency if he or she truthfully confesses to his or her crime as well as acknowledgment of guilt and acceptance of punishment.

**Article 121** When a criminal suspect who suffers hearing or speech impairment is interrogated, a person familiar with the sign language for hearing- and speech-impaired persons shall participate in the interrogation, which shall be noted in the transcripts.

**Article 122** The interrogation transcripts shall be confirmed by a criminal suspect, and, if the criminal suspect is unable to read, the transcripts shall be read out to him or her. If there are any omissions or errors in the transcripts, the criminal suspect may suggest supplements or corrections. After confirming that the transcripts are free from error, the criminal suspect shall sign or seal the transcripts. The investigators shall also sign the transcripts. A criminal suspect shall be permitted to

**Article 124** The investigators may interview a witness on the crime scene, at the place of the witness's employer or residence, or at a place proposed by the witness, and, when necessary, may notify a witness to provide testimony at the people's procuratorate or public security authority. When interviewing a witness on the crime scene, the investigators shall produce their work passes, and, when interviewing a witness at the place of the witness's employer or residence or a place proposed by the witness, the investigators shall produce the credentials from the people's procuratorate or public security authority.

Witnesses shall be interviewed individually.

**Article 125** When a witness is interviewed, the witness shall be informed of the requirement of truthfully providing evidence and testimony and the legal liability for perjury or concealing criminal evidence.

**Article 126** The provisions of Article 122 of this Law shall also apply to the interview of witnesses.

**Article 127** The provisions of this Section shall apply to the interview of victims.

#### **Section 4** Crime Scene Investigation and Examination

**Article 128** The investigators shall conduct investigation or examination of sites, objects, persons, and corpses relevant to a crime. When necessary, persons with expertise may be assigned or retained to conduct crime scene investigation or examination under the direction of the investigators.

**Article 129** Any entity or individual shall have the duty to protect a crime scene and immediately notify a public security authority to send personnel to conduct a crime scene investigation.

**Article 130** To conduct a crime scene investigation or examination, the investigators must have credentials from a people's procuratorate or a public security authority.

**Article 131** Where the cause of death of a person is unknown, a public security authority shall have the authority to decide an autopsy but shall notify the family members of the deceased to be present.

**Article 132** To determine certain characteristics, condition of injury, or physiological condition of a victim or criminal suspect, the body of the victim or criminal suspect may be examined, and fingerprint information and blood, urine, and other biological samples may be collected.

Where a criminal suspect refuses to be examined, the investigators may conduct a compulsory examination if deeming it necessary.

The examination of the body of a female shall be conducted by female personnel or doctors.

**Article 133** Transcripts of a crime scene investigation or examination shall be prepared, and be signed or sealed by the investigation or examination participants and eyewitnesses.

**Article 134** Where a people's procuratorate examining a case deems it necessary to re-conduct a crime scene investigation or examination that has been done by a public security authority, it may require the public security authority to re-conduct the crime scene investigation or examination and may send prosecutors to participate.

**Article 135** To solve a case, when necessary, an investigative reenactment may be conducted with the approval of the chief of a public security authority.

Transcripts shall be prepared for an investigative reenactment, to which the signatures or seals of participants in the investigative reenactment shall be affixed.

In investigative reenactments, any conduct that suffices to cause any danger, insult anyone, or corrupt public morals shall be prohibited.

## **Section 5 Search**

**Article 136** To gather criminal evidence and capture a criminal, the investigators may search the body, objects, and residence of a criminal suspect or a person who may harbor a criminal or conceal criminal evidence, as well as other relevant places.

**Article 137** Any entity or individual shall have the obligation to hand in physical evidence, documentary evidence, audio-visual recordings, and other evidence which may prove the guilt or innocence of a criminal suspect as required by the people's procuratorate or public security authority.

**Article 138** When a search is conducted, a search warrant must be produced to the person under search.

When an arrest or detention is conducted, a search may be conducted without a search warrant in case of emergency.

**Article 139** During a search, the person under search, his or her family members or neighbors, or other eyewitnesses shall be present.

The search of the body of a female shall be conducted by female personnel.

**Article 140** Transcripts of a search shall be prepared, and be signed or sealed by the investigators and the person under search, his or her family members or neighbors, or other eyewitnesses. If the person under search is fugitive or his or her family members refuse to sign or seal the transcripts, it shall be noted in the transcripts.

## **Section 6 Seizure and Impoundment of Physical Evidence and Documentary Evidence**

**Article 141** All objects and documents discovered during criminal investigation that may be used to prove the guilt or innocence of a criminal suspect shall be seized or impounded; and those irrelevant

to a case may not be seized or impounded.

The seized or impounded objects and documents shall be properly preserved or sealed and may not be used, replaced, or damaged.

**Article 142** All seized or impounded objects and documents shall be carefully checked by the investigators jointly with the eyewitnesses on the scene and holders of the seized or impounded objects and documents, and a list shall be made in duplicate on the scene, to which the signatures or seals of the investigators, eyewitnesses, and holders shall be affixed. One copy of the list shall be delivered to the holder, and the other shall be attached to the case file for future reference.

**Article 143** Deeming it necessary to impound the mail and telegrams of a criminal suspect, with the approval of a public security authority or a people's procuratorate, the investigators may notify the post and telecommunications authority to check and deliver the relevant mail and telegrams for impoundment.

When it is no longer necessary to continue the impoundment, the investigators shall immediately notify the post and telecommunications authority.

**Article 144** A people's procuratorate or a public security authority may, as needed for criminal investigation, inquire about or freeze the deposits, remittances, bonds, stocks, fund shares, and other property of criminal suspects according to relevant legal provisions. The relevant entities and individuals shall provide cooperation.

Where the deposits, remittances, bonds, stocks, fund shares, and other property of a criminal suspect have been frozen, repeat freezing shall be prohibited.

**Article 145** Where the seized or impounded objects, documents, mail, or telegrams or the frozen deposits, remittances, bonds, stocks, fund shares, and other property are proved irrelevant to a case after investigation, the seizure, impoundment, or freezing measure shall be terminated within three days, and the above property shall be returned.

## **Section 7** Forensic Identification and Evaluation

**Article 146** Where certain special issues in a case need to be clarified in order to solve the case, persons with expertise shall be assigned or retained to conduct identification or evaluation.

**Article 147** After completion of identification or evaluation, an identification or evaluation expert shall prepare a written expert opinion and sign it.

An identification or evaluation expert who intentionally conducts false identification or evaluation shall be subject to legal liability.

**Article 148** The criminal investigation authority shall inform a criminal suspect and a victim of the expert opinion to be used as evidence. Upon application of the criminal suspect or victim, a supplementary identification or evaluation or a re-identification or re-evaluation may be conducted.

**Article 149** The period of mental illness evaluation of a criminal suspect shall not be counted in the case-handling period.

### **Section 8** Technical Investigation Measures

**Article 150** After opening a case regarding a crime of compromising national security, a crime of terrorist activities, an organized crime of a gangland nature, a significant drug crime, or any other crime seriously endangering the society, a public security authority may, as needed for criminal investigation, take technical investigation measures after undergoing strict approval formalities.

After opening a case regarding a serious crime of gravely infringing upon the personal rights of citizens by taking advantage of one's functions, a people's procuratorate may, as needed for criminal investigation, take technical investigation measures after undergoing strict approval formalities, and request the relevant authorities to execute such measures according to applicable provisions.

To capture a wanted criminal suspect or defendant or a fugitive criminal suspect or defendant whose arrest has been approved or decided, technical investigation measures necessary for capture may be taken with approval.

**Article 151** In an approval decision, the types and scopes of application of the technical investigation measures to be taken shall be determined as needed for criminal investigation. An approval decision shall be valid for three months from the date issued. When technical investigation measures are no longer necessary, they shall be terminated in a timely manner; or if it is necessary to continue to take technical investigation measures in a complicated or difficult case after the term of validity expires, the term of validity may be extended with approval, but each extension may not exceed three months.

**Article 152** Where technical investigation measures are taken, such measures must be executed in strict accordance with the approved types, scopes of application, and terms.

The investigators shall keep confidential any state secret, trade secret, or personal privacy known in the course of taking technical investigation measures; and must destroy in a timely manner materials irrelevant to a case acquired by taking technical investigation measures.

Materials acquired by taking technical investigation measures may only be used for criminal investigation, prosecution, and trial, and may not be used for other purposes.

When a public security authority takes technical investigation measures in accordance with the law,

the relevant entities and individuals shall provide cooperation and keep relevant information confidential.

