|  |  |  |
| --- | --- | --- |
| 发文机关  Promulgator | ：  : | 全国人民代表大会常务委员会  The Standing Committee of the National People's Congress |
| 发布日期  Date of Issue | ：  : | 2018.10.26  2018.10.26 |
| 生效日期  Effective Date | ：  : | 2018.10.26  2018.10.26 |
| 时效性  Effectiveness | ：  : | 现行有效  Current |

# 中华人民共和国刑事诉讼法（2018修正）

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

中华人民共和国刑事诉讼法

Criminal Procedure Law of the People's Republic of China

（1979年7月1日第五届全国人民代表大会第二次会议通过　根据1996年3月17日第八届全国人民代表大会第四次会议《关于修改〈中华人民共和国刑事诉讼法〉的决定》第一次修正　根据2012年3月14日第十一届全国人民代表大会第五次会议《关于修改〈中华人民共和国刑事诉讼法〉的决定》第二次修正　根据2018年10月26日第十三届全国人民代表大会常务委员会第六次会议《关于修改〈中华人民共和国刑事诉讼法〉的决定》第三次修正）

(Adopted at the Second Session of the Fifth National People 's Congress on July 1, 1979; amended for the first time according to the Decision on Revising the Criminal Procedure Law of the People's Republic of China at the Fourth Session of the Eighth National People's Congress on March 17, 1996; amended for the second time according to the Decision on Revising the Criminal Procedure Law of the People's Republic of China at the Fifth Session of the Eleventh National People 's Congress on March 14, 2012; and amended for the third time according to the Decision on Revising the Criminal Procedure Law of the People's Republic of China at the Sixth Session of the Standing Committee of the 13th National People's Congress on October 26, 2018)

第一编 总则

Part I General Provisions

第一章 任务和基本原则

Chapter One Tasks and Basic Principles

第一条   为了保证刑法的正确实施，惩罚犯罪，保护人民，保障国家安全和社会公共安全，维护社会主义社会秩序，根据宪法，制定本法。

Article 1 This Law is enacted in accordance with the Constitution and for the purpose of ensuring correct enforcement of the Criminal Law, punishing crimes, protecting the people, safeguarding State and public security and maintaining socialist public order.

第二条   中华人民共和国刑事诉讼法的任务，是保证准确、及时地查明犯罪事实，正确应用法律，惩罚犯罪分子，保障无罪的人不受刑事追究，教育公民自觉遵守法律，积极同犯罪行为作斗争，维护社会主义法制，尊重和保障人权，保护公民的人身权利、财产权利、民主权利和其他权利，保障社会主义建设事业的顺利进行。

Article 2 The aim of the Criminal Procedure Law of the People's Republic of China is: to ensure accurate and timely ascertainment of facts about crimes, correct application of law, punishment of criminals and protection of the innocent against being investigated for criminal responsibility; to enhance the citizens' awareness of the need to abide by law and to fight vigorously against criminal acts; and to safeguard the socialist legal system, to protect the personal rights, property rights, democratic rights and other rights of citizens; and to guarantee smooth progress of the cause of socialist development.

第三条   对刑事案件的侦查、拘留、执行逮捕、预审，由公安机关负责。检察、批准逮捕、检察机关直接受理的案件的侦查、提起公诉，由人民检察院负责。审判由人民法院负责。除法律特别规定的以外，其他任何机关、团体和个人都无权行使这些权力。

Article 3 The public security organs shall be responsible for investigation, detention, execution of arrests and preliminary inquiry in criminal cases. People's procuratorates shall be responsible for procuratorial work, approval of arrests, conducting investigation and initiating public prosecution of cases directly accepted by procuratorial organs. People's courts shall be responsible for adjudication. Except as otherwise provided by law, no other authorities, bodies nor individuals shall have the authority to exercise these powers.

人民法院、人民检察院和公安机关进行刑事诉讼，必须严格遵守本法和其他法律的有关规定。

In conducting criminal proceedings, the People's Courts, the People's Procuratorates and the public security organs must strictly observe this Law and any relevant stipulations of other laws.

第四条   国家安全机关依照法律规定，办理危害国家安全的刑事案件，行使与公安机关相同的职权。

Article 4 State security organs shall, in accordance with law, handle cases of crimes that endanger State security, performing the same functions and powers as the public security organs.

第五条   人民法院依照法律规定独立行使审判权，人民检察院依照法律规定独立行使检察权，不受行政机关、社会团体和个人的干涉。

Article 5 The People's Courts shall exercise judicial power independently in accordance with law and the People's Procuratorates shall exercise procuratorial power independently in accordance with law, and they shall be free from interference by any administrative organ, public organization or individual.

第六条   人民法院、人民检察院和公安机关进行刑事诉讼，必须依靠群众，必须以事实为根据，以法律为准绳。对于一切公民，在适用法律上一律平等，在法律面前，不允许有任何特权。

Article 6 In conducting criminal proceedings, the People's Courts, the People's Procuratorates and the public security organs must rely on the masses, base themselves on facts and take law as the criterion. All citizens are equal in the application of the law and no privilege is permitted before the law.

第七条   人民法院、人民检察院和公安机关进行刑事诉讼，应当分工负责，互相配合，互相制约，以保证准确有效地执行法律。

Article 7 In conducting criminal proceedings, the People's Courts, the People's Procuratorates and the public security organs shall divide responsibilities, coordinate their efforts and check each other to ensure the correct and effective enforcement of law.

第八条   人民检察院依法对刑事诉讼实行法律监督。

Article 8 The People's Procuratorates shall, in accordance with law, exercise legal supervision over criminal proceedings.

第九条   各民族公民都有用本民族语言文字进行诉讼的权利。人民法院、人民检察院和公安机关对于不通晓当地通用的语言文字的诉讼参与人，应当为他们翻译。

Article 9 Citizens of all nationalities shall have the right to use their native spoken and written languages in court proceedings. The people's courts, people's procuratorates and public security organs shall provide translation for any party to the court proceedings who is not familiar with the spoken or written language commonly used in the locality.

在少数民族聚居或者多民族杂居的地区，应当用当地通用的语言进行审讯，用当地通用的文字发布判决书、布告和其他文件。

Where people of a minority nationality live in a concentrated community or where a number of nationalities live together in one area, court hearings shall be conducted in the spoken language commonly used in the locality, and judgments, notices and other documents shall be issued in the written language commonly used in the locality.

第十条   人民法院审判案件，实行两审终审制。

Article 10 In trying cases, the People's Courts shall apply the system whereby the second instance is final.

第十一条   人民法院审判案件，除本法另有规定的以外，一律公开进行。被告人有权获得辩护，人民法院有义务保证被告人获得辩护。

Article 11 Cases in the People's Courts shall be heard in public, unless otherwise provided by this Law. A defendant shall have the right to defence, and the People's Courts shall have the duty to guarantee his defence.

第十二条   未经人民法院依法判决，对任何人都不得确定有罪。

Article 12 No person shall be found guilty without being judged as such by a People's Court according to law.

第十三条   人民法院审判案件，依照本法实行人民陪审员陪审的制度。

Article 13 In trying cases, the People's Courts shall apply the system of people's assessors taking part in trials in accordance with this Law.

第十四条   人民法院、人民检察院和公安机关应当保障犯罪嫌疑人、被告人和其他诉讼参与人依法享有的辩护权和其他诉讼权利。

Article 14 People's courts, people's procuratorates and public security organs shall safeguard the right of defense and other procedural rights to which criminal suspects, defendants and other participants in proceedings are entitled according to law.

诉讼参与人对于审判人员、检察人员和侦查人员侵犯公民诉讼权利和人身侮辱的行为，有权提出控告。

Participants in proceedings shall have the right to file charges against judges, procurators and investigators whose acts infringe on their citizen's procedural rights or subject their persons to indignities.

第十五条   犯罪嫌疑人、被告人自愿如实供述自己的罪行，承认指控的犯罪事实，愿意接受处罚的，可以依法从宽处理。

Article 15 Criminal suspects and defendants who plead guilty voluntarily, acknowledge the corpus delicti and are willing to accept punishment may be given lenient punishment in accordance with the law.

第十六条   有下列情形之一的，不追究刑事责任，已经追究的，应当撤销案件，或者不起诉，或者终止审理，或者宣告无罪：

Article 16 In any of the following circumstances, no criminal responsibility shall be investigated; if investigation has already been undertaken, the case shall be dismissed, or prosecution shall not be initiated, or the handling shall be terminated, or innocence shall be declared:

（一）情节显著轻微、危害不大，不认为是犯罪的；

1. if an act is obviously minor, causing no serious harm, and is therefore not deemed a crime;

（二）犯罪已过追诉时效期限的；

2. if the limitation period for criminal prosecution has expired;

（三）经特赦令免除刑罚的；

3. if an exemption of criminal punishment has been granted in a special amnesty decree;

（四）依照刑法告诉才处理的犯罪，没有告诉或者撤回告诉的；

4. if the crime is to be handled only upon complaint according to the Criminal Law, but there has been no complaint or the complaint has been withdrawn;

（五）犯罪嫌疑人、被告人死亡的；

(V) Where the suspect or defendant is deceased; or

（六）其他法律规定免予追究刑事责任的。

(VI) if other laws provide an exemption from investigation of criminal responsibility.

第十七条   对于外国人犯罪应当追究刑事责任的，适用本法的规定。

Article 17 Provisions of this Law shall apply to foreigners who commit crimes for which criminal responsibility should be investigated.

对于享有外交特权和豁免权的外国人犯罪应当追究刑事责任的，通过外交途径解决。

If foreigners with diplomatic privileges and immunities commit crimes for which criminal responsibility should be investigated, those cases shall be resolved through diplomatic channels.

第十八条   根据中华人民共和国缔结或者参加的国际条约，或者按照互惠原则，我国司法机关和外国司法机关可以相互请求刑事司法协助。

Article 18 In accordance with the international treaties which the People's Republic of China has concluded or acceded to or on the principle of reciprocity, the judicial organs of China and that of other countries may request judicial assistance from each other in criminal affairs.

第二章 管辖

Chapter 2 Jurisdiction

第十九条   刑事案件的侦查由公安机关进行，法律另有规定的除外。

Article 19 Investigation in criminal cases shall be conducted by the public security organs, except as otherwise provided by law.

人民检察院在对诉讼活动实行法律监督中发现的司法工作人员利用职权实施的非法拘禁、刑讯逼供、非法搜查等侵犯公民权利、损害司法公正的犯罪，可以由人民检察院立案侦查。对于公安机关管辖的国家机关工作人员利用职权实施的重大犯罪案件，需要由人民检察院直接受理的时候，经省级以上人民检察院决定，可以由人民检察院立案侦查。

Any case regarding illegal detention, extortion of confessions by torture, illegal search or any other crime committed by a judicial officer by taking advantage of his/her functions infringing upon a citizen's rights and damaging judicial justice, which is found by a people's procuratorate in its legal supervision of litigation activities, may be filed for investigation by the people's procuratorate. If a case involving a grave crime committed by a state functionary under the jurisdiction of a public security organ by taking advantage of his functions and powers needs to be accepted directly by a People's Procuratorate, it may be placed on file for investigation by the People's Procuratorate upon decision by the People's Procuratorate at or above the provincial level.

自诉案件，由人民法院直接受理。

Cases of private prosecution shall be handled directly by the People's Courts.

第二十条   基层人民法院管辖第一审普通刑事案件，但是依照本法由上级人民法院管辖的除外。

Article 20 The Primary People's Courts shall have jurisdiction as courts of first instance over ordinary criminal cases; however, those cases which fall under the jurisdiction of the People's Courts at higher levels as stipulated by this Law shall be exceptions.

第二十一条   中级人民法院管辖下列第一审刑事案件：

Article 21 Intermediate people's courts shall have jurisdiction as courts of first instance over the following criminal cases:

（一）危害国家安全、恐怖活动案件；

1. Cases endangering national security or involving terrorist activities; and

（二）可能判处无期徒刑、死刑的案件。

(II) a case regarding a crime likely punishable by life imprisonment or death penalty.

第二十二条   高级人民法院管辖的第一审刑事案件，是全省（自治区、直辖市）性的重大刑事案件。

Article 22 The Higher People's Courts shall have jurisdiction as courts of first instance over major criminal cases that pertain to an entire province (or autonomous region, or municipality directly under the Central Government).

第二十三条   最高人民法院管辖的第一审刑事案件，是全国性的重大刑事案件。

Article 23 The Supreme People's Court shall have the jurisdiction as the court of first instance over major criminal cases that pertain to the whole nation.

第二十四条   上级人民法院在必要的时候，可以审判下级人民法院管辖的第一审刑事案件；下级人民法院认为案情重大、复杂需要由上级人民法院审判的第一审刑事案件，可以请求移送上一级人民法院审判。

Article 24 When necessary, People's Courts at higher levels may try criminal cases over which People's Courts at lower levels have jurisdiction as courts of first instance; If a People's Court at a lower level considers the circumstances of a criminal case in the first instance to be major or complex and to necessitate a trial 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.

第二十五条   刑事案件由犯罪地的人民法院管辖。如果由被告人居住地的人民法院审判更为适宜的，可以由被告人居住地的人民法院管辖。

Article 25 A criminal case shall be under the jurisdiction of the People's Court in the place where the crime was committed. If it is more appropriate for the case to be tried by the People's Court in the place where the defendant resides, then that court may have jurisdiction over the case.

第二十六条   几个同级人民法院都有权管辖的案件，由最初受理的人民法院审判。在必要的时候，可以移送主要犯罪地的人民法院审判。

Article 26 When two or more People's Courts at the same level have jurisdiction over a case, it shall be tried by the People's Court that first accepted it. When necessary the case may be transferred for trial to the People's Court in the principal place where the crime was committed.

第二十七条   上级人民法院可以指定下级人民法院审判管辖不明的案件，也可以指定下级人民法院将案件移送其他人民法院审判。

Article 27 A People's Court at a higher level may instruct a People's Court at a lower level to try a case over which jurisdiction is unclear and may also instruct a People's Court at a lower level to transfer the case to another People's Court for trial.

第二十八条   专门人民法院案件的管辖另行规定。

Article 28 The jurisdiction over cases in special People's Courts shall be stipulated separately.

第三章 回避

Chapter 3 Withdrawal

第二十九条   审判人员、检察人员、侦查人员有下列情形之一的，应当自行回避，当事人及其法定代理人也有权要求他们回避：

Article 29 In any of the following situations, a member of the judicial, procuratorial or investigatory personnel shall voluntarily withdraw, and the parties to the case and their legal representatives shall have the right to demand his withdrawal:

（一）是本案的当事人或者是当事人的近亲属的；

1. the judicial officer is a party or a close relative of a party to the case;

（二）本人或者他的近亲属和本案有利害关系的；

2. if he or a near relative of his has an interest in the case;

（三）担任过本案的证人、鉴定人、辩护人、诉讼代理人的；

3. if he has served as a witness, expert witness, defender or agent ad litem in the current case; or

（四）与本案当事人有其他关系，可能影响公正处理案件的。

(IV) He has some other relationship with a party to the case, which may affect the impartial handling of the case.

第三十条   审判人员、检察人员、侦查人员不得接受当事人及其委托的人的请客送礼，不得违反规定会见当事人及其委托的人。

Article 30 Judges, procurators or investigators shall not accept invitations to dinner or presents from the parties to a case or the persons entrusted by the parties and shall not in violation of regulations meet with the parties to a case or the persons entrusted by the parties.

审判人员、检察人员、侦查人员违反前款规定的，应当依法追究法律责任。当事人及其法定代理人有权要求他们回避。

Any judge, procurator or investigator who violates the provisions in the preceding paragraph shall be investigated for legal responsibility. The parties to the case and their legal representatives shall have the right to request that he withdraw.

第三十一条   审判人员、检察人员、侦查人员的回避，应当分别由院长、检察长、公安机关负责人决定；院长的回避，由本院审判委员会决定；检察长和公安机关负责人的回避，由同级人民检察院检察委员会决定。

Article 31 The withdrawal of a judge, procurator and investigator shall be determined respectively by the president of the court, the chief procurator, and the head of a public security organ; the withdrawal of the president of the court shall be determined by the court's judicial committee; and the withdrawal of the chief procurator or the head of a public security organ shall be determined by the procuratorial committee of the People's Procuratorate at the corresponding level.

对侦查人员的回避作出决定前，侦查人员不能停止对案件的侦查。

An investigator may not suspend investigation of a case before a decision is made on his withdrawal.

对驳回申请回避的决定，当事人及其法定代理人可以申请复议一次。

If a decision has been made to reject his application for withdrawal, the party or his legal representative may apply for reconsideration once.

第三十二条   本章关于回避的规定适用于书记员、翻译人员和鉴定人。

Article 32 Provisions on withdrawal set forth in this Chapter shall also apply to court clerks, interpreters and expert witnesses.

辩护人、诉讼代理人可以依照本章的规定要求回避、申请复议。

Defenders and agents ad litem may request withdrawal and apply for reconsideration according to the provisions of this Chapter.

第四章 辩护与代理

Chapter 4 Defense and Representation

第三十三条   犯罪嫌疑人、被告人除自己行使辩护权以外，还可以委托一至二人作为辩护人。下列的人可以被委托为辩护人：

Article 33 In addition to exercising the right to defend himself, a criminal suspect or a defendant may entrust one or two persons as his defenders. The following persons may be entrusted as defenders:

（一）律师；

1. lawyers;

（二）人民团体或者犯罪嫌疑人、被告人所在单位推荐的人；

2. persons recommended by a public organization or the unit to which the criminal suspect or the defendant belongs; and

（三）犯罪嫌疑人、被告人的监护人、亲友。

3. guardians or relatives and friends of the criminal suspect or the defendant.

正在被执行刑罚或者依法被剥夺、限制人身自由的人，不得担任辩护人。

Persons who are under criminal punishment or whose personal freedom is deprived of or restricted according to law shall not serve as defenders.

被开除公职和被吊销律师、公证员执业证书的人，不得担任辩护人，但系犯罪嫌疑人、被告人的监护人、近亲属的除外。

A person who is discharged from public employment or has had his or her practicing certificate for lawyers or notaries revoked shall not serve as a defender, unless he or she is the guardian or close relative of the criminal suspect or defendant.

第三十四条   犯罪嫌疑人自被侦查机关第一次讯问或者采取强制措施之日起，有权委托辩护人；在侦查期间，只能委托律师作为辩护人。被告人有权随时委托辩护人。

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

侦查机关在第一次讯问犯罪嫌疑人或者对犯罪嫌疑人采取强制措施的时候，应当告知犯罪嫌疑人有权委托辩护人。人民检察院自收到移送审查起诉的案件材料之日起三日以内，应当告知犯罪嫌疑人有权委托辩护人。人民法院自受理案件之日起三日以内，应当告知被告人有权委托辩护人。犯罪嫌疑人、被告人在押期间要求委托辩护人的，人民法院、人民检察院和公安机关应当及时转达其要求。

An investigating organ shall, during the first interrogation of a criminal suspect or the imposition of compulsory measures thereon, inform the criminal suspect of his right to entrust a defender. A People's Procuratorate shall, within three days from the date of receiving the file record of a case transferred for examination before prosecution, inform the criminal suspect that he has the right to entrust persons as his defenders. A people's court shall, within three days after accepting a case, inform a defendant of his/her right to entrust a defender. If a criminal suspect or defendant in custody files a request for entrusting a defender, the people's court, people's procuratorate, and public security organ shall convey such a request in a timely manner.

犯罪嫌疑人、被告人在押的，也可以由其监护人、近亲属代为委托辩护人。

A criminal suspect or defendant under detention may have his guardian or close relative to entrust a defender on his behalf.

辩护人接受犯罪嫌疑人、被告人委托后，应当及时告知办理案件的机关。

After accepting authorization by a criminal suspect or defendant, a defender shall inform the authority handling the case in a timely manner.

第三十五条   犯罪嫌疑人、被告人因经济困难或者其他原因没有委托辩护人的，本人及其近亲属可以向法律援助机构提出申请。对符合法律援助条件的，法律援助机构应当指派律师为其提供辩护。

Article 35 Where a criminal suspect or defendant has not entrusted a defender for financial hardship or other reasons, the criminal suspect or his/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/her.

犯罪嫌疑人、被告人是盲、聋、哑人，或者是尚未完全丧失辨认或者控制自己行为能力的精神病人，没有委托辩护人的，人民法院、人民检察院和公安机关应当通知法律援助机构指派律师为其提供辩护。

Where a criminal suspect or defendant is blind, deaf or mute, or is a mental patient who has not completely lost the ability to recognize or control his/her behavior, if he/she has not entrusted a defender, the people's court, people's procuratorate, and public security organ shall notify a legal aid agency to designate a lawyer to defend him/her.

犯罪嫌疑人、被告人可能被判处无期徒刑、死刑，没有委托辩护人的，人民法院、人民检察院和公安机关应当通知法律援助机构指派律师为其提供辩护。

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

第三十六条   法律援助机构可以在人民法院、看守所等场所派驻值班律师。犯罪嫌疑人、被告人没有委托辩护人，法律援助机构没有指派律师为其提供辩护的，由值班律师为犯罪嫌疑人、被告人提供法律咨询、程序选择建议、申请变更强制措施、对案件处理提出意见等法律帮助。

Article 36 A legal aid institution may have duty lawyers stationed in people's courts, detention houses and other similar places. For criminal suspects and defendants who do not entrust defenders, nor legal aid agencies designate lawyers to defend them, such duty lawyers shall provide criminal suspects and defendants with such legal assistance as legal advice, suggestions on procedural selection, application for change of coercive measures, and offering opinions on case handling, etc.

人民法院、人民检察院、看守所应当告知犯罪嫌疑人、被告人有权约见值班律师，并为犯罪嫌疑人、被告人约见值班律师提供便利。

Any people's court, people's procuratorate or detention house shall inform any criminal suspects or defendants of their right to meet with duty lawyers and provide convenience for such meetings.

第三十七条   辩护人的责任是根据事实和法律，提出犯罪嫌疑人、被告人无罪、罪轻或者减轻、免除其刑事责任的材料和意见，维护犯罪嫌疑人、被告人的诉讼权利和其他合法权益。

Article 37 The responsibilities of a defender are to present materials and opinions proving 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.

第三十八条   辩护律师在侦查期间可以为犯罪嫌疑人提供法律帮助；代理申诉、控告；申请变更强制措施；向侦查机关了解犯罪嫌疑人涉嫌的罪名和案件有关情况，提出意见。

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

第三十九条   辩护律师可以同在押的犯罪嫌疑人、被告人会见和通信。其他辩护人经人民法院、人民检察院许可，也可以同在押的犯罪嫌疑人、被告人会见和通信。

Article 39 A defense lawyer may meet and communicate with a criminal suspect or defendant in custody. As permitted by a 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.

辩护律师持律师执业证书、律师事务所证明和委托书或者法律援助公函要求会见在押的犯罪嫌疑人、被告人的，看守所应当及时安排会见，至迟不得超过四十八小时。

Where the defense lawyer requests to meet the criminal suspect or the defendant on the strength of the lawyer's practicing certificate, a proof issued by his law firm, and a power of attorney or an official legal aid document, the detention center shall arrange for the meeting in a timely manner, no later than 48 hours after receiving the request.

危害国家安全犯罪、恐怖活动犯罪案件，在侦查期间辩护律师会见在押的犯罪嫌疑人，应当经侦查机关许可。上述案件，侦查机关应当事先通知看守所。

During the investigation period for crimes endangering national security or involving terrorist activities, defense lawyers shall obtain the approval of investigation organs before they meet with criminal suspects. For the aforesaid cases, the investigation authorities shall notify the detention centre beforehand.

辩护律师会见在押的犯罪嫌疑人、被告人，可以了解案件有关情况，提供法律咨询等；自案件移送审查起诉之日起，可以向犯罪嫌疑人、被告人核实有关证据。辩护律师会见犯罪嫌疑人、被告人时不被监听。

At a meeting with a criminal suspect or defendant in custody, a defense lawyer may learn relevant case information and provide legal advice and other services, and from the date on which the case has been transferred for examination and prosecution, may verify relevant evidence with the criminal suspect or defendant. The meeting between a defense lawyer and a criminal suspect or defendant shall not be monitored.

辩护律师同被监视居住的犯罪嫌疑人、被告人会见、通信，适用第一款、第三款、第四款的规定。

Where a defense lawyer meets or communicates with a criminal suspect or defendant under residential surveillance, paragraphs 1, 3 and 4 hereof shall apply.

第四十条   辩护律师自人民检察院对案件审查起诉之日起，可以查阅、摘抄、复制本案的案卷材料。其他辩护人经人民法院、人民检察院许可，也可以查阅、摘抄、复制上述材料。

Article 40 Defence lawyers may, from the date on which the People's Procuratorate begins to examine a case for prosecution, consult, extract and duplicate the case file. As permitted by the people's court or people's procuratorate, a defender other than a defense lawyer may also consult, extract, and duplicate such materials.

第四十一条   辩护人认为在侦查、审查起诉期间公安机关、人民检察院收集的证明犯罪嫌疑人、被告人无罪或者罪轻的证据材料未提交的，有权申请人民检察院、人民法院调取。

Article 41 Where a defender believes that any evidence collected by the public security organ or people's procuratorate during the period of 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.

第四十二条   辩护人收集的有关犯罪嫌疑人不在犯罪现场、未达到刑事责任年龄、属于依法不负刑事责任的精神病人的证据，应当及时告知公安机关、人民检察院。

Article 42 A defender shall inform the public security organ or people's procuratorate in a timely manner of evidence collected regarding a criminal suspect's alibi or the fact that the criminal suspect has not reached the age for criminal liability or is a mental patient legally exempted from criminal liability.

第四十三条   辩护律师经证人或者其他有关单位和个人同意，可以向他们收集与本案有关的材料，也可以申请人民检察院、人民法院收集、调取证据，或者申请人民法院通知证人出庭作证。

Article 43 Defence lawyers may, with the consent of the witnesses or other units and individuals concerned, collect information pertaining to the current case from them and they may also apply to the People's Procuratorate or the People's Court for the collection and obtaining of evidence, or request the People's Court to inform the witnesses to appear in court and give testimony.

辩护律师经人民检察院或者人民法院许可，并且经被害人或者其近亲属、被害人提供的证人同意，可以向他们收集与本案有关的材料。

With permission of the People's Procuratorate or the People's Court and with the consent of the victim, his close relatives or the witnesses provided by the victim, defence lawyers may collect information pertaining to the current case from them.

第四十四条   辩护人或者其他任何人，不得帮助犯罪嫌疑人、被告人隐匿、毁灭、伪造证据或者串供，不得威胁、引诱证人作伪证以及进行其他干扰司法机关诉讼活动的行为。

Article 44 No defender or other person may help a criminal suspect or defendant conceal, destroy or forge evidence or make a false confession in collusion, intimidate or induce a witness into committing perjury, or otherwise interfere with the proceedings of judicial organs.

违反前款规定的，应当依法追究法律责任，辩护人涉嫌犯罪的，应当由办理辩护人所承办案件的侦查机关以外的侦查机关办理。辩护人是律师的，应当及时通知其所在的律师事务所或者所属的律师协会。

Any violation of the preceding paragraph shall be subject to the legal liability in accordance with the law. Any alleged crime committed by a defender in this regard shall be handled by an investigation authority other than the one handling the case undertaken by the defender. If the defender is a lawyer, the law firm employing the lawyer or the bar association to which the lawyer belongs shall be informed in a timely manner.

第四十五条   在审判过程中，被告人可以拒绝辩护人继续为他辩护，也可以另行委托辩护人辩护。

Article 45 During a trial, the defendant may refuse to have his defender continue to defend him and may entrust his defence to another defender.

第四十六条   公诉案件的被害人及其法定代理人或者近亲属，附带民事诉讼的当事人及其法定代理人，自案件移送审查起诉之日起，有权委托诉讼代理人。自诉案件的自诉人及其法定代理人，附带民事诉讼的当事人及其法定代理人，有权随时委托诉讼代理人。

Article 46 A victim in a case of public prosecution, his legal representatives or near relatives, and a party in an incidental civil action and his legal representatives shall, from the date on which the case is transferred for examination before prosecution, have the right to entrust agents ad litem. A private prosecutor in a case of private prosecution and his legal representatives, and a party in an incidental civil action and his legal representatives shall have the right to entrust agents ad litem at any time.

人民检察院自收到移送审查起诉的案件材料之日起三日以内，应当告知被害人及其法定代理人或者其近亲属、附带民事诉讼的当事人及其法定代理人有权委托诉讼代理人。人民法院自受理自诉案件之日起三日以内，应当告知自诉人及其法定代理人、附带民事诉讼的当事人及其法定代理人有权委托诉讼代理人。

A People's Procuratorate shall, within three days from the date of receiving the file record of a case transferred for examination before prosecution, notify the victim and his legal representatives or near relatives and the party in an incidental civil action and his legal representatives that they have the right to entrust agents ad litem. The People's Court shall, within three days from the date of accepting a case of private prosecution, notify the private prosecutor and his legal representatives and the party in an incidental civil action and his legal representatives that they have the right to entrust agents ad litem.

第四十七条   委托诉讼代理人，参照本法第三十三条的规定执行。

Article 47 The provisions of Article 33 of this Law shall apply mutatis mutandis to the entrustment of agents ad litem.

第四十八条   辩护律师对在执业活动中知悉的委托人的有关情况和信息，有权予以保密。但是，辩护律师在执业活动中知悉委托人或者其他人，准备或者正在实施危害国家安全、公共安全以及严重危害他人人身安全的犯罪的，应当及时告知司法机关。

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, public security or seriously endangering others' personal safety, a defense lawyer shall inform a judicial authority in a timely manner.

第四十九条   辩护人、诉讼代理人认为公安机关、人民检察院、人民法院及其工作人员阻碍其依法行使诉讼权利的，有权向同级或者上一级人民检察院申诉或者控告。人民检察院对申诉或者控告应当及时进行审查，情况属实的，通知有关机关予以纠正。

Article 49 A defender or agent ad litem shall be entitled to file a petition or bring a complaint to the people's procuratorate at the same or the next higher level if he/she is of the opinion that the relevant public security organ, people's procuratorate, people's court or its staff members have hindered his/her lawful exercise of the litigation rights. The people's procuratorate shall examine the petition or complaint in a timely manner and, if it is true, notify the authority concerned to make correction.

第五章 证据

Chapter 5 Evidence

第五十条   可以用于证明案件事实的材料，都是证据。

Article 50 All materials that may be used to prove the facts of a case shall be evidence.

证据包括：

Evidence includes:

（一）物证；

1. physical evidence;

（二）书证；

(II) documentary evidence;

（三）证人证言；

(III) testimony of witnesses;

（四）被害人陈述；

(IV) statements of victims;

（五）犯罪嫌疑人、被告人供述和辩解；

(V) statements and exculpations of criminal suspects or defendants;

（六）鉴定意见；

(VI) expert opinions; and

（七）勘验、检查、辨认、侦查实验等笔录；

(VII) records of crime scene investigation, examination, identification and investigative reenactment; and

（八）视听资料、电子数据。

(VIII) audio-visual materials, and electronic data.

证据必须经过查证属实，才能作为定案的根据。

Evidence must be verified before it can be used as a basis for a verdict.

第五十一条   公诉案件中被告人有罪的举证责任由人民检察院承担，自诉案件中被告人有罪的举证责任由自诉人承担。

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.

第五十二条   审判人员、检察人员、侦查人员必须依照法定程序，收集能够证实犯罪嫌疑人、被告人有罪或者无罪、犯罪情节轻重的各种证据。严禁刑讯逼供和以威胁、引诱、欺骗以及其他非法方法收集证据，不得强迫任何人证实自己有罪。必须保证一切与案件有关或者了解案情的公民，有客观地充分地提供证据的条件，除特殊情况外，可以吸收他们协助调查。

Article 52 Judges, procurators and investigators must, in accordance with the legally prescribed process, collect various kinds of evidence that can prove the criminal suspect's or defendant's guilt or innocence and the gravity of his crime. It is strictly forbidden to extort confessions by torture, collect evidence by threat, enticement, deception or any other illegal means, or force any person to prove himself or herself guilty. Conditions must be guaranteed for all citizens who are involved in a case or who have information about the circumstances of a case to objectively and fully furnish evidence and, except in special circumstances, they may be brought in to help the investigation.

第五十三条   公安机关提请批准逮捕书、人民检察院起诉书、人民法院判决书，必须忠实于事实真象。故意隐瞒事实真象的，应当追究责任。

Article 53 The public security organ's requests for approval of arrest, the People's Procuratorate's bills of prosecution and the People's Court's written judgments must be faithful to the facts. The responsibility of anyone who intentionally conceals the facts shall be investigated.

第五十四条   人民法院、人民检察院和公安机关有权向有关单位和个人收集、调取证据。有关单位和个人应当如实提供证据。

Article 54 People's courts, people's procuratorates and public security organs shall have the authority to collect or obtain evidence from the units and individuals concerned. The units and individuals concerned shall provide truthful evidence.

行政机关在行政执法和查办案件过程中收集的物证、书证、视听资料、电子数据等证据材料，在刑事诉讼中可以作为证据使用。

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

对涉及国家秘密、商业秘密、个人隐私的证据，应当保密。

Evidence which involves State secrets, commercial secrets or personal privacy shall be kept confidential.

凡是伪造证据、隐匿证据或者毁灭证据的，无论属于何方，必须受法律追究。

Anyone that falsifies, conceals or destroys evidence, regardless of which side of a case he belongs to, must be investigated under law.

第五十五条   对一切案件的判处都要重证据，重调查研究，不轻信口供。只有被告人供述，没有其他证据的，不能认定被告人有罪和处以刑罚；没有被告人供述，证据确实、充分的，可以认定被告人有罪和处以刑罚。

Article 55 In the decision of all cases, stress shall be laid on evidence, investigation and study; credence shall not be readily given to oral statements. A defendant shall not be found guilty and sentenced to a criminal punishment merely based on the defendant's statement without other evidence; a defendant may be found guilty and sentenced to a criminal punishment based on hard and sufficient evidence even without his/her statement.

证据确实、充分，应当符合以下条件：

For evidence to be accurate and sufficient, the following conditions shall be met:

（一）定罪量刑的事实都有证据证明；

1. All facts for conviction and sentencing are supported by evidence;

（二）据以定案的证据均经法定程序查证属实；

(II) All evidence used to decide a case has been verified under legal procedures; and

（三）综合全案证据，对所认定事实已排除合理怀疑。

(III) All facts found are beyond reasonable doubt based on all evidence of the case.

第五十六条   采用刑讯逼供等非法方法收集的犯罪嫌疑人、被告人供述和采用暴力、威胁等非法方法收集的证人证言、被害人陈述，应当予以排除。收集物证、书证不符合法定程序，可能严重影响司法公正的，应当予以补正或者作出合理解释；不能补正或者作出合理解释的，对该证据应当予以排除。

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 the collection of physical evidence or documentary evidence does not comply with the legal procedures, which may seriously affect the judicial justice, correction shall be made, or reasonable explanations shall be given; if it is impossible to make correction or reasonable explanations, such evidence shall be excluded.

在侦查、审查起诉、审判时发现有应当排除的证据的，应当依法予以排除，不得作为起诉意见、起诉决定和判决的依据。

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

第五十七条   人民检察院接到报案、控告、举报或者发现侦查人员以非法方法收集证据的，应当进行调查核实。对于确有以非法方法收集证据情形的，应当提出纠正意见；构成犯罪的，依法追究刑事责任。

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

第五十八条   法庭审理过程中，审判人员认为可能存在本法第五十六条规定的以非法方法收集证据情形的，应当对证据收集的合法性进行法庭调查。

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

当事人及其辩护人、诉讼代理人有权申请人民法院对以非法方法收集的证据依法予以排除。申请排除以非法方法收集的证据的，应当提供相关线索或者材料。

A party concerned or the defender or agent ad litem thereof shall have the right to apply to a people's court for excluding illegally collected evidence. Relevant clues or materials shall be provided for an application for excluding illegally collected evidence.

第五十九条   在对证据收集的合法性进行法庭调查的过程中，人民检察院应当对证据收集的合法性加以证明。

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

现有证据材料不能证明证据收集的合法性的，人民检察院可以提请人民法院通知有关侦查人员或者其他人员出庭说明情况；人民法院可以通知有关侦查人员或者其他人员出庭说明情况。有关侦查人员或者其他人员也可以要求出庭说明情况。经人民法院通知，有关人员应当出庭。

If the existing evidentiary materials cannot prove the legality of evidence collection, 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 personnel may also request to appear in court to give explanations. The relevant persons notified by the people's court shall appear in court.

第六十条   对于经过法庭审理，确认或者不能排除存在本法第五十六条规定的以非法方法收集证据情形的，对有关证据应当予以排除。

Article 60 Where, at trial, any illegal obtainment of evidence as prescribed in Article 56 of this Law is confirmed or cannot be ruled out, the relevant evidence shall be excluded.

第六十一条   证人证言必须在法庭上经过公诉人、被害人和被告人、辩护人双方质证并且查实以后，才能作为定案的根据。法庭查明证人有意作伪证或者隐匿罪证的时候，应当依法处理。

Article 61 The witness’s testimony must be cross-examined by both parties in court before it can be used as the basis for deciding case. If a court discovers through investigation that a witness has intentionally given false testimony or concealed criminal evidence, it shall handle the matter in accordance with law.

第六十二条   凡是知道案件情况的人，都有作证的义务。

Article 62 All those who have information about a case shall have the duty to testify.

生理上、精神上有缺陷或者年幼，不能辨别是非、不能正确表达的人，不能作证人。

A person who is physically or mentally defective or young and who is unable to distinguish right from wrong or to express himself correctly cannot be a witness.

第六十三条   人民法院、人民检察院和公安机关应当保障证人及其近亲属的安全。

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

对证人及其近亲属进行威胁、侮辱、殴打或者打击报复，构成犯罪的，依法追究刑事责任；尚不够刑事处罚的，依法给予治安管理处罚。

Anyone who intimidates, humiliates, beats or retaliates against a witness or his close relatives, if his act constitutes a crime, shall be investigated for criminal responsibility according to law; if the case is not serious enough for criminal punishment, he shall be punished for violation of public security in accordance with law.

第六十四条   对于危害国家安全犯罪、恐怖活动犯罪、黑社会性质的组织犯罪、毒品犯罪等案件，证人、鉴定人、被害人因在诉讼中作证，本人或者其近亲属的人身安全面临危险的，人民法院、人民检察院和公安机关应当采取以下一项或者多项保护措施：

Article 64 With regard to crimes endangering State security, those involving terrorist activities, organized crimes committed by groups in the nature of criminal syndicates, drug-related crimes and the like, if the personal safety of the witnesses, experts or victims or their close relatives is threatened due to their testimony in lawsuits, the people's courts, people's procuratorates and public security organs shall adopt one or more of the following protective measures:

（一）不公开真实姓名、住址和工作单位等个人信息；

1. do not disclose real names, addresses, employers and other personal information;

（二）采取不暴露外貌、真实声音等出庭作证措施；

2. Adopting measures to avoid the actual appearance or true voice of those who appear in courtrooms for testimony;

（三）禁止特定的人员接触证人、鉴定人、被害人及其近亲属；

(III) prohibiting certain persons from having contact with the witnesses, expert witnesses, victims and their close relatives;

（四）对人身和住宅采取专门性保护措施；

(IV) take special measures to protect the personal and residential security of the aforesaid persons;

（五）其他必要的保护措施。

(V) Other necessary protective measures.

证人、鉴定人、被害人认为因在诉讼中作证，本人或者其近亲属的人身安全面临危险的，可以向人民法院、人民检察院、公安机关请求予以保护。

A witness, expert or victim who is of the opinion that his/her personal safety or the personal safety of his/her close relatives is in danger due to his/her testimony in lawsuits may apply for protection with a people's court, people's procuratorate or public security organ.

人民法院、人民检察院、公安机关依法采取保护措施，有关单位和个人应当配合。

Relevant entities and individuals shall cooperate with a people's court, people's procuratorate, or public security organ in taking protective measures in accordance with law.

第六十五条   证人因履行作证义务而支出的交通、住宿、就餐等费用，应当给予补助。证人作证的补助列入司法机关业务经费，由同级政府财政予以保障。

Article 65 A witness shall be entitled to allowance for his/her performance of the obligation of giving testimony in terms of transportation, accommodation and catering expenses incurred thereby. The allowance granted to witnesses for giving testimony shall be included into the business expenses of judicial organs and be guaranteed by the public finance of people's governments at the same level.

有工作单位的证人作证，所在单位不得克扣或者变相克扣其工资、奖金及其他福利待遇。

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

第六章 强制措施

Chapter 6 Compulsory Measures

第六十六条   人民法院、人民检察院和公安机关根据案件情况，对犯罪嫌疑人、被告人可以拘传、取保候审或者监视居住。

Article 66 People's courts, people's procuratorates and public security organs may, according to the circumstances of a case, issue a warrant to compel the appearance of the criminal suspect or defendant, order him to obtain a guarantor pending trial or subject him to residential surveillance.

第六十七条   人民法院、人民检察院和公安机关对有下列情形之一的犯罪嫌疑人、被告人，可以取保候审：

Article 67 The people's court, people's procuratorate and public security authority may allow a criminal suspect or defendant to be released on bail pending trial under any of the following circumstances:

（一）可能判处管制、拘役或者独立适用附加刑的；

1. The criminal suspect or the defendant may be subject to public surveillance, criminal detention or additional sentence separately meted out;

（二）可能判处有期徒刑以上刑罚，采取取保候审不致发生社会危险性的；

2. The criminal suspect or the defendant may be subject to fixed-term imprisonment or severer punishments, but no threat would be posed to the society if he is released on bail pending trial;

（三）患有严重疾病、生活不能自理，怀孕或者正在哺乳自己婴儿的妇女，采取取保候审不致发生社会危险性的；

3. Where the criminal suspect or the defendant is suffering from a serious illness, cannot take care of himself, or is during pregnancy and breastfeeding period, no threat would be posed to the society if he/is released on bail pending trial; or

（四）羁押期限届满，案件尚未办结，需要采取取保候审的。

(IV) His case has not been concluded upon expiry of the detention period, and he needs to be released on bail pending trial.

取保候审由公安机关执行。

Release on bail pending trial shall be executed by a public security authority.

第六十八条   人民法院、人民检察院和公安机关决定对犯罪嫌疑人、被告人取保候审，应当责令犯罪嫌疑人、被告人提出保证人或者交纳保证金。

Article 68 Where a People's Court, People's Procuratorate or public security organ decides to allow a criminal suspect or defendant to obtain a guarantor pending trial, it shall order the criminal suspect or defendant to provide a guarantor or pay guaranty money.

第六十九条   保证人必须符合下列条件：

Article 69 A guarantor must be a person who meets the following conditions:

（一）与本案无牵连；

1. to be not involved in the current case;

（二）有能力履行保证义务；

(II) to be able to perform a guarantor's duties;

（三）享有政治权利，人身自由未受到限制；

3. to be entitled to political rights and not subjected to restriction of personal freedom; and

（四）有固定的住处和收入。

(IV) to have a fixed domicile and steady income.

第七十条   保证人应当履行以下义务：

Article 70 A guarantor shall perform the following obligations:

（一）监督被保证人遵守本法第七十一条的规定；

1. ensure that the party under guarantee complies with the provisions of Article 71 hereof; and

（二）发现被保证人可能发生或者已经发生违反本法第七十一条规定的行为的，应当及时向执行机关报告。

(II) to promptly report to the executing organ when finding that the person under his guarantee may commit or has already committed acts in violation of Article 71 of this Law.

被保证人有违反本法第七十一条规定的行为，保证人未履行保证义务的，对保证人处以罚款，构成犯罪的，依法追究刑事责任。

Where the guarantor fails to perform the aforesaid obligations when the party under guarantee has committed an act in violation of Article 71 hereof, a fine shall be imposed on the guarantor, if a crime is constituted, criminal liability shall be pursued according to law.

第七十一条   被取保候审的犯罪嫌疑人、被告人应当遵守以下规定：

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

（一）未经执行机关批准不得离开所居住的市、县；

1. not to leave the city or county where he resides without permission of the executing organ;

（二）住址、工作单位和联系方式发生变动的，在二十四小时以内向执行机关报告；

2. report of any change of address, employer and contact information to the execution authority within 24 hours of the change;

（三）在传讯的时候及时到案；

3. to be present in time at a court when summoned;

（四）不得以任何形式干扰证人作证；

(IV) not interfering in any way with the testimony of witnesses; and

（五）不得毁灭、伪造证据或者串供。

(V) not to destroy or falsify evidence or tally confessions.

人民法院、人民检察院和公安机关可以根据案件情况，责令被取保候审的犯罪嫌疑人、被告人遵守以下一项或者多项规定：

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

（一）不得进入特定的场所；

1. No entry into certain places;

（二）不得与特定的人员会见或者通信；

(II) not meeting or communicate with particular persons;

（三）不得从事特定的活动；

3. No engagement in certain activities; and/or

（四）将护照等出入境证件、驾驶证件交执行机关保存。

(IV) delivering his/her passport and other travel documents and driver's license to the execution authority for preservation.

被取保候审的犯罪嫌疑人、被告人违反前两款规定，已交纳保证金的，没收部分或者全部保证金，并且区别情形，责令犯罪嫌疑人、被告人具结悔过，重新交纳保证金、提出保证人，或者监视居住、予以逮捕。

Where the criminal suspect or defendant that has been released on bail pending trial with payment of the bail bond violates the provisions of the preceding two paragraphs, part or all of the bail bond paid shall be forfeited, and depending on the specific circumstances, the criminal suspect or defendant shall be ordered to write a recognizance of repentance, pay bail bond again or provide a guarantor, or subject to residential surveillance and arrest.

对违反取保候审规定，需要予以逮捕的，可以对犯罪嫌疑人、被告人先行拘留。

Where the criminal suspect or the defendant violates the provisions in respect of release on bail pending trial, he may be held in custody before being arrested.

第七十二条   取保候审的决定机关应当综合考虑保证诉讼活动正常进行的需要，被取保候审人的社会危险性，案件的性质、情节，可能判处刑罚的轻重，被取保候审人的经济状况等情况，确定保证金的数额。

Article 72 When the authority granting the release on bail pending trial determines the amount of the bail bond, consideration shall be given to the need for the normal proceedings of litigation activities, whether the party released on bail is a danger to the society, the circumstances and nature of the case, the severity of the possible punishments and the economic conditions of the person on bail.

提供保证金的人应当将保证金存入执行机关指定银行的专门账户。

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

第七十三条   犯罪嫌疑人、被告人在取保候审期间未违反本法第七十一条规定的，取保候审结束的时候，凭解除取保候审的通知或者有关法律文书到银行领取退还的保证金。

Article 73 Where the criminal suspect or the defendant does not violate the provisions of Article 71 hereof during the period in which he is released on bail, he shall obtain the refunded bond from the relevant bank upon expiry of the bail period on the strength of the notice on the termination of release on bail pending trial or other relevant legal instruments.

第七十四条   人民法院、人民检察院和公安机关对符合逮捕条件，有下列情形之一的犯罪嫌疑人、被告人，可以监视居住：

Article 74 The people's court, people's procuratorate and public security authority may place under residential surveillance a criminal suspect or defendant that satisfies the conditions for arrest under any of the following circumstances:

（一）患有严重疾病、生活不能自理的；

1. He is seriously ill and cannot take care of himself;

（二）怀孕或者正在哺乳自己婴儿的妇女；

2. the criminal is pregnant or is breast-feeding her own baby;

（三）系生活不能自理的人的唯一扶养人；

(III) being the only person to support a dependent that cannot live by himself;

（四）因为案件的特殊情况或者办理案件的需要，采取监视居住措施更为适宜的；

(IV) residential surveillance is considered more appropriate due to the special circumstances of the case or the need for case handling; or

（五）羁押期限届满，案件尚未办结，需要采取监视居住措施的。

(V) His case has not been concluded upon expiry of the detention period, and residential surveillance is necessary.

对符合取保候审条件，但犯罪嫌疑人、被告人不能提出保证人，也不交纳保证金的，可以监视居住。

Where the criminal suspect or defendant satisfies the conditions for release on bail pending trial, but is unable to provide a guarantor or pay the bail bond, he may be placed under residential surveillance.

监视居住由公安机关执行。

Residential surveillance shall be executed by a public security organ.

第七十五条   监视居住应当在犯罪嫌疑人、被告人的住处执行；无固定住处的，可以在指定的居所执行。对于涉嫌危害国家安全犯罪、恐怖活动犯罪，在住处执行可能有碍侦查的，经上一级公安机关批准，也可以在指定的居所执行。但是，不得在羁押场所、专门的办案场所执行。

Article 75 Residential surveillance shall be enforced at the domicile of the criminal suspect or the defendant or at a designated place of residence if he has no fixed domicile. For a crime suspected of endangering national security or involving terrorist activities, if residential surveillance at the domicile of the criminal suspect or defendant may impede the investigation, residential surveillance may be enforced at a designated place of residence upon approval by the public security organ at the next higher level. However, residential surveillance shall not be enforced in a place of custody or a special venue for case investigation.

指定居所监视居住的，除无法通知的以外，应当在执行监视居住后二十四小时以内，通知被监视居住人的家属。

Where the criminal suspect or the defendant is placed under residential surveillance at a designated place of residence, his family shall be informed of the residential surveillance within 24 hours upon enforcement of residential surveillance, unless notification cannot be made.

被监视居住的犯罪嫌疑人、被告人委托辩护人，适用本法第三十四条的规定。

Where criminal suspects and defendants subject to residential surveillance appoint advocates, Article 34 hereof shall apply.

人民检察院对指定居所监视居住的决定和执行是否合法实行监督。

People's procuratorates shall oversee the legality of a decision on and execution of residential surveillance at a designated residence.

第七十六条   指定居所监视居住的期限应当折抵刑期。被判处管制的，监视居住一日折抵刑期一日；被判处拘役、有期徒刑的，监视居住二日折抵刑期一日。

Article 76 The term of residential surveillance at a designated residence shall decrease the term of sentence. For criminals sentenced to public surveillance, one day of residential surveillance equals one day of the term of sentence; for criminals sentenced to criminal detention or fixed-term imprisonment, two days of residential surveillance equals one day of the term of sentence.

第七十七条   被监视居住的犯罪嫌疑人、被告人应当遵守以下规定：

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

（一）未经执行机关批准不得离开执行监视居住的处所；

1. No exit from the domicile or place of residence subject to residential surveillance without the permission of the executing authority;

（二）未经执行机关批准不得会见他人或者通信；

2. not meeting or communicating with others without permission of the executing organ;

（三）在传讯的时候及时到案；

3. to be present in time at a court when summoned;

（四）不得以任何形式干扰证人作证；

(IV) not interfering in any way with the testimony of witnesses; and

（五）不得毁灭、伪造证据或者串供；

(V) not to destroy or falsify evidence or tally confessions; and

（六）将护照等出入境证件、身份证件、驾驶证件交执行机关保存。

(VI) delivering his/her passport and other international travel credentials and driver's license to the execution authority for preservation.

被监视居住的犯罪嫌疑人、被告人违反前款规定，情节严重的，可以予以逮捕；需要予以逮捕的，可以对犯罪嫌疑人、被告人先行拘留。

A criminal suspect or defendant under residential surveillance 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.

第七十八条   执行机关对被监视居住的犯罪嫌疑人、被告人，可以采取电子监控、不定期检查等监视方法对其遵守监视居住规定的情况进行监督；在侦查期间，可以对被监视居住的犯罪嫌疑人的通信进行监控。

Article 78 Execution authorities may oversee criminal suspects or defendants under residential surveillance regarding their compliance with residential surveillance provisions by electronic monitoring, random inspections, and other surveillance means. During the period of investigation, the correspondence of criminal suspects under residential surveillance may be monitored.

第七十九条   人民法院、人民检察院和公安机关对犯罪嫌疑人、被告人取保候审最长不得超过十二个月，监视居住最长不得超过六个月。

Article 79 The period granted by a People's Court, People's Procuratorate or public security organ to a criminal suspect or defendant for awaiting trial after obtaining a guarantor shall not exceed twelve months; the period for residential surveillance shall not exceed six months.

在取保候审、监视居住期间，不得中断对案件的侦查、起诉和审理。对于发现不应当追究刑事责任或者取保候审、监视居住期限届满的，应当及时解除取保候审、监视居住。解除取保候审、监视居住，应当及时通知被取保候审、监视居住人和有关单位。

During the period when the criminal suspect or defendant is awaiting trial after obtaining a guarantor or when he is under residential surveillance, investigation, prosecution and handling of the case shall not be suspended. If it is discovered that the criminal suspect or the defendant should not be investigated for criminal responsibility or when the period for awaiting trial after obtaining a guarantor or the period of residential surveillance has expired, such period shall be terminated without delay. The person who has obtained a guarantor pending trial or who is under residential surveillance and the units concerned shall be notified of the termination immediately.

第八十条   逮捕犯罪嫌疑人、被告人，必须经过人民检察院批准或者人民法院决定，由公安机关执行。

Article 80 Arrests of criminal suspects or defendants shall be subject to approval by a People's Procuratorate or decision by a People's Court and shall be executed by a public security organ.

第八十一条   对有证据证明有犯罪事实，可能判处徒刑以上刑罚的犯罪嫌疑人、被告人，采取取保候审尚不足以防止发生下列社会危险性的，应当予以逮捕：

Article 81 Where there is evidence to support the corpus delicti of a crime and the criminal suspect or defendant may be subject to fixed-term imprisonment or severer punishments, and where release on bail pending trial cannot effectively prevent the following dangers to the society, the criminal suspect or defendant shall be arrested:

（一）可能实施新的犯罪的；

1. the criminal suspect or defendant may commit a new crime;

（二）有危害国家安全、公共安全或者社会秩序的现实危险的；

2. there is a real risk that the criminal suspect or defendant may endanger national security, public security or public order;

（三）可能毁灭、伪造证据，干扰证人作证或者串供的；

3. the criminal suspect or defendant may destroy or falsify evidence, interfere with the witnesses that give testimony or collude with other parties to make confessions;

（四）可能对被害人、举报人、控告人实施打击报复的；

(IV) The criminal suspect or defendant may retaliate against the victims, informants, or accusers; or

（五）企图自杀或者逃跑的。

(V) the criminal suspect or defendant attempts to commit suicide or escape.