**Article 153** To solve a case, when necessary, criminal investigation may be conducted by relevant personnel anonymously as decided by the chief of a public security authority. However, such personnel shall not induce others to commit a crime and shall not use a method which may compromise public security or cause any serious danger to personal safety.

For criminal activities involving the delivery of drugs and other contraband or property, a public security authority may, as needed for criminal investigation, conduct controlled delivery according to relevant legal provisions.

**Article 154** Materials collected by taking technical investigation measures under this Section may be used as evidence in criminal procedures. If any use of such evidence may endanger the personal safety of relevant persons or may cause other serious consequences, protective measures such as non-disclosure of the identity of relevant persons or relevant technical methods shall be taken. When necessary, evidence may be verified by judges out of court.

#### **Section 9** Wanted Notices

**Article 155** A public security authority may issue a wanted notice for a fugitive criminal suspect who shall be arrested and take effective measures to capture the criminal suspect.

A public security authority may directly issue a wanted notice within its jurisdiction; and, to issue a wanted notice beyond its jurisdiction, shall request a higher authority with the deciding power to issue such a notice.

#### **Section 10** Close of Criminal Investigation

**Article 156** The period of custody during criminal investigation after a criminal suspect is arrested shall not exceed two months. If the investigation of a complicated case cannot be closed within the period, the period may be extended for one month with the approval of the people's procuratorate at the next higher level.

**Article 157** Where, during a relatively long period of time, it is inappropriate to transfer an extraordinarily significant and complicated case for trial for special reasons, the Supreme People's Procuratorate shall file a request with the Standing Committee of the National People's Congress for approval of a postponed trial of the case.

**Article 158** Where the investigation of the following cases cannot be closed within the period as set forth in Article 156 of this Law, the period may be extended for two months with the approval or

decision of the people's procuratorate of a province, autonomous region, or municipality directly under the Central Government:

- (1) significant and complicated cases in outlying areas where traffic is very difficult;
- (2) significant cases regarding criminal gangs;
- (3) significant and complicated cases regarding crimes committed from place to place; and
- (4) significant and complicated cases with a wide involvement and difficulty in gathering evidence.

**Article 159** Where a criminal suspect may be sentenced to fixed-term imprisonment of ten years or more and the investigation of the case cannot be closed even upon expiration of the period as extended under Article 158 of this Law, the period may be extended for another two months with the approval or decision of the people's procuratorate of a province, autonomous region, or municipality directly under the Central Government.

**Article 160** Where, during the period of criminal investigation, a criminal suspect is discovered to have committed another major crime, the period of custody during criminal investigation shall be recounted from the date of discovery according to the provisions of Article 156 of this Law.

Where the identity of a criminal suspect is unknown because the criminal suspect refuses to disclose his or her true name and residence address, an identity investigation shall be conducted, and the period of custody during criminal investigation shall be counted from the day when his or her identity is established, before which, however, criminal investigation and collection of evidence shall not be suspended. Where the facts of a crime are clear and evidence is hard and sufficient, even if the identity of the criminal suspect cannot be established, the criminal suspect may be prosecuted and tried by the name claimed by the criminal suspect.

**Article 161** Where, before the investigation of a case is closed, the defense lawyer files a request for presenting an opinion, the criminal investigation authority shall hear the opinion of the defense lawyer and record it. A written opinion of the defense lawyer, if any, shall be attached to the case file.

**Article 162** To close the investigation of a case, a public security authority shall ensure that the facts of a crime are clear and evidence is hard and sufficient, prepare a written prosecution opinion, which shall be transferred to the people's procuratorate at the same level for examination and decision along with the case file and evidence, and, at the same time, inform a criminal suspect and the defense lawyer thereof of the transfer.

If a criminal suspect voluntarily admits guilt, it shall be recorded, the record shall be transferred along with the case, and the relevant information shall be included in the written prosecution opinion.

**Article 163** Where it is discovered during criminal investigation that a criminal suspect shall not be subject to criminal liability, the case shall be dismissed; and, if the criminal suspect has been arrested, he or she shall be immediately released, a certificate of release shall be issued to him or her, and the people's procuratorate originally approving the arrest shall be notified.

#### **Section 11** Criminal Investigation of Cases Directly Accepted by People's Procuratorates

**Article 164** The criminal investigation of cases directly accepted by people's procuratorates shall be governed by the provisions of this Chapter.

**Article 165** Where, in a case directly accepted by a people's procuratorate, it is necessary to arrest or detain a criminal suspect under a circumstance as described in Article 81 or item (4) or (5) of Article 82 of this Law, the people's procuratorate shall make a decision, which shall be executed by a public security authority.

**Article 166** A detainee in a case directly accepted by a people's procuratorate shall be interrogated within 24 hours after detention. If it is discovered that the person should not have been detained, the person must be immediately released, and a certificate of release shall be issued to the person.

**Article 167** If a people's procuratorate deems it necessary to arrest a detainee in a case directly accepted by the people's procuratorate, it shall make a decision within 14 days after detention. Under special circumstances, the time limit for deciding an arrest may be extended for one to three days. If arrest is not necessary, the detainee shall be released immediately; or if further investigation is necessary and the detainee meets the conditions for bail or residential confinement, the detainee shall be bailed or placed under residential confinement in accordance with the law.

**Article 168** After closing the criminal investigation of a case, a people's procuratorate shall make a decision to initiate a public prosecution, a decision not to initiate a prosecution, or a decision to dismiss the case.

#### Chapter III Initiation of Public Prosecution

**Article 169** Any case requiring initiation of a public prosecution shall be subject to the examination and decision of a people's procuratorate.

**Article 170** A people's procuratorate shall, in accordance with the relevant provisions of this Law and the Supervision Law, examine a case transferred by the supervisory authority for prosecution. If, upon examination, the people's procuratorate deems further substantiation necessary, it shall return the case to the supervisory authority for further investigation, but when necessary, may conduct further investigation itself.

Where the supervisory authority has held a criminal suspect in custody in a case transferred to a people's procuratorate for prosecution, the people's procuratorate shall first detain the criminal suspect, and the holding measure taken by the supervisory authority shall be automatically removed. The people's procuratorate shall, within ten days after detention, make a decision on whether to arrest or grant bail to the detainee or place the detainee under residential confinement. Under special circumstances, the time limit for making the decision may be extended by one to four days. The period for the people's procuratorate to decide on a compulsory measure shall not be included in the period of examination and initiation of prosecution.

**Article 171** During the examination of a case, a people's procuratorate must ascertain:

- (1) whether the facts and circumstances of a crime are clear, whether evidence is hard and sufficient, and whether the nature of a crime and the charges are correctly determined;
- (2) whether there are any omitted crimes or other persons subject to criminal liability;
- (3) whether a criminal suspect shall not be subject to criminal liability;
- (4) whether there is an incidental civil action; and
- (5) whether the criminal investigation of the case is legally conducted.

**Article 172** A people's procuratorate shall, within one month, make a decision on a case transferred by a supervisory authority or public security authority for prosecution, and in a significant or complicated case, the period may be extended by 15 days; or if the criminal suspect admits guilt and accepts punishment, and the conditions for the application of the fast-track sentencing procedure are met, the decision shall be made within 10 days, and the period may be extended to 15 days if the criminal suspect may be sentenced to fixed-term imprisonment of more than one year.

Where the jurisdiction of a people's procuratorate over a case being examined for prosecution is changed, the period of examination and prosecution shall be counted from the day when the people's procuratorate having jurisdiction receives the case after the change.

**Article 173** A people's procuratorate shall, when examining a case, interrogate a criminal suspect, hear the opinions of the defender or duty lawyer, the victim, and the victim's litigation representative, and record their opinions. The written opinions, if any, of the defender or duty lawyer, the victim, and the victim's litigation representative shall be attached to the case file.

Where the criminal suspect admits guilt and accepts punishment, the people's procuratorate shall inform the criminal suspect of his or her procedural rights and the provisions of law on admission of guilt and acceptance of punishment, hear the opinions of the criminal suspect, the defender or duty

lawyer, the victim, and the victim's litigation representative on the following matters, and record their opinions:

- (1) Facts of the suspected crime, charges, and applicable provisions of law.
- (2) Recommendations on lenient punishment, such as lighter punishment, mitigated punishment, and exemption from punishment.
- (3) Procedures applicable to the trial of the case, after the criminal suspect admits guilt and accepts punishment.
- (4) Other matters requiring their opinions.