批准或者决定逮捕，应当将犯罪嫌疑人、被告人涉嫌犯罪的性质、情节，认罪认罚等情况，作为是否可能发生社会危险性的考虑因素。

The nature and circumstances of the suspected crime of a criminal suspect or defendant, and the plea of guilty and punishment acceptance by a criminal suspect or defendant shall be taken into consideration in approving or deciding on an arrest as a possible threat to the society.

对有证据证明有犯罪事实，可能判处十年有期徒刑以上刑罚的，或者有证据证明有犯罪事实，可能判处徒刑以上刑罚，曾经故意犯罪或者身份不明的，应当予以逮捕。

Where there is evidence to support the corpus delicti of a crime and the criminal suspect or defendant may be subject to a fixed-term imprisonment of ten years or severer punishments, or where there is evidence to support the corpus delicti of a crime, and the criminal suspect or defendant may be subject to fixed-term imprisonment or severer punishments, but has willfully committed a crime or whose identity is unknown, the criminal suspect or defendant shall be arrested.

被取保候审、监视居住的犯罪嫌疑人、被告人违反取保候审、监视居住规定，情节严重的，可以予以逮捕。

Where a criminal suspect or defendant released upon bail pending trial or under residential surveillance seriously violates the provisions on bail or residential surveillance, the criminal suspect or defendant may be arrested.

第八十二条   公安机关对于现行犯或者重大嫌疑分子，如果有下列情形之一的，可以先行拘留：

Article 82 Public security organs may initially detain an active criminal or a major suspect under any of the following conditions:

（一）正在预备犯罪、实行犯罪或者在犯罪后即时被发觉的；

1. if he is in the process of preparing to commit a crime, is committing a crime or is discovered immediately after committing a crime;

（二）被害人或者在场亲眼看见的人指认他犯罪的；

(II) if he is identified as having committed a crime by a victim or an eyewitness;

（三）在身边或者住处发现有犯罪证据的；

(III) if criminal evidence is found on his body or at his residence;

（四）犯罪后企图自杀、逃跑或者在逃的；

(IV) if he attempts to commit suicide or escape after committing a crime, or he is a fugitive;

（五）有毁灭、伪造证据或者串供可能的；

(V) if there is likelihood of his destroying or falsifying evidence or tallying confessions; or

（六）不讲真实姓名、住址，身份不明的；

(VI) if he does not tell his true name and address and his identity is unknown; and

（七）有流窜作案、多次作案、结伙作案重大嫌疑的。

(VII) if he is strongly suspected of committing crimes from one place to another, repeatedly, or in a gang.

第八十三条   公安机关在异地执行拘留、逮捕的时候，应当通知被拘留、逮捕人所在地的公安机关，被拘留、逮捕人所在地的公安机关应当予以配合。

Article 83 When a public security organ is to detain or arrest a person in another place, it shall inform the public security organ in the place where the person to be detained or arrested stays, and the public security organ there shall cooperate in the action.

第八十四条   对于有下列情形的人，任何公民都可以立即扭送公安机关、人民检察院或者人民法院处理：

Article 84 The persons listed below may be seized outright by any citizen and delivered to a public security organ, a People's Procuratorate or a People's Court for handling:

（一）正在实行犯罪或者在犯罪后即时被发觉的；

1. a person who is in the process of committing a crime or is discovered immediately after committing a crime;

（二）通缉在案的；

2. any person who is wanted for arrest;

（三）越狱逃跑的；

(III) any person who has escaped from prison; and

（四）正在被追捕的。

(IV) any person who is being pursued for arrest.

第八十五条   公安机关拘留人的时候，必须出示拘留证。

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

拘留后，应当立即将被拘留人送看守所羁押，至迟不得超过二十四小时。除无法通知或者涉嫌危害国家安全犯罪、恐怖活动犯罪通知可能有碍侦查的情形以外，应当在拘留后二十四小时以内，通知被拘留人的家属。有碍侦查的情形消失以后，应当立即通知被拘留人的家属。

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 hinder the investigation in a crime of endangering national security or involving terrorist activities. However, once such a situation that obstructs investigation disappears, the family of the detainee shall be immediately notified.

第八十六条   公安机关对被拘留的人，应当在拘留后的二十四小时以内进行讯问。在发现不应当拘留的时候，必须立即释放，发给释放证明。

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

第八十七条   公安机关要求逮捕犯罪嫌疑人的时候，应当写出提请批准逮捕书，连同案卷材料、证据，一并移送同级人民检察院审查批准。必要的时候，人民检察院可以派人参加公安机关对于重大案件的讨论。

Article 87 When a public security organ wishes to arrest a criminal suspect, it shall submit a written request for approval of arrest together 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 organ's discussion of a major case.

第八十八条   人民检察院审查批准逮捕，可以讯问犯罪嫌疑人；有下列情形之一的，应当讯问犯罪嫌疑人：

Article 88 The people's procuratorate may interrogate a criminal suspect when examining and approving the arrest thereof, and it shall interrogate the criminal suspect under any of the following circumstances:

（一）对是否符合逮捕条件有疑问的；

1. Where there are doubts over whether the criminal suspect satisfies the conditions for arrest;

（二）犯罪嫌疑人要求向检察人员当面陈述的；

2. the criminal suspect requests to make a statement in front of procuratorial personnel; or

（三）侦查活动可能有重大违法行为的。

3. where investigation activities might have involved major violations of laws.

人民检察院审查批准逮捕，可以询问证人等诉讼参与人，听取辩护律师的意见；辩护律师提出要求的，应当听取辩护律师的意见。

During the examination for approval of an arrest request, a people's procuratorate may question witnesses 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.

第八十九条   人民检察院审查批准逮捕犯罪嫌疑人由检察长决定。重大案件应当提交检察委员会讨论决定。

Article 89 The chief procurator shall make the decision on a People's Procuratorate's examination and approval of the arrest of a criminal suspect. Major cases shall be submitted to the procuratorial committee for discussion and decision.

第九十条   人民检察院对于公安机关提请批准逮捕的案件进行审查后，应当根据情况分别作出批准逮捕或者不批准逮捕的决定。对于批准逮捕的决定，公安机关应当立即执行，并且将执行情况及时通知人民检察院。对于不批准逮捕的，人民检察院应当说明理由，需要补充侦查的，应当同时通知公安机关。

Article 90 After a People's Procuratorate has examined a case with respect to which a public security organ has submitted a request for approval of arrest, it shall decide according to the circumstances of the case either to approve the arrest or disapprove the arrest. If it decides to approve the arrest, the public security organ shall execute it immediately and inform the People's Procuratorate of the result without delay. If the People's Procuratorate disapproves the arrest, it shall give its reasons therefor; and if it deems a supplementary investigation necessary, it shall at the same time notify the public security organ of the need.

第九十一条   公安机关对被拘留的人，认为需要逮捕的，应当在拘留后的三日以内，提请人民检察院审查批准。在特殊情况下，提请审查批准的时间可以延长一日至四日。

Article 91 If the public security organ deems it necessary to arrest a detainee, it shall, within three days after the detention, submit a request to the People's Procuratorate for examination and approval. Under special circumstances, the time limit for submitting a request for examination and approval may be extended by one to four days.

对于流窜作案、多次作案、结伙作案的重大嫌疑分子，提请审查批准的时间可以延长至三十日。

As to the arrest of a major suspect involved in crimes committed from one place to another, repeatedly, or in a gang, the time limit for submitting a request for examination and approval may be extended to 30 days.

人民检察院应当自接到公安机关提请批准逮捕书后的七日以内，作出批准逮捕或者不批准逮捕的决定。人民检察院不批准逮捕的，公安机关应当在接到通知后立即释放，并且将执行情况及时通知人民检察院。对于需要继续侦查，并且符合取保候审、监视居住条件的，依法取保候审或者监视居住。

The People's Procuratorate shall decide either to approve or disapprove the arrest within seven days from the date of receiving the written request for approval of arrest submitted by a public security organ. If the People's Procuratorate disapproves the arrest, the public security organ shall, upon receiving notification, immediately release the detainee and inform the People's Procuratorate of the result without delay. If further investigation is necessary, and if the released person meets the conditions for obtaining a guarantor pending trial or for residential surveillance, he shall be allowed to obtain a guarantor pending trial or subjected to residential surveillance according to law.

第九十二条   公安机关对人民检察院不批准逮捕的决定，认为有错误的时候，可以要求复议，但是必须将被拘留的人立即释放。如果意见不被接受，可以向上一级人民检察院提请复核。上级人民检察院应当立即复核，作出是否变更的决定，通知下级人民检察院和公安机关执行。

Article 92 If the public security organ considers the People's Procuratorate's decision to disapprove an arrest to be incorrect, it may request a reconsideration but must immediately release the detainee. If the public security organ'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 matter, decide whether or not to make a change and notify the People's Procuratorate at the lower level and the public security organ to implement its decision.

第九十三条   公安机关逮捕人的时候，必须出示逮捕证。

Article 93 When making an arrest, a public security organ must produce an arrest warrant.

逮捕后，应当立即将被逮捕人送看守所羁押。除无法通知的以外，应当在逮捕后二十四小时以内，通知被逮捕人的家属。

Upon arrest, an arrested person shall immediately be transferred to a jail for custody. The family of the arrested person shall be notified within 24 hours after the arrest, unless notification cannot be made.

第九十四条   人民法院、人民检察院对于各自决定逮捕的人，公安机关对于经人民检察院批准逮捕的人，都必须在逮捕后的二十四小时以内进行讯问。在发现不应当逮捕的时候，必须立即释放，发给释放证明。

Article 94 Interrogation must be conducted within 24 hours after the arrest, by a People's Court or People's Procuratorate with respect to a person it has decided to arrest, and by a public security organ with respect to a person it has arrested with the approval of the People's Procuratorate. If it is found that the person should not have been arrested, he must be immediately released and issued a release certificate.

第九十五条   犯罪嫌疑人、被告人被逮捕后，人民检察院仍应当对羁押的必要性进行审查。对不需要继续羁押的，应当建议予以释放或者变更强制措施。有关机关应当在十日以内将处理情况通知人民检察院。

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, a suggestion shall be made to release the criminal or change the compulsory measure. The relevant authority shall notify the people's procuratorate of the handling of the case within 10 days.

第九十六条   人民法院、人民检察院和公安机关如果发现对犯罪嫌疑人、被告人采取强制措施不当的，应当及时撤销或者变更。公安机关释放被逮捕的人或者变更逮捕措施的，应当通知原批准的人民检察院。

Article 96 If a People's Court, a People's Procuratorate or a public security organ finds that the compulsory measures adopted against a criminal suspect or defendant are inappropriate, such measures shall be cancelled or modified without delay. If a public security organ releases a person arrested or substitute the measure of arrest with a different measure, it shall notify the People's Procuratorate that approved the arrest.

第九十七条   犯罪嫌疑人、被告人及其法定代理人、近亲属或者辩护人有权申请变更强制措施。人民法院、人民检察院和公安机关收到申请后，应当在三日以内作出决定；不同意变更强制措施的，应当告知申请人，并说明不同意的理由。

Article 97 A criminal suspect or defendant or his/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 organ 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.

第九十八条   犯罪嫌疑人、被告人被羁押的案件，不能在本法规定的侦查羁押、审查起诉、一审、二审期限内办结的，对犯罪嫌疑人、被告人应当予以释放；需要继续查证、审理的，对犯罪嫌疑人、被告人可以取保候审或者监视居住。

Article 98 If a case involving a criminal suspect or defendant in custody cannot be closed within the time limit stipulated by this Law for keeping the criminal suspect or defendant under custody for the sake of investigation, for conducting examination before prosecution, or for the procedure of first or second instance, the criminal suspect or defendant shall be released. Where further investigation, verification or trial is necessary, the criminal suspect or defendant may be allowed to obtain a guarantor pending trial or subjected to residential surveillance.

第九十九条   人民法院、人民检察院或者公安机关对被采取强制措施法定期限届满的犯罪嫌疑人、被告人，应当予以释放、解除取保候审、监视居住或者依法变更强制措施。犯罪嫌疑人、被告人及其法定代理人、近亲属或者辩护人对于人民法院、人民检察院或者公安机关采取强制措施法定期限届满的，有权要求解除强制措施。

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 organ shall release the criminal suspect or defendant, terminate a bail or residential surveillance, or legally modify a compulsory measure. A criminal suspect or defendant or his/her legal representative, close relative, or defender shall have the right to request the people's court, people's procuratorate, or public security authority to terminate a compulsory measure when the term of the compulsory measure expires.

第一百条   人民检察院在审查批准逮捕工作中，如果发现公安机关的侦查活动有违法情况，应当通知公安机关予以纠正，公安机关应当将纠正情况通知人民检察院。

Article 100 If in the process of examining and approving arrests, a People's Procuratorate discovers illegalities in the investigatory activities of a public security organ, it shall notify the public security organ to make corrections, and the public security organ shall notify the People's Procuratorate of the corrections it has made.

第七章 附带民事诉讼

Chapter 7 Incidental Civil Action

第一百零一条   被害人由于被告人的犯罪行为而遭受物质损失的，在刑事诉讼过程中，有权提起附带民事诉讼。被害人死亡或者丧失行为能力的，被害人的法定代理人、近亲属有权提起附带民事诉讼。

Article 101 If a victim has suffered material losses as a result of the defendant's criminal act, he shall have the right to file an incidental civil action during the course of the criminal proceeding. If the victim is dead or has lost his capacity for conduct, his legal representative or close relative shall have the right to bring an incidental civil action.

如果是国家财产、集体财产遭受损失的，人民检察院在提起公诉的时候，可以提起附带民事诉讼。

If losses have been caused to State property or collective property, the People's Procuratorate may file an incidental civil action while initiating a public prosecution.

第一百零二条   人民法院在必要的时候，可以采取保全措施，查封、扣押或者冻结被告人的财产。附带民事诉讼原告人或者人民检察院可以申请人民法院采取保全措施。人民法院采取保全措施，适用民事诉讼法的有关规定。

Article 102 When necessary, a people's court may take preservative measures to seal up, seize or freeze a defendant's property. The plaintiff to the incidental civil action or the people's procuratorate may request the people's court to take preservative measures. The relevant provisions of the Civil Procedural Law shall apply to preservation measures adopted by a People's Court.

第一百零三条   人民法院审理附带民事诉讼案件，可以进行调解，或者根据物质损失情况作出判决、裁定。

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

第一百零四条   附带民事诉讼应当同刑事案件一并审判，只有为了防止刑事案件审判的过分迟延，才可以在刑事案件审判后，由同一审判组织继续审理附带民事诉讼。

Article 104 An incidental civil action shall be heard together with the criminal case. Only for the purpose of preventing excessive delay in a trial of the criminal case may the same judicial organization, after completing the trial of the criminal case, continue to hear the incidental civil action.

第八章 期间、送达

Chapter 8 Time Periods, Service

第一百零五条   期间以时、日、月计算。

Article 105 Time periods shall be calculated by the hour, the day and the month.

期间开始的时和日不算在期间以内。

The hour and day from which the period begins are not included in the period.

法定期间不包括路途上的时间。上诉状或者其他文件在期满前已经交邮的，不算过期。

Statutory time periods shall not include travelling time. Appeals or other documents that have been mailed before the expiration of the time period shall not be regarded as overdue.

期间的最后一日为节假日的，以节假日后的第一日为期满日期，但犯罪嫌疑人、被告人或者罪犯在押期间，应当至期满之日为止，不得因节假日而延长。

If the last day of a statutory time period falls on a holiday, the day immediately following the holiday shall be regarded as the expiry date of the time period. However, the time limit for holding a criminal suspect, defendant or criminal under custody shall expire on the last day of the time period, and shall not be extended due to the holiday.

第一百零六条   当事人由于不能抗拒的原因或者有其他正当理由而耽误期限的，在障碍消除后五日以内，可以申请继续进行应当在期满以前完成的诉讼活动。

Article 106 When a party cannot meet a deadline due to irresistible causes or for other legitimate reasons, he may, within five days after the obstacle is removed, apply to continue the proceedings that should have been completed before the expiration of the time period.

前款申请是否准许，由人民法院裁定。

A People's Court shall decide whether or not to approve the application described in the preceding paragraph.

第一百零七条   送达传票、通知书和其他诉讼文件应当交给收件人本人；如果本人不在，可以交给他的成年家属或者所在单位的负责人员代收。

Article 107 Summons, notices and other court documents shall be delivered to the addressee himself; if the addressee is absent, the documents may be received on his behalf by an adult member of his family or a responsible person of his unit.

收件人本人或者代收人拒绝接收或者拒绝签名、盖章的时候，送达人可以邀请他的邻居或者其他见证人到场，说明情况，把文件留在他的住处，在送达证上记明拒绝的事由、送达的日期，由送达人签名，即认为已经送达。

If the addressee or his agent refuses to accept the documents or refuses to sign or affix his seal to the receipt, the person serving the documents may ask the addressee's neighbours or other witnesses to the scene, explain the situation to them, leave the documents at the addressee's residence, record on the service certificate the particulars of the refusal and the date of service, and sign his name on it.

第九章 其他规定

Chapter 9 Miscellaneous

第一百零八条   本法下列用语的含意是：

Article 108 For the purpose of this law, the definitions of the following terms are:

（一）“侦查”是指公安机关、人民检察院对于刑事案件，依照法律进行的收集证据、查明案情的工作和有关的强制性措施；

1. "Investigation" means the work relating to the collection of evidence, and to the investigation and ascertainment of a criminal case, conducted according to law, by public security organs and People's Procuratorates and the relevant compulsory measures;

（二）“当事人”是指被害人、自诉人、犯罪嫌疑人、被告人、附带民事诉讼的原告人和被告人；

(II) "Parties" means victims, private prosecutors, criminal suspects, defendants and the plaintiffs and defendants in incidental civil actions.

（三）“法定代理人”是指被代理人的父母、养父母、监护人和负有保护责任的机关、团体的代表；

3. "Legal representatives" means the parents, foster parents or guardians of a person being represented and representatives of the State organ or public organization responsible for that person's protection;

（四）“诉讼参与人”是指当事人、法定代理人、诉讼代理人、辩护人、证人、鉴定人和翻译人员；

(IV) "Participants in the proceedings" means the parties, legal representatives, agents ad litem, defenders, witnesses, expert witnesses and interpreters;

（五）“诉讼代理人”是指公诉案件的被害人及其法定代理人或者近亲属、自诉案件的自诉人及其法定代理人委托代为参加诉讼的人和附带民事诉讼的当事人及其法定代理人委托代为参加诉讼的人；

(V) "agents ad litem" means persons entrusted by victims in cases of public prosecution and their legal representatives or near relatives and by private prosecutors in cases of private prosecution and their legal representatives to participate in legal proceedings on their behalf, and persons entrusted by parties in incidental civil actions and their legal representatives to participate in legal proceedings on their behalf.

（六）“近亲属”是指夫、妻、父、母、子、女、同胞兄弟姊妹。

(VI) "Near relatives" means a person's husband or wife, father, mother, sons, daughters, and brothers and sisters born of the same parents.

第二编 立案、侦查和提起公诉

Part II Filing, Investigation, and Initiation of Public Prosecution

第一章 立案

Chapter 1 Case Initiation

第一百零九条   公安机关或者人民检察院发现犯罪事实或者犯罪嫌疑人，应当按照管辖范围，立案侦查。

Article 109 The public security organs or the People's Procuratorates shall, upon discovering facts of crimes or criminal suspects, file the cases for investigation within the scope of their jurisdiction.

第一百一十条   任何单位和个人发现有犯罪事实或者犯罪嫌疑人，有权利也有义务向公安机关、人民检察院或者人民法院报案或者举报。

Article 110 Any unit or individual, upon discovering facts of a crime or a criminal suspect, shall have the right and duty to report the case or provide information to a public security organ, a People's Procuratorate or a People's Court.

被害人对侵犯其人身、财产权利的犯罪事实或者犯罪嫌疑人，有权向公安机关、人民检察院或者人民法院报案或者控告。

When his personal or property rights are infringed upon, the victim shall have the right to report to a public security organ, a People's Procuratorate or a People's Court about the facts of the crime or bring a complaint to it against the criminal suspect.

公安机关、人民检察院或者人民法院对于报案、控告、举报，都应当接受。对于不属于自己管辖的，应当移送主管机关处理，并且通知报案人、控告人、举报人；对于不属于自己管辖而又必须采取紧急措施的，应当先采取紧急措施，然后移送主管机关。

The public security organ, the People's Procuratorate or the People's Court shall accept all reports, complaints and information. If a case does not fall under its jurisdiction, it shall refer the case to the competent organ and notify the person who made the report, lodged the complaint or provided the information. If the case does not fall under its jurisdiction but calls for emergency measures, it shall take emergency measures before referring the case to the competent organ.

犯罪人向公安机关、人民检察院或者人民法院自首的，适用第三款规定。

Where an offender delivers himself up to a public security organ, a People's Procuratorate or a People's Court, the provisions of the third paragraph shall apply.

第一百一十一条   报案、控告、举报可以用书面或者口头提出。接受口头报案、控告、举报的工作人员，应当写成笔录，经宣读无误后，由报案人、控告人、举报人签名或者盖章。

Article 111 Reports, complaints and information may be filed in writing or orally. The officer receiving an oral report, complaint or information shall make a written record of it, which, after being read to the reporter, complainant or informant and found free of error, shall be signed or sealed by him or her.

接受控告、举报的工作人员，应当向控告人、举报人说明诬告应负的法律责任。但是，只要不是捏造事实，伪造证据，即使控告、举报的事实有出入，甚至是错告的，也要和诬告严格加以区别。

The officer receiving the complaint or information shall clearly explain to the complainant or the informant the legal responsibility that shall be incurred for making a false accusation. However, a complaint or information that does not accord with the facts, or even a mistaken complaint shall be strictly distinguished from a false accusation, as long as no fabrication of facts or falsification of evidence is involved.

公安机关、人民检察院或者人民法院应当保障报案人、控告人、举报人及其近亲属的安全。报案人、控告人、举报人如果不愿公开自己的姓名和报案、控告、举报的行为，应当为他保守秘密。

Public security organs, people's procuratorates and people's courts shall insure the safety of reporters, complainants and informants as well as their close relatives. If the reporters, complainants or informants wish not to make their names and acts of reporting, complaining or informing known to the public, these shall be kept confidential for them.

第一百一十二条   人民法院、人民检察院或者公安机关对于报案、控告、举报和自首的材料，应当按照管辖范围，迅速进行审查，认为有犯罪事实需要追究刑事责任的时候，应当立案；认为没有犯罪事实，或者犯罪事实显著轻微，不需要追究刑事责任的时候，不予立案，并且将不立案的原因通知控告人。控告人如果不服，可以申请复议。

Article 112 A People's Court, People's Procuratorate or public security organ shall, within the scope of its jurisdiction, promptly examine the materials provided by a reporter, complainant or informant and the confession of an offender who has voluntarily surrendered. If it believes that there are facts of a crime and criminal responsibility should be investigated, it shall file a case. If it believes that there are no facts of a crime or that the facts are obviously incidental and do not require investigation of criminal responsibility, it shall not file a case and shall notify the complainant of the reason. If the accuser is dissatisfied, he may apply for reconsideration.

第一百一十三条   人民检察院认为公安机关对应当立案侦查的案件而不立案侦查的，或者被害人认为公安机关对应当立案侦查的案件而不立案侦查，向人民检察院提出的，人民检察院应当要求公安机关说明不立案的理由。人民检察院认为公安机关不立案理由不能成立的，应当通知公安机关立案，公安机关接到通知后应当立案。

Article 113 Where a People's Procuratorate considers that a case should be filed for investigation by a public security organ but the latter has not done so, or where a victim considers that a case should be filed for investigation by a public security organ but the latter has not done so and the victim has brought the matter to a People's Procuratorate, the People's Procuratorate shall request the public security organ to state the reasons for not filing the case. If the people's procuratorate considers that the reasons for not filing the case given by the public security organ are untenable, it shall notify the public security organ to file the case, and upon receiving the notification, the public security organ shall file the case.

第一百一十四条   对于自诉案件，被害人有权向人民法院直接起诉。被害人死亡或者丧失行为能力的，被害人的法定代理人、近亲属有权向人民法院起诉。人民法院应当依法受理。

Article 114 As to a case of private prosecution, the victim shall have the right to bring a suit directly to a People's Court. If the victim is dead or has lost his ability of conduct, his legal representatives and near relatives shall have the right to bring a suit to a People's Court. The people's court shall accept it according to law.

第二章 侦查

Chapter 2 Investigation

第一节 一般规定

Section 1 General Provisions

第一百一十五条   公安机关对已经立案的刑事案件，应当进行侦查，收集、调取犯罪嫌疑人有罪或者无罪、罪轻或者罪重的证据材料。对现行犯或者重大嫌疑分子可以依法先行拘留，对符合逮捕条件的犯罪嫌疑人，应当依法逮捕。

Article 115 With respect to a criminal case which has been filed, the public security organ shall carry out investigation, collecting and obtaining evidence to prove the criminal suspect guilty or innocent or to prove the crime to be minor or grave. Active criminals or major suspects may be detained first according to law, and criminal suspects who meet the conditions for arrest shall be arrested according to law.

第一百一十六条   公安机关经过侦查，对有证据证明有犯罪事实的案件，应当进行预审，对收集、调取的证据材料予以核实。

Article 116 After investigation, the public security organ shall start preliminary inquiry into a case for which there is evidence that supports the facts of the crime, in order to verify the evidence which has been collected and obtained.

第一百一十七条   当事人和辩护人、诉讼代理人、利害关系人对于司法机关及其工作人员有下列行为之一的，有权向该机关申诉或者控告：

Article 117 The party and the advocate thereof, the agent ad litem or an interested party shall be entitled to file a petition or complaint to a judicial authority if the judicial authority or its staff members commit any of the following acts:

（一）采取强制措施法定期限届满，不予以释放、解除或者变更的；

1. fail to order release from, or termination of, or alteration to, a mandatory measure upon expiry of the statutory time period;

（二）应当退还取保候审保证金不退还的；

(II) refusing to refund a bail bond that shall be refunded;

（三）对与案件无关的财物采取查封、扣押、冻结措施的；

(III) seal up, seize or freeze property irrelevant to the case on hand;

（四）应当解除查封、扣押、冻结不解除的；

(IV) refusing to lift the sealing, seizure or freeze that shall be lifted; or

（五）贪污、挪用、私分、调换、违反规定使用查封、扣押、冻结的财物的。

5. To embezzle, misappropriate, divide without authorization, replace, or use in violation of the relevant provisions the property that has been sealed up, seized or frozen.

受理申诉或者控告的机关应当及时处理。对处理不服的，可以向同级人民检察院申诉；人民检察院直接受理的案件，可以向上一级人民检察院申诉。人民检察院对申诉应当及时进行审查，情况属实的，通知有关机关予以纠正。

The authority that has accepted the petition or complaint shall handle the petition or complaint in a timely manner. The party lodging the petition or compliant may appeal to the people's procuratorate at the same level if he has objections to the handling results. The people's procuratorate shall examine the petition in a timely manner and, if it is true, notify the relevant authority to make correction.

第二节 讯问犯罪嫌疑人

Section 2 Interrogation of the Suspect

第一百一十八条   讯问犯罪嫌疑人必须由人民检察院或者公安机关的侦查人员负责进行。讯问的时候，侦查人员不得少于二人。

Article 118 Interrogation of a criminal suspect must be conducted by the investigators of a People's Procuratorate or public security organ. During an interrogation, there must be no fewer than two investigators participating.