Where the people's procuratorate hear the opinion of the duty lawyer under the preceding two paragraphs, it shall make necessary arrangements in advance to facilitate the duty lawyer's access to relevant case information.

**Article 174** Where a criminal suspect voluntarily admits guilt and agrees with the sentencing recommendation and the applicable procedures, the criminal suspect shall sign a recognizance to admit guilt and accept punishment in the presence of the defender or duty lawyer.

A criminal suspect who admits guilt and accepts punishment under 54.23 p Late 1159(the wthe )0(g-159



public security authority. Deeming the decision erroneous, the public security authority may request reconsideration and, if its opinion is not accepted, may request a review by the people's procuratorate at the next higher level.

**Article 180** Where a people's procuratorate decides not to initiate a public prosecution for a case with a victim, it shall serve a written decision upon the victim. Against the decision, the victim may, within seven days after receiving the written decision, file a petition with the people's procuratorate at the next higher level for initiation of a public prosecution. The people's procuratorate shall inform the victim of its decision after reexamination. If the people's procuratorate upholds the decision not to initiate a public prosecution, the victim may institute an action in a people's court. The victim may also institute an action directly in a people's court without undergoing the petition procedure. After the people's court accepts the case, the people's procuratorate shall transfer relevant case files to the people's court.

**Article 181** Where a people's procuratorate decides not to initiate a public prosecution under paragraph 2, Article 177 of this Law, against the decision, the person not prosecuted may file a petition with the people's procuratorate within seven days after receiving the written decision. The people's procuratorate shall make a decision after reexamination, notify the person of the decision, and, at the same time, send a copy of the decision to the public security authority.

**Article 182** Where a criminal suspect voluntarily and truthfully confesses to the facts of the suspected crime or has any major meritorious act, or the case involves any major national interest, with the approval of the Supreme People's Procuratorate, the public security authority may dismiss the case, and the people's procuratorate may decide not to initiate prosecution or decide not to prosecute one or more crimes in the multiple crimes suspected.

Where prosecution is not initiated or a case is dismissed under the preceding paragraph, the people's procuratorate or the public security authority shall, in a timely manner, handle the seized, impounded or frozen property and any fruits thereof.

## Part Three Trial

### Chapter I Trial Organizations

**Article 183** A basic people's court or an intermediate people's court as a court of first instance shall try a case by a collegial panel consisting of three judges or three or seven judges and people's assessors; however, cases under the summary procedure and the fast-track sentencing procedure in a basic people's court may be tried by a sole judge.

A higher people's court as a court of first instance shall try a case by a collegial panel consisting of three to seven judges or three or seven judges and people's assessors.

The Supreme People's Court as a court of first instance shall try a case by a collegial panel consisting of three to seven judges.

A people's court shall try an appellate case by a collegial panel consisting of three or five judges.

The members of a collegial panel shall be in odd number.

**Article 184** Where, during deliberation of a collegial panel, there is any dissenting opinion, a decision shall be made based on the opinions of the majority, but the opinion of a dissenting member shall be entered in the transcripts. Transcripts of deliberation shall be signed by the members of a collegial panel.

**Article 185** After holding a court session and conducting deliberation, a collegial panel shall render a sentence. If a collegial panel deems it difficult to make a decision on a difficult, complicated, or significant case, the collegial panel shall request a decision of the president of the court to submit the case to the judicial committee for discussion and decision. The collegial panel shall execute the decision of the judicial committee.

## Chapter II Procedures at First Instance

### Section 1 Cases of Public Prosecution

**Article 186** After examining a public prosecution initiated, a people's court shall decide to hold a court session to hear the case if the charges in the indictment are based on clear facts.

**Article 187** After deciding to hold a court session to hear a case, a people's court shall determine the members of the collegial panel and serve a copy of the indictment of the people's procuratorate upon the defendant and the defender thereof no later than ten days before the court session is opened.

Before a court session is opened, the judges may call together the public prosecutor, parties, defenders, and litigation representatives to gather information and hear opinions on trial-related issues, such as disqualification, a list of witnesses to testify in court, and exclusion of illegally obtained evidence.

After determining the opening date of a court session, a people's court shall notify the people's procuratorate of the opening time and place of the court session, summon the parties, notify the defenders, litigation representatives, witnesses, identification or evaluation experts, and interpreters, and serve the summons and notices no later than three days before the court session is opened. If a case is to be heard openly, the cause of action, the name of the defendant, and the opening time and

place of the court session shall be announced no later than three days before the court session is opened.

The above proceedings shall be recorded in the transcripts, which shall be signed by the judges and court clerk.

**Article 188** A people's court of first instance shall hear cases openly. However, a case involving any state secret or personal privacy shall not be heard in open court; and a case involving any trade secret may be heard in camera if a party files such a request.

The reasons for hearing a case in camera shall be announced in court.

**Article 189** When a case of public prosecution is heard by a people's court, the people's procuratorate shall send procurators to appear before court to support the public prosecution.

**Article 190** When a court session begins, the presiding judge shall check whether all parties are in court and announce the cause of action; announce the names of the members of the collegial panel, court clerk, public prosecutor, defenders, litigation representative, identification or evaluation experts, and interpreters; inform the parties of their right to apply for disqualification of the members of the collegial panel, court clerk, public prosecutor, identification or evaluation experts, and interpreters; and inform a defendant of his or her defense right.

Where a defendant admits guilt and accepts punishment, the presiding judge shall inform the defendant of his or her procedural rights and the provisions of law on the admission of guilt and acceptance of punishment, and examine the voluntariness of the admission of guilt and acceptance of punishment and the authenticity and legality of the recognizance to admit guilt and accept punishment.

**Article 191** After the public prosecutor reads out the indictment in court, a defendant and a victim may present a statement regarding a crime alleged in the indictment, and the public prosecutor may question the defendant.

A victim, a plaintiff and a defender in an incidental civil action, and a litigation representative may, with the permission of the presiding judge, question a defendant.

A judge may question a defendant.

**Article 192** Where the public prosecutor or a party or the defender or litigation representative thereof raises any objection to a witness statement which has a material effect on the conviction and sentencing of a case, the witness shall testify before court if the people's court deems it necessary.

Where a people's police officer testifies before court regarding a crime witnessed in line of duty, the

preceding paragraph shall apply.

Where the public prosecutor or a party or the defender or litigation representative thereof raises any objection to an expert opinion, the identification or evaluation expert shall testify before court if the people's court deems it necessary. If the identification or evaluation expert refuses to do so after being notified by the people's court, the expert opinion may not be used as a basis for deciding the case.

**Article 193** Where, after being notified by a people's court, a witness refuses to testify before court without justifiable reasons, the people's court may force the witness to appear before court, unless the witness is the spouse, a parent, or a child of the defendant.

A witness who refuses to appear before court or refuses to testify after appearing before court without justifiable reasons shall be admonished; and if the circumstances are serious, with the approval of the president of the people's court, the witness may be detained for not more than 10 days. Against the detention decision, the detainee may apply to the people's court at the next higher level for reconsideration. Execution of the detention decision shall not be suspended pending reconsideration.

**Article 194** Before a witness takes the stand, a judge shall inform the witness of the requirement of truthfully providing testimony and the legal liability for perjury or concealing criminal evidence. The public prosecutor or a party or the defender or litigation representative thereof may, with the permission of the presiding judge, question a witness or an identification or evaluation expert. Deeming a question irrelevant to the case, the presiding judge shall prohibit the question.

A judge may question a witness or an identification or evaluation expert.

**Article 195** The public prosecutor and a defender shall adduce physical evidence before court for the parties to identify, and a statement of a witness who is not in court, an expert opinion of an identification or evaluation expert who is not in court, transcripts of crime scene investigation, and other documentation serving as evidence shall be read out in court. A judge shall hear the opinions of the public prosecutor, parties, defenders, and litigation representatives.

**Article 196** Where, during a court session, a collegial panel has any doubt on evidence, it may announce an adjournment to investigate and verify evidence.

When investigating and verifying evidence, a people's court may conduct crime scene investigation, examination, seizure, impoundment, forensic identification or evaluation, property inquiry, and freezing of property.

**Article 197** During a court session, a party or the defender or litigation representative thereof shall have the right to request that a new witness be called to the court, that new physical evidence be submitted, or that a new forensic identification or evaluation or crime scene investigation be conducted.