犯罪嫌疑人被送交看守所羁押以后，侦查人员对其进行讯问，应当在看守所内进行。

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

第一百一十九条   对不需要逮捕、拘留的犯罪嫌疑人，可以传唤到犯罪嫌疑人所在市、县内的指定地点或者到他的住处进行讯问，但是应当出示人民检察院或者公安机关的证明文件。对在现场发现的犯罪嫌疑人，经出示工作证件，可以口头传唤，但应当在讯问笔录中注明。

Article 119 A criminal suspect who need not be arrested or detained may be summoned to a designated place in the city or county where the criminal suspect stays for interrogation, or he may be interrogated at his residence. However, the interrogators shall produce their papers issued by a People's Procuratorate or a public security organ. 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.

传唤、拘传持续的时间不得超过十二小时；案情特别重大、复杂，需要采取拘留、逮捕措施的，传唤、拘传持续的时间不得超过二十四小时。

Summons or compelled appearance in court shall not last longer than 12 hours. For complicated cases of grave circumstances where detention or arrest is necessary, summons or compelled appearance in court shall not last longer than 24 hours.

不得以连续传唤、拘传的形式变相拘禁犯罪嫌疑人。传唤、拘传犯罪嫌疑人，应当保证犯罪嫌疑人的饮食和必要的休息时间。

A criminal suspect shall not be detained under the disguise of successive summons or compelled appearance. A criminal suspect shall be guaranteed with necessary food and rest when being summoned or compelled to appear before investigators.

第一百二十条   侦查人员在讯问犯罪嫌疑人的时候，应当首先讯问犯罪嫌疑人是否有犯罪行为，让他陈述有罪的情节或者无罪的辩解，然后向他提出问题。犯罪嫌疑人对侦查人员的提问，应当如实回答。但是对与本案无关的问题，有拒绝回答的权利。

Article 120 When interrogating a criminal suspect, the investigators shall first ask the criminal suspect whether or not he has committed any criminal act, and let him state the circumstances of his guilt or explain his innocence; then they may ask him questions. The criminal suspect shall answer the investigators' questions truthfully. However, they have the right to refuse to answer questions not related to the case.

侦查人员在讯问犯罪嫌疑人的时候，应当告知犯罪嫌疑人享有的诉讼权利，如实供述自己罪行可以从宽处理和认罪认罚的法律规定。

When interrogating criminal suspects, investigators shall inform the criminal suspects of their litigation rights, the legal provisions allowing for lenient punishment for those who truthfully confess their crimes and allowing them to plead guilty and accept punishment.

第一百二十一条   讯问聋、哑的犯罪嫌疑人，应当有通晓聋、哑手势的人参加，并且将这种情况记明笔录。

Article 121 During the interrogation of a criminal suspect who is deaf or mute, an officer who has a good command of sign language shall participate, and such circumstances shall be noted in the record.

第一百二十二条   讯问笔录应当交犯罪嫌疑人核对，对于没有阅读能力的，应当向他宣读。如果记载有遗漏或者差错，犯罪嫌疑人可以提出补充或者改正。犯罪嫌疑人承认笔录没有错误后，应当签名或者盖章。侦查人员也应当在笔录上签名。犯罪嫌疑人请求自行书写供述的，应当准许。必要的时候，侦查人员也可以要犯罪嫌疑人亲笔书写供词。

Article 122 The record of an interrogation shall be shown to the criminal suspect for checking; if the criminal suspect cannot read, the record shall be read to him. If there are omissions or errors in the record, the criminal suspect may make additions or corrections. When the criminal suspect acknowledges that the record is free from error, he shall sign or affix his seal to it. The investigators shall also sign the record. If the criminal suspect requests to write a personal statement, he shall be permitted to do so. When necessary, the investigators may also ask the criminal suspect to write a personal statement.

第一百二十三条   侦查人员在讯问犯罪嫌疑人的时候，可以对讯问过程进行录音或者录像；对于可能判处无期徒刑、死刑的案件或者其他重大犯罪案件，应当对讯问过程进行录音或者录像。

Article 123 Investigators, when interrogating a criminal suspect, may record or videotape the interrogation process, and shall do so where the criminal suspect is involved in a crime subject to life imprisonment or capital punishment or in a major criminal case.

录音或者录像应当全程进行，保持完整性。

Recording or videotaping shall be conducted throughout the interrogation process for the purpose of completeness.

第三节 询问证人

Section 3 Examination of Witnesses

第一百二十四条   侦查人员询问证人，可以在现场进行，也可以到证人所在单位、住处或者证人提出的地点进行，在必要的时候，可以通知证人到人民检察院或者公安机关提供证言。在现场询问证人，应当出示工作证件，到证人所在单位、住处或者证人提出的地点询问证人，应当出示人民检察院或者公安机关的证明文件。

Article 124 Investigators may question a witness at the scene, his employer's premises, his domicile or a location designated by the witness. Where necessary, the witness may be notified to provide testimony at the people's procuratorate or the public security organ. Where the witness is questioned at the scene, the investigators shall present their staff certificates; and where the witness is questioned at his/her employer's premises, his domicile or a location designated by the witness, the investigators shall present the supporting documents issued by the people's procuratorate or the public security authority.

询问证人应当个别进行。

Witnesses shall be questioned individually.

第一百二十五条   询问证人，应当告知他应当如实地提供证据、证言和有意作伪证或者隐匿罪证要负的法律责任。

Article 125 When a witness is questioned, he shall be instructed to provide evidence and give testimony truthfully and shall be informed of the legal responsibility that shall be incurred for intentionally giving false testimony or concealing criminal evidence.

第一百二十六条   本法第一百二十二条的规定，也适用于询问证人。

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

第一百二十七条   询问被害人，适用本节各条规定。

Article 127 The provisions of all articles in this Section shall apply to the questioning of victims.

第四节 勘验、检查

Section 4 Investigation and Inspection

第一百二十八条   侦查人员对于与犯罪有关的场所、物品、人身、尸体应当进行勘验或者检查。在必要的时候，可以指派或者聘请具有专门知识的人，在侦查人员的主持下进行勘验、检查。

Article 128 Investigators shall conduct an inquest or examination of the sites, objects, people and corpses relevant to a crime. When necessary, experts may be assigned or invited to conduct an inquest or examination under the direction of the investigators.

第一百二十九条   任何单位和个人，都有义务保护犯罪现场，并且立即通知公安机关派员勘验。

Article 129 Each and every unit and individual shall have the duty to preserve the scene of a crime and to immediately notify a public security organ to send officers to hold an inquest.

第一百三十条   侦查人员执行勘验、检查，必须持有人民检察院或者公安机关的证明文件。

Article 130 To conduct an inquest or examination, the investigators must have papers issued by a People's Procuratorate or a public security organ.

第一百三十一条   对于死因不明的尸体，公安机关有权决定解剖，并且通知死者家属到场。

Article 131 If the cause of a death is unclear, a public security organ shall have the power to order an autopsy and shall notify the family members of the deceased to be present.

第一百三十二条   为了确定被害人、犯罪嫌疑人的某些特征、伤害情况或者生理状态，可以对人身进行检查，可以提取指纹信息，采集血液、尿液等生物样本。

Article 132 An examination may be conducted of the person of the victim or criminal suspect in order to ascertain some of his characteristics or physiological condition, or the circumstances of the injury.

犯罪嫌疑人如果拒绝检查，侦查人员认为必要的时候，可以强制检查。

If a criminal suspect refuses to be examined, the investigators, when they deem it necessary, may conduct a compulsory examination.

检查妇女的身体，应当由女工作人员或者医师进行。

Examination of the persons of women shall be conducted by female officers or doctors.

第一百三十三条   勘验、检查的情况应当写成笔录，由参加勘验、检查的人和见证人签名或者盖章。

Article 133 A record shall be made of the circumstances of an inquest or examination, and it shall be signed or sealed by the participants in the inquest or examination and the eyewitnesses.

第一百三十四条   人民检察院审查案件的时候，对公安机关的勘验、检查，认为需要复验、复查时，可以要求公安机关复验、复查，并且可以派检察人员参加。

Article 134 If, in reviewing a case, a People's Procuratorate deems it necessary to repeat an inquest or examination that has been done by a public security organ, it may ask the latter to conduct another inquest or examination and may send procurators to participate in it.

第一百三十五条   为了查明案情，在必要的时候，经公安机关负责人批准，可以进行侦查实验。

Article 135 When necessary and with the approval of the chief of a public security organ, investigative reenactments may be conducted in order to clarify the circumstances of a case.

侦查实验的情况应当写成笔录，由参加实验的人签名或者盖章。

A record shall be made of the circumstances of an investigative reenactment, and it shall be signed or sealed by the participants.

侦查实验，禁止一切足以造成危险、侮辱人格或者有伤风化的行为。

In conducting investigative experiments, it shall be forbidden to take any action which is hazardous, humiliating to anyone, or offensive to public morals.

第五节 搜查

Section 5 Search

第一百三十六条   为了收集犯罪证据、查获犯罪人，侦查人员可以对犯罪嫌疑人以及可能隐藏罪犯或者犯罪证据的人的身体、物品、住处和其他有关的地方进行搜查。

Article 136 In order to collect criminal evidence and track down an offender, investigators may search the person, belongings and residence of the criminal suspect and anyone who might be hiding a criminal or criminal evidence, as well as other relevant places.

第一百三十七条   任何单位和个人，有义务按照人民检察院和公安机关的要求，交出可以证明犯罪嫌疑人有罪或者无罪的物证、书证、视听资料等证据。

Article 137 Any unit or individual shall have the duty, as required by the People's Procuratorate or the public security organ, to hand over material evidence, documentary evidence or audio-visual material which may prove the criminal suspect guilty or innocent.

第一百三十八条   进行搜查，必须向被搜查人出示搜查证。

Article 138 When a search is to be conducted, a search warrant must be shown to the person to be searched.

在执行逮捕、拘留的时候，遇有紧急情况，不另用搜查证也可以进行搜查。

If an emergency occurs when an arrest or detention is being carried out, a search may be conducted without a search warrant.

第一百三十九条   在搜查的时候，应当有被搜查人或者他的家属，邻居或者其他见证人在场。

Article 139 During a search, the person to be searched or his family members, neighbours or other eyewitnesses shall be present at the scene.

搜查妇女的身体，应当由女工作人员进行。

Searches of the persons of women shall be conducted by female officers.

第一百四十条   搜查的情况应当写成笔录，由侦查人员和被搜查人或者他的家属，邻居或者其他见证人签名或者盖章。如果被搜查人或者他的家属在逃或者拒绝签名、盖章，应当在笔录上注明。

Article 140 A record shall be made of the circumstances of a search, and it shall be signed or sealed by the investigators and the person searched or his family members, neighbours or other eyewitnesses. If the person searched or his family members have become fugitives or refuse to sign or affix their seals to the record, this shall be noted in the record.

第六节 查封、扣押物证、书证

Section 6 Seizure and Detention of Material Evidence and Documentary Evidence

第一百四十一条   在侦查活动中发现的可用以证明犯罪嫌疑人有罪或者无罪的各种财物、文件，应当查封、扣押；与案件无关的财物、文件，不得查封、扣押。

Article 141 All property and documents discovered during investigation that may be used to prove a criminal suspect's guilt or innocence shall be sealed up or seized. Property and documents irrelevant to the case shall not be sealed up or seized.

对查封、扣押的财物、文件，要妥善保管或者封存，不得使用、调换或者损毁。

The property and documents sealed up or seized shall be properly kept or sealed for safekeeping, and may not be used, replaced or damaged.

第一百四十二条   对查封、扣押的财物、文件，应当会同在场见证人和被查封、扣押财物、文件持有人查点清楚，当场开列清单一式二份，由侦查人员、见证人和持有人签名或者盖章，一份交给持有人，另一份附卷备查。

Article 142 All seized or impounded articles and documents shall be carefully checked by the investigators jointly with the eyewitnesses and the holder of the articles or documents; a detailed list shall be made in duplicate on the spot and shall be signed or sealed by the investigators, the eyewitnesses and the holder. One copy of the list shall be given to the holder, and the other copy shall be kept on file for reference.

第一百四十三条   侦查人员认为需要扣押犯罪嫌疑人的邮件、电报的时候，经公安机关或者人民检察院批准，即可通知邮电机关将有关的邮件、电报检交扣押。

Article 143 If the investigators deem it necessary to seize the mail or telegrams of a criminal suspect, they may, upon approval of a public security organ or a People's Procuratorate, notify the post and telecommunications offices to check and hand over the relevant mail and telegrams for seizure.

不需要继续扣押的时候，应即通知邮电机关。

When it becomes unnecessary to continue a seizure, the post and telecommunications offices shall be immediately notified.

第一百四十四条   人民检察院、公安机关根据侦查犯罪的需要，可以依照规定查询、冻结犯罪嫌疑人的存款、汇款、债券、股票、基金份额等财产。有关单位和个人应当配合。

Article 144 The People's Procuratorates and the public security organs may, as required by investigation of crimes, inquire into or freeze criminal suspects' deposits, remittances, bonds, stocks, shares of funds or other property according to regulations. Relevant units and individuals shall cooperate.

犯罪嫌疑人的存款、汇款、债券、股票、基金份额等财产已被冻结的，不得重复冻结。

A criminal suspect's deposits, remittance, bonds, stocks, shares of funds or other property may not be repeatedly frozen.

第一百四十五条   对查封、扣押的财物、文件、邮件、电报或者冻结的存款、汇款、债券、股票、基金份额等财产，经查明确实与案件无关的，应当在三日以内解除查封、扣押、冻结，予以退还。

Article 145 The property, documents, mails or telegrams that have been sealed up or seized or the deposits, remittances, bonds, stocks or fund shares that have been proved through investigation to be truly irrelevant to a case shall be sealed up, seized or frozen and returned within three days.

第七节 鉴定

Section 7 Appraisals

第一百四十六条   为了查明案情，需要解决案件中某些专门性问题的时候，应当指派、聘请有专门知识的人进行鉴定。

Article 146 When certain special problems relating to a case need to be solved in order to clarify the circumstances of the case, experts shall be assigned or invited to give their evaluations.

第一百四十七条   鉴定人进行鉴定后，应当写出鉴定意见，并且签名。

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

鉴定人故意作虚假鉴定的，应当承担法律责任。

If an expert intentionally makes a false verification, he shall assume legal responsibility.

第一百四十八条   侦查机关应当将用作证据的鉴定意见告知犯罪嫌疑人、被害人。如果犯罪嫌疑人、被害人提出申请，可以补充鉴定或者重新鉴定。

Article 148 The investigation organ shall notify the criminal suspect and the victim of the opinion of the expert which will be used as evidence in his case. A supplementary expert verification or another expert verification may be conducted upon application submitted by the criminal suspect or the victim.

第一百四十九条   对犯罪嫌疑人作精神病鉴定的期间不计入办案期限。

Article 149 The period during which the mental illness of a criminal suspect is under verification shall not be included in the period of time for handling the case.

第八节 技术侦查措施

Section 8 Technical Investigation Measures

第一百五十条   公安机关在立案后，对于危害国家安全犯罪、恐怖活动犯罪、黑社会性质的组织犯罪、重大毒品犯罪或者其他严重危害社会的犯罪案件，根据侦查犯罪的需要，经过严格的批准手续，可以采取技术侦查措施。

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-related crime, or any other crime seriously endangering the society, a public security authority may, as needed for criminal investigation, take technical investigation measures after completing strict approval formalities.

人民检察院在立案后，对于利用职权实施的严重侵犯公民人身权利的重大犯罪案件，根据侦查犯罪的需要，经过严格的批准手续，可以采取技术侦查措施，按照规定交有关机关执行。

With respect to a case involving a major crime of seriously infringing on the personal right of citizens by taking advantage of functions, after placing the case on file, the people's procuratorate may, based on the needs for criminal investigation and after going through stringent approval procedures, employ technical investigation measures and task relevant bodies with the implementation of such measures pursuant to applicable provisions.

追捕被通缉或者批准、决定逮捕的在逃的犯罪嫌疑人、被告人，经过批准，可以采取追捕所必需的技术侦查措施。

In pursuit of a fugitive criminal suspect or a fugitive defendant who is on the wanted list or whose arrest has been approved or decided, necessary technical investigation measures may be taken upon approval.

第一百五十一条   批准决定应当根据侦查犯罪的需要，确定采取技术侦查措施的种类和适用对象。批准决定自签发之日起三个月以内有效。对于不需要继续采取技术侦查措施的，应当及时解除；对于复杂、疑难案件，期限届满仍有必要继续采取技术侦查措施的，经过批准，有效期可以延长，每次不得超过三个月。

Article 151 A decision on approval of the types of technical investigation measures to be adopted and the parties to which such measures apply shall be made based on the needs for criminal investigation. Such decision shall become effective within three months of its issuance. Where there is no need to continue technical investigation measures, they shall be promptly lifted; in complex and difficult cases, where there is a need to continue technical investigation measures upon expiry of the validity period, the validity period may be extended upon approval, provided that each extension shall not exceed three months.

第一百五十二条   采取技术侦查措施，必须严格按照批准的措施种类、适用对象和期限执行。

Article 152 Technical investigation measures shall be carried out in strict accordance with the approved types, applicable parties and time limits.

侦查人员对采取技术侦查措施过程中知悉的国家秘密、商业秘密和个人隐私，应当保密；对采取技术侦查措施获取的与案件无关的材料，必须及时销毁。

Investigators shall keep confidential state secrets, trade secrets and personal privacy that come to their knowledge during investigation with technical investigation measures, and shall promptly destroy the information and materials that are obtained with technical investigation measures and are irrelevant to the cases.

采取技术侦查措施获取的材料，只能用于对犯罪的侦查、起诉和审判，不得用于其他用途。

Materials obtained by technical investigation measures shall only be used for the investigation, prosecution and trial of criminal cases, and shall not be used for any other purposes.

公安机关依法采取技术侦查措施，有关单位和个人应当配合，并对有关情况予以保密。

When a public security organ takes technical investigation measures in accordance with law, the relevant entities and individuals shall cooperate and keep the relevant information confidential.

第一百五十三条   为了查明案情，在必要的时候，经公安机关负责人决定，可以由有关人员隐匿其身份实施侦查。但是，不得诱使他人犯罪，不得采用可能危害公共安全或者发生重大人身危险的方法。

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

对涉及给付毒品等违禁品或者财物的犯罪活动，公安机关根据侦查犯罪的需要，可以依照规定实施控制下交付。

For criminal activities involving the delivery of drugs, contraband goods or property, the public security authority may, as may be necessary for criminal investigation, conduct controlled delivery according to relevant legal provisions.

第一百五十四条   依照本节规定采取侦查措施收集的材料在刑事诉讼中可以作为证据使用。如果使用该证据可能危及有关人员的人身安全，或者可能产生其他严重后果的，应当采取不暴露有关人员身份、技术方法等保护措施，必要的时候，可以由审判人员在庭外对证据进行核实。

Article 154 Materials collected by taking investigative measures under this Section may be used as evidence in criminal proceedings. 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.

第九节 通缉

Section 9 Wanted Orders

第一百五十五条   应当逮捕的犯罪嫌疑人如果在逃，公安机关可以发布通缉令，采取有效措施，追捕归案。

Article 155 If a criminal suspect who should be arrested is a fugitive, a public security organ may issue a wanted order and take effective measures to pursue him for arrest and bring him to justice.

各级公安机关在自己管辖的地区以内，可以直接发布通缉令；超出自己管辖的地区，应当报请有权决定的上级机关发布。

Public security organs at any level may directly issue wanted orders within the areas under their jurisdiction; they shall request a higher-level organ with the proper authority to issue such orders for areas beyond their jurisdiction.

第十节 侦查终结

Section 10 Conclusion of Investigation

第一百五十六条   对犯罪嫌疑人逮捕后的侦查羁押期限不得超过二个月。案情复杂、期限届满不能终结的案件，可以经上一级人民检察院批准延长一个月。

Article 156 The time limit for holding a criminal suspect in custody during investigation after arrest shall not exceed two months. If the case is complex and cannot be concluded within the time limit, an extension of one month may be allowed with the approval of the People's Procuratorate at the next higher level.

第一百五十七条   因为特殊原因，在较长时间内不宜交付审判的特别重大复杂的案件，由最高人民检察院报请全国人民代表大会常务委员会批准延期审理。

Article 157 If due to special reasons, it is not appropriate to hand over a particularly grave and complex case for trial even within a relatively long period of time, the Supreme People's Procuratorate shall submit a report to the Standing Committee of the National People's Congress for approval of postponing the hearing of the case.

第一百五十八条   下列案件在本法第一百五十六条规定的期限届满不能侦查终结的，经省、自治区、直辖市人民检察院批准或者决定，可以延长二个月：

Article 158 With respect to the following cases, if investigation cannot be concluded within the time limit specified in Article 156 of this Law, an extension of two months may be allowed upon approval or decision by the People's Procuratorate of a province, autonomous region or municipality directly under the Central Government:

（一）交通十分不便的边远地区的重大复杂案件；

1. grave and complex cases in outlying areas where traffic is most inconvenient;

（二）重大的犯罪集团案件；

2. grave cases that involve criminal gangs;

（三）流窜作案的重大复杂案件；

3. grave and complex cases that involve people who commit crimes from one place to another; and

（四）犯罪涉及面广，取证困难的重大复杂案件。

(IV) grave and complex cases that involve various quarters and for which it is difficult to obtain evidence.

第一百五十九条   对犯罪嫌疑人可能判处十年有期徒刑以上刑罚，依照本法第一百五十八条规定延长期限届满，仍不能侦查终结的，经省、自治区、直辖市人民检察院批准或者决定，可以再延长二个月。

Article 159 If in the case of a criminal suspect who may be sentenced to fixed-term imprisonment of 10 years at least, investigation of the case can still not be concluded upon expiration of the extended time limit as provided in Article 158 of this Law, another extension of two months may be allowed upon approval or decision by the People's Procuratorate of a province, autonomous region or municipality directly under the Central Government.

第一百六十条   在侦查期间，发现犯罪嫌疑人另有重要罪行的，自发现之日起依照本法第一百五十六条的规定重新计算侦查羁押期限。

Article 160 If, during the period of investigation, a criminal suspect is found to have committed other major crimes, the time limit for holding the criminal suspect in custody during investigation shall be recalculated, in accordance with the provisions of Article 156 of this Law, from the date on which such crimes are found.

犯罪嫌疑人不讲真实姓名、住址，身份不明的，应当对其身份进行调查，侦查羁押期限自查清其身份之日起计算，但是不得停止对其犯罪行为的侦查取证。对于犯罪事实清楚，证据确实、充分，确实无法查明其身份的，也可以按其自报的姓名起诉、审判。

If a criminal suspect does not tell his true name and address and his identity is unknown, the time limit for holding him in custody during investigation shall be calculated from the date on which his identity is found out. However, before then, the investigation into his crime and obtaining of evidence shall not be ceased. Where the identity of the criminal suspect is genuinely unable to be ascertained but the corpus delicti of the crimes is clear and the evidence is sufficient and concrete, prosecution and trial may be conducted under the name provided by the criminal suspect.

第一百六十一条   在案件侦查终结前，辩护律师提出要求的，侦查机关应当听取辩护律师的意见，并记录在案。辩护律师提出书面意见的，应当附卷。

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

第一百六十二条   公安机关侦查终结的案件，应当做到犯罪事实清楚，证据确实、充分，并且写出起诉意见书，连同案卷材料、证据一并移送同级人民检察院审查决定；同时将案件移送情况告知犯罪嫌疑人及其辩护律师。

Article 162 After a public security organ has concluded its investigation of a case, the facts should be clear and the evidence reliable and sufficient and, in addition, it shall make a written recommendation for prosecution, which shall be transferred, together with the case file and evidence, to the people's procuratorate at the same level for examination and decision. At the same time, it shall inform the criminal suspect and the defense lawyer thereof of the transfer.

犯罪嫌疑人自愿认罪的，应当记录在案，随案移送，并在起诉意见书中写明有关情况。

If the criminal suspect voluntarily pleads guilty, the case shall be recorded, transferred with the case, and the relevant information shall be stated in the prosecution opinion.

第一百六十三条   在侦查过程中，发现不应对犯罪嫌疑人追究刑事责任的，应当撤销案件；犯罪嫌疑人已被逮捕的，应当立即释放，发给释放证明，并且通知原批准逮捕的人民检察院。

Article 163 If it is discovered during investigation that a criminal suspect's criminal responsibility should not have been investigated, the case shall be dismissed; if the criminal suspect is under arrest, he shall be released immediately and issued a release certificate, and the People's Procuratorate which originally approved the arrest shall be notified.

第十一节 人民检察院对直接受理的案件的侦查

Section 11 Investigation of Cases Directly Accepted by the People's Procuratorates

第一百六十四条   人民检察院对直接受理的案件的侦查适用本章规定。

Article 164 Investigation of cases directly accepted by the People's Procuratorates shall be governed by the provisions of this Chapter.

第一百六十五条   人民检察院直接受理的案件中符合本法第八十一条、第八十二条第四项、第五项规定情形，需要逮捕、拘留犯罪嫌疑人的，由人民检察院作出决定，由公安机关执行。

Article 165 If a case directly accepted by a People's Procuratorate conforms with the conditions provided in Article 81 and in sub-paragraph 4. or sub-paragraph 5. of Article 82 of this Law, thus arrest or detention of the criminal suspect is necessitated, the decision thereon shall be made by the People's Procuratorate and executed by a public security organ.

第一百六十六条   人民检察院对直接受理的案件中被拘留的人，应当在拘留后的二十四小时以内进行讯问。在发现不应当拘留的时候，必须立即释放，发给释放证明。

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

第一百六十七条   人民检察院对直接受理的案件中被拘留的人，认为需要逮捕的，应当在十四日以内作出决定。在特殊情况下，决定逮捕的时间可以延长一日至三日。对不需要逮捕的，应当立即释放；对需要继续侦查，并且符合取保候审、监视居住条件的，依法取保候审或者监视居住。

Article 167 If a People's Procuratorate deems it necessary to arrest a detainee in a case directly accepted by it, it shall make a decision within 14 days after detention. Under special circumstances, the time for deciding on an arrest may be extended by one to three days. If arrest is unnecessary, the detainee shall be released immediately; or if further investigation is necessary and the detainee meets the conditions for obtaining a guarantor pending trial or for residential surveillance, he shall be allowed to obtain a guarantor pending trial or subjected to residential surveillance according to law.

第一百六十八条   人民检察院侦查终结的案件，应当作出提起公诉、不起诉或者撤销案件的决定。

Article 168 After a People's Procuratorate has concluded its investigation of a case, it shall make a decision to initiate public prosecution, not to initiate a prosecution or to dismiss the case.

第三章 提起公诉

Chapter 3 Initiation of Public Prosecution

第一百六十九条   凡需要提起公诉的案件，一律由人民检察院审查决定。

Article 169 All cases requiring initiation of a public prosecution shall be examined for decision by the People's Procuratorates.

第一百七十条   人民检察院对于监察机关移送起诉的案件，依照本法和监察法的有关规定进行审查。人民检察院经审查，认为需要补充核实的，应当退回监察机关补充调查，必要时可以自行补充侦查。

Article 170 A people's procuratorate shall examine a case transferred by a supervisory organ for prosecution in accordance with the relevant provisions of this Law and the Supervision Law. If the people's procuratorate, after examination, believes that supplementary verification is required, return the case to the supervisory body for supplementary investigation, and may conduct supplementary investigation by itself if necessary.

对于监察机关移送起诉的已采取留置措施的案件，人民检察院应当对犯罪嫌疑人先行拘留，留置措施自动解除。人民检察院应当在拘留后的十日以内作出是否逮捕、取保候审或者监视居住的决定。在特殊情况下，决定的时间可以延长一日至四日。人民检察院决定采取强制措施的期间不计入审查起诉期限。

For a case subject to retention measures by the supervisory body, the people's procuratorate shall first detain the criminal suspect involved and then such measures will be automatically lifted. The people's procuratorate shall make a decision on arrest, release on bail pending trial or residential surveillance within 10 days of the detention. In exceptional circumstances, the period of determination may be extended by one to four days. The period during which the people's procuratorate takes compulsory measures shall not be counted in the period of examination and prosecution.

第一百七十一条   人民检察院审查案件的时候，必须查明：

Article 171 In examining a case, a People's Procuratorate shall ascertain:

（一）犯罪事实、情节是否清楚，证据是否确实、充分，犯罪性质和罪名的认定是否正确；

1. whether the facts and circumstances of the crime are clear, whether the evidence is reliable and sufficient and whether the charge and the nature of the crime has been correctly determined;

（二）有无遗漏罪行和其他应当追究刑事责任的人；

2. whether there are any crimes that have been omitted or other persons whose criminal responsibility should be investigated;

（三）是否属于不应追究刑事责任的；

(III) Whether it is a case in which criminal responsibility should not be investigated;

（四）有无附带民事诉讼；

(IV) whether there is any incidental civil action; and

（五）侦查活动是否合法。

(V) whether the investigation of the case is being lawfully conducted.

第一百七十二条   人民检察院对于监察机关、公安机关移送起诉的案件，应当在一个月以内作出决定，重大、复杂的案件，可以延长十五日；犯罪嫌疑人认罪认罚，符合速裁程序适用条件的，应当在十日以内作出决定，对可能判处的有期徒刑超过一年的，可以延长至十五日。

Article 172 The People's Procuratorate shall make a decision within one month on a case that a supervisory organ or public security organ has transferred to it with a recommendation to initiate a prosecution; an extension of a 15-day period may be allowed for major or complex cases. If the criminal suspect pleads guilty and accepts punishment and meets the conditions for the application of expedited procedures, the decision shall be made within ten days; if the criminal suspect may be sentenced to fixed-term imprisonment of more than one year, the period may be extended to 15 days.

人民检察院审查起诉的案件，改变管辖的，从改变后的人民检察院收到案件之日起计算审查起诉期限。

If jurisdiction over a case to be examined and prosecuted by a People's Procuratorate is altered, the time limit for examination and prosecution shall be calculated from the date on which another People's Procuratorate receives the case after the alteration.

第一百七十三条   人民检察院审查案件，应当讯问犯罪嫌疑人，听取辩护人或者值班律师、被害人及其诉讼代理人的意见，并记录在案。辩护人或者值班律师、被害人及其诉讼代理人提出书面意见的，应当附卷。

Article 173 When examining a case, the People's Procuratorate shall interrogate the criminal suspect, listen to the opinions of the defender or the duty lawyer, the victim and the agent ad litem thereof, and record them. The written opinions of the defender or the duty lawyer, the victim and the agent ad litem thereof shall be attached to the case files.

犯罪嫌疑人认罪认罚的，人民检察院应当告知其享有的诉讼权利和认罪认罚的法律规定，听取犯罪嫌疑人、辩护人或者值班律师、被害人及其诉讼代理人对下列事项的意见，并记录在案：

If the criminal suspect pleads guilty and accepts punishment, the people's procuratorate shall inform him/her of his/her litigation rights and legal provisions on plea of guilty and punishment acceptance, and listen to the opinions of the criminal suspect, the defender or the duty lawyer, the victim and the agent ad litem thereof on the following matters, which shall be recorded:

（一）涉嫌的犯罪事实、罪名及适用的法律规定；

1. corpus of the crime, charged crimes and applicable legal provisions;

（二）从轻、减轻或者免除处罚等从宽处罚的建议；

2. a proposal for lighter or mitigated punishment or exemption from punishment;

（三）认罪认罚后案件审理适用的程序；

3. procedures applicable to the trial of cases after a guilty plea and punishment acceptance; and

（四）其他需要听取意见的事项。

(IV) Other matters for which opinions shall be sought.

人民检察院依照前两款规定听取值班律师意见的，应当提前为值班律师了解案件有关情况提供必要的便利。

Where the people's procuratorate seeks opinions from the duty lawyer in accordance with the provisions of the preceding two paragraphs, it shall provide the duty lawyer with necessary facilities for understanding the relevant circumstances of the case in advance.

第一百七十四条   犯罪嫌疑人自愿认罪，同意量刑建议和程序适用的，应当在辩护人或者值班律师在场的情况下签署认罪认罚具结书。

Article 174 Any criminal suspect who pleads guilty voluntarily and agrees to the sentencing proposals and the application of procedures shall sign an affidavit on plea of guilty and punishment acceptance in the presence of his/her defender or the duty lawyer.

犯罪嫌疑人认罪认罚，有下列情形之一的，不需要签署认罪认罚具结书：

Under any of the following circumstances, the criminal suspect does not need to sign an affidavit on guilty plea and punishment acceptance:

（一）犯罪嫌疑人是盲、聋、哑人，或者是尚未完全丧失辨认或者控制自己行为能力的精神病人的；

1. the criminal suspect is blind, deaf or mute, or is a mental patient who has not completely lost his identification ability or his ability to control his own conduct;

（二）未成年犯罪嫌疑人的法定代理人、辩护人对未成年人认罪认罚有异议的；

(II) Where the legal representative or defender of a minor suspect has an objection to the guilty plea and punishment acceptance by the minor; or

（三）其他不需要签署认罪认罚具结书的情形。

(III) Other circumstances where it is not necessary to sign the depositions on guilty pleas and punishment acceptance.

第一百七十五条   人民检察院审查案件，可以要求公安机关提供法庭审判所必需的证据材料；认为可能存在本法第五十六条规定的以非法方法收集证据情形的，可以要求其对证据收集的合法性作出说明。

Article 175 When examining a case, a people's procuratorate may require a public security organ to provide the evidence necessary for the trial of the case in court; and, if believing that any evidence may have been illegally collected as described in Article 56 of this Law, may require a public security organ to explain the legality of collection of evidence.

人民检察院审查案件，对于需要补充侦查的，可以退回公安机关补充侦查，也可以自行侦查。

In examining a case that requires supplementary investigation, the People's Procuratorate may remand the case to a public security organ for supplementary investigation or conduct the investigation itself.

对于补充侦查的案件，应当在一个月以内补充侦查完毕。补充侦查以二次为限。补充侦查完毕移送人民检察院后，人民检察院重新计算审查起诉期限。

In cases where supplementary investigation is to be conducted, it shall be completed within one month. No more than two additional investigations. When supplementary investigation is completed and the case is transferred to the People's Procuratorate, the time limit for examination and prosecution shall be recalculated by the People's Procuratorate.

对于二次补充侦查的案件，人民检察院仍然认为证据不足，不符合起诉条件的，应当作出不起诉的决定。

Where, after supplementary investigation has been conducted twice for a case, a people's procuratorate still deems that evidence is insufficient and the case does not meet the conditions for a prosecution, the people's procuratorate may decide not to initiate a prosecution.

第一百七十六条   人民检察院认为犯罪嫌疑人的犯罪事实已经查清，证据确实、充分，依法应当追究刑事责任的，应当作出起诉决定，按照审判管辖的规定，向人民法院提起公诉，并将案卷材料、证据移送人民法院。

Article 176 When a People's Procuratorate considers that the facts of a criminal suspect's crime have been ascertained, that the evidence is reliable and sufficient and that criminal responsibility should be investigated according to law, it shall make a decision to initiate a prosecution; it shall, in accordance with the provisions for trial jurisdiction, initiate a public prosecution in a People's Court and transfer the case file and evidence to the People's Court.

犯罪嫌疑人认罪认罚的，人民检察院应当就主刑、附加刑、是否适用缓刑等提出量刑建议，并随案移送认罪认罚具结书等材料。

For a criminal suspect who pleads guilty and accepts punishment, the people's procuratorate concerned shall make sentencing suggestions on principal penalty, accessory penalty, whether the probation is applicable, etc., and transfer the affidavit on plea of guilty and punishment acceptance and other materials together with the case.

第一百七十七条   犯罪嫌疑人没有犯罪事实，或者有本法第十六条规定的情形之一的，人民检察院应当作出不起诉决定。

Article 177 Where a criminal suspect has no criminal facts or falls under any of the circumstances as set forth in Article 16 of this Law, a people's procuratorate shall make a decision not to initiate a prosecution.

对于犯罪情节轻微，依照刑法规定不需要判处刑罚或者免除刑罚的，人民检察院可以作出不起诉决定。

With respect to a case that is minor and the offender need not be given criminal punishment or need be exempted from it according to the Criminal Law, the People's Procuratorate may decide not to initiate a prosecution.

人民检察院决定不起诉的案件，应当同时对侦查中查封、扣押、冻结的财物解除查封、扣押、冻结。对被不起诉人需要给予行政处罚、处分或者需要没收其违法所得的，人民检察院应当提出检察意见，移送有关主管机关处理。有关主管机关应当将处理结果及时通知人民检察院。

With respect to a case for which the People's Procuratorate has decided not to initiate a prosecution, the People's Procuratorate shall, at the same time, cancel the seizure or freeze of the property or things of value seized or frozen during the period of investigation. If the person against whom prosecution is not to be initiated need be given administrative penalty or sanction or his illegal gains need be confiscated, the People's Procuratorate shall make suggestions to such an effect and transfer the case to the competent organ for handling. The competent organ shall, without delay, inform the People's Procuratorate of how it has handled the case.

第一百七十八条   不起诉的决定，应当公开宣布，并且将不起诉决定书送达被不起诉人和他的所在单位。如果被不起诉人在押，应当立即释放。

Article 178 A decision not to initiate a prosecution shall be announced publicly, and the decision shall, in written form, be delivered to the person who is not to be prosecuted and his unit. If the person is in custody, he shall be released immediately.

第一百七十九条   对于公安机关移送起诉的案件，人民检察院决定不起诉的，应当将不起诉决定书送达公安机关。公安机关认为不起诉的决定有错误的时候，可以要求复议，如果意见不被接受，可以向上一级人民检察院提请复核。

Article 179 With respect to a case transferred by a public security organ for prosecution, if the People's Procuratorate decides not to initiate a prosecution, it shall deliver the decision in writing to the public security organ. If the public security organ considers that the decision not to initiate a prosecution is wrong, it may demand reconsideration, and if the demand is rejected, it may submit the matter to the People's Procuratorate at the next higher level for review.

第一百八十条   对于有被害人的案件，决定不起诉的，人民检察院应当将不起诉决定书送达被害人。被害人如果不服，可以自收到决定书后七日以内向上一级人民检察院申诉，请求提起公诉。人民检察院应当将复查决定告知被害人。对人民检察院维持不起诉决定的，被害人可以向人民法院起诉。被害人也可以不经申诉，直接向人民法院起诉。人民法院受理案件后，人民检察院应当将有关案件材料移送人民法院。

Article 180 If the People's Procuratorate decides not to initiate a prosecution with respect to a case that involves a victim, it shall send the decision in writing to the victim. If the victim refuses to accept the decision, he may, within seven days after receiving the written decision, present a petition to the People's Procuratorate at the next higher level and request the latter to initiate a public prosecution. The People's Procuratorate shall notify the victim of its decision made after reexamination. If the People's Procuratorate upholds the decision not to initiate a prosecution, the victim may bring a lawsuit to a People's Court. The victim may also bring a suit directly before a people's court without presenting a petition first. After the People's Court has accepted the case, the People's Procuratorate shall transfer the relevant case file to the People's Court.

第一百八十一条   对于人民检察院依照本法第一百七十七条第二款规定作出的不起诉决定，被不起诉人如果不服，可以自收到决定书后七日以内向人民检察院申诉。人民检察院应当作出复查决定，通知被不起诉的人，同时抄送公安机关。

Article 181 If the person against whom a People's Procuratorate decides, in accordance with the provisions of the second paragraph of Article 177 of this Law, not to initiate a prosecution still refuses to accept the decision, he may present a petition to the People's Procuratorate within seven days after receiving the written decision. The People's Procuratorate shall make a decision to conduct a reexamination, notify the person against whom no prosecution is to be initiated and at the same time send a copy of the decision to the public security organ.

第一百八十二条   犯罪嫌疑人自愿如实供述涉嫌犯罪的事实，有重大立功或者案件涉及国家重大利益的，经最高人民检察院核准，公安机关可以撤销案件，人民检察院可以作出不起诉决定，也可以对涉嫌数罪中的一项或者多项不起诉。

Article 182 Where a criminal suspect confesses the fact of an alleged crime voluntarily and faithfully and renders meritorious services or the case involves major State interests, upon verification by the Supreme People's Procuratorate, the public security organ may withdraw the case, or the people's procuratorate may decide not to institute a prosecution, or may not institute a prosecution for one or more alleged offenses.

根据前款规定不起诉或者撤销案件的，人民检察院、公安机关应当及时对查封、扣押、冻结的财物及其孳息作出处理。

Where a case is not prosecuted or is withdrawn in accordance with the preceding paragraph, the people's procuratorate and the public security organ shall promptly handle the sealed, seized or frozen property and fruits thereof.

第三编 审判

Part III Trial

第一章 审判组织

Chapter 1 Trial Organization

第一百八十三条   基层人民法院、中级人民法院审判第一审案件，应当由审判员三人或者由审判员和人民陪审员共三人或者七人组成合议庭进行，但是基层人民法院适用简易程序、速裁程序的案件可以由审判员一人独任审判。

Article 183 Trials of cases of first instance in the Primary and Intermediate People's Courts shall be conducted by a collegial panel composed of three judges or of a total of three or seven judges and people's assessors. However, cases in which summary procedures or expedited procedures are applied in the Primary People's Courts may be tried by a single judge alone.

高级人民法院审判第一审案件，应当由审判员三人至七人或者由审判员和人民陪审员共三人或者七人组成合议庭进行。

Trials of cases of first instance in a higher people's court shall be conducted by a collegial panel composed of three to seven judges or of a total of three or seven judges and people's assessors.

最高人民法院审判第一审案件，应当由审判员三人至七人组成合议庭进行。

Trials of cases of first instance in the Supreme People's Court shall be conducted by a collegial panel composed of three to seven judges.

人民法院审判上诉和抗诉案件，由审判员三人或者五人组成合议庭进行。

Trials of appealed and protested cases in the People's Courts shall be conducted by a collegial panel composed of three or five judges.

合议庭的成员人数应当是单数。

A collegial panel shall have an odd number of members.

第一百八十四条   合议庭进行评议的时候，如果意见分歧，应当按多数人的意见作出决定，但是少数人的意见应当写入笔录。评议笔录由合议庭的组成人员签名。

Article 184 If opinions differ when a collegial panel conducts its deliberations, a decision shall be made in accordance with the opinions of the majority, but the opinions of the minority shall be entered in the records. The transcript shall be signed by the members of the collegial panel.

第一百八十五条   合议庭开庭审理并且评议后，应当作出判决。对于疑难、复杂、重大的案件，合议庭认为难以作出决定的，由合议庭提请院长决定提交审判委员会讨论决定。审判委员会的决定，合议庭应当执行。

Article 185 After the hearings and deliberations, the collegial panel shall render a judgment. With respect to a difficult, complex or major case, on which the collegial panel considers it difficult to make a decision, the collegial panel shall refer the case to the president of the court for him to decide whether to submit the case to the judicial committee for discussion and decision. The collegial panel shall execute the decision of the judicial committee.

第二章 第一审程序

Chapter 2 Procedure of First Instance

第一节 公诉案件

Section 1 Prosecutions

第一百八十六条   人民法院对提起公诉的案件进行审查后，对于起诉书中有明确的指控犯罪事实的，应当决定开庭审判。

Article 186 Where, after examining a case of public prosecution, a People's Court discovers that there are specific alleged criminal facts in the bill of prosecution, it shall decide to try the case at a court session.

第一百八十七条   人民法院决定开庭审判后，应当确定合议庭的组成人员，将人民检察院的起诉书副本至迟在开庭十日以前送达被告人及其辩护人。

Article 187 After a People's Court decides to try a case at a court session, it shall identify the members of the collegial panel and deliver the copy of the bill of prosecution of a People's Procuratorate to the defendant and his advocates 10 days before the court session opens at the latest.

在开庭以前，审判人员可以召集公诉人、当事人和辩护人、诉讼代理人，对回避、出庭证人名单、非法证据排除等与审判相关的问题，了解情况，听取意见。

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

人民法院确定开庭日期后，应当将开庭的时间、地点通知人民检察院，传唤当事人，通知辩护人、诉讼代理人、证人、鉴定人和翻译人员，传票和通知书至迟在开庭三日以前送达。公开审判的案件，应当在开庭三日以前先期公布案由、被告人姓名、开庭时间和地点。

After a People's Court has decided on the date of the court session, it shall notify a People's Procuratorate of the time and place of the court session, summons the parties and notify the advocates, the agents ad litem for the litigation, the witnesses, the expert witnesses and the interpreter. The subpoenas and notifications shall be delivered three days before the opening of the court session at the latest. With regard to a case to be heard in public, it shall announce, three days before the opening of the session, the subject matter of the case, the name of the defendant and the time and place of the court session.

上述活动情形应当写入笔录，由审判人员和书记员签名。

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

第一百八十八条   人民法院审判第一审案件应当公开进行。但是有关国家秘密或者个人隐私的案件，不公开审理；涉及商业秘密的案件，当事人申请不公开审理的，可以不公开审理。

Article 188 Cases of first instance in a People's Court shall be heard in public. However, cases involving State secrets or private affairs of individuals shall not be heard in public; where cases involve trade secrets and the parties apply not to hear the cases in public, they may not be heard in public.

不公开审理的案件，应当当庭宣布不公开审理的理由。

The reason for not hearing a case in public shall be announced in court.

第一百八十九条   人民法院审判公诉案件，人民检察院应当派员出席法庭支持公诉。

Article 189 When a case of public prosecution is being tried in a People's Court, the People's Procuratorate shall send its procurators to the court to support the public prosecution.

第一百九十条   开庭的时候，审判长查明当事人是否到庭，宣布案由；宣布合议庭的组成人员、书记员、公诉人、辩护人、诉讼代理人、鉴定人和翻译人员的名单；告知当事人有权对合议庭组成人员、书记员、公诉人、鉴定人和翻译人员申请回避；告知被告人享有辩护权利。

Article 190 When a court session opens, the presiding judge shall ascertain if all the parties have appeared in court and announce the cause of action. He shall announce the roll, naming the members of the collegial panel, the court clerk, the public prosecutor, the defender, agent ad litem, the expert witnesses and the interpreter; he shall inform the parties of their right to apply for withdrawal of any member of the collegial panel, the court clerk, the public prosecutor, any expert witnesses or the interpreter; and he shall inform the defendant of his right to defence.

被告人认罪认罚的，审判长应当告知被告人享有的诉讼权利和认罪认罚的法律规定，审查认罪认罚的自愿性和认罪认罚具结书内容的真实性、合法性。

Where the defendant pleads guilty and accepts punishment, the chief judge shall inform the defendant of his/her litigation rights and legal provisions on plea of guilty and punishment acceptance, and examine the voluntariness of his/her plea of guilty and punishment acceptance and the authenticity and legitimacy of the contents in the affidavit on plea of guilty and punishment acceptance.

第一百九十一条   公诉人在法庭上宣读起诉书后，被告人、被害人可以就起诉书指控的犯罪进行陈述，公诉人可以讯问被告人。

Article 191 After the public prosecutor has read out the bill of prosecution in court, the defendant and the victim may present statements regarding the crime accused in the bill of prosecution, and the public prosecutor may interrogate the defendant.

被害人、附带民事诉讼的原告人和辩护人、诉讼代理人，经审判长许可，可以向被告人发问。

The victim, the plaintiff and defender in an incidental civil action and the agents ad litem may, with the permission of the presiding judge, put questions to the defendant.

审判人员可以讯问被告人。

The judges may interrogate the defendant.

第一百九十二条   公诉人、当事人或者辩护人、诉讼代理人对证人证言有异议，且该证人证言对案件定罪量刑有重大影响，人民法院认为证人有必要出庭作证的，证人应当出庭作证。

Article 192 Where the public prosecutor or a party concerned or the defender or agent ad litem thereof raises any objection to a witness statement which has a material impact on the conviction and sentencing of a case, the witness shall testify in court if the people's court deems it necessary.

人民警察就其执行职务时目击的犯罪情况作为证人出庭作证，适用前款规定。

Where a people's policeman gives testimony as a witness at court in respect of the crimes that he has witnessed when carrying out his duties, the provisions of the preceding paragraph shall apply.

公诉人、当事人或者辩护人、诉讼代理人对鉴定意见有异议，人民法院认为鉴定人有必要出庭的，鉴定人应当出庭作证。经人民法院通知，鉴定人拒不出庭作证的，鉴定意见不得作为定案的根据。

Where the public prosecutor or a party concerned or the defender or agent ad litem thereof raises any objection to an expert opinion, the identification or evaluation expert shall testify in court, if the people's court deems it necessary. Upon notification by the People's Court, where the examiner refuses to testify in court, the examination opinion shall not be used as the basis for conclusion of lawsuit.

第一百九十三条   经人民法院通知，证人没有正当理由不出庭作证的，人民法院可以强制其到庭，但是被告人的配偶、父母、子女除外。

Article 193 Where, after the notification of a People's Court, a witness refuses to appear in court to give testimony without justified reasons, the People's Court may compel him to appear in court, except the spouse, parents and children of the defendant.

证人没有正当理由拒绝出庭或者出庭后拒绝作证的，予以训诫，情节严重的，经院长批准，处以十日以下的拘留。被处罚人对拘留决定不服的，可以向上一级人民法院申请复议。复议期间不停止执行。

Where a witness refuses to appear in court without justified reasons, or refuses to testify after appearing in court, he shall be reprimanded, or, if the circumstance is serious, subject to the approval of the president of the court, be punished by detention of no more than 10 days. Where the detainee disagrees with the detention decision, he/she may apply to the higher-level People's Court for review. The execution of the decision shall not be suspended during the period of reconsideration.

第一百九十四条   证人作证，审判人员应当告知他要如实地提供证言和有意作伪证或者隐匿罪证要负的法律责任。公诉人、当事人和辩护人、诉讼代理人经审判长许可，可以对证人、鉴定人发问。审判长认为发问的内容与案件无关的时候，应当制止。

Article 194 Before a witness gives testimony, the judges shall instruct him to give testimony truthfully and explain to him the legal responsibility that shall be incurred for intentionally giving false testimony or concealing criminal evidence. The public prosecutor, the parties, the defenders and agents ad litem, with the permission of the presiding judge, may question the witnesses and expert witnesses. The presiding judge shall stop asking questions if he or she considers them irrelevant to the case.

审判人员可以询问证人、鉴定人。

The judges may question the witnesses and expert witnesses.

第一百九十五条   公诉人、辩护人应当向法庭出示物证，让当事人辨认，对未到庭的证人的证言笔录、鉴定人的鉴定意见、勘验笔录和其他作为证据的文书，应当当庭宣读。审判人员应当听取公诉人、当事人和辩护人、诉讼代理人的意见。

Article 195 The public prosecutor and the defenders shall show the material evidence to the court for the parties to identify; the records of testimony of witnesses who are not present in court, the opinions of expert witnesses who are not present in court, the records of inquests and other documents serving as evidence shall be read out in court. The judges shall heed the opinions of the public prosecutor, the parties, the defenders and the agents ad litem.

第一百九十六条   法庭审理过程中，合议庭对证据有疑问的，可以宣布休庭，对证据进行调查核实。

Article 196 During a court hearing, if the collegial panel has doubts about the evidence, it may announce an adjournment, in order to carry out investigation to verify the evidence.

人民法院调查核实证据，可以进行勘验、检查、查封、扣押、鉴定和查询、冻结。

When carrying out investigation to verify evidence, the People's Court may conduct inquest, examination, seizure, detention, expert evaluation, as well as inquiry and freeze.

第一百九十七条   法庭审理过程中，当事人和辩护人、诉讼代理人有权申请通知新的证人到庭，调取新的物证，申请重新鉴定或者勘验。

Article 197 During a court hearing, the parties, the defenders and agents ad litem shall have the right to request new witnesses to be summoned, new material evidence to be obtained, a new expert evaluation to be made, and another inquest to be held.

公诉人、当事人和辩护人、诉讼代理人可以申请法庭通知有专门知识的人出庭，就鉴定人作出的鉴定意见提出意见。

The public prosecutor or a party concerned or the defender or agent ad litem thereof may request the court to call a person with expertise to appear in court and give an opinion on the expert opinion of an expert witness.

法庭对于上述申请，应当作出是否同意的决定。

The court shall make a decision whether to grant the above-mentioned requests.

第二款规定的有专门知识的人出庭，适用鉴定人的有关规定。

Where a person with expertise appears in court under paragraph 2 hereof, the relevant provisions on expert witnesses shall apply.

第一百九十八条   法庭审理过程中，对与定罪、量刑有关的事实、证据都应当进行调查、辩论。

Article 198 In a court session, any fact or evidence related to conviction or sentencing shall be investigated and debated.

经审判长许可，公诉人、当事人和辩护人、诉讼代理人可以对证据和案件情况发表意见并且可以互相辩论。

With the permission of the presiding judge, the public prosecutor, the parties, the defenders and the agents ad litem may state their views on the evidence and the case, and they may debate with each other.

审判长在宣布辩论终结后，被告人有最后陈述的权利。

After the presiding judge has declared conclusion of the debate, the defendant shall have the right to present a final statement.

第一百九十九条   在法庭审判过程中，如果诉讼参与人或者旁听人员违反法庭秩序，审判长应当警告制止。对不听制止的，可以强行带出法庭；情节严重的，处以一千元以下的罚款或者十五日以下的拘留。罚款、拘留必须经院长批准。被处罚人对罚款、拘留的决定不服的，可以向上一级人民法院申请复议。复议期间不停止执行。

Article 199 If any participant in the proceedings of a trial or by-stander violates the order of the courtroom, the presiding judge shall warn him to desist. If any person fails to obey, he may forcibly be taken out of the courtroom. If the violation is serious, the person shall be fined not more than 1,000 yuan or detained not more than 15 days. The fine or detention shall be subject to approval of the president of the court. If the person under punishment is not satisfied with the decision on the fine or detention, he may apply to the People's Court at the next higher level for reconsideration. The execution of the decision shall not be suspended during the period of reconsideration.

对聚众哄闹、冲击法庭或者侮辱、诽谤、威胁、殴打司法工作人员或者诉讼参与人，严重扰乱法庭秩序，构成犯罪的，依法追究刑事责任。

Whoever assembles a crowd to make an uproar or charges into the courtroom, or humiliates, slanders, intimidates or beats up judicial officers or participants in the proceedings, thereby seriously disturbing the order of the courtroom, which constitutes a crime, shall be investigated for criminal responsibility according to law.