The public prosecutor or a party or the defender or litigation representative thereof may request the court to call a person with expertise to appear before court to offer an opinion on the expert opinion of an identification or evaluation expert.

accordance with the law, the collegial panel shall render a guilty sentence;

(2) if the defendant is found innocent in accordance with the law, the collegial panel shall render an acquittal sentence; or

(3) if the defendant cannot be found guilty for insufficient evidence, the collegial panel shall render an acquittal sentence stating that the charges are denied for insufficient evidence.

**Article 201** For a case where the defendant admits guilt and accepts punishment, the people's court shall, when rendering a judgment in accordance with the law, generally adopt the charges filed by and sentencing recommendation from the people's procuratorate, except under any of the following circumstances:

(1) The conduct of the defendant does not constitute a crime or the defendant shall not be held criminally liable.

(2) The defendant admits guilt and accepts punishment against his or her will.

(3) The defendant denies the facts of the crime which he or she is charged with.

(4) The charges filed are inconsistent with those determined at trial.

(5) The fair trial of the case may be otherwise affected.

Where, after trial, the people's court holds that the sentencing recommendation is evidently inappropriate or the defendant or defender raises any objection to the sentencing recommendation, the people's procuratorate may amend the sentencing recommendation. If the people's procuratorate fails to amend the sentencing recommendation or the sentencing recommendation is still evidently inappropriate after amendment, the people's court shall render a judgment in accordance with the law.

**Article 202** In any case, a sentence shall be announced publicly.

Where a sentence is announced at the end of a court session, a written sentence shall be served within five days upon the parties and the people's procuratorate that initiated the public prosecution; or, if the announcement of a sentence is scheduled for a later date, a written sentence shall be served immediately after announcement upon the parties and the people's procuratorate that indicated the public prosecution. At the same time, a written sentence shall be served upon a defender and a litigation representative.

**Article 203** A written sentence shall be signed by the judges and court clerk and indicate the time limit for appeal and name of the appellate court.

**Article 204** Where any of the following circumstances occurs during the trial of a case, which affects the trial, the trial may be postponed:

- (1) it is necessary to call a new witness to court, request submission of new physical evidence, or conduct a new forensic identification or evaluation or crime scene investigation;
- (2) the procurators discover that a case in public prosecution requires supplementary investigation and suggest such investigation to the court; or
- (3) the trial cannot proceed for a request for disqualification.

**Article 205** Where the trial of a case is postponed under item (2) of Article 204 of this Law, a people's procuratorate shall complete supplementary investigation within one month.

**Article 206** Where any of the following circumstances occurs during the trial of a case, which makes the trial impossible for a relatively long period of time, the trial may be suspended:

- (1) the defendant is unable to appear before court for suffering a serious illness;
- (2) the defendant has escaped;
- (3) the private prosecutor is unable to appear before court for suffering a serious illness and has not retained a litigation representative to appear before court; or
- (4) there is any irresistible reason.

After the cause of suspension of a trial disappears, the trial shall be resumed. The time of suspension of a trial shall not be counted in the period of trial.

**Article 207** The court clerk shall prepare transcripts of an entire court session, which shall be examined by the presiding judge and signed by the presiding judge and court clerk.

The witness testimony portion of the court transcripts shall be read out in court or read by the witnesses. After confirming that the transcripts are free of error, the witnesses shall sign or seal the transcripts.

Court transcripts shall be read by the parties or read out to them. A party which finds any omissions or errors in the transcripts may request supplements or corrections. After confirming that the transcripts are free of error, the party shall sign or seal the transcripts.

**Article 208** A people's court shall announce a sentence for a case of public prosecution within two months, or three months at the latest, after accepting the case. For a case with the possibility of a death penalty or a case with an incidental civil action or under any of the circumstances as set forth in Article 158 of this Law, the period of trial may be extended for three months with the approval of the people's court at the next higher level; and, if more extension is needed under special circumstances, the extension shall be reported to the Supreme People's Court for approval.

Where the jurisdiction of a people's court over a case is changed, the period of trial of the case shall

be counted from the day when the people's court having jurisdiction receives the case after the change.

For a case under supplementary investigation by a people's procuratorate, a people's court shall count anew the period of trial of the case after the supplementary investigation is completed and the case is transferred to the court.

**Article 209** A people's procuratorate which discovers that a people's court has violated the statutory procedures during the trial of a case shall have the authority to suggest that the people's court make correction.

## **Section 2** Cases of Private Prosecution

**Article 210** Cases of private prosecution include:

- (1) a case to be handled only upon complaint;
- (2) a minor criminal case which the victim has evidence to prove; and
- (3) a case where a victim has evidence to prove that a defendant has infringed upon his or her personal or property rights and shall be subject to criminal liability in accordance with the law but a public security authority or a people's procuratorate decides not to subject the defendant to criminal liability.

**Article 211** After examining a case of private prosecution, a people's court shall handle it as follows:

- (1) if the facts of a crime are clear and evidence is sufficient, the people's court shall hold a court session to try the case; or
- (2) if evidence to prove a crime is insufficient in a case of private prosecution and the private prosecutor cannot provide supplementary evidence, the people's court shall persuade the private prosecutor to withdraw the private prosecution or render a ruling to dismiss the private prosecution.

Where a private prosecutor refuses to appear before court without justifiable reasons after having been legally summoned twice or withdraws from a court session without the permission of the court, the case shall be deemed withdrawn by the private prosecutor.

Where, during a court session, a judge has any doubt on evidence and deems it necessary to investigate and verify evidence, the provisions of Article 196 of this Law shall apply.

**Article 212** A people's court may conduct mediation in a case of private prosecution; and the private prosecutor may voluntarily reach a settlement with the defendant or withdraw the private prosecution before a sentence is announced. Mediation shall not apply to a case as described in item (3), Article 210 of this Law.

The period for a people's court to try a case of private prosecution shall be governed by paragraph 1 or 2, Article 208 of this Law if the defendant is in custody; or a sentence shall be announced within six months after the case is accepted if the defendant is not in custody.

**Article 213** During litigation of a case of private prosecution, the defendant may file a counterclaim against the private prosecutor. The provisions governing a private prosecution shall apply to a counterclaim.

### **Section 3** Summary Procedures

**Article 214** A case under the jurisdiction of a basic people's court may be heard under summary procedures, if the following conditions are met:

- (1) the facts of a case are clear and evidence is sufficient;
- (2) the defendant confesses his or her crime and raises no objection to the charges; and
- (3) the defendant raises no o

the permission of a judge, debate with the public prosecutor or private prosecutor and his or her litigation representative.

**Article 219** The trial of a case under summary procedures shall not be subject to the provisions of Section 1 of this Chapter regarding the time limit for service of process and the procedures for questioning the defendant, witnesses, and identification or evaluation experts, adducing evidence, and debating in court. However, before a sentence is announced, the closing statement of the defendant shall be heard.

**Article 220** For a case under summary procedures, a people's court shall close the case within 20 days after accepting the case; or, if the defendant may be sentenced to fixed-term imprisonment of more than three years, the above period may be extended to one and a half months.

**Article 221** Where, during the trial of a case, a people's court discovers that summary procedures are not appropriate for the case, it shall try the case anew according to the provisions of Section 1 or Section 2 of this Chapter.

#### **Section 4** Fast-Track Sentencing Procedure

**Article 222** The fast-track sentencing procedure may apply to a case under the jurisdiction of a basic people's court where the defendant may be sentenced to fixed-term imprisonment of not more than three years, provided that the facts of the case are clear, the evidence is definitive and sufficient, and the defendant admits guilt, accepts punishment, and agrees with the application of the fast-track sentencing procedure, and the case shall be tried by a sole judge.

When a people's procuratorate institutes a public prosecution, it may recommend that the people's court apply the fast-track sentencing procedure.

**Article 223** Under any of the following circumstances, the fast-track sentencing procedure shall not apply:

- (1) The defendant suffers vision, hearing, or speech impairment or is a mental patient who has not completely lost the ability to recognize or control his or her behavior.
- (2) The defendant is a juvenile.
- (3) The case has a significant social impact.
- (4) In a joint crime case, some defendant raised any objection to the facts of the crime which he or she is charged with, the charges, the sentencing recommendation, or the application of the fast-track sentencing procedure.
- (5) The defendant fails to reach a mediation or settlement agreement with the victim or his or her

legal representative on compensation in an incidental civil action and other matters.

(6) The application of the fast-track sentencing procedure is otherwise inappropriate.

**Article 224** The trial of a case under the fast-track sentencing procedure shall not be subject to the provisions of Section 1 of this Chapter regarding the time limit for service of process, and investigation and debating in court are generally not conducted; however, before a sentence is announced, the opinion of the defender and the closing statement of the defendant shall be heard.

For a case tried under the fast-track sentencing procedure, the sentence shall be announced in court.

**Article 225** For a case under the fast-track sentencing procedure, a people's court shall close the case within 10 days after accepting the case; or if the defendant may be sentenced to fixed-term imprisonment of more than one year, the above period may be extended to 15 days.

**Article 226** Where, during the trial of a case, a people's court discovers that the defendant's conduct does not constitute a crime or the defendant shall not be held criminally liable, the defendant admits guilt and accepts punishment against his or her will, the defendant denies the facts of the crime which he or she is charged with or the application of the fast-track sentencing procedure to the trial of the case is otherwise inappropriate, the people's court shall try the case anew in accordance with the provisions of Section 1 or Section 3 of this Chapter.

### Chapter III Procedures at Second Instance

**Article 227** Against a sentence or ruling of a local people's court at any level as a court of first instance, a defendant, a private prosecutor, or a legal representative thereof shall have the right to appeal in writing or verbally to the people's court at the next higher level. A defender or close relative of a defendant may, with the consent of the defendant, file an appeal for the defendant.

A party in an incidental civil action or his or her legal representative may appeal against the incidental civil action portion of a sentence or ruling of a local people's court at any level as a court of first instance.

A defendant shall not be deprived of the right to appeal under any pretext.

**Article 228** Deeming that there is any definite error in a sentence or ruling of a people's court at the same level as a court of first instance, a local people's procuratorate shall file an appeal with the people's court at the next higher level.

**Article 229** Against a sentence of a local people's court at any level as a court of first instance, a victim or his or her legal representative shall, within five days after receiving a written sentence, have the right to request that the people's procuratorate file an appeal. The people's procuratorate

shall, within five days after receiving the request of the victim or his or her legal representative, make a decision on whether to file an appeal and make a reply to the requesting party.

**Article 230** The time limit for filing an appeal against a sentence shall be 10 days, and the time limit for filing an appeal against a ruling shall be five days, starting from the next day of receipt of a written sentence or ruling.

**Article 231** Where a defendant, a private prosecutor, or a plaintiff or defendant in an incidental civil action files an appeal through the original trial court, the original trial court shall, within three days, transfer a written appeal along with the case file and evidence to the people's court at the next higher level and, at the same time, serve a copy of the written appeal upon the people's procuratorate at the same level and the opposing party.

Where a defendant, a private prosecutor, or a plaintiff or defendant in an incidental civil action files an appeal directly with the people's court of second instance, the people's court of second instance shall, within three days, transfer a written appeal to the original trial court, which shall serve it upon the people's procuratorate at the same level and the opposing party.

**Article 232** Against a sentence or ruling of a people's court at the same level as a court of first instance, a local people's procuratorate shall file a written appeal through the original trial court and send a copy thereof to the people's procuratorate at the next higher level. The original trial court shall transfer the written appeal along with the case file and evidence to the people's court at the next higher level and serve a copy of the written appeal upon the parties.

Deeming the appeal inappropriate, the people's procuratorate at a higher level may withdraw the appeal from the people's court at the same level and notify the people's procuratorate at a lower level.

**Article 233** The people's court of second instance shall conduct a comprehensive review of the facts found and application of law in the sentence of the people's court of first instance, without limitations to the extent of appeal.

Where not all defendants in a case of joint crime file an appeal, the entire case shall be reviewed and handled.

**Article 234** A people's court of second instance shall form a collegial panel to hear the following case in a court session:

(1) an appellate case where a defendant or a private prosecutor or the legal representative thereof has raised any objection to the facts and evidence determined in the trial at first instance, which may affect conviction and sentencing;

- (2) an appellate case where the defendant is sentenced to death penalty;
- (3) a case appealed by the people's procuratorate; and
- (4) any other case which shall be heard in a court session.

Where a people's court of second instance decides not to hold a court session to hear a case, it shall arraign the defendant and hear the opinions of other parties, defenders, and litigation representatives. A people's court of second instance may hold a court session to hear an appellate case at the place of occurrence of the case or the place where the original trial court is located.

**Article 235** For a case appealed by a people's procuratorate or a case of public prosecution heard by a people's court of second instance in a court session, the people's procuratorate at the same level shall send procurators to appear before court. The people's court of second instance shall, after deciding to hold a court session to hear a case, notify the people's procuratorate in a timely manner to consult the case file. The people's procuratorate shall complete consultation of the case file within one month. The time for the people's procuratorate to consult the case file shall not be counted in the period of trial.

**Article 236** After hearing an appellate case against a sentence of a people's court of first instance, the people's court of second instance shall handle it as follows:

- (1) if the original sentence is correct in fact finding and application of law and is appropriate in sentencing, the people's court of second instance shall render a ruling to dismiss the appeal and uphold the original sentence;
- (2) if the original sentence is correct in fact finding but erroneous in application of law or is inappropriate in sentencing, the people's court of second instance shall modify the original sentence;
- or
- (3) if the facts are unclear or evidence is insufficient in the original judgment, the people's court of second instance may modify the original sentence after the case facts are ascertained; or render a ruling to revoke the original sentence and remand the case to the original trial court for retrial.

Where a defendant or the people's procuratorate appeals after the original trial court renders a sentence for a case remanded for retrial under item (3) of the preceding paragraph, the people's court of second instance shall render a sentence or ruling in accordance with law and may not remand the case again to the original trial court for retrial.

**Article 237** A people's court of second instance which hears a case appealed by a defendant or his or her legal representative, defender, or close relative shall not aggravate the criminal punishment on

the defendant. In a case remanded by the people's court of second instance to the original trial court for retrial, the original trial court shall not aggravate the criminal punishment on the defendant, unless there is any new crime and the people's procuratorate has initiated a supplementary prosecution.

The limitations as mentioned in the preceding paragraph shall not apply to a case appealed by a people's procuratorate or a private prosecutor.

**Article 238** Where a people's court of second instance discovers that a people's court of first instance has committed any of the following violations of statutory procedures when hearing a case, it shall render a ruling to revoke the original sentence and remand the case to the original trial court for retrial:

- (1) the provisions of this Law regarding open trial are violated;
- (2) the disqualification provisions are violated;
- (3) a party is deprived of statutory procedural rights or such rights of a party are restricted, which may affect a fair trial;
- (4) the composition of a trial organization is illegal; or
- (5) statutory procedures are otherwise violated, which may affect a fair trial.

**Article 239** The original trial court shall form a new collegial panel for a case remanded for retrial and hear the case under procedures at first instance. A sentence rendered after the retrial may be appealed in accordance with the provisions of Articles 227, 228, and 229 of this Law.

**Article 240** After reviewing an appeal against a ruling of a people's court of first instance, a people's court of second instance shall render a ruling to dismiss the appeal or revoke or modify the original ruling by referring to the provisions of Articles 236, 238, and 239 of this Law.

**Article 241** The original trial court shall count anew the period of trial of a case remanded to it by the people's court of second instance from the day of receiving the case remanded.

**Article 242** A people's court of second instance shall hear appellate cases by referring to the procedures at first instance, except as otherwise provided for in this Chapter.

**Article 243** After accepting an appellate case, a people's court of second instance shall close the trial of the case within two months. For a case with the possibility of a death penalty or a case with an incidental civil action or under any of the circumstances as set forth in Article 158 of this Law, the period of trial may be extended for two months with the approval or decision of the higher people's court of a province, autonomous region, or municipality directly under the Central Government; and,



but does not appeal or a defendant is sentenced to death penalty by a higher people's court as a court of second instance, the sentence shall be submitted to the Supreme People's Court for approval.

**Article 248** Where a defendant is sentenced to death penalty with a two-year suspension by an intermediate people's court, the sentence shall be subject to the approval of a higher people's court.

**Article 249** A collegial panel consisting of three judges shall be formed for the Supreme People's Court to review a death sentence or for a higher people's court to review a death sentence with a suspension.

**Article 250** The Supreme People's Court reviewing a death sentence shall make a ruling to approve or disapprove the death sentence. If the death sentence is disapproved, the Supreme People's Court may remand the case for retrial or render a new sentence.

**Article 251** The Supreme People's Court reviewing a death sentence shall arraign the defendant and, if the defense lawyer files a request for presenting an opinion, hear the opinion of the defense lawyer. During the review of a death sentence, the Supreme People's Procuratorate may present an opinion to the Supreme People's Court. The Supreme People's Court shall notify the Supreme People's Procuratorate of the review result.