第二百条   在被告人最后陈述后，审判长宣布休庭，合议庭进行评议，根据已经查明的事实、证据和有关的法律规定，分别作出以下判决：

Article 200 After a defendant makes his final statement, the presiding judge shall announce an adjournment and the collegial panel shall conduct its deliberations and, on the basis of the established facts and evidence and in accordance with the provisions of relevant laws, render one of the following judgments:

（一）案件事实清楚，证据确实、充分，依据法律认定被告人有罪的，应当作出有罪判决；

1. if the facts of a case are clear, the evidence is reliable and sufficient, and the defendant is found guilty in accordance with law, he shall be pronounced guilty accordingly;

（二）依据法律认定被告人无罪的，应当作出无罪判决；

2. If the defendant is found innocent in accordance with law, he shall be pronounced innocent accordingly;

（三）证据不足，不能认定被告人有罪的，应当作出证据不足、指控的犯罪不能成立的无罪判决。

(III) If the evidence is insufficient and thus the defendant cannot be found guilty, he shall be pronounced innocent accordingly on account of the fact that the evidence is insufficient and the accusation unfounded.

第二百零一条   对于认罪认罚案件，人民法院依法作出判决时，一般应当采纳人民检察院指控的罪名和量刑建议，但有下列情形的除外：

Article 201 People's courts shall generally adopt the offenses charged and sentencing proposals of people's procuratorates when rendering judgments for cases involving guilty pleas and punishment acceptance, except for the following circumstances:

（一）被告人的行为不构成犯罪或者不应当追究其刑事责任的；

1. Where the activity of the defendant does not constitute any crime or the defendant shall not be subject to the criminal liability;

（二）被告人违背意愿认罪认罚的；

2. where defendants plead guilty and accept punishment against their will;

（三）被告人否认指控的犯罪事实的；

3. where defendants deny the corpus delicti charged;

（四）起诉指控的罪名与审理认定的罪名不一致的；

(IV) where the offenses charged in the prosecution are inconsistent with those found in the trial;

（五）其他可能影响公正审判的情形。

(V) other circumstances that may affect the fair trial of the case.

人民法院经审理认为量刑建议明显不当，或者被告人、辩护人对量刑建议提出异议的，人民检察院可以调整量刑建议。人民检察院不调整量刑建议或者调整量刑建议后仍然明显不当的，人民法院应当依法作出判决。

If the people's court believes that the sentencing recommendation is obviously improper, or if the defendant or the defender raises an objection to the sentencing recommendation, the people's procuratorate may adjust the sentencing recommendation. Where the people's procuratorate fails to adjust the sentencing proposals or it is still obviously improper after adjusting the sentencing proposals, the people's court shall render a judgment in accordance with the law.

第二百零二条   宣告判决，一律公开进行。

Article 202 In all cases, judgments shall be pronounced publicly.

当庭宣告判决的，应当在五日以内将判决书送达当事人和提起公诉的人民检察院；定期宣告判决的，应当在宣告后立即将判决书送达当事人和提起公诉的人民检察院。判决书应当同时送达辩护人、诉讼代理人。

If the judgment on a case is pronounced in court, a written form of the judgment shall be delivered within five days to the parties and the People's Procuratorate that initiated the public prosecution. In cases where the judgment is pronounced later on a fixed date, a written form of the judgment shall be delivered immediately after the pronouncement to 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 an agent ad litem.

第二百零三条   判决书应当由审判人员和书记员署名，并且写明上诉的期限和上诉的法院。

Article 203 The judgment shall be signed by the judges and by the court clerk, and the time limit for appeal and name of the appellate court shall be clearly indicated therein.

第二百零四条   在法庭审判过程中，遇有下列情形之一，影响审判进行的，可以延期审理：

Article 204 A hearing may be postponed if during a trial one of the following situations affecting the conduct of the trial occurs:

（一）需要通知新的证人到庭，调取新的物证，重新鉴定或者勘验的；

1. it is necessary to summon new witnesses, collect new material evidence, make a new expert evaluation or hold another inquest;

（二）检察人员发现提起公诉的案件需要补充侦查，提出建议的；

2. if the procurators find that a case for which public prosecution has been initiated requires supplementary investigation, and they make a proposal to that effect; or

（三）由于申请回避而不能进行审判的。

(III) if the trial cannot proceed because a party applies for the withdrawal of a judicial officer.

第二百零五条   依照本法第二百零四条第二项的规定延期审理的案件，人民检察院应当在一个月以内补充侦查完毕。

Article 205 If the hearings of a case is postponed in accordance with the provisions of sub-paragraph 2. in Article 204 of this Law, the People's Procuratorate shall complete the supplementary investigation within one month.

第二百零六条   在审判过程中，有下列情形之一，致使案件在较长时间内无法继续审理的，可以中止审理：

Article 206 Where, during the trial, a case cannot continue to be tried within a long period due to any of the following reasons, the trial may be suspended:

（一）被告人患有严重疾病，无法出庭的；

1. The defendant has serious illness and is unable to appear in court;

（二）被告人脱逃的；

2. The defendant has escaped;

（三）自诉人患有严重疾病，无法出庭，未委托诉讼代理人出庭的；

3. the private prosecutor has serious illness and is unable to appear in court, and has not authorized an agent ad litem for the litigation to appear in court; or

（四）由于不能抗拒的原因。

(IV) there is any irresistible reason.

中止审理的原因消失后，应当恢复审理。中止审理的期间不计入审理期限。

When the cause of the suspension disappears, the trial shall be resumed. The period of the suspension of the trial shall not be counted into the period of the trial.

第二百零七条   法庭审判的全部活动，应当由书记员写成笔录，经审判长审阅后，由审判长和书记员签名。

Article 207 The court clerk shall make a written record of the entire court proceedings, which shall be examined by the presiding judge and then signed by him and the court clerk.

法庭笔录中的证人证言部分，应当当庭宣读或者交给证人阅读。证人在承认没有错误后，应当签名或者盖章。

That portion of the courtroom record comprising the testimony of witnesses shall be read out in court or given to the witnesses to read. After the witnesses acknowledge that the record is free of error, they shall sign or affix their seals to it.

法庭笔录应当交给当事人阅读或者向他宣读。当事人认为记载有遗漏或者差错的，可以请求补充或者改正。当事人承认没有错误后，应当签名或者盖章。

The court record shall be given to the parties to read or read to them. If a party considers that there are omissions or errors in the record, he may request additions or corrections to be made. After the parties acknowledge that the record is free of error, they shall sign or affix their seals to it.

第二百零八条   人民法院审理公诉案件，应当在受理后二个月以内宣判，至迟不得超过三个月。对于可能判处死刑的案件或者附带民事诉讼的案件，以及有本法第一百五十八条规定情形之一的，经上一级人民法院批准，可以延长三个月；因特殊情况还需要延长的，报请最高人民法院批准。

Article 208 A People's Court shall pronounce judgment on a case of public prosecution within two months or, three months at the latest, after accepting it. 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.

人民法院改变管辖的案件，从改变后的人民法院收到案件之日起计算审理期限。

If jurisdiction of a People's Court over a case is altered, the time limit for handling the case shall be calculated from the date on which another People's Court receives the case after the alteration.

人民检察院补充侦查的案件，补充侦查完毕移送人民法院后，人民法院重新计算审理期限。

As to a case for which a People's Procuratorate has to conduct supplementary investigation, the People's Court shall start to calculate anew the time limit for handling the case after the supplementary investigation has been completed and the case has been transferred to it.

第二百零九条   人民检察院发现人民法院审理案件违反法律规定的诉讼程序，有权向人民法院提出纠正意见。

Article 209 If a People's Procuratorate discovers that in handling a case a People's Court has violated the litigation procedure prescribed by law, it shall have the power to suggest to the People's Court that it should set it right.

第二节 自诉案件

Section 2 Cases of Private Prosecution

第二百一十条   自诉案件包括下列案件：

Article 210 Cases of private prosecution include the following:

（一）告诉才处理的案件；

1. cases to be handled only upon complaint;

（二）被害人有证据证明的轻微刑事案件；

2. cases for which the victims have evidence to prove that those are minor criminal cases; and

（三）被害人有证据证明对被告人侵犯自己人身、财产权利的行为应当依法追究刑事责任，而公安机关或者人民检察院不予追究被告人刑事责任的案件。

(III) cases for which the victims have evidence to prove that the defendants should be investigated for criminal responsibility according to law because their acts have infringed upon the victims' personal or property rights, whereas, the public security organs or the People's Procuratorates do not investigate the criminal responsibility of the accused.

第二百一十一条   人民法院对于自诉案件进行审查后，按照下列情形分别处理：

Article 211 After examining a case of private prosecution, the People's Court shall handle it in one of the following manners in light of the different situations:

（一）犯罪事实清楚，有足够证据的案件，应当开庭审判；

1. If the facts of the crime are clear and the evidence is sufficient, the case shall be tried at a court session; or

（二）缺乏罪证的自诉案件，如果自诉人提不出补充证据，应当说服自诉人撤回自诉，或者裁定驳回。

(II) In a case of private prosecution for which criminal evidence is lacking, if the private prosecutor cannot present supplementary evidence, the court shall persuade him to withdraw his prosecution or order its rejection.

自诉人经两次依法传唤，无正当理由拒不到庭的，或者未经法庭许可中途退庭的，按撤诉处理。

If a private prosecutor, having been served twice with a summons according to law, refuses to appear in court without justifiable reasons, or if he withdraws from a court session without permission of the court, the case may be considered withdrawn by him.

法庭审理过程中，审判人员对证据有疑问，需要调查核实的，适用本法第一百九十六条的规定。

If during the trial of a case the judges have doubts about the evidence and consider it necessary to conduct investigation to verify the evidence, the provisions of Article 196 of this Law shall apply.

第二百一十二条   人民法院对自诉案件，可以进行调解；自诉人在宣告判决前，可以同被告人自行和解或者撤回自诉。本法第二百一十条第三项规定的案件不适用调解。

Article 212 A People's Court may conduct mediation in a case of private prosecution; the private prosecutor may arrange a settlement with the defendant or withdraw his prosecution before a judgment is pronounced. Mediation shall not be conducted for cases stipulated in sub-paragraph (3) of Article 210 of this Law.

人民法院审理自诉案件的期限，被告人被羁押的，适用本法第二百零八条第一款、第二款的规定；未被羁押的，应当在受理后六个月以内宣判。

With regard to the period for a case of private prosecution in a People's Court, where the defendant is in custody, the provisions of the first paragraph and second paragraph of Article 208 of this Law shall apply; and where he is not in custody, the People's Court shall pronounce judgment within six months after accepting it.

第二百一十三条   自诉案件的被告人在诉讼过程中，可以对自诉人提起反诉。反诉适用自诉的规定。

Article 213 In the process of the proceedings, the defendant in a case of private prosecution may raise a counterclaim against the private prosecutor. The provisions of private prosecution shall apply to counterclaims.

第三节 简易程序

Section 3 Summary Procedure

第二百一十四条   基层人民法院管辖的案件，符合下列条件的，可以适用简易程序审判：

Article 214 With regard to a case in the jurisdiction of basic level people's court, where it meets the following conditions, it may be tried through the summary procedure:

（一）案件事实清楚、证据充分的；

1. The facts of the case are clear and the evidence is sufficient;

（二）被告人承认自己所犯罪行，对指控的犯罪事实没有异议的；

2. The defendant acknowledges his crime and has no objection against the alleged criminal facts;

（三）被告人对适用简易程序没有异议的。

(III) The defendant has no objection against the application of the summary procedure.

人民检察院在提起公诉的时候，可以建议人民法院适用简易程序。

When initiating a public prosecution, a People's Procuratorate may suggest that the People's Court apply the summary procedure.

第二百一十五条   有下列情形之一的，不适用简易程序：

Article 215 Under any of the following circumstances, the summary procedure shall not be applied:

（一）被告人是盲、聋、哑人，或者是尚未完全丧失辨认或者控制自己行为能力的精神病人的；

1. the defendant is blind, deaf or mute, or is a mental patient who has not completely lost the ability of recognizing or controlling his own conduct;

（二）有重大社会影响的；

2. the case has a significant social impact;

（三）共同犯罪案件中部分被告人不认罪或者对适用简易程序有异议的；

(III) Where some of the defendants in a joint crime case pleads not guilty or raises objections to the application of the summary procedure;

（四）其他不宜适用简易程序审理的。

(IV) Other circumstances in which it is not appropriate to apply the summary procedure.

第二百一十六条   适用简易程序审理案件，对可能判处三年有期徒刑以下刑罚的，可以组成合议庭进行审判，也可以由审判员一人独任审判；对可能判处的有期徒刑超过三年的，应当组成合议庭进行审判。

Article 216 Where a case is tried through the summary procedure, if the criminal punishment of below three-year fixed-term imprisonment may be imposed, it may be tried by a collegial panel or by a single judge alone; if the fixed-term imprisonment that may be imposed will exceed three years, it shall be tried by a collegial panel.

适用简易程序审理公诉案件，人民检察院应当派员出席法庭。

For a case of public prosecution under summary procedures, the People's Procuratorate shall send procurators to the court.

第二百一十七条   适用简易程序审理案件，审判人员应当询问被告人对指控的犯罪事实的意见，告知被告人适用简易程序审理的法律规定，确认被告人是否同意适用简易程序审理。

Article 217 When trying a case under summary procedures, a judge shall ask for the defendant's opinion on the charges, inform the defendant of the legal provisions on application of summary procedures, and confirm whether the defendant agrees on the application of summary procedures.

第二百一十八条   适用简易程序审理案件，经审判人员许可，被告人及其辩护人可以同公诉人、自诉人及其诉讼代理人互相辩论。

Article 218 In a case under summary procedures, the defendant and his/her defender may, with the permission of the judges, debate with the public prosecutor or private prosecutor and his/her agents ad litem.

第二百一十九条   适用简易程序审理案件，不受本章第一节关于送达期限、讯问被告人、询问证人、鉴定人、出示证据、法庭辩论程序规定的限制。但在判决宣告前应当听取被告人的最后陈述意见。

Article 219 Trial of cases through summary procedure shall not be subject to the provisions of Section 1 of this Chapter governing the time limit for service of process and the procedures for questioning the defendant, witnesses and expert witnesses, showing the evidence, and debating in court. However, before a sentence is announced, the final statement of the defendant shall be heard.

第二百二十条   适用简易程序审理案件，人民法院应当在受理后二十日以内审结；对可能判处的有期徒刑超过三年的，可以延长至一个半月。

Article 220 For a case to be tried through summary procedure, the People's Court shall conclude it within 20 days after accepting it; for a case in which fixed-term imprisonment of more than three years may be imposed, the prescribed period may be extended to one and a half months.

第二百二十一条   人民法院在审理过程中，发现不宜适用简易程序的，应当按照本章第一节或者第二节的规定重新审理。

Article 221 If in the course of trying a case the People's Court discovers that the summary procedure is not appropriate for the case, it shall try it anew in accordance with the provisions in Section 1 or Section 2 of this Chapter.

第四节 速裁程序

Section 4 Expedited Procedure

第二百二十二条   基层人民法院管辖的可能判处三年有期徒刑以下刑罚的案件，案件事实清楚，证据确实、充分，被告人认罪认罚并同意适用速裁程序的，可以适用速裁程序，由审判员一人独任审判。

Article 222 For cases under the jurisdiction of basic people's courts in which a sentence of fixed-term imprisonment of not more than three years may be imposed, where there are clear facts and sufficient evidence, and the defendants plead guilty and accept punishment and agree to the application of the expedited procedures, the expedited procedures may apply, and such cases shall be tried solely by one judge.

人民检察院在提起公诉的时候，可以建议人民法院适用速裁程序。

When initiating a public prosecution, the people's procuratorate may suggest that the people's court apply expedited procedures.

第二百二十三条   有下列情形之一的，不适用速裁程序：

Article 223 Under any of the following circumstances, the immediate judgment procedures shall not be applied:

（一）被告人是盲、聋、哑人，或者是尚未完全丧失辨认或者控制自己行为能力的精神病人的；

1. the defendant is blind, deaf or mute, or is a mental patient who has not completely lost the ability of recognizing or controlling his own conduct;

（二）被告人是未成年人的；

2. The defendant is a minor;

（三）案件有重大社会影响的；

3. where the case has significant social impact; or

（四）共同犯罪案件中部分被告人对指控的犯罪事实、罪名、量刑建议或者适用速裁程序有异议的；

(IV) some defendants in a joint crime case have objections to the corpus delicti, offenses, sentencing proposals or the application of expedited procedures;

（五）被告人与被害人或者其法定代理人没有就附带民事诉讼赔偿等事项达成调解或者和解协议的；

(V) where the defendant and the victim or his legal representative fail to reach a mediation or settlement agreement in relation to incidental civil action compensation and other matters; or

（六）其他不宜适用速裁程序审理的。

(VI) other circumstances to which the immediate judgment procedures shall not apply.

第二百二十四条   适用速裁程序审理案件，不受本章第一节规定的送达期限的限制，一般不进行法庭调查、法庭辩论，但在判决宣告前应当听取辩护人的意见和被告人的最后陈述意见。

Article 224 Trial of cases for which expedited procedures are applicable shall not be subject to the restriction of the service period stipulated in Section 1 of this Chapter; court investigation and court debate shall generally not be carried out; however, the defendant's opinion and the defendant's closing statement shall be heard before announcement of judgment.

适用速裁程序审理案件，应当当庭宣判。

The judgement of a case to which expedited procedures apply shall be pronounced in court.

第二百二十五条   适用速裁程序审理案件，人民法院应当在受理后十日以内审结；对可能判处的有期徒刑超过一年的，可以延长至十五日。

Article 225 For a case to which the expedited procedures are applicable, the people's court shall conclude it within ten days of accepting it; for a case in which fixed-term imprisonment of more than one year may be imposed, the prescribed period may be extended to 15 days.

第二百二十六条   人民法院在审理过程中，发现有被告人的行为不构成犯罪或者不应当追究其刑事责任、被告人违背意愿认罪认罚、被告人否认指控的犯罪事实或者其他不宜适用速裁程序审理的情形的，应当按照本章第一节或者第三节的规定重新审理。

Article 226 Where the people's court finds out during trial that the defendant's acts do not constitute any crime or that the defendant shall not be investigated for criminal liability, or that the defendant pleads guilty and accepts punishment against his/her wills, or that the defendant denies the corpus delicti charged, or other circumstances to which the immediate judgment procedures shall not apply, the people's court shall retry the case in accordance with the provisions of Section 1 or Section 3 of this Chapter.

第三章 第二审程序

Chapter 3 Procedure at Second Instance

第二百二十七条   被告人、自诉人和他们的法定代理人，不服地方各级人民法院第一审的判决、裁定，有权用书状或者口头向上一级人民法院上诉。被告人的辩护人和近亲属，经被告人同意，可以提出上诉。

Article 227 If the defendant, private prosecutor or their legal representatives refuse to accept a judgment or order of first instance made by a local People's Court at any level, they shall have the right to appeal in writing or orally to the People's Court at the next higher level. Defenders or near relatives of the defendant may, with the consent of the defendant, file appeals.

附带民事诉讼的当事人和他们的法定代理人，可以对地方各级人民法院第一审的判决、裁定中的附带民事诉讼部分，提出上诉。

A party to an incidental civil action or his legal representative may file an appeal against that part of a judgment or order of first instance made by a local People's Court at any level that deals with the incidental civil action.

对被告人的上诉权，不得以任何借口加以剥夺。

A defendant shall not be deprived on any ground of his right to appeal.

第二百二十八条   地方各级人民检察院认为本级人民法院第一审的判决、裁定确有错误的时候，应当向上一级人民法院提出抗诉。

Article 228 If a local People's Procuratorate at any level considers that there is some definite error in a judgment or order of first instance made by a People's Court at the same level, it shall present a protest to the People's Court at the next higher level.

第二百二十九条   被害人及其法定代理人不服地方各级人民法院第一审的判决的，自收到判决书后五日以内，有权请求人民检察院提出抗诉。人民检察院自收到被害人及其法定代理人的请求后五日以内，应当作出是否抗诉的决定并且答复请求人。

Article 229 If the victim or his legal representative refuses to accept a judgment of first instance made by a local People's Court at any level, he shall, within five days from the date of receiving the written judgment, have the right to request the People's Procuratorate to present a protest. The People's Procuratorate shall, within five days from the date of receiving the request made by the victim or his legal representative, decide whether to present the protest or not and give him a reply.

第二百三十条   不服判决的上诉和抗诉的期限为十日，不服裁定的上诉和抗诉的期限为五日，从接到判决书、裁定书的第二日起算。

Article 230 The time limit for an appeal or a protest against a judgment shall be 10 days and the time limit for an appeal or a protest against an order shall be five days; the time limit shall be counted from the day after the written judgment or order is received.

第二百三十一条   被告人、自诉人、附带民事诉讼的原告人和被告人通过原审人民法院提出上诉的，原审人民法院应当在三日以内将上诉状连同案卷、证据移送上一级人民法院，同时将上诉状副本送交同级人民检察院和对方当事人。

Article 231 If a defendant, private prosecutor, or a plaintiff or defendant in an incidental civil action files an appeal through the People's Court which originally tried the case, the People's Court shall within three days transfer the petition of appeal together with the case file and the evidence to the People's Court at the next higher level; at the same time it shall deliver duplicates of the petition of appeal to the People's Procuratorate at the same level and to the other party.

被告人、自诉人、附带民事诉讼的原告人和被告人直接向第二审人民法院提出上诉的，第二审人民法院应当在三日以内将上诉状交原审人民法院送交同级人民检察院和对方当事人。

If a defendant, private prosecutor, or a plaintiff or defendant in an incidental civil action files an appeal directly to the People's Court of second instance, the People's Court shall within three days transfer the petition of appeal to the People's Court which originally tried the case for delivery to the People's Procuratorate at the same level and to the other party.

第二百三十二条   地方各级人民检察院对同级人民法院第一审判决、裁定的抗诉，应当通过原审人民法院提出抗诉书，并且将抗诉书抄送上一级人民检察院。原审人民法院应当将抗诉书连同案卷、证据移送上一级人民法院，并且将抗诉书副本送交当事人。

Article 232 If a local People's Procuratorate protests against a judgment or order of first instance made by the People's Court at the same level, it shall present a written protest through the People's Court which originally tried the case and send a copy of the written protest to the People's Procuratorate at the next higher level. The people's court which originally tried the case shall transfer the written protest together with the case file and evidence to the people's court at the next higher level and shall deliver duplicates of the written protest to the parties.

上级人民检察院如果认为抗诉不当，可以向同级人民法院撤回抗诉，并且通知下级人民检察院。

If the People's Procuratorate at the next higher level considers the protest inappropriate, it may withdraw the protest from the People's Court at the same level and notify the People's Procuratorate at the next lower level.

第二百三十三条   第二审人民法院应当就第一审判决认定的事实和适用法律进行全面审查，不受上诉或者抗诉范围的限制。

Article 233 A People's Court of second instance shall conduct a complete review of the facts determined and the application of law in the judgment of first instance and shall not be limited by the scope of appeal or protest.

共同犯罪的案件只有部分被告人上诉的，应当对全案进行审查，一并处理。

If an appeal is filed by only some of the defendants in a case of joint crime, the case shall still be reviewed and handled as a whole.

第二百三十四条   第二审人民法院对于下列案件，应当组成合议庭，开庭审理：

Article 234 A People's Court of second instance shall form a collegial panel and open a court session to hear the following cases:

（一）被告人、自诉人及其法定代理人对第一审认定的事实、证据提出异议，可能影响定罪量刑的上诉案件；

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;

（二）被告人被判处死刑的上诉案件；

2. an appeal case in which the defendant has been sentenced to death in the trial of first instance;

（三）人民检察院抗诉的案件；

(III) a case protested by a people's procuratorate;

（四）其他应当开庭审理的案件。

(IV) other cases that should be tried in court sessions.

第二审人民法院决定不开庭审理的，应当讯问被告人，听取其他当事人、辩护人、诉讼代理人的意见。

Where a People's Court of second instance decides not to try a case in a court session, it shall question the defendant and hear the opinions of other parties, advocates and agents ad litem for the litigation.

第二审人民法院开庭审理上诉、抗诉案件，可以到案件发生地或者原审人民法院所在地进行。

When a People's Court of second instance opens a court session to hear a case of appeal or protest, it may do so in the place where the case occurred or in the place where the People's Court which originally tried the case is located.

第二百三十五条   人民检察院提出抗诉的案件或者第二审人民法院开庭审理的公诉案件，同级人民检察院都应当派员出席法庭。第二审人民法院应当在决定开庭审理后及时通知人民检察院查阅案卷。人民检察院应当在一个月以内查阅完毕。人民检察院查阅案卷的时间不计入审理期限。

Article 235 With respect to both cases protested by a People's Procuratorate and cases of public prosecution tried by a People's Court of second instance in a court session, the People's Procuratorate at the same level shall send its procurators to the court. After deciding to hold a court session to hear a case, the people's court of second instance shall notify the people's procuratorate in a timely manner to consult the case files. The People's Procuratorate shall complete inspection within one month. The time for the people's procuratorate to consult the case file shall not be counted in the period of trial.

第二百三十六条   第二审人民法院对不服第一审判决的上诉、抗诉案件，经过审理后，应当按照下列情形分别处理：

Article 236 After hearing a case of appeal or protest against a judgment of first instance, the People's Court of second instance shall handle it in one of the following manners in light of the different situations:

（一）原判决认定事实和适用法律正确、量刑适当的，应当裁定驳回上诉或者抗诉，维持原判；

1. if the original judgment was correct in the determination of facts and the application of law and appropriate in the meting out of punishment, the People's Court shall order rejection of the appeal or protest and affirm the original judgment.

（二）原判决认定事实没有错误，但适用法律有错误，或者量刑不当的，应当改判；

2. if the original judgment contained no error in the determination of facts but the application of law was incorrect or the punishment was inappropriately meted out, the People's Court shall revise the judgment.

（三）原判决事实不清楚或者证据不足的，可以在查清事实后改判；也可以裁定撤销原判，发回原审人民法院重新审判。

(III) if the facts in the original judgment were unclear or the evidence insufficient, the People's Court may revise the judgment after ascertaining the facts, or it may rescind the original judgment and remand the case to the People's Court which originally tried it for retrial.

原审人民法院对于依照前款第三项规定发回重新审判的案件作出判决后，被告人提出上诉或者人民检察院提出抗诉的，第二审人民法院应当依法作出判决或者裁定，不得再发回原审人民法院重新审判。

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

第二百三十七条   第二审人民法院审理被告人或者他的法定代理人、辩护人、近亲属上诉的案件，不得加重被告人的刑罚。第二审人民法院发回原审人民法院重新审判的案件，除有新的犯罪事实，人民检察院补充起诉的以外，原审人民法院也不得加重被告人的刑罚。

Article 237 In the trial of a case appealed by a defendant, or his legal representative, defender or near relative, the People's Court of second instance may not increase 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.

人民检察院提出抗诉或者自诉人提出上诉的，不受前款规定的限制。

The restriction laid down in the preceding paragraph shall not apply to cases protested by a People's Procuratorate or cases appealed by private prosecutors.