#### Chapter V Trial Supervision Procedures

**Article 252** A party or his or her legal representative or close relative may file a petition with a people's court or a people's procuratorate against an effective sentence or ruling, but the execution of the sentence or ruling shall not be suspended.

**Article 253** Where a petition of a party or his or her legal representative or close relative meets any of the following conditions, the people's court shall conduct a retrial:

- (1) there is new evidence to prove that the facts are erroneously determined in the original sentence or ruling, which may affect conviction and sentencing;
- (2) the evidence on which conviction and sentencing are based is not hard and sufficient or shall be excluded in accordance with the law, or the material evidence on the facts of the case contradicts each other;
- (3) the application of law in the original sentence or ruling is incorrect;
- (4) the statutory procedures are violated, which may affect a fair trial; or
- (5) a judge committed embezzlement, bribery, or fraud for personal gains or bended the law when trying the case.

**Article 254** Where the president of a people's court at any level discovers that there are any definite

errors in fact finding or application of law in an effective sentence or ruling of the court, the sentence or ruling must be submitted to the judicial committee for handling.

For a case tried under the trial supervision procedures, a people's court may decide to suspend the execution of the original sentence or ruling.

**Article 258** The trial of a case by a people's court under the trial supervision procedures shall be closed within three months from the day when the court decides to directly retry the case or when a retrial decision is made, and, if any extension of the period is necessary, the period shall not exceed six months.

The preceding paragraph shall apply to the period for a people's court accepting an appeal under the trial supervision procedures to retry the case appealed; and if it is necessary to order a people's court at a lower level to retry the case, a decision shall be made within one month from the day when the court accepts the appeal, and the preceding paragraph shall apply to the period for the people's court at a lower level to retry the case.

#### Part Four Execution

**Article 259** Sentences and rulings shall be executed after taking effect.

The following sentences and rulings are effective sentences and rulings:

- (1) a judgment or ruling against which no appeal has been filed within the statutory period;
- (2) a final sentence or ruling; and
- (3) a death sentence approved by the Supreme People's Court and a death sentence with a two-year suspension approved by a higher people's court.

**Article 260** Where a defendant in custody is acquitted or exempted from criminal punishment by a people's court of first instance, the defendant shall be released immediately after the sentence is announced.

**Article 261** For a death sentence with immediate execution rendered or approved by the Supreme People's Court, the president of the Supreme People's Court shall sign and issue an order to execute the death sentence.

Where a convict sentenced to death penalty with a two-year suspension commits no intentional crime during the period of suspension, and his or her sentence shall be commuted when the period of suspension expires, the execution authority shall submit a written recommendation to the higher people's court for a ruling; if it is substantiated that the convict has committed any intentional crime with execrable circumstances, and his or her death sentence shall be executed, the higher people's court shall report it to the Supreme People's Court for approval; and if an intentional crime is committed but the death penalty is not executed, the period of death penalty with a suspension shall

be recalculated, which shall be reported to the Supreme People's Court for recordation.

**Article 262** After receiving an order from the Supreme People's Court to execute a death sentence, a people's court at a lower level shall deliver the convict for execution within seven days. However, under any of the following circumstances, the people's court at a lower level shall suspend execution and immediately report it to the Supreme People's Court for a ruling:

- (1) it is discovered before execution that the sentence may be erroneous;
- (2) before execution, the convict exposes any major crimes of others or has other major meritorious acts, and the sentence may be changed; or
- (3) the convict is pregnant.

If the reason for suspension of execution as set forth in item (1) or (2) of the preceding paragraph disappears, the sentence may be executed only after the president of the Supreme People's Court signs and issues another order to execute the death sentence upon a request. If execution is suspended for the reason as set forth in item (3) of the preceding paragraph, a request shall be submitted to the Supreme People's Court for modifying the sentence in accordance with the law.

**Article 263** Before delivering a convict for execution of a death sentence, a people's court shall notify the people's procuratorate at the same level to send prosecutors to supervise the execution.

A death sentence shall be executed by such means as shooting or injection.

A death sentence may be executed on an execution ground or in a designated place of custody.

A judge directing execution shall verify the identity of the convict, ask the convict for any last words or letters, and then deliver the convict to the executioner for execution of the death penalty. If it is discovered before execution that there may be any errors, execution shall be suspended, and it shall be reported to the Supreme People's Court for a ruling.

Execution of a death sentence shall be announced publicly but shall not be conducted in public.

After a death sentence is executed, the court clerk on the scene shall prepare a transcript. The people's court delivering the convict for execution shall report the execution of the death sentence to the Supreme People's Court.

After a death sentence is executed, the people's court delivering the convict for execution shall notify the family members of the convict.

**Article 264** Where a convict is delivered for execution of a criminal penalty, the people's court delivering the convict for execution shall serve the relevant legal documents upon the public security authority, prison, or other execution authority within 10 days after the sentence takes effect.

A convict sentenced to death penalty with a two-year suspension, life imprisonment, or fixed-term imprisonment shall be delivered by the public security authority to a prison for execution of the criminal penalty. Where a convict is sentenced to fixed-term imprisonment but the remaining term of the penalty is not more than three months before the convict is delivered for execution, the sentence shall be executed by a jail instead. For a convict sentenced to limited incarceration, the sentence shall be executed by the public security authority.

The criminal penalty on a juvenile delinquent shall be executed in a reformatory for juvenile delinquents.

An execution authority shall take a convict into custody in a timely manner and notify the family members of the convict.

After a convict sentenced to fixed-term imprisonment or limited incarceration finishes serving his or her sentence, the execution authority shall issue a certificate of release to the convict.

**Article 265** Under any of the following circumstances, a convict sentenced to fixed-term imprisonment or limited incarceration may temporarily serve his or her sentence outside an incarceration facility:

- (1) The convict suffers a serious illness and needs to be released on bail for medical treatment;
- (2) The convict is a pregnant woman or a woman who is breastfeeding her own baby; or
- (3) The convict cannot take care of himself or herself, and it will not cause any danger to the society for the convict to temporarily serve his or her sentence outside an incarceration facility.

Under item (2) of the preceding paragraph, a convict sentenced to life imprisonment may temporarily serve her sentence outside an incarceration facility.

If the release of a convict on bail for medical treatment may cause any danger to the society or a convict suffers any self-inflicted injury or disability, the convict may not be released on bail for medical treatment.

If a convict suffers a serious illness and must be released on bail for medical treatment, a hospital designated by the people's government at the provincial level shall conduct diagnosis and issue a certification document.

Before a convict is handed over for execution of a criminal penalty, whether the convict temporarily serves his or her sentence outside an incarceration facility shall be decided by the people's court which hands over the convict for execution of a criminal penalty; after a convict is handed over for execution of a criminal penalty, regarding a convict's temporarily serving a sentence outside an

incarceration facility, the prison or jail shall prepare a written opinion, which shall be reported to the prison administrative authority at or above the provincial level or the public security authority at or above the level of a districted city for approval.

**Article 266** A prison or jail which prepares a written opinion on a convict's temporarily serving a sentence outside an incarceration facility shall send a copy of the written opinion to the people's procuratorate. The people's procuratorate may provide a written opinion to the deciding or approving authority.

**Article 267** The authority which decides or approves a convict's temporarily serving a sentence outside an incarceration facility shall send a copy of its decision to the people's procuratorate. Deeming the temporary serving of a sentence outside an incarceration facility improper, the people's procuratorate shall, within one month from the date of receiving the notification, submit a written opinion to the deciding or approving authority, and the deciding or approving authority shall reexamine its decision immediately after receiving the written opinion of the people's procuratorate.

**Article 268** Under any of the following circumstances, a convict temporarily serving his or her sentence outside an incarceration facility shall be taken back to prison in a timely manner:

- (1) it is discovered that the convict does not meet the conditions for temporarily serving a sentence outside an incarceration facility;
- (2) the convict has seriously violated the provisions on supervision and management of convicts temporarily serving a sentence outside an incarceration facility; or
- (3) The circumstances allowing a convict's serving a sentence outside an incarceration facility disappear and the convict's term of sentence has not expired.

Where a convict who temporarily serves a sentence outside an incarceration facility as decided by a people's court shall be taken back to prison, a decision shall be made by the people's court, and the relevant legal documents shall be served upon the public security authority, prison, or other execution authority.

Where a convict who does not meet the conditions for temporarily serving a sentence outside an incarceration facility is permitted to temporarily serve a sentence outside an incarceration facility by illegal means such as bribery, the time served outside an incarceration facility shall not be counted in the executed period of punishment. If a convict escapes during the period of temporarily serving a sentence outside an incarceration facility, the period of escape shall not be counted in the executed period of punishment.

Where a convict dies during the period of temporarily serving a sentence outside an incarceration facility, the execution authority shall notify the prison or jail without delay.

**Article 269** A convict who is sentenced to supervision without incarceration, is granted probation or parole, or temporarily serves a sentence outside an incarceration facility shall be subject to community correction, which shall be executed by a community correction institution.

**Article 270** For a convict sentenced to deprivation of political rights, the penalty shall be executed by a public security authority. After the convict finishes serving the sentence, the execution authority shall notify in writing the convict, his or her employer, and the basic organizations at the place of his or her residence.

**Article 271** Where a convict sentenced to a fine fails to pay the fine within a specified period, a people's court shall compel the convict to pay; and if the convict truly has difficulty in paying the fine because he or she suffers any irresistible disaster or for any other reason, the people's court may render a ruling to postpone the payment of the fine or according to the actual circumstances, reduce or waive the fine.

**Article 272** A sentence of confiscation of property, whether imposed accessorially or independently, shall be executed by a people's court; and, when necessary, may be executed jointly with a public security authority.

**Article 273** Where a convict commits a crime again or a crime not discovered at the time of sentencing is discovered while the convict serves his or her sentence, the execution authority shall transfer it to a people's procuratorate for handling.

Where a convict sentenced to supervision without incarceration, limited incarceration, fixed-term imprisonment, or life imprisonment shows true repentance or has meritorious acts while serving his or her sentence and shall be granted commutation or parole in accordance with the law, the execution authority shall submit a written recommendation to the people's court for examination and decision, and send a copy of it to the people's procuratorate. The people's procuratorate may provide a written opinion to the people's court.

**Article 274** Deeming that a ruling of a people's court on commutation or parole is improper, a people's procuratorate shall, within 20 days after receiving a copy of the written ruling, submit a written opinion on correction to the people's court. The people's court shall, within one month after receiving the opinion on correction, form a new collegial panel to try the case and render a final ruling.

**Article 275** Where, during execution of criminal sentences, a prison or any other execution authority deems a sentence erroneous or a convict files a petition against his or her sentence, the prison or other execution authority shall transfer it to a people's procuratorate or the original trial court for handling.

**Article 276** People's procuratorates shall supervise the legality of execution of criminal sentences by execution authorities and, if discovering any violations of law, shall notify executing authorities to make correction.

## Part V Special Procedures

### Chapter I Procedures for Juvenile Criminal Cases

**Article 277** For juvenile criminals, the policy of education, reformation, and redemption shall apply, and the principle of education assisted by punishment shall be followed.

When handling juvenile criminal cases, a people's court, a people's procuratorate, and a public security authority shall ensure that juveniles are able to exercise their procedural rights, ensure that they receive legal assistance, and assign judges, prosecutors, and investigators who are familiar with the physical and psychological characteristics of juveniles to handle such cases.

**Article 278** For a juvenile criminal suspect or defendant who has not retained a defender, a people's court, a people's procuratorate, or a public security authority shall notify a legal aid agency to assign a lawyer to defend him or her.

**Article 279** When handling juvenile criminal cases, a people's court, a people's procuratorate, and a public security authority may, according to the actual circumstances, investigate the growth, cause of crime, guardianship, education, and other aspects of the juvenile criminal suspect or defendant.

**Article 280** An arrest of a juvenile criminal suspect or defendant shall be under strict control. Before approving or deciding an arrest, a people's procuratorate or a people's court shall arraign a juvenile criminal suspect or defendant and hear the opinion of his or her defense lawyer.

Juveniles and adults who are detained or arrested or are serving criminal penalties shall be held in custody, managed, and educated separately.

**Article 281** During the interrogation and trial of a juvenile criminal case, the legal representative of a juvenile criminal suspect or defendant shall be notified to be present. If such notification is

juvenile protection organization may be notified to be present, and relevant circumstances shall be recorded. The present legal representative may exercise the procedural rights of the juvenile criminal suspect or defendant on his or her behalf.

Deeming that the case-handling personnel have infringed upon the juvenile's lawful rights and interests in the course of interrogation or trial, the present legal representative or other person may present an opinion. The interrogation or court transcripts shall be handed over to the present legal representative or other person for reading or be read out to the present legal representative or other person.

When a female juvenile criminal suspect is interrogated, there shall be a female staff member present. In the trial of a juvenile criminal case, after the juvenile defendant delivers his or her closing statement, his or her legal representative may make a supplementary statement.

Paragraphs 1, 2, and 3 hereof shall apply to the interview or questioning of juvenile victims and witnesses.

**Article 282** When a juvenile is suspected of a crime in Chapter IV, V, or VI of the Specific Provisions of the Criminal Law and may be sentenced to fixed-term imprisonment of one year or a lighter punishment, if the prosecution conditions are met but the juvenile suspect has shown repentance, a people's procuratorate may make a conditional non-prosecution decision. Before making a conditional non-prosecution decision, the people's procuratorate shall hear the opinions of the public security authority and the victim.

Where the public security authority requests reconsideration or review or the victim files a petition against the conditional non-prosecution decision, the provisions of Articles 179 and 180 of this Law shall apply.

Where the juvenile criminal suspect or his or her legal representative raises any objection to the conditional non-prosecution decision of the people's procuratorate, the people's procuratorate shall make a decision to initiate a public prosecution.

**Article 283** During the probation period for conditional non-prosecution, a people's procuratorate shall supervise and inspect a juvenile criminal suspect who is not prosecuted under conditions. The guardian of the juvenile criminal suspect shall strengthen control and education of the juvenile criminal suspect and cooperate with the people's procuratorate in supervision and inspection.

The probation period for conditional non-prosecution shall range from six months to one year, starting from the day when the people's procuratorate makes a conditional non-prosecution decision.

A juvenile criminal suspect who is not prosecuted under conditions shall comply with the following provisions:

- (1) abiding by laws and regulations and obeying supervision;
- (2) reporting his or her activities as required by the inspection authority;
- (3) obtaining the approval of the inspection authority before leaving the city or county where he or she resides or relocating in another place; and
- (4) receiving correction and education as required by the inspection authority.

**Article 284** For a juvenile criminal suspect who is not prosecuted under conditions, a people's procuratorate shall revoke the conditional non-prosecution decision and initiate a public prosecution under any of the following circumstances during the probation period:

- (1) the juvenile criminal suspect commits a new crime, or it is discovered that another crime committed before the conditional non-prosecution decision is made needs to be prosecuted; or
- (2) the juvenile criminal suspect seriously violates the provisions on public security administration or the provisions of the inspection authority on supervising and administering conditional non-prosecution.

Where a juvenile criminal suspect who is not prosecuted under conditions does not fall under any of the above circumstances during the probation period, upon expiration of the probation period, the people's procuratorate shall make a non-prosecution decision.

**Article 285** A case may not be tried openly if the defendant has not attained the age of 18 at the time of trial. However, with the consent of the juvenile defendant or his or her legal representative, the juvenile defendant's school and a juvenile protection organization may send representatives to be present.

**Article 286** Where a juvenile has not attained the age of 18 when committing a crime and is sentenced to fixed-term imprisonment of five years or a lighter punishment, the related criminal records shall be sealed for preservation.

The sealed criminal records may not be provided to any entity or individual, unless as needed for a judicial authority to handle cases or for consultation by relevant entities according to relevant state provisions. Entities legally consulting such records shall keep record information confidential.

**Article 287** In the handling of juvenile criminal cases, matters not included in this Chapter shall be handled under other provisions of this Law.

Chapter II Procedures for Public Prosecution Cases Where Parties Have Reached Settlement

**Article 288** In the following cases of public prosecution, if the criminal suspect or defendant has showed genuine repentance and obtained forgiveness from the victim by making compensation or an apology to the victim, and the victim voluntarily agrees on a settlement, both parties may reach a settlement:

(1) a case regarding a crime which arises from civil disputes as described in Chapter IV or V of the Specific Provisions of the Criminal Law and is punishable by fixed-term imprisonment of three years or a lighter penalty; or

(2) a case regarding a negligent crime, other than a crime of malfeasance, which is punishable by fixed-term imprisonment of seven years or a lighter penalty.

If a criminal suspect or defendant once committed any intentional crime in the past five years, the procedures in this Chapter shall not apply.