第二百三十八条   第二审人民法院发现第一审人民法院的审理有下列违反法律规定的诉讼程序的情形之一的，应当裁定撤销原判，发回原审人民法院重新审判：

Article 238 If a People's Court of second instance discovers that when hearing a case, a People's Court of first instance violates the litigation procedures prescribed by law in one of the following ways, it shall rule to rescind the original judgment and remand the case to the People's Court which originally tried it for retrial:

（一）违反本法有关公开审判的规定的；

1. violating the provisions of this Law regarding trial in public;

（二）违反回避制度的；

2. violating the withdrawal system;

（三）剥夺或者限制了当事人的法定诉讼权利，可能影响公正审判的；

(III) depriving the parties of their litigation rights prescribed by law or restricting, such rights, which may hamper impartiality of a trial;

（四）审判组织的组成不合法的；

(IV) unlawful formation of a judicial organization; or

（五）其他违反法律规定的诉讼程序，可能影响公正审判的。

(V) other violations against the litigation procedures prescribed by law which may hamper impartiality of a trial.

第二百三十九条   原审人民法院对于发回重新审判的案件，应当另行组成合议庭，依照第一审程序进行审判。对于重新审判后的判决，依照本法第二百二十七条、第二百二十八条、第二百二十九条的规定可以上诉、抗诉。

Article 239 The People's Court which originally tried a case shall form a new collegial panel for the case remanded to it for retrial, in accordance with the procedure of first instance. With respect to the judgment rendered after the retrial, an appeal or protest may be lodged in accordance with the provisions of Article 227, 228 or 229 of this Law.

第二百四十条   第二审人民法院对不服第一审裁定的上诉或者抗诉，经过审查后，应当参照本法第二百三十六条、第二百三十八条和第二百三十九条的规定，分别情形用裁定驳回上诉、抗诉，或者撤销、变更原裁定。

Article 240 After a People's Court of second instance has reviewed an appeal or protest against an order of first instance, it shall order rejection of the appeal or protest or rescind or revise the original order respectively with reference to the provisions of Article 236, 238 or 239 of this Law.

第二百四十一条   第二审人民法院发回原审人民法院重新审判的案件，原审人民法院从收到发回的案件之日起，重新计算审理期限。

Article 241 The People's Court which originally tried a case shall calculate the time limit anew for the trial of the case remanded to it by the People's Court of second instance from the date of receiving the case remanded.

第二百四十二条   第二审人民法院审判上诉或者抗诉案件的程序，除本章已有规定的以外，参照第一审程序的规定进行。

Article 242 A People's Court of second instance shall try cases of appeal or protest with reference to the procedure of first instance, in addition to applying the provisions in this Chapter.

第二百四十三条   第二审人民法院受理上诉、抗诉案件，应当在二个月以内审结。对于可能判处死刑的案件或者附带民事诉讼的案件，以及有本法第一百五十八条规定情形之一的，经省、自治区、直辖市高级人民法院批准或者决定，可以延长二个月；因特殊情况还需要延长的，报请最高人民法院批准。

Article 243 After accepting a case of appeal or protest, a People's Court of second instance shall conclude 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 by 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, if more extension is needed under special circumstances, the extension shall be reported to the Supreme People's Court for approval.

最高人民法院受理上诉、抗诉案件的审理期限，由最高人民法院决定。

The time limit for the Supreme People's Court to try an appeal or protest shall be decided by the Supreme People's Court.

第二百四十四条   第二审的判决、裁定和最高人民法院的判决、裁定，都是终审的判决、裁定。

Article 244 All judgments and orders of second instance and all judgments and orders of the Supreme People's Court are final.

第二百四十五条   公安机关、人民检察院和人民法院对查封、扣押、冻结的犯罪嫌疑人、被告人的财物及其孳息，应当妥善保管，以供核查，并制作清单，随案移送。任何单位和个人不得挪用或者自行处理。对被害人的合法财产，应当及时返还。对违禁品或者不宜长期保存的物品，应当依照国家有关规定处理。

Article 245 The public security organs, People's Procuratorates and People's Courts shall have the property, things of value of the criminal suspects and defendants, as well as the fruits accruing therefrom, that they have sealed up, seized or frozen well kept for examination, and shall make an inventory thereof and transfer the same together with the case. No units or individuals shall misappropriate them or dispose of them without authorization. The lawful property of the victims shall be returned to them without delay. Prohibited articles and perishable things shall be disposed of in accordance with the relevant regulations of the State.

对作为证据使用的实物应当随案移送，对不宜移送的，应当将其清单、照片或者其他证明文件随案移送。

Things that serve as tangible evidence shall be transferred together with the case, but for things that are unsuitable to be transferred, their inventory and photos and other documents of certification shall be transferred together with the case.

人民法院作出的判决，应当对查封、扣押、冻结的财物及其孳息作出处理。

The judgment made by a People's Court shall involve how to deal with the sealed up, seized or frozen property and things of value, as well as the fruits accruing therefrom.

人民法院作出的判决生效以后，有关机关应当根据判决对查封、扣押、冻结的财物及其孳息进行处理。对查封、扣押、冻结的赃款赃物及其孳息，除依法返还被害人的以外，一律上缴国库。

After a judgment rendered by the People's Court becomes effective, the relevant authorities shall dispose of all the sealed up, seized or frozen property, things of value, as well as the fruits accruing therefrom, in accordance with the judgment. All the sealed up, seized or frozen illicit money and goods as well as the fruits accruing therefrom, except those that are returned to the victim according to law, shall be turned over to the State Treasury.

司法工作人员贪污、挪用或者私自处理查封、扣押、冻结的财物及其孳息的，依法追究刑事责任；不构成犯罪的，给予处分。

Any judicial officer who embezzles or misappropriates or disposes of the sealed up, seized or frozen property, things of value as well as the fruits accruing therefrom without authorization shall be investigated for criminal responsibility according to law; if the offence does not constitute a crime, he shall be given administrative sanction.

第四章 死刑复核程序

Chapter IV Procedure for Review of Death Sentences

第二百四十六条   死刑由最高人民法院核准。

Article 246 Death sentences shall be subject to approval by the Supreme People's Court.

第二百四十七条   中级人民法院判处死刑的第一审案件，被告人不上诉的，应当由高级人民法院复核后，报请最高人民法院核准。高级人民法院不同意判处死刑的，可以提审或者发回重新审判。

Article 247 A case of first instance where an Intermediate People's Court has imposed a death sentence and the defendant does not appeal shall be reviewed by a Higher People's Court and submitted to the Supreme People's Court for approval. If the higher people's court does not agree with the death sentence, it may bring the case up for trial or remand the case for retrial.

高级人民法院判处死刑的第一审案件被告人不上诉的，和判处死刑的第二审案件，都应当报请最高人民法院核准。

Cases of first instance where a higher people's court has imposed a death sentence and the defendant does not appeal, and cases of second instance where a death sentence has been imposed shall all be submitted to the Supreme People's Court for approval.

第二百四十八条   中级人民法院判处死刑缓期二年执行的案件，由高级人民法院核准。

Article 248 A case where an Intermediate People's Court has imposed a death sentence with a two-year suspension of execution, shall be subject to approval by a Higher People's Court.

第二百四十九条   最高人民法院复核死刑案件，高级人民法院复核死刑缓期执行的案件，应当由审判员三人组成合议庭进行。

Article 249 Reviews by the Supreme People's Court of cases involving death sentences and reviews by a Higher People's Court of cases involving death sentences with a suspension of execution shall be conducted by collegial panels each composed of three judges.

第二百五十条   最高人民法院复核死刑案件，应当作出核准或者不核准死刑的裁定。对于不核准死刑的，最高人民法院可以发回重新审判或者予以改判。

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 penalty is disapproved, the Supreme People's Court may remand the case for retrial or render a new sentence.

第二百五十一条   最高人民法院复核死刑案件，应当讯问被告人，辩护律师提出要求的，应当听取辩护律师的意见。

Article 251 When the Supreme People's Court reviews a case involving the death sentence, it should question the defendant, and should hear the opinions of the defence lawyer if he requests.

在复核死刑案件过程中，最高人民检察院可以向最高人民法院提出意见。最高人民法院应当将死刑复核结果通报最高人民检察院。

During the review of a death penalty case, the Supreme People's Procuratorate may make recommendations to the Supreme People's Court. The Supreme People's Court shall notify the Supreme People's Procuratorate of the review result.

第五章 审判监督程序

Chapter 5 Procedure for Trial Supervision

第二百五十二条   当事人及其法定代理人、近亲属，对已经发生法律效力的判决、裁定，可以向人民法院或者人民检察院提出申诉，但是不能停止判决、裁定的执行。

Article 252 A party or his legal representative or his near relative may present a petition to a People's Court or a People's Procuratorate regarding a legally effective judgment or order, however, execution of the judgment or order shall not be suspended.

第二百五十三条   当事人及其法定代理人、近亲属的申诉符合下列情形之一的，人民法院应当重新审判：

Article 253 If a petition presented by a party or his agent ad litem or his near relative conforms to any of the following conditions, the People's Court shall retry the case:

（一）有新的证据证明原判决、裁定认定的事实确有错误，可能影响定罪量刑的；

1. there is new evidence proving that the facts confirmed in the original judgment or order are definitely wrong and may affect the identification of guilt and measurement of penalty;

（二）据以定罪量刑的证据不确实、不充分、依法应当予以排除，或者证明案件事实的主要证据之间存在矛盾的；

2. The evidence upon which the condemnation was made and punishment meted out is unreliable and insufficient and should be excluded in accordance with law, or the major pieces of evidence for supporting the facts of the case contradict each other;

（三）原判决、裁定适用法律确有错误的；

(III) The application of law in making the original judgment or order is definitely incorrect; or

（四）违反法律规定的诉讼程序，可能影响公正审判的；

(IV) the litigation procedure prescribed by law has been violated and it may hamper the impartiality of a trial; or

（五）审判人员在审理该案件的时候，有贪污受贿，徇私舞弊，枉法裁判行为的。

(V) The judges in trying the case committed acts of embezzlement, bribery, or malpractices for personal gain, or bended the law in making judgment.

第二百五十四条   各级人民法院院长对本院已经发生法律效力的判决和裁定，如果发现在认定事实上或者在适用法律上确有错误，必须提交审判委员会处理。

Article 254 If the president of a People's Court at any level finds some definite error in a legally effective judgment or order of his court as to the determination of facts or application of law, he shall refer the matter to the judicial committee for handling.

最高人民法院对各级人民法院已经发生法律效力的判决和裁定，上级人民法院对下级人民法院已经发生法律效力的判决和裁定，如果发现确有错误，有权提审或者指令下级人民法院再审。

If the Supreme People's Court finds some definite error in a legally effective judgment or order of a People's Court at any lower level, or if a People's Court at a higher level finds some definite error in a legally effective judgment or order of a People's Court at a lower level, it shall have the power to bring the case up for trial itself or may direct a People's Court at a lower level to conduct a retrial.

最高人民检察院对各级人民法院已经发生法律效力的判决和裁定，上级人民检察院对下级人民法院已经发生法律效力的判决和裁定，如果发现确有错误，有权按照审判监督程序向同级人民法院提出抗诉。

If the Supreme People's Procuratorate finds some definite error in a legally effective judgment or order of a People's Court at any level, or if a People's Procuratorate at a higher level finds some definite error in a legally effective judgment or order of a People's Court at a lower level, it shall have the power to present a protest to the People's Court at the same level against the judgment or order in accordance with the procedure for trial supervision.

人民检察院抗诉的案件，接受抗诉的人民法院应当组成合议庭重新审理，对于原判决事实不清楚或者证据不足的，可以指令下级人民法院再审。

With respect to a case protested by a People's Procuratorate, the People's Court that has accepted the protest shall form a collegial panel for retrial; if the facts, on the basis of which the original judgment was made, are not clear or the evidence is not sufficient, it may direct the People's Court at the lower level to try the case again.

第二百五十五条   上级人民法院指令下级人民法院再审的，应当指令原审人民法院以外的下级人民法院审理；由原审人民法院审理更为适宜的，也可以指令原审人民法院审理。

Article 255 Where the people's court at a higher level orders a people's court at a lower level to retry a case, it shall order a people's court at a lower level other than the original trial court to try the case; but if it is more appropriate for the case to be retried by the original trial court, it may order the original trial court to try the case.

第二百五十六条   人民法院按照审判监督程序重新审判的案件，由原审人民法院审理的，应当另行组成合议庭进行。如果原来是第一审案件，应当依照第一审程序进行审判，所作的判决、裁定，可以上诉、抗诉；如果原来是第二审案件，或者是上级人民法院提审的案件，应当依照第二审程序进行审判，所作的判决、裁定，是终审的判决、裁定。

Article 256 Where a people's court retries a case under the trial supervision procedure, a new collegial panel shall be formed if the retrial is conducted by the original trial court. If the case was originally one of first instance, it shall be tried in accordance with the procedure of first instance and the new judgment or order may be appealed or protested. If the case was originally one of second instance or was brought up for trial by a People's Court at a higher level, it shall be tried in accordance with the procedure of second instance and the judgment or order rendered shall be final.

人民法院开庭审理的再审案件，同级人民检察院应当派员出席法庭。

When a people's court retries a case in a court session, the people's procuratorate at the same level shall send procurators to appear before court.

第二百五十七条   人民法院决定再审的案件，需要对被告人采取强制措施的，由人民法院依法决定；人民检察院提出抗诉的再审案件，需要对被告人采取强制措施的，由人民检察院依法决定。

Article 257 With regard to a case which a People's Court has decided to retry, if mandatory measures need to be taken on the defendant, the decision should be made by the People's Court in accordance with law; with regard to a case retried due to the protest from a People's Procuratorate, if mandatory measures need to be taken on the defendant, the decision should be made by the People's Procuratorate in accordance with law.

人民法院按照审判监督程序审判的案件，可以决定中止原判决、裁定的执行。

With regard to a case tried by a People's Court in accordance with the procedure for trial supervision, it may decide to suspend the execution of the original judgment or order.

第二百五十八条   人民法院按照审判监督程序重新审判的案件，应当在作出提审、再审决定之日起三个月以内审结，需要延长期限的，不得超过六个月。

Article 258 With respect to a case retried by a People's Court in accordance with the procedure for trial supervision, it shall conclude the trial within three months from the day on which it makes the decision to bring the case up for trial itself or on which the decision is made for it to retry the case. If it is necessary to extend the time limit, the period shall not exceed six months.

接受抗诉的人民法院按照审判监督程序审判抗诉的案件，审理期限适用前款规定；对需要指令下级人民法院再审的，应当自接受抗诉之日起一个月以内作出决定，下级人民法院审理案件的期限适用前款规定。

The provisions of the preceding paragraph shall apply to the time limit for the trial of a protested case that is accepted by a People's Court and is to be tried by it in accordance with the procedure for trial supervision. Where it is necessary to direct a People's Court at a lower level to try a protested case again, a decision to such an effect shall be made within one month from the day on which the protested case is accepted; the provisions of the preceding paragraph shall apply to the time limit for the trial of the case by the People's Court at the lower level.

第四编 执行

PART 4 – EXECUTION

第二百五十九条   判决和裁定在发生法律效力后执行。

Article 259 Judgments and orders shall be executed after they become legally effective.

下列判决和裁定是发生法律效力的判决和裁定：

The following judgments and orders shall be legally effective:

（一）已过法定期限没有上诉、抗诉的判决和裁定；

1. judgments and orders against which no appeal or protest has been filed within the legally prescribed time limit;

（二）终审的判决和裁定；

(II) judgments and orders of final instance; and

（三）最高人民法院核准的死刑的判决和高级人民法院核准的死刑缓期二年执行的判决。

3. judgments of the death penalty approved by the Supreme People's Court and judgments of the death penalty with a two-year suspension of execution approved by a Higher People's Court.

第二百六十条   第一审人民法院判决被告人无罪、免除刑事处罚的，如果被告人在押，在宣判后应当立即释放。

Article 260 If a defendant in custody is given the verdict of not guilty or exempted from criminal punishment by a People's Court of first instance, he shall be released immediately after the judgment is pronounced.

第二百六十一条   最高人民法院判处和核准的死刑立即执行的判决，应当由最高人民法院院长签发执行死刑的命令。

Article 261 When a judgment of the death penalty with immediate execution is pronounced 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.

被判处死刑缓期二年执行的罪犯，在死刑缓期执行期间，如果没有故意犯罪，死刑缓期执行期满，应当予以减刑的，由执行机关提出书面意见，报请高级人民法院裁定；如果故意犯罪，情节恶劣，查证属实，应当执行死刑的，由高级人民法院报请最高人民法院核准；对于故意犯罪未执行死刑的，死刑缓期执行的期间重新计算，并报最高人民法院备案。

If a criminal sentenced to death with a two-year suspension of execution commits no intentional offense during the period of suspension of the sentence and his punishment should therefore be commuted according to the law upon expiration of such period, the executing organ shall submit a written recommendation to a higher people's court for an order; if there is verified evidence that the criminal has committed an intentional offense and his death sentence should therefore be executed, the higher people's court shall submit the matter to the Supreme People's Court for examination and approval; if the criminal intentionally commits a crime but the death penalty is not executed, the period of death penalty with suspension of execution shall be recalculated and the same shall be submitted to the Supreme People's Court for the record.

第二百六十二条   下级人民法院接到最高人民法院执行死刑的命令后，应当在七日以内交付执行。但是发现有下列情形之一的，应当停止执行，并且立即报告最高人民法院，由最高人民法院作出裁定：

Article 262 After receiving an order from the Supreme People's Court to execute a death sentence, the People's Court at a lower level shall cause the sentence to be executed within seven days. However, under one of the following conditions the People's Court at a lower level shall suspend execution and immediately report to the Supreme People's Court for an order:

（一）在执行前发现判决可能有错误的；

1. If it is discovered before the execution of the sentence that the judgment may contain an error;

（二）在执行前罪犯揭发重大犯罪事实或者有其他重大立功表现，可能需要改判的；

2. If, before the execution of the sentence, the criminal exposes major criminal facts or renders other significantly meritorious service, thus the sentence may need to be revised; or

（三）罪犯正在怀孕。

(III) If the criminal is pregnant.

前款第一项、第二项停止执行的原因消失后，必须报请最高人民法院院长再签发执行死刑的命令才能执行；由于前款第三项原因停止执行的，应当报请最高人民法院依法改判。

If the reason given in sub-paragraph (1) or (2) of the preceding paragraph which caused the suspension of the sentence has disappeared, the sentence may be executed only after a report is submitted to the President of the Supreme People's Court for him to sign and issue another order for execution of the death sentence. If execution is suspended for the reason given in sub-paragraph (3) of the preceding paragraph, a request shall be submitted to the Supreme People's Court for it to alter the sentence according to law.

第二百六十三条   人民法院在交付执行死刑前，应当通知同级人民检察院派员临场监督。

Article 263 Before a People's Court causes a death sentence to be executed, it shall notify the People's Procuratorate at the same level to send an officer to supervise the execution.

死刑采用枪决或者注射等方法执行。

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

死刑可以在刑场或者指定的羁押场所内执行。

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

指挥执行的审判人员，对罪犯应当验明正身，讯问有无遗言、信札，然后交付执行人员执行死刑。在执行前，如果发现可能有错误，应当暂停执行，报请最高人民法院裁定。

The judicial officer directing the execution shall verify the identity of the criminal, ask him if he has any last words or letters and then deliver him to the executioner for execution of the death sentence. If it is discovered before the execution that there may be an error, the execution shall be suspended and a report submitted to the Supreme People's Court for an order.

执行死刑应当公布，不应示众。

Executions of death sentences shall be announced but shall not be held in public.

执行死刑后，在场书记员应当写成笔录。交付执行的人民法院应当将执行死刑情况报告最高人民法院。

After a death sentence is executed, the court clerk on the scene shall prepare a written record of it. The people's court that delivers the death sentence to be executed shall report the execution to the Supreme People's Court.

执行死刑后，交付执行的人民法院应当通知罪犯家属。

After a death sentence is executed, the People's Court that caused the death sentence to be executed shall notify the family members of the criminal.

第二百六十四条   罪犯被交付执行刑罚的时候，应当由交付执行的人民法院在判决生效后十日以内将有关的法律文书送达公安机关、监狱或者其他执行机关。

Article 264 When a criminal is handed over for execution of his criminal punishment, the People's Court that caused the sentence to be executed shall deliver the relevant legal documents to the public security organ, prison or other executing organs within 10 days after the judgment becomes effective.

对被判处死刑缓期二年执行、无期徒刑、有期徒刑的罪犯，由公安机关依法将该罪犯送交监狱执行刑罚。对被判处有期徒刑的罪犯，在被交付执行刑罚前，剩余刑期在三个月以下的，由看守所代为执行。对被判处拘役的罪犯，由公安机关执行。

A criminal sentenced to death with a two-year suspension of execution, or life imprisonment, or fixed-term imprisonment shall, according to law, be handed over by a public security organ to a prison for execution of his criminal punishment. As to a criminal sentenced to fixed-term imprisonment, if the remaining term of sentence is not more than three months before he is handed over for execution of his criminal punishment, the sentence shall be executed by a detention house instead. As to a criminal sentenced to criminal detention, the sentence shall be executed by a public security organ.

对未成年犯应当在未成年犯管教所执行刑罚。

Criminal punishments on juvenile delinquents shall be executed in the reformatories for juvenile delinquents.

执行机关应当将罪犯及时收押，并且通知罪犯家属。

An executing organ shall take a criminal into custody without delay and notify the family members of the criminal.

判处有期徒刑、拘役的罪犯，执行期满，应当由执行机关发给释放证明书。

A criminal sentenced to fixed-term imprisonment or criminal detention, upon completion of execution of the sentence, shall be issued a certificate of release by the executing organ.

第二百六十五条   对被判处有期徒刑或者拘役的罪犯，有下列情形之一的，可以暂予监外执行：

Article 265 A criminal sentenced to fixed-term imprisonment or criminal detention, under either of the following conditions, may be permitted to temporarily serve his sentence outside prison:

（一）有严重疾病需要保外就医的；

1. the criminal is seriously ill and needs to be released on bail for medical treatment;

（二）怀孕或者正在哺乳自己婴儿的妇女；

2. the criminal is pregnant or is breast-feeding her own baby;

（三）生活不能自理，适用暂予监外执行不致危害社会的。

(III) the criminal is unable to look after himself in everyday life, and the temporary application of his service of sentence outside a prison and a detention house would not endanger the society.

对被判处无期徒刑的罪犯，有前款第二项规定情形的，可以暂予监外执行。

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

对适用保外就医可能有社会危险性的罪犯，或者自伤自残的罪犯，不得保外就医。

If a criminal to be released on bail for medical treatment may endanger the community or if a criminal injures himself or makes himself disabled, he may not be released on bail for medical treatment.

对罪犯确有严重疾病，必须保外就医的，由省级人民政府指定的医院诊断并开具证明文件。

If a criminal is truly seriously ill and must be released on bail for medical treatment, a diagnosis made and a supporting document prepared by the hospital designated by a people's government at the provincial level shall be needed.

在交付执行前，暂予监外执行由交付执行的人民法院决定；在交付执行后，暂予监外执行由监狱或者看守所提出书面意见，报省级以上监狱管理机关或者设区的市一级以上公安机关批准。

Before a criminal is handed over for execution of the sentence, the temporary execution of the sentence outside a prison and a detention house shall be decided upon by the People's Court which has caused the sentence executed; after a criminal is handed over for execution of the sentence, the temporary execution of the sentence outside a prison and a detention house shall be suggested in a written recommendation, which shall be submitted to a prison administration organ above the provincial level or a public security organ of or above the level of a city divided into districts for approval.

第二百六十六条   监狱、看守所提出暂予监外执行的书面意见的，应当将书面意见的副本抄送人民检察院。人民检察院可以向决定或者批准机关提出书面意见。

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

第二百六十七条   决定或者批准暂予监外执行的机关应当将暂予监外执行决定抄送人民检察院。人民检察院认为暂予监外执行不当的，应当自接到通知之日起一个月以内将书面意见送交决定或者批准暂予监外执行的机关，决定或者批准暂予监外执行的机关接到人民检察院的书面意见后，应当立即对该决定进行重新核查。

Article 267 The organ that decides or approves the temporary execution of sentence outside a prison and a detention house shall send a copy of its decision to a People's Procuratorate. Where the people's procuratorate considers the temporary serving of a sentence outside prison improper, it 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.

第二百六十八条   对暂予监外执行的罪犯，有下列情形之一的，应当及时收监：

Article 268 If a criminal under the temporary execution of the sentence outside a prison and a detention house is under any of the following circumstances, he shall be taken to a prison or a detention house without delay:

（一）发现不符合暂予监外执行条件的；

1. It is discovered that he does not meet the conditions for the temporary execution of the sentence outside a prison and a detention house;

（二）严重违反有关暂予监外执行监督管理规定的；

(II) He has seriously violated the supervision and administration provisions on the temporary execution of the sentence outside a prison and a detention house;

（三）暂予监外执行的情形消失后，罪犯刑期未满的。

(III) After the circumstance entitling him to the temporary execution of the sentence outside a prison and a detention house disappears, the sentence for the criminal has not been served out.

对于人民法院决定暂予监外执行的罪犯应当予以收监的，由人民法院作出决定，将有关的法律文书送达公安机关、监狱或者其他执行机关。

If a criminal, who a People's Court has decided that shall temporarily serve his sentence outside a prison and a detention house, is to be taken to a prison or a detention house, the decision shall be made by the People's Court and the People's Court shall deliver the relevant legal documents to a public security organ, prison or other executing organ.

不符合暂予监外执行条件的罪犯通过贿赂等非法手段被暂予监外执行的，在监外执行的期间不计入执行刑期。罪犯在暂予监外执行期间脱逃的，脱逃的期间不计入执行刑期。

If a criminal who does not meet the conditions of temporary execution of the sentence outside a prison and a detention house has been applied such by bribery and other illegal means, the period thereof shall not be counted into the term supposed to be served. If a criminal escapes during the period of temporarily serving a sentence outside an incarceration facility, the period of his escape shall not be counted in the executed period of punishment.

罪犯在暂予监外执行期间死亡的，执行机关应当及时通知监狱或者看守所。

If a prisoner died during the period of temporary execution outside prison, the executing organ shall inform the prison or house of detention without delay.

第二百六十九条   对被判处管制、宣告缓刑、假释或者暂予监外执行的罪犯，依法实行社区矫正，由社区矫正机构负责执行。

Article 269 A criminal who is sentenced to public surveillance, announced probation, parole or temporarily serving a sentence outside an incarceration facility shall be subject to community correction, which shall be executed by a community correction institution according to the law.

第二百七十条   对被判处剥夺政治权利的罪犯，由公安机关执行。执行期满，应当由执行机关书面通知本人及其所在单位、居住地基层组织。

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

第二百七十一条   被判处罚金的罪犯，期满不缴纳的，人民法院应当强制缴纳；如果由于遭遇不能抗拒的灾祸等原因缴纳确实有困难的，经人民法院裁定，可以延期缴纳、酌情减少或者免除。

Article 271 If a criminal sentenced to a fine fails to pay the fine within the time limit, the People's Court shall compel him to pay. If he has true difficulty in paying due to an irresistible disaster or other reasons, upon a ruling by a People's Court, the payment of the fine may be postponed, reduced as appropriate or remitted.

第二百七十二条   没收财产的判决，无论附加适用或者独立适用，都由人民法院执行；在必要的时候，可以会同公安机关执行。

Article 272 All judgments on confiscation of property, whether imposed as a supplementary punishment or independently, shall be executed by the People's Courts; when necessary, the People's Courts may execute such judgments jointly with the public security organs.

第二百七十三条   罪犯在服刑期间又犯罪的，或者发现了判决的时候所没有发现的罪行，由执行机关移送人民检察院处理。

Article 273 If a criminal commits a crime again while serving his sentence, or if a criminal act that is discovered was not known at the time of judgment, he shall be transferred by the executing organ to a People's Procuratorate for handling.

被判处管制、拘役、有期徒刑或者无期徒刑的罪犯，在执行期间确有悔改或者立功表现，应当依法予以减刑、假释的时候，由执行机关提出建议书，报请人民法院审核裁定，并将建议书副本抄送人民检察院。人民检察院可以向人民法院提出书面意见。

If a criminal sentenced to public surveillance, criminal detention, fixed-term imprisonment or life imprisonment shows true repentance or renders meritorious service while serving his sentence and should be granted a commutation of sentence or be released on parole according to law, the executing organ shall submit a written recommendation to a People's Court for examination and an order, and send a copy of the written recommendation to a People's Procuratorate. The people's procuratorate may provide a written opinion to the people's court.

第二百七十四条   人民检察院认为人民法院减刑、假释的裁定不当，应当在收到裁定书副本后二十日以内，向人民法院提出书面纠正意见。人民法院应当在收到纠正意见后一个月以内重新组成合议庭进行审理，作出最终裁定。

Article 274 If a People's Procuratorate considers that the order on commutation of sentence or on parole made by a People's Court is improper, it shall, within 20 days from the date of receiving a copy of the written order, submit a written recommendation to the People's Court for correction. The People's Court shall, within one month from the date of receiving the recommendation, form a new collegial panel to handle the case and render a final order.

第二百七十五条   监狱和其他执行机关在刑罚执行中，如果认为判决有错误或者罪犯提出申诉，应当转请人民检察院或者原判人民法院处理。

Article 275 If, during execution of a criminal punishment, the prison or any other executing organ believes that there is an error in the judgment or the criminal lodges a petition, it shall refer the matter to the People's Procuratorate or the People's Court that pronounced the original judgment for handling.

第二百七十六条   人民检察院对执行机关执行刑罚的活动是否合法实行监督。如果发现有违法的情况，应当通知执行机关纠正。

Article 276 People's procuratorates shall supervise the execution of criminal punishments by executing organs to see if the execution conforms to law. If they discover any illegalities, they shall notify the executing organs to correct them.

第五编 特别程序

Part V Special Procedures

第一章 未成年人刑事案件诉讼程序

Chapter 1 Procedure for Juvenile Criminal Cases

第二百七十七条   对犯罪的未成年人实行教育、感化、挽救的方针，坚持教育为主、惩罚为辅的原则。

Article 277 The guideline of education, influence and reform, and salvation shall be applied on criminal minors and the principle of education as the main method and punishment as the subsidiary method shall be stuck to.

人民法院、人民检察院和公安机关办理未成年人刑事案件，应当保障未成年人行使其诉讼权利，保障未成年人得到法律帮助，并由熟悉未成年人身心特点的审判人员、检察人员、侦查人员承办。

When a People's Court, People's Procuratorate and public security organ handle a criminal case involving a minor, they shall guarantee that minors should exercise their procedural rights and have legal assistance, and the case shall be handled by judges, procurators and investigators who are familiar with the physical and mental characteristics of minors.

第二百七十八条   未成年犯罪嫌疑人、被告人没有委托辩护人的，人民法院、人民检察院、公安机关应当通知法律援助机构指派律师为其提供辩护。

Article 278 If a minor criminal suspect or defendant has not authorized a defender, a People's Court, People's Procuratorate or public security organ shall notify a legal aid agency to designate a lawyer as his/her defender.

第二百七十九条   公安机关、人民检察院、人民法院办理未成年人刑事案件，根据情况可以对未成年犯罪嫌疑人、被告人的成长经历、犯罪原因、监护教育等情况进行调查。

Article 279 When a public security organ, People's Procuratorate or People's Court handles a criminal case involving a minor, it may make investigations on the growing-up experience, offence causes, guardianship and education, etc. of the minor criminal suspect or defendant.

第二百八十条   对未成年犯罪嫌疑人、被告人应当严格限制适用逮捕措施。人民检察院审查批准逮捕和人民法院决定逮捕，应当讯问未成年犯罪嫌疑人、被告人，听取辩护律师的意见。

Article 280 With regard to a minor criminal suspect or defendant, the application of arrest shall be strictly restricted. When a People's Procuratorate examines and approves an arrest and a People's Court decides on an arrest, it shall question the minor criminal suspect or defendant, and hear the opinion of the defence lawyer.

对被拘留、逮捕和执行刑罚的未成年人与成年人应当分别关押、分别管理、分别教育。

Minors and adults who have been detained, arrested or applied criminal punishment shall be held in custody, administered and educated separately.

第二百八十一条   对于未成年人刑事案件，在讯问和审判的时候，应当通知未成年犯罪嫌疑人、被告人的法定代理人到场。无法通知、法定代理人不能到场或者法定代理人是共犯的，也可以通知未成年犯罪嫌疑人、被告人的其他成年亲属，所在学校、单位、居住地基层组织或者未成年人保护组织的代表到场，并将有关情况记录在案。到场的法定代理人可以代为行使未成年犯罪嫌疑人、被告人的诉讼权利。

Article 281 With regard to a criminal case involving a minor, during questioning and trial, the legal representative of the minor criminal suspect or defendant shall be notified to be present at the scene. If it is not possible to make the notification, or the legal representative cannot be present at the scene or is an accomplice, other adult relatives of the minor criminal suspect or defendant, or representatives from the school, unit, or basic organizations at the place of his residence, or representatives from minors protection organizations may be notified to be present, and the relevant circumstances shall be recorded. The present legal representative may exercise the litigation rights of the minor criminal suspect or defendant on his behalf.

到场的法定代理人或者其他人员认为办案人员在讯问、审判中侵犯未成年人合法权益的，可以提出意见。讯问笔录、法庭笔录应当交给到场的法定代理人或者其他人员阅读或者向他宣读。

If the legal representative or other person present at the scene is of the view that the people handling the case have infringed upon the minor's lawful rights and interests during the questioning or trial, he may raise their opinions. The interrogation or court transcripts shall be handed over to the present legal representative or other person for reading or be read out to him.

讯问女性未成年犯罪嫌疑人，应当有女工作人员在场。

When questioning a female minor criminal suspect, a female functionary shall be at the scene.

审判未成年人刑事案件，未成年被告人最后陈述后，其法定代理人可以进行补充陈述。

In the trial of a criminal case involving a minor, after the minor defendant makes his final statement, his legal representative may make supplementary statement.

询问未成年被害人、证人，适用第一款、第二款、第三款的规定。

When questioning a minor victim or witness, the provisions of the first, second and third paragraphs shall apply.

第二百八十二条   对于未成年人涉嫌刑法分则第四章、第五章、第六章规定的犯罪，可能判处一年有期徒刑以下刑罚，符合起诉条件，但有悔罪表现的，人民检察院可以作出附条件不起诉的决定。人民检察院在作出附条件不起诉的决定以前，应当听取公安机关、被害人的意见。

Article 282 When a minor is suspected of committing a crime specified in Chapter IV, V or VI of the Specific Provisions of the Criminal Law and may be sentenced to a criminal punishment below one-year fixed-term imprisonment, if the prosecution conditions are met but the minor 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 organ and the victim.

对附条件不起诉的决定，公安机关要求复议、提请复核或者被害人申诉的，适用本法第一百七十九条、第一百八十条的规定。

If a public security organ requests a review or the victim presents a petition in respect of a decision of conditional non-prosecution, the provisions of Articles 179 and 180 of this Law shall apply.

未成年犯罪嫌疑人及其法定代理人对人民检察院决定附条件不起诉有异议的，人民检察院应当作出起诉的决定。

If the minor criminal suspect and his legal representative oppose the People's Procuratorate's decision of conditional non-prosecution, the People's Procuratorate shall make the decision of prosecution.

第二百八十三条   在附条件不起诉的考验期内，由人民检察院对被附条件不起诉的未成年犯罪嫌疑人进行监督考察。未成年犯罪嫌疑人的监护人，应当对未成年犯罪嫌疑人加强管教，配合人民检察院做好监督考察工作。

Article 283 During the probation period for conditional non-prosecution, a People's Procuratorate shall supervise and inspect the minor criminal suspect under conditional non-prosecution. 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.

附条件不起诉的考验期为六个月以上一年以下，从人民检察院作出附条件不起诉的决定之日起计算。

The probation period for conditional non-prosecution shall be over six months and below one year, starting from the date when the People's Procuratorate arrives at the decision of conditional non-prosecution.

被附条件不起诉的未成年犯罪嫌疑人，应当遵守下列规定：

The minor criminal suspect under conditional non-prosecution shall abide by the following provisions:

（一）遵守法律法规，服从监督；

1. observing laws and regulations, and submitting to supervision;

（二）按照考察机关的规定报告自己的活动情况；

(II) to report on his own activities as required by the observing organ;

（三）离开所居住的市、县或者迁居，应当报经考察机关批准；

3. reporting to obtain approval from the observing organ for any departure from the city or county he lives in or for any change in residence;

（四）按照考察机关的要求接受矫治和教育。

4. receiving correction and education as required by the inspecting organ.

第二百八十四条   被附条件不起诉的未成年犯罪嫌疑人，在考验期内有下列情形之一的，人民检察院应当撤销附条件不起诉的决定，提起公诉：

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:

（一）实施新的犯罪或者发现决定附条件不起诉以前还有其他犯罪需要追诉的；

1. He has committed a new crime or it is discovered that other crimes committed before the decision of conditional non-prosecution was made need to be pursued;

（二）违反治安管理规定或者考察机关有关附条件不起诉的监督管理规定，情节严重的。

(II) He has seriously violated the provisions of public security administration or the supervision and administration provisions of the inspecting organ in respect of the conditional non-prosecution.

被附条件不起诉的未成年犯罪嫌疑人，在考验期内没有上述情形，考验期满的，人民检察院应当作出不起诉的决定。

If the minor criminal suspect under conditional non-prosecution is not under any of the above circumstances during the probation period, the People's Procuratorate shall make the decision of non-prosecution at the expiry of the probation period.

第二百八十五条   审判的时候被告人不满十八周岁的案件，不公开审理。但是，经未成年被告人及其法定代理人同意，未成年被告人所在学校和未成年人保护组织可以派代表到场。

Article 285 A case may not be tried publicly if the defendant is under the age of 18 at the time of the trial. However, with the consent of the minor defendant and his legal representative, representatives from the school where the minor defendant studies and minors protection organizations may be present.

第二百八十六条   犯罪的时候不满十八周岁，被判处五年有期徒刑以下刑罚的，应当对相关犯罪记录予以封存。

Article 286 Where a juvenile has not reached 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.

犯罪记录被封存的，不得向任何单位和个人提供，但司法机关为办案需要或者有关单位根据国家规定进行查询的除外。依法进行查询的单位，应当对被封存的犯罪记录的情况予以保密。

If the crime records are sealed up, they shall not be provided to any unit or individual, except when a judicial organ makes inquiry as required by its handling of a case or the relevant unit makes inquiry in accordance with the state's rules. Entities legally consulting such records shall keep confidential the information about the criminal records sealed up.

第二百八十七条   办理未成年人刑事案件，除本章已有规定的以外，按照本法的其他规定进行。

Article 287 When handling a criminal case involving a minor, except provided for in this Chapter, the other provisions of this Law shall apply.

第二章 当事人和解的公诉案件诉讼程序

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

第二百八十八条   下列公诉案件，犯罪嫌疑人、被告人真诚悔罪，通过向被害人赔偿损失、赔礼道歉等方式获得被害人谅解，被害人自愿和解的，双方当事人可以和解：

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 is willing to settle, the two parties may reach a settlement:

（一）因民间纠纷引起，涉嫌刑法分则第四章、第五章规定的犯罪案件，可能判处三年有期徒刑以下刑罚的；

1. The criminal case is caused by civil disputes and the crime is suspected of violating the provisions of Chapter IV and V of the Criminal Law and may lead to a criminal punishment below a three-year fixed-term imprisonment;

（二）除渎职犯罪以外的可能判处七年有期徒刑以下刑罚的过失犯罪案件。

2. A negligence criminal case which may result in a criminal punishment below a seven-year fixed-term imprisonment, excluding the crime of dereliction of duty.

犯罪嫌疑人、被告人在五年以内曾经故意犯罪的，不适用本章规定的程序。

Where a criminal suspect or defendant has committed an intentional crime in the past five years, the procedure stipulated in this Chapter shall not apply.

第二百八十九条   双方当事人和解的，公安机关、人民检察院、人民法院应当听取当事人和其他有关人员的意见，对和解的自愿性、合法性进行审查，并主持制作和解协议书。

Article 289 When both parties have reached a settlement, a public security organ, 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.

第二百九十条   对于达成和解协议的案件，公安机关可以向人民检察院提出从宽处理的建议。人民检察院可以向人民法院提出从宽处罚的建议；对于犯罪情节轻微，不需要判处刑罚的，可以作出不起诉的决定。人民法院可以依法对被告人从宽处罚。

Article 290 With regard to a case in which a settlement has been reached, a public security organ may make recommendations of leniency to a People's Procuratorate. A People's Procuratorate may put forward recommendations of punishment with leniency to a People's Court; if the circumstances of a person's crime are minor and do not require criminal punishment, the People's Procuratorate may decide not to initiate a prosecution. A people's court may render a lenient sentence to a defendant in accordance with law.

第三章 缺席审判程序

Chapter 3 Procedures for Trial by Default

第二百九十一条   对于贪污贿赂犯罪案件，以及需要及时进行审判，经最高人民检察院核准的严重危害国家安全犯罪、恐怖活动犯罪案件，犯罪嫌疑人、被告人在境外，监察机关、公安机关移送起诉，人民检察院认为犯罪事实已经查清，证据确实、充分，依法应当追究刑事责任的，可以向人民法院提起公诉。人民法院进行审查后，对于起诉书中有明确的指控犯罪事实，符合缺席审判程序适用条件的，应当决定开庭审判。

Article 291 For a crime of embezzlement or bribery, as well as a crime of seriously endangering national security or a crime of terrorist activities examined and approved by the Supreme People's Procuratorate to be tried in a timely manner, where a criminal suspect or defendant is abroad, a supervisory organ or public security organ has transferred the case for prosecution, and a people's procuratorate considers that the facts of a crime have been ascertained, that the evidence is reliable and sufficient, and that criminal liability shall be investigated in accordance with the law, a public prosecution may be initiated in a people's court. After examining the case, the people's court shall decide to try the case at a court session, if the indictment includes clear particulars of offence accused and meets the conditions for the application of the procedures for trials by default.

前款案件，由犯罪地、被告人离境前居住地或者最高人民法院指定的中级人民法院组成合议庭进行审理。

The case specified in the preceding paragraph shall be heard by a collegial panel formed by the intermediate people's court at the place where the crime was committed, at the place of residence of the defendant before leaving China, or as designated by the Supreme People's Court.

第二百九十二条   人民法院应当通过有关国际条约规定的或者外交途径提出的司法协助方式，或者被告人所在地法律允许的其他方式，将传票和人民检察院的起诉书副本送达被告人。传票和起诉书副本送达后，被告人未按要求到案的，人民法院应当开庭审理，依法作出判决，并对违法所得及其他涉案财产作出处理。

Article 292 The people's court shall serve the summon and a copy of the people's procuratorate's indictment on the defendant by judicial assistance means as prescribed in the relevant international treaties, or as put forward through diplomatic channels, or by other means permitted by the law of the defendant's location. Where the defendant does not appear in court as required after the summon and the copy of the indictment is served, the people's court shall hear the case in public, render a judgment in accordance with law, and dispose of the illegal gains and other property involved in the case.

第二百九十三条   人民法院缺席审判案件，被告人有权委托辩护人，被告人的近亲属可以代为委托辩护人。被告人及其近亲属没有委托辩护人的，人民法院应当通知法律援助机构指派律师为其提供辩护。

Article 293 When the people's court tries a case by default, the defendant shall have the right to entrust a defender, and the close relative thereof may entrust a defender on his behalf. Where the defendant or his/her close relative has not entrusted any defender, the people's court concerned shall notify a legal aid agency to designate a lawyer as his/her defender.

第二百九十四条   人民法院应当将判决书送达被告人及其近亲属、辩护人。被告人或者其近亲属不服判决的，有权向上一级人民法院上诉。辩护人经被告人或者其近亲属同意，可以提出上诉。

Article 294 The people's court shall serve the judgment on the defendant and his close relative and defender. Where the defendant or his close relative refuses to accept the judgment, he shall have the right to appeal to the people's court at the next higher level. The defender may file an appeal with the consent of the defendant or close relative thereof.

人民检察院认为人民法院的判决确有错误的，应当向上一级人民法院提出抗诉。

If a People's Procuratorate considers that there is some definite error in a judgment of a People's Court, it shall present a protest to the People's Court at the next higher level.

第二百九十五条   在审理过程中，被告人自动投案或者被抓获的，人民法院应当重新审理。

Article 295 If the defendant voluntarily surrenders or is caught during the process of trial, the people's court shall retry the case.

罪犯在判决、裁定发生法律效力后到案的，人民法院应当将罪犯交付执行刑罚。交付执行刑罚前，人民法院应当告知罪犯有权对判决、裁定提出异议。罪犯对判决、裁定提出异议的，人民法院应当重新审理。

Where an offender is present in court after the judgment or ruling has taken legal effect, the people's court shall subject the offender to the execution of penalty. Before the delivery for the execution of penalty, the people's court shall inform the criminal of his right to raise an objection to the judgment or ruling. If the offender raises objections to the judgment or ruling, the people's court shall retry the case.

依照生效判决、裁定对罪犯的财产进行的处理确有错误的，应当予以返还、赔偿。

If the disposal of an offender's property under an effective judgment or ruling is indeed wrong, such property shall be returned, with compensation given.

第二百九十六条   因被告人患有严重疾病无法出庭，中止审理超过六个月，被告人仍无法出庭，被告人及其法定代理人、近亲属申请或者同意恢复审理的，人民法院可以在被告人不出庭的情况下缺席审理，依法作出判决。

Article 296 Where the defendant is unable to appear in court due to serious illness and is still unable to appear in court after the trial is suspended for over six months, and the defendant or his legal representative or immediate relative applies for or agrees to resume the trial, the people's court may hear the case in the absence of the defendant in court, and make a judgment according to the law.

第二百九十七条   被告人死亡的，人民法院应当裁定终止审理，但有证据证明被告人无罪，人民法院经缺席审理确认无罪的，应当依法作出判决。

Article 297 Where the defendant dies, the people's court shall render a verdict on termination of trial; however, if there is evidence proving that the defendant is innocent, and the people's court confirms the innocence of the defendant upon trial by default, it shall render a judgment in accordance with law.

人民法院按照审判监督程序重新审判的案件，被告人死亡的，人民法院可以缺席审理，依法作出判决。

Where the defendant dies in a case that the people's court has retried in accordance with the trial supervision procedure, the people's court may conduct a trial by default and render a judgment in accordance with the law.

第四章 犯罪嫌疑人、被告人逃匿、死亡案件违法所得的没收程序

Chapter 4 Confiscation Procedures for Illegal Income in Cases Where a Criminal Suspect or Defendant Goes into Hiding or Dies

第二百九十八条   对于贪污贿赂犯罪、恐怖活动犯罪等重大犯罪案件，犯罪嫌疑人、被告人逃匿，在通缉一年后不能到案，或者犯罪嫌疑人、被告人死亡，依照刑法规定应当追缴其违法所得及其他涉案财产的，人民检察院可以向人民法院提出没收违法所得的申请。

Article 298 For a case involving a grave crime, such as, embezzlement and bribery and terrorism, if the criminal suspect or defendant goes into hiding, and fails to surrender himself or after having been wanted for a year failed to make an appearance, or the criminal suspect or defendant dies, and his illegal proceeds and other property involved in the case should be confiscated in accordance with the law, a People's Procuratorate may make an application of confiscating the illegal proceeds to a People's Court.

公安机关认为有前款规定情形的，应当写出没收违法所得意见书，移送人民检察院。

If a public security organ is of the view of the existence of the circumstance as stipulated in the preceding paragraph, it shall draft the written opinion of confiscating the illegal proceeds and transfer it to a People's Procuratorate.

没收违法所得的申请应当提供与犯罪事实、违法所得相关的证据材料，并列明财产的种类、数量、所在地及查封、扣押、冻结的情况。

The application of confiscating the illegal proceeds shall be accompanied with evidence relating to the facts of the crime and illegal proceeds and specify the types, amount, location and details of seal up, seizure and freezing of the property.

人民法院在必要的时候，可以查封、扣押、冻结申请没收的财产。

When necessary, a People's Court may seal up, seize or freeze the property the seizure of which has been applied for.

第二百九十九条   没收违法所得的申请，由犯罪地或者犯罪嫌疑人、被告人居住地的中级人民法院组成合议庭进行审理。

Article 299 An application for confiscation of illegal income shall be tried by a collegial panel formed by the intermediate People's Court at the place of offence or residence of the criminal suspect or defendant.

人民法院受理没收违法所得的申请后，应当发出公告。公告期间为六个月。犯罪嫌疑人、被告人的近亲属和其他利害关系人有权申请参加诉讼，也可以委托诉讼代理人参加诉讼。

After accepting an application for confiscation of illegal gains, a people's court shall make an announcement. The announcement period shall be six months. The close relatives of a criminal suspect or defendant and other interested persons shall have the right to apply for participating in the litigation, and may entrust an agent ad litem to participate in the litigation.

人民法院在公告期满后对没收违法所得的申请进行审理。利害关系人参加诉讼的，人民法院应当开庭审理。

A People's Court shall examine an application for confiscation of illegal income upon expiry of the announcement period. Where an interested person participates in the litigation, the people's court shall hold a court session.

第三百条   人民法院经审理，对经查证属于违法所得及其他涉案财产，除依法返还被害人的以外，应当裁定予以没收；对不属于应当追缴的财产的，应当裁定驳回申请，解除查封、扣押、冻结措施。

Article 300 After examination, with regard to those proved to be the illegal proceeds and other property involved in the case, they shall be ordered to be confiscated, except the property to be returned to the victim in accordance with law; with regard to property proved not to be property that should be confiscated, it shall reject the application and lift the measures of seal up, seizure and freezing.

对于人民法院依照前款规定作出的裁定，犯罪嫌疑人、被告人的近亲属和其他利害关系人或者人民检察院可以提出上诉、抗诉。

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.

第三百零一条   在审理过程中，在逃的犯罪嫌疑人、被告人自动投案或者被抓获的，人民法院应当终止审理。

Article 301 If a fugitive criminal suspect or defendant voluntarily surrenders himself or is captured during the process of examination, a People's Court shall terminate the examination.

没收犯罪嫌疑人、被告人财产确有错误的，应当予以返还、赔偿。

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

第五章 依法不负刑事责任的精神病人的强制医疗程序

Chapter 5 Procedures for Involuntary Medical Treatment of Mental Patients Legally Exempted from Criminal Liability

第三百零二条   实施暴力行为，危害公共安全或者严重危害公民人身安全，经法定程序鉴定依法不负刑事责任的精神病人，有继续危害社会可能的，可以予以强制医疗。

Article 302 Where a mental patient, who has carried out violent acts, harmed public security or seriously harmed a citizen's personal safety, and the verification through legal procedure shows that he should not bear criminal responsibility according to law, may continue to cause harm to society, he may be subjected to compulsory medical treatment.

第三百零三条   根据本章规定对精神病人强制医疗的，由人民法院决定。

Article 303 Where a mental patient should be subjected to compulsory medical treatment according to the provisions of this Chapter, the decision shall be made by a People's Court.

公安机关发现精神病人符合强制医疗条件的，应当写出强制医疗意见书，移送人民检察院。对于公安机关移送的或者在审查起诉过程中发现的精神病人符合强制医疗条件的，人民检察院应当向人民法院提出强制医疗的申请。人民法院在审理案件过程中发现被告人符合强制医疗条件的，可以作出强制医疗的决定。

Where a public security organ finds that a mental patient meets the condition for compulsory medical treatment, it shall draft a written opinion for compulsory medical treatment and transfer him to a People's Procuratorate. With regard to a mental patient transferred from a public security organ or a mental patient discovered in the examination process for prosecution who meets the condition for compulsory medical treatment, a People's Procuratorate shall make an application of compulsory medical treatment to a People's Court. Where a People's Court discovers during the trial of a case that the defendant meets the condition for involuntary medical treatment, it may make an involuntary medical treatment decision.

对实施暴力行为的精神病人，在人民法院决定强制医疗前，公安机关可以采取临时的保护性约束措施。

With regard to a mental patient who has carried out violent acts, a public security organ may take temporary protective restricting measures before a People's Court decides on implementing compulsory medical treatment.

第三百零四条   人民法院受理强制医疗的申请后，应当组成合议庭进行审理。

Article 304 After a People's Court accepts an application for compulsory medical treatment, it shall form a collegial panel to try the case.

人民法院审理强制医疗案件，应当通知被申请人或者被告人的法定代理人到场。被申请人或者被告人没有委托诉讼代理人的，人民法院应当通知法律援助机构指派律师为其提供法律帮助。

In hearing a case regarding compulsory medical treatment, a people's court shall notify the legal representative of the respondent or defendant to be present. Where the respondent or the defendant does not entrust an agent ad litem, the people's court shall notify a legal aid institution to appoint a lawyer to provide legal aid for him.

第三百零五条   人民法院经审理，对于被申请人或者被告人符合强制医疗条件的，应当在一个月以内作出强制医疗的决定。

Article 305 Where a People's Court, after examination, finds that the person against whom the application was made or the defendant meets the condition for compulsory medical treatment, it shall, within one month, make the decision of implementing compulsory medical treatment.

被决定强制医疗的人、被害人及其法定代理人、近亲属对强制医疗决定不服的，可以向上一级人民法院申请复议。

Where the person who is subjected to compulsory medical treatment, victim, legal representative or close relative is not satisfied with the decision of compulsory medical treatment may apply for a review to a People's Court of a higher level.

第三百零六条   强制医疗机构应当定期对被强制医疗的人进行诊断评估。对于已不具有人身危险性，不需要继续强制医疗的，应当及时提出解除意见，报决定强制医疗的人民法院批准。

Article 306 An institution implementing compulsory medical treatment shall diagnose and assess the person subjected to compulsory medical treatment regularly. 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.

被强制医疗的人及其近亲属有权申请解除强制医疗。

A person subjected to compulsory medical treatment and his close relative shall have the right to apply for the lifting of compulsory medical treatment.

第三百零七条   人民检察院对强制医疗的决定和执行实行监督。

Article 307 A People's Procuratorate shall supervise the decision and implementation of compulsory medical treatment.

附则

Supplementary Provisions

第三百零八条   军队保卫部门对军队内部发生的刑事案件行使侦查权。

Article 308 The security departments of the Army shall exercise the power of investigation with respect to criminal offences that have occurred in the Army.

中国海警局履行海上维权执法职责，对海上发生的刑事案件行使侦查权。

The China Coast Guard shall fulfill the marine right safeguarding and law enforcement and exercise the right to investigate criminal cases occurring at sea.

对罪犯在监狱内犯罪的案件由监狱进行侦查。

Crimes committed by criminals in prison shall be investigated by the prison.

军队保卫部门、中国海警局、监狱办理刑事案件，适用本法的有关规定。

The handling of criminal cases by the security departments of the Army, the China Maritime Police and prisons shall be governed by the relevant provisions of this Law.