**Article 289** When both parties have reached a settlement, a public security authority, a people's procuratorate, or a people's court shall hear the opinions of the parties and other relevant persons, examine whether the settlement is reached voluntarily and legally, and preside at the preparation of a settlement agreement.

**Article 290** For a case where a settlement agreement is reached, a public security authority may provide a leniency suggestion to the people's procuratorate. A people's procuratorate may provide a leniency suggestion to the people's court; and, if the circumstances of a crime are minor and no criminal punishment is necessary, may make a decision not to initiate a public prosecution. A people's court may render a lenient sentence to a defendant in accordance with the law.

### Chapter III Procedure for Trial in Absentia

**Article 291** Where the criminal suspect or defendant is outside China in a case regarding a crime of embezzlement or bribery, or in a case regarding a crime of seriously compromising national security or terrorist activities that requires a timely trial as confirmed by the Supreme People's Procuratorate,

A case as mentioned in the preceding paragraph shall be tried by a collegial panel of the intermediate people's court at the place of commission of the crime, at the place of residence of the defendant before his or her departure from China, or designated by the Supreme People's Court.

**Article 292** A people's court shall, in a manner of judicial assistance specified in the relevant international treaties or proposed through diplomatic channels or in any other manner permitted by the laws of the place where the defendant is located, serve the summons and a copy of the criminal complaint of the people's procuratorate upon the defendant. If the defendant fails to appear in court as required after the summons and the copy of the criminal complaint are served on him or her, the people's court shall hear the case in a court session, render a judgment in accordance with the law, and handle the illegal income and other property involved in the case.

**Article 293** Where a people's court tries a case in absentia, the defendant shall have the right to retain a defender, and a close relative of the defendant may retain a defender on behalf of the defendant. If the defendant and his or her close relatives do not retain such a defender, the people's court shall serve a notice on a legal aid agency requiring the designation of a lawyer to defend him or her.

**Article 294** A people's court shall serve a written sentence upon a defendant, his or her close relative, and the defender. The defendant or his or her close relative shall have the right to appeal the sentence to the people's court at the next higher level. The defender may file the appeal with the consent of the defendant or his or her close relative.

Where the people's procuratorate is of the opinion that there is any definite error in a sentence rendered by the people's court, it shall file an appeal with the people's court at the next higher level.

**Article 295** Where the defendant voluntarily surrenders himself or herself or is captured during the trial period, the people's court shall try the case anew.

Where a convict appears before court after a judgment or ruling takes effect, the people's court shall deliver the convict for execution of the criminal penalty. The people's court shall, before delivering the convict for execution of the criminal penalty, inform the convict that he or she has the right to raise an objection to the judgment or ruling. If the convict raises any objection to the judgment or ruling, the people's court shall try the case anew.

Where there is any definite error in the handling of the convict's property based on an effective judgment or ruling, the property shall be returned, and compensation shall be made.

**Article 296** Where the defendant is unable to appear before court for suffering a serious illness, and

trial is suspended for more than six months, if the defendant is still unable to appear before court, and the defendant or his or her legal representative or close relative applies for or agrees to the resumption of the trial, the people's court may try the case in absentia without the defendant's presence in court, and render a judgment in accordance with the law.

**Article 297** Where the defendant dies, the people's court shall rule to terminate the trial. However, if there is any evidence proving the innocence of the defendant, and the people's court confirms his or her innocence by trial in absentia, it shall render a judgment in accordance with the law.

Where the defendant dies in a case retried by a people's court under the trial supervision procedures, the people's court may try the case in absentia, and render a judgment in accordance with the law.

Chapter IV Confiscation Procedures for Illegal Income in Cases Where a Criminal Suspect or Defendant Escapes or Dies

**Article 298** Where, in a case regarding a serious crime such as embezzlement, bribery, or terrorist activities, a criminal suspect or defendant escapes and cannot be present in court after being wanted for a year, or a criminal suspect or defendant dies, if his or her illegal income and other property involved in the case shall be recovered in accordance with the Criminal Law, a people's procuratorate may file an application with a people's court for confiscation of illegal income.

Deeming that the circumstances as mentioned in the preceding paragraph exist, a public security authority shall prepare a written opinion on confiscation of illegal income and transfer it to a people's procuratorate.

An application for confiscation of illegal income shall provide evidential materials related to the facts of a crime and illegal income and state the types, quantities, and locations of property as well as any seizure, impoundment, or freezing measures taken.

When necessary, a people's court may seize, impound, or freeze the property to be confiscated upon application.

**Article 299** An application for confiscation of illegal income shall be heard by a collegial panel formed by the intermediate people's court at the place of crime or place of residence of a criminal suspect or defendant.

After accepting an application for confiscation of illegal income, a people's court shall make a public announcement. The public announcement period shall be six months. The close relatives of a criminal suspect or defendant and other interested parties shall have the right to apply for participating in the procedure, and may retain litigation representatives to participate in the procedure.

A people's court shall hear an application for confiscation of illegal income upon expiration of the public announcement period. If any interested party participates in the procedure, the people's court shall hold a court session to hear the application.

**Article 300** A people's court shall render a ruling to confiscate illegal income and other property involved in the case that are confirmed at trial, except those legally returned to the victims; or, for property which shall not be recovered, shall render a ruling to dismiss the application and terminate the seizure, impound, or freezing measure taken.

Against a ruling rendered by a people's court under the preceding paragraph, the close relatives of a criminal suspect or defendant, other interested parties, or the people's procuratorate may appeal.

**Article 301** Where a fugitive criminal suspect or defendant voluntarily surrenders himself or herself or is captured during the trial period, a people's court shall terminate the trial.

Where the property of a criminal suspect or defendant is erroneously confiscated, such property shall be returned, and compensation shall be made.

#### Chapter V Procedures for Involuntary Medical Treatment of Mental Patients Legally Exempted from Criminal Liability

**Article 302** A mental patient who has committed any violent behavior compromising public security or seriously endangering the personal safety of citizens and is legally exempted from criminal responsibility after identification under statutory procedures shall be subject to involuntary medical treatment if the mental patient may continue to endanger the society.

**Article 303** Whether a mental patient is subject to involuntary medical treatment under this Chapter shall be decided by a people's court.

A public security authority which discovers that a mental patient meets the conditions for involuntary medical treatment shall prepare a written opinion on involuntary medical treatment, and transfer it to the people's procuratorate. For a written opinion on involuntary medical treatment transferred by a public security authority or after discovering that a mental patient meets the conditions for involuntary medical treatment in the process of examination and prosecution, a people's procuratorate shall file an application for involuntary medical treatment with a people's court. A people's court which discovers that a defendant meets the conditions for involuntary medical treatment in the process of trial of a case may make an involuntary medical treatment decision.

For a mental patient who has committed violent behavior, before a people's court makes an involuntary medical treatment decision, a public security authority may take interim protective

restraint measures.

**Article 304** After accepting an application for involuntary medical treatment, a people's court shall form a collegial panel to try the case.

In the trial of a case regarding involuntary medical treatment, a people's court shall notify the legal representative of the respondent or defendant to be present. If the respondent or defendant has not retained a litigation representative, the people's court shall notify a legal aid agency to assign a lawyer to provide legal assistance for him or her.

**Article 305** Deeming at trial that the respondent or defendant meets the conditions for involuntary medical treatment, a people's court shall make an involuntary medical treatment decision within one month.

Against an involuntary medical treatment decision, the person subject to involuntary medical treatment as decided, the victim, or the legal representative or close relative thereof may apply to the people's court at the next higher level for reconsideration.

**Article 306** Involuntary medical treatment institutions shall regularly diagnose and assess persons subject to involuntary medical treatment. For those who are no longer dangerous to personal safety and no longer need involuntary medical treatment, involuntary medical treatment institutions shall prepare opinions on termination of involuntary medical treatment in a timely manner and report such opinions to the people's courts which made the involuntary medical treatment decisions for approval. Persons subject to involuntary medical treatment and their close relatives shall have the right to apply for termination of involuntary medical treatment.

**Article 307** A people's procuratorate shall oversee decisions and execution of involuntary medical treatment.

#### Supplementary Provisions

**Article 308** The security departments of the armed forces shall have the authority to investigate criminal cases that occur within the armed forces.

The China Coast Guard shall perform the marine right protection and law enforcement functions, and exercise the authority to investigate criminal cases that occur at sea.

Crimes committed by convicts within a prison shall be investigated by the prison.

The handling of criminal cases by the security departments of the armed forces, the China Coast Guard, and prisons shall be governed by the relevant provisions of this Law.